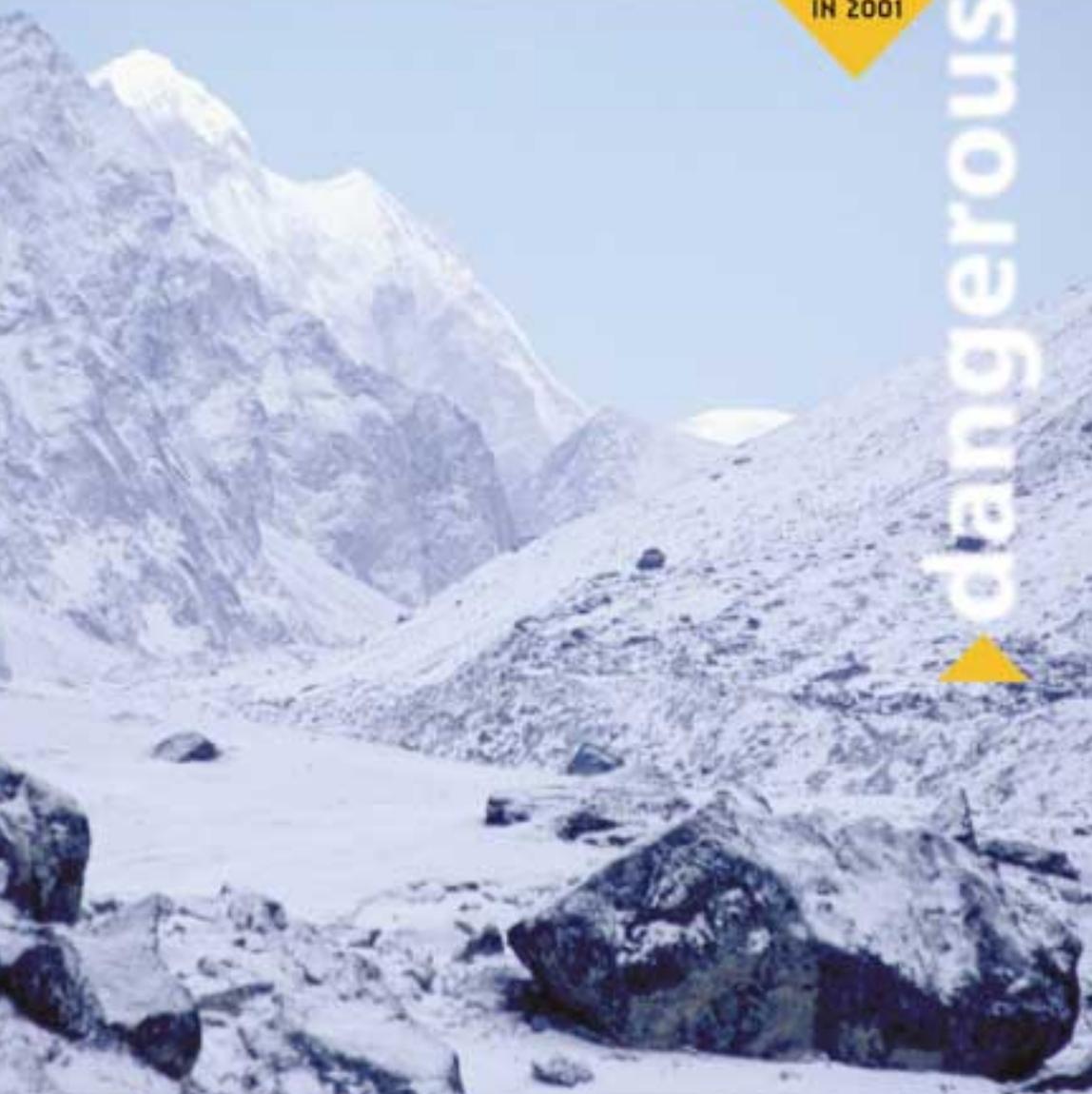


Conditions Impacting the Flight of Tibetan Refugees

IN 2001

▲ dangerous crossing







# dangerouscrossing

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of Tibetan Refugees  
in 2001

INTERNATIONAL CAMPAIGN FOR TIBET  
*May 1, 2002*

Dangerous Crossing  
Conditions Impacting the Flight of Tibetan Refugees in 2001  
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The International Campaign for Tibet is a non-profit membership organization that monitors and promotes internationally recognized human rights in Tibet. ICT was founded in 1988 and has offices in Washington, D.C. and Amsterdam.

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**COVER:** Just west of Mt. Everest, the Nangpa-la pass at 19,000 feet forms the glaciated border between Tibet and Nepal. Nearly 80% of Tibetan refugees cross this pass. This photo was taken south of the pass at 15,000 feet in a valley leading down to Namche Bazaar, Nepal.

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## INTRODUCTION



Since 1988, the International Campaign for Tibet (ICT) has helped to promote a greater understanding of the situation facing Tibetans in their homeland, the perils of their flight from Tibet, and the physical and political challenges of life in exile. ICT's work on behalf of Tibetan refugees is based on the principle embraced by refugee defenders worldwide that refugees have basic human rights. Most fundamentally, no person with a well-founded fear of persecution should be forcibly returned (*refouled*) to his or her homeland.

Two international documents, the 1951 UN Refugee Convention and its 1967 Protocol, establish the legal standards for refugee protection. Although the Refugee Convention and Protocol do not require states to provide asylum to refugees, they do include an explicit prohibition against *refoulement* – expelling or returning refugees to countries where their lives or freedom would be threatened. By signing the Refugee Convention or Protocol, a government willingly binds itself to the legal obligations contained in the document.

— *World Refugee Survey 2001*,  
U.S. Committee for Refugees

Neither the Republic of India nor the Kingdom of Nepal is a signatory to the Refugee Convention or its Protocol, although both have significant refugee populations. China is signatory to the Refugee Convention but has no domestic law on refugee protection.

Since the United Nations High Commissioner for Refugees (UNHCR) opened an office in Kathmandu, Nepal, and began counting Tibetan refugees in 1991, there has been a steady flow of about 2,500 arrivals in Nepal each year. In 2001, the UNHCR number was 1,381, down by one thousand from the previous year, and roughly half of the annual average.

This report considers the dramatic fall in numbers in the context of tighter security restrictions on both sides of the Tibet-Nepal border and incidents inside Nepal that suggest an increasingly unwelcoming attitude on the part of the Nepalese government toward Tibetan refugees. However, those responsible for refugee welfare in the Central Tibetan Administration of His Holiness the Dalai Lama contend that in the latter months of 2001 substantial numbers of Tibetans did not pass through the UNHCR office in Kathmandu. Rather, these new arrivals traveled more directly to Bodhgaya, India, where the Dalai Lama was scheduled to give an important Tibetan Buddhist initiation in January 2002.

## WHY THEY FLEE



Since the late 1980s, ICT has interviewed hundreds of Tibetan refugees about a variety of topics that shed light on what motivates them to undertake what is an illegal and dangerous journey. Not surprisingly, Tibetans have often shared with their ICT interviewers an ultimate desire to come to the United States. While the reasons for fleeing could constitute a full report in itself, a brief overview follows.

The decision to choose life in exile is a complex one and is commonly based on a combination of religious, political, educational, social and economic factors. In the interview process, nearly all refugees mention that an important reason for fleeing is to have an audience with the Dalai Lama.<sup>1</sup> This does not necessarily mean that they are religious pilgrims. For Tibetans, the Dalai Lama is more than a beloved and revered religious leader. He is a living connection to a time when Tibetans exercised self-determination and, therefore, a symbol of Tibetan nationalism. For Tibetans who are increasingly marginalized in Tibet's contemporary society, reunification with the Dalai Lama has become an affirmation of their Tibetan identity.

Prior to 1950, there were very small Tibetan communities in India, primarily extensions of wealthy families who had commercial links or who sent their children for education in private, prestigious schools in eastern India. When the Dalai Lama fled in 1959, India was, therefore, not only an obvious destination for Tibetan refugees for geographic reasons, but for political, cultural and religious reasons as well.<sup>2</sup>

*RELIGION.* Overwhelmingly, monks and nuns coming out of Tibet are seeking the religious education they can no longer find in Tibet. In monasteries throughout Tibet, a lack of qualified religious teachers

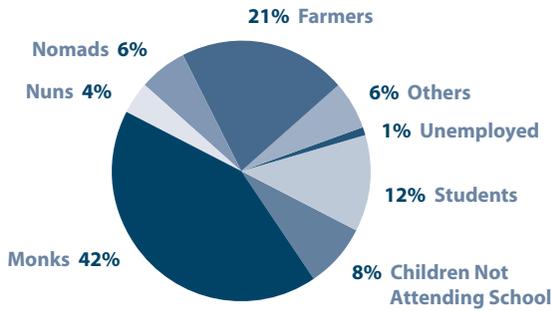


"Celebrating 50th Anniversary of Peaceful Liberation of Tibet," printed atop a Buddhist mantra.

and a complete religious curriculum is a gross impediment to the crucial “transmission” of Tibetan Buddhist teachings.

The presence of prominent religious leaders in exile such as the Dalai Lama, the Sakya Trizin, the Mindroling Trichen, the Karmapa, and others is a powerful draw for monks and nuns, as is the opportunity to study at re-established, historically significant monasteries throughout India.

OCCUPATIONS OF TIBETANS FLEEING  
TIBET PROCESSED BY THE TIBETAN  
REFUGEE TRANSIT CENTER, 1993-2001



*POLITICAL FACTORS.* Many Tibetans flee because of political persecution, to avoid potential arrest, or following a period of detention. Tibetans who are engaged in underground political activity, such as distributing or posting leaflets about Tibetan independence, often must face a choice between probable detection and arrest, or flight to India. Excessive regulation and control of monasteries, controversies over the reincarnation of prominent lamas, and/or political indoctrination sessions by Communist Party work teams in monasteries also lead some monks to flee for what are fundamentally political, rather than religious reasons.

*EDUCATION.* Approximately one-third of Tibetan refugees are under the age of 18. Many have never been to school and most are functionally illiterate. There are inadequate schools in Tibet's rural areas, and tuition and other expenses are often prohibitive for regular attendance. While most primary schools still use the Tibetan language as the medium of instruction, the change over to Chinese as the principal language in high school contributes to a high rate of attrition.

*SOCIAL FACTORS.* China's occupation of Tibet has led to the separation of many Tibetan families. Over time, tens of thousands of Tibetans have acquired some distant family connection in India or Nepal. Today, many Tibetans who wish to visit family members in exile join refugee groups that travel clandestinely through the mountains to reach their destination. Although passports are difficult to obtain, increasing numbers of Tibetans have arrived legally in Kathmandu in the past year. However, passport holders are most often business people and not refugees.

*ECONOMIC FACTORS.* Each year, hundreds of impoverished Tibetans flee Tibet because of economic marginalization. Many are economically disenfranchised youth with scant hope of competing successfully with new Chinese migrants. Many refugees report that they are no longer able to pursue their traditional livelihoods because of increased taxation, fines for not paying taxes, and state-imposed market controls such as price fixing and compulsory purchase of farm commodities.



## ESCAPE ROUTES AND GUIDES



Most Tibetan refugees flee Tibet following historic and contemporary trading routes. The most commonly used escape route is over the Nangpa-la mountain pass. Nangpa-la rises nearly 19,000 feet above sea level west of Mount Everest in the Solu Khumbu (*Sharkumbu* in Tibetan) region of Nepal. Every year, approximately 1,500 Tibetans seek refuge through this snow-bound and treacherous mountain terrain. They follow the ancient old trading route still used today by hearty Tibetan traders and yak caravans from Tingri, Tibet. From Tingri, the trek to Nangpa-la, just over the Tibet/Nepal border, would take two days under ideal conditions. However, to avoid capture by Chinese border guards, refugees travel some areas at night, stretching the length of the journey to 5-10 days. It will take another two days to cross the frozen Nangpa-la glacier, with Kathmandu still three weeks away on foot, passing through the Himalayan foothill towns of Namche Bazaar, Lukla, and Jiri.

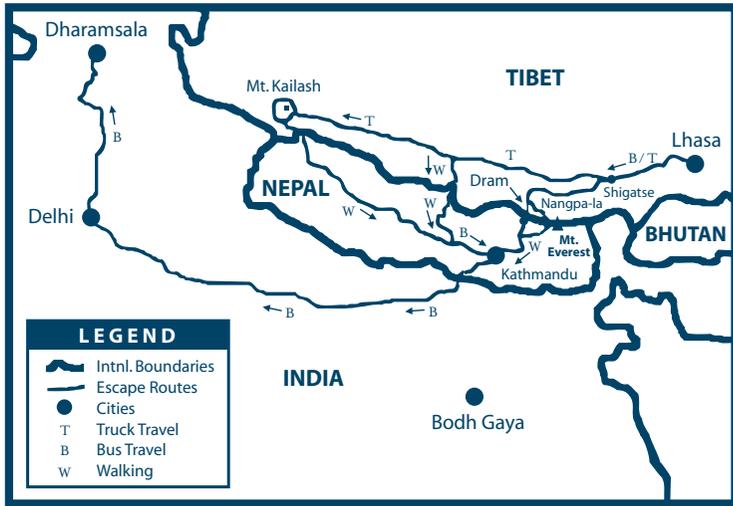
Another commonly used escape route to Nepal leads through the most populated of Tibet-Nepal border towns, Dram (*Khasa* in Nepalese, *Zhangmu* in Chinese). Tibetans must cross the connecting Friendship Highway Bridge undetected. Kathmandu lies a week to ten days away by foot, or six hours by bus, passing through the Nepalese border towns of Kodari, Tatopani, and Barabisi. Valid passport holders usually cross at Dram passing through the two countries' immigration departments. Just east of Dram, some refugees make their way into Nepal passing through Lamabagar to the road head at Charikot.

Each year, in the Nepal region of Mustang, a small percentage of Tibetan refugees use an escape route similar to the one reportedly used by the 16 year-old Karmapa Urygen Trinley in December 1999/January

The refugee escape route follows an ancient trading route still used today.



## TIBETAN REFUGEE ESCAPE ROUTES



2000. In the far west Humla region, Tibetans can slip into Nepal after evading Chinese border police in Purang along the Karnali river. Before entering Nepal, these Tibetans usually complete a religious pilgrimage in Tibet around Mount Kailash (*Kang Rinpoche* in Tibetan), a snow-capped mountain held sacred by both Buddhists and Hindus, as well as those who follow Bon, the pre-Buddhist religion of Tibet.

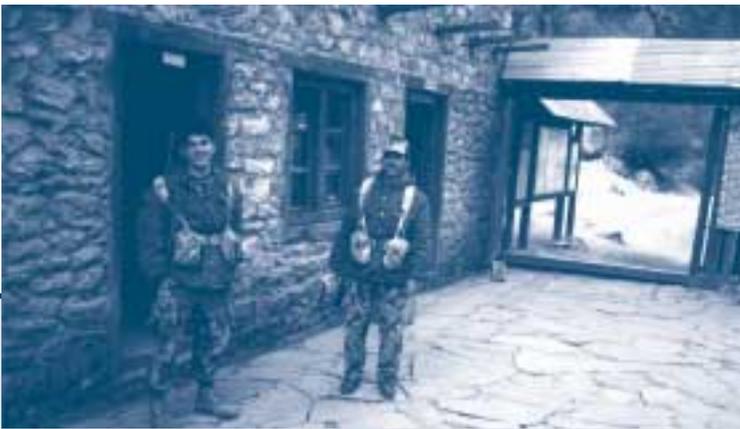
The dangers awaiting Tibetan refugees in the Himalayan border regions abound. Inside Tibet their main concern is apprehension by Chinese police. Those who violate border regulations by “secretly crossing the national boundary” are violating Article 322 of Chinese Criminal Law and are subject to imprisonment. The longest sentences are reserved for those who organize people secretly to cross the border. This includes Tibetan guides as well as those who act as “middle men.” Heightened security on both sides of the Tibet/Nepal border have caused many guides to reconsider undertaking the dangerous trip, and Tibetans arriving in Lhasa from eastern Tibet are finding it harder to secure their services.

Not wanting to signal an intended escape to Chinese security personnel in towns such as Shigatse and Tingri, Tibetans carry very little food or clothing and usually wear only simple rubber soled shoes to walk in the high mountain regions. Even dried yak dung that could be used for a warming fire is dispensed with for fear of alerting border security. In the rugged terrain, there is danger of hypothermia, snow blindness, frostbite, as well as injury from slipping and falling. A twisted knee or sprained ankle can mean losing extremities to frostbite or being abandoned by the guide.

Nearly two-thirds of Tibetans flee in the fall and winter months. Tibetan nomads and farmers usually wait until the end of the summer-fall growing season before leaving their animals and land. In the warmer spring and summer months, Tibetans en route would encounter heavy rains or snow, impassible swollen rivers and dense monsoon clouds that block visibility. Until recently, a minimal Chinese border guard presence also made winter the best season to undertake the dangerous trip out of Tibet despite frigid temperatures on the Nangpa-la glacier. However, in the fall of 2000 a manned border post was installed on the north side of Nangpa-la. On October 16, 2001, China's state run news agency Xinhua reported that thousands of Tibetans had been caught trying to "steal across border."

The use of guides is crucial to many successful journeys into exile. In order to evade Chinese border security, navigate the difficult terrain, and slip past Nepalese police, a guide is invaluable. Many Tibetans have a family member or friend who has fled, and some have returned. These returnees provide some information about how to cross borders safely. However, the most reliable information of Chinese and Nepalese border security habits and deployment, moun-

Nepal army guards, Chomolungma National Park entrance



tain paths, and safest routes to Kathmandu are found in the collective experience of the five- or six-dozen Tibetan guides who regularly bring refugees across the border.

Most refugees hire Tibetan guides only to accompany the group to the border or a short distance into Nepal. Once they have successfully crossed the border, either with or without a guide, refugees often employ local Nepalese to take them to the nearest road head or to Kathmandu. Ascertaining the number of Nepalese who work as guides only on the Nepal side of the border is difficult, but the number is likely not to exceed fifty. The cost for a Nepalese guide is usually between \$50 and \$100.

The characterization of the Tibetan guide reflects the nature of their work. The Chinese government refers to them as “people smug-

TIBETANS PROCESSED BY THE TIBETAN  
REFUGEE TRANSIT CENTER  
KATHMANDU, NEPAL

MONTH	2001	2000	1999	1998	1997	1996	1995	1994
January	159	216	192	204	140	129	164	213
February	54	104	122	70	35	57	118	101
March	160	222	66	102	104	64	53	162
April	124	162	50	215	219	173	94	273
May	85	129	235	225	156	114	67	270
June	52	155	120	237	187	188	59	166
July	65	104	98	183	94	85	53	130
August	31	110	88	113	176	131	98	103
September	96	187	165	336	119	242	92	169
October	141	268	205	444	386	147	240	236
November	223	422	449	570	449	469	159	379
December	191	240	392	410	171	326	159	340
<b>TOTAL</b>	<b>1,381</b>	<b>2,319</b>	<b>2,182</b>	<b>3,109</b>	<b>2,236</b>	<b>2,125</b>	<b>1,356</b>	<b>2,542</b>

glers” and has imposed stiff prison sentences on convicted guides.<sup>3</sup> Many Tibetans describe guides as unscrupulous as they receive between \$80-\$350 per person, often a year’s wage for rural Tibetans in Tibet. Other refugees see guides as their transient liberators taking them away from Chinese oppressors.

The underground work of guides inside Tibet is one of recruitment, negotiation, evasion and, if successful, substantial profit. In recent years in particular, their work has taken them to eastern Tibet, especially Tibetan areas in Gansu and Sichuan, searching for groups of individuals who wish to flee. Refugee groups range in size from a handful to two dozen. The larger the group, the more danger there is of being spotted and apprehended by border security. After negotiating the price, group size, and route, a meeting time is set some weeks later in Lhasa or Shigatse. Payment in full usually takes place at this time. After regrouping in central Tibet, the guide and refugee group usually travel on public bus or cargo truck to the area around Tingri. At that point, the refugees either begin the trek to Nangpa-la or continue by cargo truck to the border town of Dram.

Guides and groups often exit the vehicles and sneak around the police checkpoints that are common on the Lhasa-Tingri road in central Tibet. The walk from the windswept plains of Tingri to the icy glacier of Nangpa-la can take up to ten days. Having evaded the Chinese border security, guides will either accompany the refugees to Kathmandu or send them towards the unfamiliar terraced foothills south of Namche Bazaar towards Lukla and the road head at Jiri.

Many guides are trustworthy individuals who share an understanding with those under their care. However, there are reports every year of guides abandoning sick or sluggish individuals, and rare incidents that have included children or pregnant women. Refugees who



Tibetan refugees find shelter in Ayre, near Nangpa-la

have arrived safely at the Tibetan Refugee Transit Center (TRTC) in Kathmandu claim that guides often disappear when the threat of Nepalese police questioning arises. There have been reports of guides taking money from groups in Tibet before the journey and then turning the group over to the Public Security Bureau in Lhasa or Shigatse. Despite the risks, refugees with a guide are much more likely to arrive safely at the TRTC in Kathmandu than those without a guide.

Once in Nepal, Tibetan refugees still face obstacles to reaching the safe confines of the TRTC on the outskirts of Kathmandu. The majority of Tibetans who arrive in the border regions of Nepal do indeed reach Kathmandu. However, abuse of Tibetan refugees by Nepalese police is not uncommon and has included incidents of forced deportation, robbing, beatings and rape. To understand the dynamics that give rise to these abuses, it is useful to examine the complicated geo-political position of Nepal with regard to Tibetan refugees and its Tibetan residents.

## NEPAL'S EARLY WELCOME



The Nepalese government has historically maintained a generous attitude towards the Tibetan refugees. In the wake of the Tibetan uprising in Lhasa and the Dalai Lama's flight into exile in March of 1959, nearly 20,000 Tibetans found haven throughout Nepal. (Three times that many sought refuge in India by late 1960.) The International Committee of the Red Cross (ICRC) estimated that an additional 10,000 Tibetans found shelter with rel-

Tibetan refugees near Nangpa-la



atives and Sherpas (who share a common ethnic and cultural background with Tibetans) on the southern slope of Nepal's Himalayan range in the early 1960s. To better deal with the serious economic and political impact that this Tibetan exodus posed to the impoverished Himalayan Kingdom, the Nepalese government created a National Refugee Committee consisting of the Secretaries of the Foreign and Home Ministries, the Defense Minister and the ICRC representative.<sup>4</sup>

The Nepalese government's tolerance of Tibetan refugees in the late 1960s was underscored by its tacit acceptance of the CIA backed Tibetan armed resistance that operated out of Mustang in the far western part of Nepal. The Tibetan guerillas were allowed to operate by then King Mahendra because, as he perceived it, communism was a common enemy of both Tibetans and Nepalese<sup>5</sup>. With the Nepalese government's accommodation and support from the ICRC and other humanitarian organizations, the Tibetans became a successful entrepreneurial community. Notably, they pioneered Nepal's carpet industry, which by 1992-93 had earned \$169 million and employed by some estimates over 100,000 workers.<sup>6</sup>

From 1959 to the mid 1970s, Tibetan refugees were allowed to remain in Nepal but had no legal status. In late 1974, close to 15,000 Tibetans were registered as residents by the Nepalese government, but a 15-year hiatus followed. In 1999, responding to pressure from the UNHCR, the United States and other interested governments, Nepal decided to resume the registrations, but only for those Tibetans who arrived prior to December 31, 1989.

In the decades after Tibetan refugees began arriving in large numbers, Nepal, despite not having signed the Refugee Convention or the 1967 Protocol, for the most part respected the human rights articles contained therein. It was a generous response from a poor country where still today, 43% of Nepalese survive on less than \$1 a day.

## CHINA'S GROWING INFLUENCE



In 1972, King Birendra ascended to the throne in Nepal, replacing King Mahendra, who had been sympathetic to the Tibetans, and the Nixon Administration achieved a quiet rapprochement with the People's Republic of China. From the Tibetan perspective, among the casualties of this new geo-political positioning were the Tibetan guerilla army in Mustang and the ongoing resistance to the Chinese that this clandestine operation represented. It is generally assumed that the normalization of relations between the United States and China led to the termination of the Central Intelligence Agency's (CIA) support for the Tibetans. In any case, the surrender of most of the Mustang freedom fighters to the Nepalese army had occurred by the middle of 1974.

China's growing influence in Nepal is evident from its record of foreign aid. In 1960, Nepal received just over 3 percent of its foreign aid from China. Within 10 years, that figure rose to 19 percent.<sup>7</sup> It was during this period that China began financing projects, such as the building of the Ring Road that encircles Kathmandu. Nepal welcomed Chinese investment and aid as a counterbalance to perceived Indian political and economic hegemony. Today, China continues to be a strategic aid donor to Nepal with a 50 million yuan grant in aid in the year 2000.

Although Nepal remains economically dependent on India, its linkages with the Chinese economy have grown in recent years, drawing it more closely into China's sphere of influence. This warming relationship has brought Chinese pressure to silence the Tibetan community's political voice.

Nepal police at Tibetan celebration, Kathmandu



In December 2001, China's Ambassador to Nepal told the press that political and economic cooperation between Nepal and China was "running smoothly" and praised Nepal's policy on Tibet and Taiwan saying, "There is the best of understanding between the two countries in this regard."<sup>8</sup>

Nepalese authorities demonstrated this understanding when they began curtailing Tibetan cultural events that had previously occurred without interference. Several cultural events were called off by order of the Chief District Officer in the first months of 2001. These included a Tibetan opera group from India who had come to Kathmandu on a fundraising tour, as well as the annual fundraiser at the Royal Nepal Academy Hall organized by the Tibetan Women's Welfare Group of Kathmandu. More than 50 performers, including singing and dancing school groups, were barred from entering the hall after all preparations and arrangements had been made.<sup>9</sup>

In February 2001, Nepalese police curtailed traditional events surrounding the Tibetan New Year celebration at the historic Boudhanath stupa. For example, the police allowed the large photograph of the Dalai Lama, which is traditionally circumambulated around the Boudhanath stupa, to be taken out of the nearby Samten Ling monastery for only five minutes before ordering it removed. The chief of the Boudhanath police department told ICT at the time that, "This is under order of the Home Ministry. The Tibetans are not allowed to gather in large numbers or affix pictures of the Dalai Lama outside their monasteries."<sup>10</sup> Earlier, the Representative of the His Holiness the Dalai Lama had told human rights monitors:

"We are very surprised to see the sudden change of restrictions because for many years we have been enjoying the rights of celebrating our culture and we always respect the sentiments of the Nepalese people. We never expect any restrictions from the Nepalese people or the Nepalese government but I think some external forces are disturbing the peaceful co-existence of the Tibetans in Nepal."<sup>11</sup>

Countering Chinese influence on the Nepalese is pressure from some Western countries that provide aid to Nepal. In 1996, the European Union passed a conditionality clause for aid to Nepal that includes non-expulsion of Tibetans.<sup>12</sup> In addition, ill treatment of refugees by Nepalese authorities is monitored by some foreign governments and raised with the Nepalese government. In December 2000, the U.S. State Department's Special Coordinator for Tibetan Issues raised numerous concerns, including forced deportations and the shooting death in the Nepal border region of Kunchok Gyatso, a 27-year old monk.

## A GENTLEMEN'S AGREEMENT



In 1991, the Nepalese government adopted immigration laws that are problematic for Tibetan refugees. As Article 3 (1) of Nepal's Immigration Act states, "...no foreigner is allowed to enter or stay in the Kingdom of Nepal without a visa." Thus, entering Nepal without a valid passport or travel documents is to do so without any lawful protection.

Tibetans fleeing Tibet into Nepal are considered illegal immigrants. Working with the Home Ministry and the Department of Immigration, the UNHCR has fashioned an unwritten agreement with the government. Dubbed a "gentlemen's agreement" by Nepalese authorities, the arrangement allows Tibetan refugees to use Nepal as a transit point, but they must depart expeditiously to a third country (India). Subscribing to the "gentlemen's agreement" are the Department of Immigration (DOI) under the Nepal Home Affairs Ministry,

Namche Bazaar (elevation 11,300 ft.)



UNHCR compound, Kathmandu

the Nepalese police including the Chief District Officer in Kathmandu, the UNHCR, and the Tibetan Refugee Welfare Office (TRWO) under the auspices of the Representative of His Holiness the Dalai Lama in Kathmandu.

This agreement and the system for its implementation resulted from a request to the UNHCR by the Dalai Lama's representative in Nepal in the aftermath of the bloody crackdown and imposition of martial law in Lhasa in March 1989. At the time, it was predicted that hard-line political campaigns in Tibet to curtail what the Chinese authorities referred to as "splittist activities" would result in a substantial increase in the numbers of Tibetans fleeing Tibet. Donor countries, moved by the imposition of martial law in Tibet and by the 1989 Tiananmen Square massacre, encouraged Nepal to reach an understanding with the UNHCR over the treatment of new refugees from Tibet.

The principal responsibility of the UNHCR with regard to Tibetan refugees is to determine their status as "persons of concern," register them, and provide them with the protection benefits of that status. However, another informal UNHCR initiative has been critical for the safe transit of Tibetan refugees through Nepal. Regular border visits by the UNHCR has provided the occasion for discussions with Nepalese border police about the gentlemen's agreement the humanitarian handling of Tibetan refugees, and incentives for escorting Tibetan refugees safely to Kathmandu. Unfortunately, after the Karmapa's escape from Tibet in December 1999/January 2000, the necessary official permission to travel to remote border areas was withheld from the UNHCR. Recently, Nepal has indicated to the UNHCR its willingness to resume the police trainings.

Tibetan Refugee Transit Center, Kathmandu

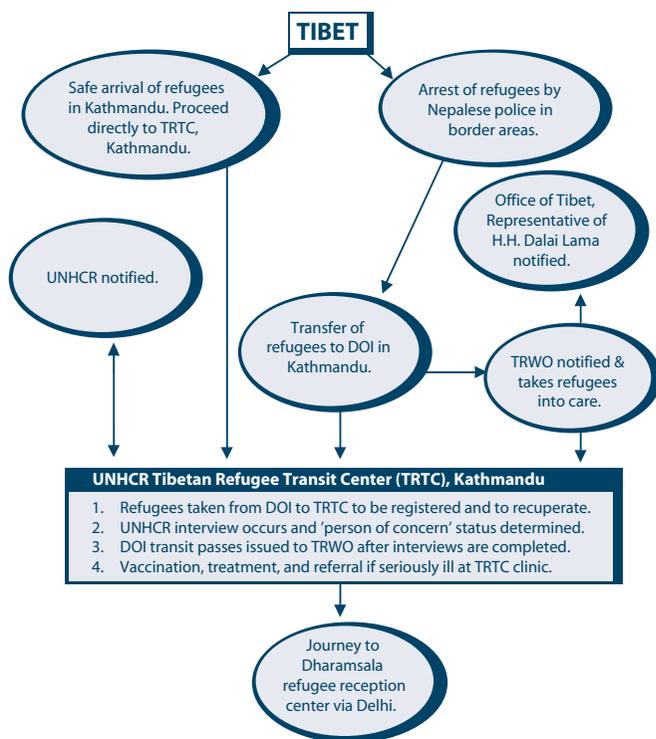


## TEMPORARY REFUGE



Approximately half of the refugees who arrive at the TRTC in Kathmandu do so without encountering Nepalese police. Police in the border regions arrest the others. According to the “gentlemen’s agreement,” Tibetan refugees arrested in Nepal are to be escorted to the Department of Immigration (DOI) in Kathmandu. The Nepalese police who accompany the Tibetans in either police vehicles or by local bus are reimbursed by the UNHCR for

SCHEMATIC OF A GENTLEMEN’S AGREEMENT



ACRONYMS	
TRTC — Tibetan Refugee Transit Center	TRWO — Tibetan Refugee Welfare Office
UNHCR — United National High Commission for Refugees	DOI — Department of Immigration

all expenses incurred, with no questions asked. Generally, police did not mind making the journey to the capital city. However, as the frequency of Maoist attacks on police posts increased in the fall of 2001, police were less willing to expose their posts or themselves to the added risk of exposure on open roads and reduced armed capacity in police posts.<sup>13</sup>

Often the DOI detains Tibetan refugees in Kathmandu for two or three days before notifying the UNHCR and Tibetan Refugee Welfare Office (TRWO). The refugees are then released from detention to UNHCR custody and are brought to the TRTC, which is managed and staffed by the TRWO. The UNHCR provides shelter and necessary assistance, through the TRTC, to Tibetans during their stay in Kathmandu and travel to India. The U.S. government funds the programs of the UNHCR in Kathmandu.

Upon arriving at the TRTC, the refugees are registered, fed and issued a new set of clothing, including shoes. A clinic provides emergency medical treatment and vaccinates each refugee for tuberculosis and measles. According to TRTC clinic statistics, respiratory tract infection, diarrhea, musculo-skeletal pain and abdominal pain/ distention account for most of the sickness reported. Some children arrive malnourished. However, a large proportion (up to 25%) of patients present with “non-specific” complaints, psychiatric illness, headaches and other illnesses described as involving a psychosocial component. In order to identify torture and trauma victims, TRTC clinicians receive training by the Centre for Victims of Torture, a Nepalese NGO.

Refugees typically spend less than a month in Kathmandu before moving onto India. Therefore, TRTC clinicians usually only identify symptoms and manage immediate mental health trauma, leaving long

Tibetan Refugee Transit Center, Kathmandu



term treatment to the Department of Health of the Central Tibetan Administration in Dharamsala.<sup>14</sup>

The frequency of frostbite cases varies from year to year depending on the severity of winter or spring storms. Treatment of frostbite occurs upon arrival at the TRTC clinic and involves waiting for the affected area to recede leaving, usually, an area of dead tissue which must then be amputated. These patients often spend up to six months in a hospital in Nepal and at the TRTC undergoing treatment.

Tibetan refugees who arrive at the TRTC are interviewed either by an UNHCR-approved volunteer or local UNHCR staff. This interview is conducted simply to determine if the individual is a “person of concern,” a term that denotes a low threshold of UNHCR responsibility. This designation allows the new arrival to receive food and other UNHCR assistance. Nearly every Tibetan meets this standard.

The UNHCR rarely conducts interviews with Tibetans to determine formal refugee status, or eligibility for political asylum. The “person of concern” status is a practical response to the realities of the present conditions Tibetan refugees encounter in Nepal and offers Tibetan refugees a modest level of protection and assistance.

In addition to the UNHCR interview at the TRTC, TRWO staff interviews the new arrivals to determine the kind of assistance that the Central Tibetan Administration (CTA) in Dharamsala will provide to the refugees. After processing is complete, the refugees receive a DOI-issued group transit pass to exit Nepal. Buses leave frequently during the winter months when the numbers of refugees peak, traveling to Dharamsala via the Tibetan Refugee Center in New Delhi. The refugees carry very little with them; a TRWO personal identification card (as of July 2001), a daily food allowance, a health record with vaccinations received, and a record of their intended destination (such as, school, monastery, pilgrimage) to be presented to the Tibetan Refugee Center in Dharamsala. Refugees are not provided

Frostbite victim, Tibetan Refugee  
Transit Center, Kathmandu



Tibetan Refugee Transit Center, Kathmandu

with identification issued by the UNHCR, which could provide an important measure of protection against arrest or harassment by Nepalese police.

After exiting Nepal, UNHCR responsibility for Tibetan refugees ends. The responsibility for the well-being and safety of the refugees is taken over by the CTA, which deals directly with the Indian authorities on all Tibetan refugee matters.

A UNHCR official told ICT in March of 2000, “Despite a few mishaps, the process has by and large for the last 10 years been discreet and effective.” Ultimately, the fate of Tibetan refugees in Nepal rests in the hands of the Nepalese authorities and their proclivity to abide by the “gentlemen’s agreement.” When pressures are applied, either resulting from Nepal’s internal unrest or externally from China, the “gentlemen’s agreement” is suspended, and Tibetan refugees are handed over to Chinese border police in Dram rather than allowed safe passage to India.

## DEPORTATIONS AND ABUSE



The principle of non-refoulement, that is, not to return people to countries where they face persecution, is part of customary international law and is binding on all states. Despite the “gentlemen’s agreement” between the UNHCR and the Nepalese government, deportations of Tibetans by Nepalese authorities are common.

The UNHCR only reports the deportations of Tibetan refugees that they can confirm with the Nepalese government. However,

A Tibetan woman at the Tibetan Refugee Transit Center in Kathmandu recovers from a gunshot wound that shattered bones in her leg. She was shot on October 27, 2000, when Nepalese police opened fire on 22 Tibetan refugees attempting to escape police custody (February 2001).



Friendship Bridge at Tibet-Nepal border, Kodari, Nepal

deportations are most often discovered and reported by human rights monitors in interviews with Tibetans who have made a successful second or third escape attempt after having been previously refouled at the border. Deportations by Nepalese border police are mainly carried out at the Friendship Bridge at Dram where Tibetan refugees are forcibly turned over to Chinese border police.

The refoulement of Tibetan refugees and abuses committed by Nepalese police suggest that the “gentlemen’s agreement” is neither adequately communicated to the border police nor supported by the Home Ministry and Department of Immigration. Even a cursory look at the instances of Tibetan refugee deportations and abuses is cause for concern that the agreed upon system is no longer working.

Talk in Kathmandu that China was pressuring the Nepal Home Ministry to crack down on Tibetan refugees began shortly after the Karmapa’s December 1999/January 2000 escape. It was not until 11 months later, in December 2000, that sizable deportations were confirmed. In that month, human rights groups reported that at least 60 Tibetan refugees had been forcibly handed back to the Chinese.<sup>15</sup> The Tibetans who were refouled had been traveling in several large groups of 20-25 members. One group, consisting mostly of children, had been detained in the town of Jiri by Nepalese police after crossing Nangpa-la pass in the Solo Khumbu region.

A Nepal Home Ministry spokesperson said at the time, “There has been no change in policy. The situation is that if Tibetans coming from Tibet arrive on the border and they do not have proper papers then they are not allowed to enter Nepal. It is not correct to say that this is due to increasing pressure from China.”<sup>16</sup> Nepal’s ambassador to China denied that any escaping Tibetans had been handed back to the Chinese saying, “When Tibetans cross illegally the border, we send them to our immigration department which hands them over to the UNHCR, we don’t hand them over to the Chinese.”<sup>17</sup>

PLA personnel drill in the courtyard of the Nyalam detention facility located 30 km north of the Tibet-Nepal border. Tibetans arrested near the border or deported from Nepal are detained in Nyalam usually for a week before they are moved to the Nagri Detention Facility near Shigatse.



In December 2001/January 2002 there were at least 25 deportations at Dram reported by human rights monitors. The deportations occurred following the eruption of Maoist violence in the countryside and after the Nepalese government instituted a state of emergency. As a result, Nepal's security forces were put on high alert and the army was mobilized against the rebel insurgency, which led to increasing border security and vehicle checks on the Friendship Highway.

More troubling reports indicate that Nepalese police in the border area south of the Friendship Bridge have adopted a policy of deporting any Tibetan without valid travel documents. This policy appears to have been decided at a local level and has been enforced as far south as Barabisi, 90 km north east of Kathmandu, where the first major police post south of the border is located.

The UNHCR asserts that their ability to travel the few hours north of Kathmandu to Barabisi and other police posts has been compromised by the activities of the Maoist guerilla forces and the state of emergency. Details of these deportations revealed a lack of communication between police posts in Tatopani or Barabisi with either the DOI or the UNHCR. A representative of the TRTC reported that the police told him, after he had driven to Tatopani to pick up the detainees, that they were unsure of what to do with the refugees and had no instructions from senior officers, so they handed the Tibetans over to Chinese border security.

In March 2001, police in the Solo Khumbu region told ICT that they did not want to travel with refugees as they feared for their personal safety from ambushing Maoists. In response to this legitimate concern, the UNHCR offered to reimburse expenses for double the number of police escorts to Kathmandu so that police would feel more secure. However, most police are still reluctant to accompany the Tibetans to Kathmandu.

There is no formal arrangement for border police posts to notify the UNHCR or the DOI after detaining Tibetan refugees. If there were such a system, UNHCR personnel could arrange for a vehicle to the detained refugees.

Tibetans who have arrived in Kathmandu after having been refouled previously, have reported that Nepalese police are given kickbacks from Chinese border guards, which suggests a troubling

level of collusion. In 1995, a group of Western tourists witnessed the handing over of a group of Tibetan refugees to Chinese border personnel. According to their account, the Nepalese police involved in the transfer said that they would receive 1,000 yuan (\$120) as a reward for each refugee.<sup>18</sup> Dispelling doubts that Chinese and Nepalese border personnel do not interact, an unnamed security official told the *Kathmandu Post* that Nepalese and Chinese officials had made an agreement in the second week of December 2001 to cooperate in “containing the terrorism” in the Tatopani area on the Nepal side of the border.<sup>19</sup>

More regular than deportations are abuses carried out by the Nepalese police upon apprehending Tibetan refugees. In 1996 and 1997, there were a number of reports of Tibetan women, including nuns, being raped and sexually assaulted.<sup>20</sup> The most egregious of these incidents was the rape of a 22-year old Tibetan woman by a group of Nepalese policemen over a two-day period on the outskirts of Barabisi. Each year, at least a few Tibetan woman who arrive at the TRTC tell human rights monitors that Nepalese police demanded sex from them in exchange for passage. There are few reports of rapes by Chinese police of Tibetan refugees.

There are other reports of violent and sometime fatal incidents between Tibetan refugees and armed Nepalese police. In November 1996, three Tibetans were wounded when Nepalese police opened fire on a group of 32 Tibetans shortly after they crossed the border into Nepal.<sup>21</sup> In September 1998 and October 2000, similar border clashes resulted in refugee fatalities.

The circumstances surrounding these shootings, as well as other less violent encounters, are similar, with miscommunication as the main precipitating cause. In a common scenario, Nepalese police encounter large groups of refugees, ordering them to stop; the Tibetans, fearing deportations or beatings, resist by fleeing or throwing stones; police then open fire on the Tibetans.

Tibetans arriving at the TRTC testify regularly that they are robbed of their belongings when passing through police check posts or being held in detention. If Tibetans are held at a police post outside of Kathmandu, they will most likely be without money or valuables when they depart.

## RIGHT OF RETURN



Universal Declaration of Human Rights, Article 13.2

Everyone has the right to leave any country, including his own, and to return to his country.

In both 1999 and 2000, roughly 1,000 Tibetans in India and Nepal returned to Tibet. The Central Tibetan Administration provides a small stipend to returnees along their journey from points in India to Kathmandu, Nepal.

Almost all Tibetans who seek to repatriate travel through Nepal. In 2000, there were additional indications that Nepal's once generous attitude towards Tibetans was changing as Nepalese police began to apprehend Tibetans transiting back from India to Tibet. Three groups of Tibetans were arrested in 2000. The first two groups were released after UNHCR intervention. In the third case, a group of 19 people (18 young men and 1 adult female) were charged as illegal aliens and sentenced by an administrative court to pay approximately \$260 in fines per person or face two years imprisonment. The group stayed in Dilli Bazaar prison for five months until bail was paid by a sympathetic NGO upon agreement that they return to India.

In August 2001, Nepalese police arrested two monks in a teashop in Boudhanath (a religious center for the Tibetan community in Kathmandu) for failing to possess appropriate residential documents. Two days later, Nepalese police arrested eight Tibetan students (four male, four female) at Thankot, located on the rim of the Kathmandu valley where there is a check post at which all vehicles entering Kathmandu must stop. The students were returning to Tibet after over a year of schooling in India.

All ten Tibetans faced an administrative hearing. The monks were each fined \$2,714 and each student \$1,628. Nepalese authorities imposed a penalty on the mistaken belief that the students had been in Nepal during the time they were actually studying in India. As none of the fines could be paid, a default prison sentence of 10 years was handed down at the time. All ten remain in Dilli Bazaar prison as of March 2002, despite appeals by the Dalai Lama's Representative in

Nepal, the UNHCR, the United States and other foreign embassies to release the Tibetans into the custody of the UNHCR.

Unlike other situations where refugees are able to return to their homeland under an orderly process facilitated by UNHCR, there is no technical process established to assist Tibetan returnees. China considers returnees from India to be, at a minimum, suspect of allegiance to the Dalai Lama's exile government. Returnees are frequently detained for questioning and sometimes arrested by Chinese authorities.

The number of Tibetan refugees voluntarily returning to Tibet may continue to increase. The Central Tibetan Administration and the Dalai Lama encourage new Tibetan refugees to return to their communities in Tibet after completing their studies in India. This position reflects their understanding that when Tibetans leave their homes, businesses and agricultural land in Tibet, Chinese settlers replace them. Given Chinese pressure on Nepal, the method of dealing with Tibetan returnees will be an important and difficult issue for the Central Tibetan Administration (CTA) and the UNHCR to manage in coming years.

## ARRIVING IN INDIA



After being processed through the TRTC, new refugees travel onward to India. They rest for a few days at a transit center in New Delhi where they are provided with food, lodging and help with travel arrangements. Thereafter, they move on to Dharamsala, the seat of the CTA. Upon their arrival, CTA officials interview the new arrivals in order to identify more permanent and appropriate arrangements for them. In the interim, the refugees are

Refugee reception center, Dharamsala



Tibetan Children's Village, Gopalpur, India



Dalai Lama outside the main temple, Dharamsala

provided with food, shelter, medical treatment and, in certain cases, initial financial support. Refugees may not stay at the Dharamsala reception center for more than one month. Those who are not sent on to family members, schools or monasteries must find their own places to stay.

The Central Tibetan Administration provides the following assistance:

- ▶ Reception facilities in Kathmandu, Delhi and Dharamsala, as well as support for new refugee students at Traditional Learning Centers.
- ▶ Health care through (1) TB control<sup>22</sup>/leprosy/disabled services, (2) maternal-child health<sup>23</sup>/immunization, (3) water and sanitation, (4) hospitalization, (5) prosthetics, (6) health training, (7) reproductive health, (8) essential drugs, and (9) vitamin therapy for small children newly arrived from Tibet.<sup>24</sup>
- ▶ Appropriate educational support for children and teenagers at Tibetan Children Villages and the Tibetan Homes Foundation schools, and for young adult students at the Transit School in lower Dharamsala.

## RECOMMENDATIONS



Reflecting the primary focus of this report, the International Campaign for Tibet recommends:

For governments and NGOs:

1. Commend the Government of India for providing a place of safety and ongoing humanitarian care to the Dalai Lama and Tibetans in exile and assuming the financial burden of such care on the resources of India.
2. Commend the Kingdom of Nepal for shelter and hospitality to Tibetans in exile but express concern over incidents of *refoulement* and ill-treatment of transiting Tibetans in border areas, as well

as the arrest and imprisonment of Tibetan refugees voluntarily repatriating to Tibet.

3. Encourage an exchange of notes between the UNHCR and Nepalese government that would formalize the “gentlemen’s agreement.”
4. Recognize the UNHCR for the creativity of its approach in establishing a system to bring Tibetan refugees from border areas to Kathmandu.

For the Government of Nepal:

5. Continue to abide by the “gentlemen’s agreement,” which provides safe passage to all Tibetan refugees transiting through Nepal to India and voluntarily repatriating to Tibet.
6. With the UNHCR, formalize the “gentlemen’s agreement” through an exchange of notes.
7. Allow border visits upon request by the UNHCR.

For the UNHCR:

8. Proactively find ways to overcome obstacles that currently exist to the safe transit of Tibetan refugees through Nepal, including seeking to formalize the “gentlemen’s agreement” with the Nepal government.
9. Dedicate a Nepalese-speaking protection officer to be in the Tibet–Nepal border regions.
10. Provide an identification card to Tibetan refugees with their arrival and exit date from Nepal and which certifies them as “of concern” to the UNHCR.
11. Look for greater opportunities to provide human rights trainings with border police, especially in the peak flight season, and with police in Kathmandu.

## ENDNOTES

- 1 Each new arrival from Tibet is provided an opportunity in Dharamsala for a group audience with the Dalai Lama. Generally at such time, the Dalai Lama speaks briefly to the group, asks some questions, and then one-by-one confers blessings.
- 2 Buddhism was brought to Tibet from India in the 8TH century, creating an important religious and cultural bond between the Tibetan and Indian peoples.
- 3 Tibetan Information Network, "Tighter Regulations, More Detentions in Tibet," June 3, 2000.
- 4 Angela Dietrich, "Tibetans in Nepal: Balancing Humanitarian and Security Concerns," in Tapan Bose & Rita Machanda (eds.), *States, Citizens and Outsiders: The Uprooted Peoples of South Asia*, Kathmandu, 1997, p.278.
- 5 Tsering Shakya, *The Dragon in the Land of Snows: A History of Modern Tibet Since 1947*, London, 1999, p.284.
- 6 Dietrich in Tapan Bose & Rita Machanda (eds.), p.280.
- 7 Shakya, p.362.
- 8 *The Rising Nepal*, "China Will Never Support Maoists in Nepal: Envoy," December 20, 2001.
- 9 International Campaign for Tibet, "Nepalese Stop Tibetan New Year Festivities," *Tibetan Press Watch*, March 2001.
- 10 Ibid.
- 11 Tibet Information Network, "Tibetans Sent Back Across the Border as Pressure Increases on Nepal," December 20, 2000.
- 12 In Dietrich, Strasbourg EU Parliament Financial Law of the European Union for 1997, October 1996, p. 288.
- 13 The Maoist insurgency waged by the opposition Communist Party (the CPN-Maoists) abandoned the electoral political path for guerrilla tactics some 6 years ago. Different from most of the prior Communist movements in Nepal which were based on the writing of leftist theorists and appealed to a small intellectual class, the current Maoists struggle is based on the writings of Mao Zedong, appeals to the disenfranchised and economically and socially marginalized, and models itself after the Shining Path guerrilla movement of Peru. See also "Day of the Maoists," *Himal.*, May 2001.

- 14 For studies on the effect of political imprisonment and refugee flights see, Crescenzi, Ketzer, Van Ommeren, Phuntsok, Komproe and de Jong, "Effect of Political Imprisonment on Recent Tibetans in India," Tibetan Transcultural Organisation Mental Health Program, Department of Health, Central Tibetan Administration, Dharamsala, HP, India, and Eva Ketzer, Antonella Crscenzi, "The Transcultural Psychosocial Organisation Project with Tibetan in Dharamsala, India," Dharamsala, March 2000.
- 15 Tibet Information Network, "Tibetans Sent Back Across the Border as Pressure Increases on Nepal," December 20, 2000.
- 16 Ibid.
- 17 Agence France Presse, "Nepal Bowing to Chinese Pressure to Repatriate Tibetans," December 21, 2000.
- 18 Tibet Information Network, "Tibetans sent back across the border as pressure increases on Nepal," December 20, 2000.
- 19 Kathmandu Post, December 12, 2001.
- 20 Tibet Information Network, "Tibetan Refugee Raped 12 Times by Nepalese Police," February 26, 1997.
- 21 Tibet Information Network, "Tibetan Monk Shot Dead by Nepalese Police," September 22, 1998.
- 22 Tuberculosis, once a rare disease in Tibet, is a major cause of death among Tibetans in India. New refugees are particularly vulnerable to TB due to their general poor health and the overcrowded living situations they encounter in exile.
- 23 The current infant mortality rate in Tibetan refugee communities is 35 deaths per 1,000 births.
- 24 *The New England Journal of Medicine*, Vol. 344, No. 5, February 1, 2001, "Nutritional and Health Status of Tibetan Children Living at High Altitudes," which concluded that, "In Tibetan children, severe stunting due to malnutrition occurs early in life, and morbidity is high."





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