

Response to Information Request

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Subject: Nepal: Situation of Tibetan refugees and those not recognized as refugees; including legal rights and living conditions (1995-1999)

Regional  
Office: 2

From: Research Directorate, Immigration and Refugee Board, Ottawa

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This Extended Response provides information on the country conditions and legal status of Tibetans living in Nepal between 1995 and 1999. In addition, it updates information found in ZZZ32809.E of 13 September 1999, CHN30745.E of 2 December 1998, NPL30525.E of 23 November 1998, and NPL30747.E of 23 December 1998 which are available in the Regional Documentation Centres, the REFINFO database and the IRB Website at <<http://www.irb.gc.ca>>.

## **Introduction**

Recent reports indicate that there are approximately 20,000 Tibetans living in Nepal (*Country Reports 1998 1999*, 1927; US Dept. of State Aug. 1998; Government of Nepal 2, n.d.). The majority are either the original Tibetans who fled from Tibet with the Dalai Lama in 1959-60 (US Dept. of State Aug. 1998), or are their children and grandchildren (USCR 1999). There are thirteen Tibetan settlements, or camps, in Nepal, which are home to approximately half of the Tibetan community (US Dept. of State Aug. 1998). The settlements are located in Kathmandu, Pokhara, Solukhumbu, Dunche, Ohorpatan and Gunsá (The Government of Tibet in Exile 29 Jan. 1996). The remaining Tibetans live mainly in and around Kathmandu and Pokhara (US Dept. of State Aug.

1998), although there are Tibetan communities throughout 19 districts in Nepal (Government of Nepal 2, n.d).

Although Tibetans continue to come to Nepal at a rate of 2,000-3,000 per year (US Dept. of State Aug. 1998; USCR 1999; UNHCR 1999a), the Government of Nepal stopped granting legal refugee status to Tibetans who have arrived since 1989 [see section on Documentation, Identification, Citizenship and Legal Rights below] (US Dept of State Aug. 1998; *India Abroad* 9 Jan. 1998; *Georgetown Immigration Law Journal* 1995, 912). The Nepali government, the United Nations High Commissioner for Refugees (UNHCR) and the Central Tibetan Administration (CTA), the administrative branch of the Government of Tibet in Exile located in Dharamsala, India all expect Tibetans who arrived since 1989 to continue through to India after a brief stop at the UNHCR Reception Centre in Kathmandu (USCR 1999; US Dept. of State Aug. 1998; *Los Angeles Times* 14 Apr. 1998; *The Tibet Journal* 1997, 23; *Georgetown Immigration Law Journal* 1995, 911).

### **The Situation of Recent Arrivals**

#### **Office of the Reception Centre**

The Office of the Reception Centre in Kathmandu is jointly sponsored by UNHCR and the CTA (The Government of Tibet in Exile 1996, 3A.2.1). One of the main responsibilities of the Reception Centre is to interview newly-arrived Tibetans to determine whether or not they are "of concern" to UNHCR; approximately 96 per cent of those interviewed meet this condition (*Georgetown Immigration Law Journal* 1995, 912-913; USCR 1999). According to *The Tibet Journal*, the UNHCR regards Tibetans as

having a "*prima facie*" right to claim refugee status and uses criteria in the 1951 Convention and the 1967 Protocol to determine whether or not newly-arrived Tibetans are "of concern" (1997, 23). The Office of the Reception Centre then provides meals, lodging, medical care, and financial support to the new arrivals (The Government of Tibet in Exile 1996, 3A.2.1; US Senate Foreign Relations Committee Hearing on Tibet 13 May 1997; *Georgetown Immigration Law Journal* 1995, 912-13; UNHCR 1999b). Each refugee is given 2,250 Nepalese Rupees (NPR) to facilitate their onward journey to India (The Government of Tibet in Exile 1996, 3A.2.1). In cases where families are concerned, the head of the household receives NPR 2,250, while each remaining member receives NPR 900 (The Government of Tibet in Exile 1996, 3A.2.1). CDN\$1 = NPR 46.61 as of 9 Nov. 1999 (Classic 164 Currency Converter).

### **Treatment of Recently-Arrived Tibetans**

In 1995, hundreds of Tibetans were repatriated from the China-Nepal border (US Senate Foreign Relations Committee Hearing on Tibet 13 May 1997; *Time Magazine* 19 Jan. 1998; *The Tibet Journal* 1997, 18; TIN 26 July 1995; *ibid.* 13 May 1995; VOA 25 May 1995). Although the situation has improved since then, arrests and deportations of Tibetans still occur (USCR 1999; *ibid.* 1998; AFP 12 Feb. 1999; *ibid.* 8 Dec. 1998; *ibid.* 25 May 1998; *ibid.* 14 Apr. 1998; *ibid.* 28 Oct. 1997; *ibid.* 2 May 1997; *ibid.* 30 Jan. 1997; UPI 4 Sept. 1996; *ibid.* 9 Apr. 1996). In 1996, United Press International reported over 20 deportations (4 Sept. 1996; *ibid.* 9 Apr. 1996). The US Committee for Refugees (USCR) states that Nepali border guards repatriated approximately 50 Tibetans back to China in 1997 (1998). In its 1999 report, the USCR quotes a UNHCR report stating that

41 Tibetans were repatriated by Nepalese border guards on 11 separate occasions in 1998. A 12 February 1999 Agence France Presse report states that 47 Tibetans arrested by Nepalese border police were awaiting repatriation. Further information was not available among the sources consulted by the Research Directorate confirming whether or not the arrested Tibetans have been deported. A February 1999 report in *Scotland on Sunday* claims that a Tibetan woman fleeing from Tibet to Nepal was caught by Nepali border guards and "escorted back to the border" (14 Feb. 1999). The woman managed to escape and made her way to the Tibetan Reception Centre in Kathmandu (ibid.).

In November 1999, 72 Tibetans attempting to enter Nepal were arrested and detained by Nepali border guards "for travelling without valid documents" (BBC 16 Nov. 1999). According to the UNHCR's *Refugees Daily*, citing AFP, the 72 were to be referred to the UNHCR before being handed over to the Tibetan Reception Centre in Kathmandu, after which they would proceed to Dharmasala (16 Nov. 1999).

According to Thubten Samdup, president of the Canada-Tibet Committee, Nepalese border guards are given a fee from Chinese authorities for every Tibetan they return to China (21 Oct. 1999). A 13 May 1995 Tibet Information Network (TIN) report also quotes a refugee as saying that Nepalese border guards receive goods each time they hand a Tibetan over to the Chinese police.

In 1998, approximately 1,500 Tibetans were "arrested" for illegal entry into Nepal (AFP 12 Feb. 1999). Although most Tibetans who are "arrested" are usually turned over to the UNHCR Reception Centre, some are instead taken to "the department of immigration in Kathmandu for further action" (AFP 8 Dec. 1998; ibid. 25 May 1998;

ibid. 14 Apr. 1998; ibid. 28 Oct. 1997; ibid. 30 Jan. 1997). However, the *Georgetown Immigration Law Journal* states that it is common for Tibetans to be held at the Kathmandu immigration office until a representa

police with stones and dagger-like weapons (TIN 22 Sept. 1998; Reuters 18 Sept. 1998). In its 1999 report on Nepal, USCR stated that the skirmish started when the Tibetans' guide misinterpreted the Nepalese police's attempts to inform the Tibetans that they would escort them to Kathmandu. According to the report, several of the Tibetans fled while others fought with the police (USCR 1999). Samdup Lhatse, the representative of the Dalai Lama in Nepal, stated that the Tibetans resisted arrest because they feared being deported back to China (TIN 22 Sept. 1998). In a similar incident, Nepali police shot and wounded either two or three Tibetans, in November 1996, near the village of Lamabhagar (TIN 22 Sept. 1998; *ibid.* 29 Nov. 1996; *ibid.* 15 Feb. 1997; Reuters 30 Nov. 1996).

Many more reports exist of Tibetans being stripped, robbed, beaten, and harassed by Nepali border police (USCR 1998; US Senate Foreign Relations Committee Hearing on Tibet 13 May 1997; TIN 26 Feb. 1997; *ibid.* 15 Feb. 1997; *ibid.* 3 Feb. 1997; *ibid.* 29 Nov. 1996; *Country Reports 1998 1999*, 1928). In October 1996, the reception centre in Kathmandu was attacked by local Nepalese, apparently in a dispute over water supplies, and several Tibetans were severely beaten (TIN 29 Nov. 1996; *ibid.* 26 Feb. 1997). Two Nepalese were briefly detained for the incident, although by February 1997, no charges had been pressed (*ibid.*). Further information on the official response to this incident could not be found among the sources consulted by the Research Directorate at the time of publication.

According to Moynihan, welfare officers and medical examiners at the Kathmandu reception centre believe that the rape of Tibetan women by Nepali police is routine (US Senate Foreign Relations Committee Hearing on Tibet 13 May 1997).

Moynihan stated that Tibetan women are targets of rape because their clothing, manners, features, and language mark them as Tibetans (ibid.). In addition, Tibetan women are vulnerable because they often travel alone and do not have caste definition or protection (ibid.). Nurses working at the reception centre state that women who have been raped usually do not press charges because they fear deportation (ibid.). Reporting rape can also lead to social ostracization for laywomen and expulsion from their order for nuns (TIN 26 Feb. 1997). In December 1996, a Tibetan woman, travelling in a group of seven Tibetans, was reportedly raped 12 times by Nepali men in police uniforms (ibid.; US Senate Foreign Relations Committee Hearing on Tibet 13 May 1997). The group was allegedly told that if the woman did not comply with the police officers' demands, the entire group would be deported back to China (ibid.; TIN 26 Feb. 1997). Two months into the official investigation, the Nepalese Ministry of Home Affairs denied police involvement and had yet to arrest a suspect (ibid.). Similar incidents of rape and threatened deportation also allegedly happened in November 1996 and January 1997 (ibid.; ibid. 15 Feb. 1997). No incidents of rape during 1999 could be found among the sources consulted by the Research Directorate at the time of publication.

### **Country Conditions for Tibetans Living in Nepal**

#### **Documentation, Identification, Citizenship and Legal Rights**

Tibetans who arrived in Nepal prior to 1989 were accorded legal refugee status by the Government of Nepal (US Dept of State Aug. 1998; *India Abroad* 9 Jan. 1998; *Georgetown Immigration Law Journal* 1995, 912). In 1995, the government started issuing refugee identity cards, to these officially-recognized Tibetans (*Country Reports*

1998 1999, 1928). All of the Tibetans who live in the settlements received their cards (US Dept. of State Aug. 1998). However, only half of the Tibetans living outside the settlements obtained their cards before the government cancelled the program later the same year, leaving 4,000 undocumented Tibetans in the country (*ibid.*; *Country Reports 1998 1999, 1928*). In 1998, the Government of Nepal reactivated the program with the intent of issuing identity cards to the remaining Tibetans by the end of 1999 (*ibid.*). In its *1999 Global Appeal*, UNHCR stated that it would be helping to complete the legal documentation of Tibetan refugees in Nepal during the year. According to a senior researcher with the Resource Information Center of the United States Immigration and Naturalization Service (INS) with extensive experience regarding Tibetan asylum claims, children under the age of 16 are included on their parents' cards and until recently were unable to obtain their own cards even after they turned 16 (United States INS 15 Dec. 1999). Refugee identity cards must be renewed each year at local District Administration Offices (Government of Nepal 2, n.d.).

According to the US Department of State, Tibetans in Nepal are able to own land and property, maintain bank accounts and conduct business (Aug. 1998). Sources report that Tibetans are well integrated into the Nepalese economy (*ibid.*; *The Tibet Journal* 1997, 34), although conditions have deteriorated in recent years due to a decline in the demand for Tibetan carpets (USCR 1999). However, undocumented Tibetans have difficulty obtaining their basic rights and are unable to access services such as obtaining travel documents or opening a bank account (*Country Reports 1998 1999, 1928*). Whether or not they have valid refugee identity cards, Tibetans are not permitted to vote

in Nepalese elections (US Dept. of State Aug. 1998). Despite their long-term presence in Nepal, Tibetans, both documented and undocumented, fear that the Government of Nepal could expel them at any given moment (ibid. 1998).

According to *The Tibet Journal*, there is no government policy of giving Nepalese citizenship to Tibetans (1997, 34). Concerning citizenship, the Ministry of Home Affairs of the Government of Nepal states the following:

Nepal can accept foreigners as her naturalized citizens if they can make or have made exceptional contribution to the development of the country in the field of science and technology, philosophy, art, literature, world peace, human welfare, industry or in the economy.... Those foreign adults who are mentally sound, can speak, read and write the Nepali language, are engaged in some occupation in the country, have abandoned their own citizenship, have resided for at least 15 years in Nepal and are of good conduct can be granted this kind of citizenship.... A foreign woman married to a Nepali citizen can easily get naturalized citizenship if she starts the process of abandoning her own nation's citizenship and applies with the certificate of marriage (1, n.d.).

*The Tibet Journal* states that some Tibetans have acquired Nepali citizenship, usually for business purposes (1997, 34). For more information on Nepalese citizenship, please refer to Response to Information Request NPL30525.E of 23 November 1998 available in the Regional Documentation Centres, the REFINFO database and the IRB Website at <<http://www.irb.gc.ca>>.

### **Freedom of Movement**

Some Tibetans legitimately hold Nepalese passports (US Dept. of State Aug. 1998). Tibetans who have a refugee identity card and wish to travel abroad can obtain a one-page travel document from the Government of Nepal which is valid for one year (ibid.). With this document, Tibetans are able to travel to their country of destination and

return to Nepal within the time constraints (US Dept. of State Aug. 1998). Undocumented Tibetans, on the other hand, are unable to obtain legal travel documentation (USCR 1999). Tibetans travelling with false documentation under an assumed name often try to pass themselves off as Sherpas, Tamangs, or a member of another of Nepal's Tibetan minorities (ICT 20 Nov. 1998). False passports can be obtained, with a bribe, either through corrupt government officials at the Chief District Office or through brokers in India and Nepal who sell blank passports (US Dept. of State Aug. 1998). According to information provided by the senior researcher with the INS, Tibetans travelling on false passports do not have the right to return to Nepal, although they often do, using the same false documents with which they left (United States INS 15 Dec. 1999).

Tibetans are free to travel within Nepal, although the government restricts them from areas near the Chinese border (*Country Reports 1998 1999*, 1927). For more information on Nepalese travel documents, please consult Response to Information Requests ZZZ32809.E of 13 September 1999, NPL31928.E of 27 May 1999 and CHN30745.E of 2 December 1998 available in the Regional Documentation Centres, the REFINFO database, and on the IRB Website at <<http://www.irb.gc.ca>>.

### **Political Participation**

Tibetans are discouraged by both the Central Tibetan Authority (CTA) and the Nepalese government from engaging in political activism, especially when it is anti-Chinese in nature (US Dept. of State Aug. 1998). In 1997, Nepalese prime minister, Surya Bahadur Thapa, stated that the government would not permit any kind of anti-

Chinese activity on Nepalese soil (AFP 11 Nov. 1997). According to Thubten Samdup, it is difficult for Tibetans in Nepal to stage demonstrations due to the fact that the Government of Nepal is constantly trying to please the Chinese government, often at the expense of the Tibetan community (12 Nov. 1999). He adds that the Tibetan community in Nepal experiences problems every March when they try to organize their annual demonstration (ibid.). According to Samdup, Tibetans in Nepal are hesitant to organize demonstrations because they know there could be a crackdown by Nepalese authorities (ibid.). Despite these facts, Tibetans in Nepal have staged protests and have subsequently been arrested and detained by Nepalese authorities (AFP 10 Mar. 1998; AI 1997; ibid. 17 Mar. 1996). In March 1998, more than 5,000 Tibetans staged an anti-Chinese protest in Kathmandu (AFP 10 Mar. 1998). Agence France Presse reported that the protestors were blocked by a "heavy police presence" and were prevented from marching to the Chinese embassy (ibid.). It also reported that Nepalese riot police used batons and made several arrests (ibid.). The detained Tibetans were later released without charges (ibid.). In March 1996, Nepalese police detained more than 100 Tibetans and members of Amnesty International after they started a "peaceful demonstration against human rights violations in China" (AI 1997; ibid. 17 Mar. 1996). While many people were released the same day, 14 Tibetans were detained for seven days (ibid. 1997). Amnesty International expressed concern for the undocumented Tibetans who were detained for their participation in the demonstration (17 Mar. 1996), however, no publicly available information regarding their fate could be found among the sources consulted by the Research Directorate.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

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