

# DANGEROUS CROSSING:

Conditions Impacting the Flight  
of Tibetan Refugees  
2011 Update



A report by the International Campaign for Tibet  
Washington, DC | Amsterdam | Berlin | London | Brussels  
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## SUMMARY

**The situation for the 20,000 or so long-staying Tibetans in Nepal – many of whom have lived as refugees in Nepal since the early 1960s – has worsened dramatically since 2008. During the same period, the dangers for Tibetans escaping Tibet via Nepal have intensified as China seeks to close this essential gateway into exile. This report examines the situation for Tibetans living in and transiting through Nepal. It shows that beyond the economic and political factors that impact the lives of all in post-conflict Nepal, Tibetans experience a second tier of challenges brought about by substantial and increasing Chinese influence on the Nepal state.**

Tibetans in Nepal are on the frontline of a high-stakes battle for regional influence between the two Asian giants, India and China. In 2008, Nepal's Maoist Prime Minister Pushpa Kama Dahal (nom de guerre Prachanda), made his first foreign trip to Beijing, bucking a Delhi-first tradition and opening the flood gates to a steady stream of official Chinese visitors to Kathmandu. A counter indication of influence would not be signaled until 2011 when Nepal Prime Minister Baburam Bhattarai made his maiden visit to Delhi.

Since the People's Liberation Army moved into Tibet in 1949, Nepal has taken on the role of buffer zone between India and China. As the two Asian powers compete for regional influence, Nepal's position has become less 'buffer' and more battered. China's acquired leverage in Nepal is used to control its interests in Tibet and Tibetan activities in Nepal; India's influence, based on a traditional, some would say anachronistic, 'special relationship' is largely political and party-based, supported by ancient ties of ethnicity, culture and religion between the Nepali and Indian peoples.

Tibet and Nepal also have a long history of cultural and religious exchange, intermarriage and trade across the Himalayas. More than ten percent of Nepalis practice Tibetan Buddhism, and the Hindu majority follows variants of Hinduism that incorporate many aspects of Tibetan Buddhism.<sup>1</sup> Nepal's Sherpa people share with many other Himalayan peoples a devotion to the Dalai Lama. Many Nepalis express support for the Tibetan struggle, but they too are struggling – against significant economic, social and political challenges following a decade-long armed conflict between government forces and Maoist fighters.

Pressure on Nepal to comply with China's dictates on Tibet is significant given the resources and promises of much-needed assistance flowing to Nepal from its northern neighbor. China's engagement on Tibetan issues in Nepal was stepped up in Beijing's 2008 Olympic year, when exposure to internation-



“For the elder generation it is very difficult to adjust to a new environment [in Nepal]; losing their identity, culture and lifestyle. From being a nomad living without neighbors, living freely [in Tibet], now living in a small settlement [in Nepal], life is very difficult. If the children have a good income and can support the family, that would bring less worries to their parents. But [because this isn’t usually possible] mentally there is no way to support.” (Photo: ICT)

al scrutiny intensified and the Tibetan plateau erupted with demonstrations. Since then, Nepal has become a part of China’s strategic imperative to maintain and enforce political ‘stability’ in Tibet. Although Chinese police and security forces put down the protests, their scale is a testament to the level of unrest and depth of grievances among Tibetans across Tibet. Events since 2008 have compounded China’s fear of instability and loss of control. Since February 2009, dissent in Tibet has taken on a new form – Tibetan self-immolations.<sup>2</sup>

China responded to the widespread but overwhelmingly peaceful protests that rocked Tibet in 2008 by framing them as violent riots, thus attempting to justify a clampdown that would build up and deepen its security and military presence in Tibet. Today a highly technical state surveillance system monitors Tibetans’ everyday lives and significantly limits their freedoms of movement, expression, and religion.

Such restrictions are meant to control Tibetans in Tibet but also to control representations to outside audiences of the situation in Tibet. Since the crackdown and as self-immolations continue, an international community already deeply troubled by China's human rights record is intensifying its scrutiny in Tibet. To control discourse on Tibet, the Chinese government has ramped up information blackouts across Tibet. Phone networks and internet are monitored and can be cut off or censored. Access to Tibet by diplomats, foreign journalists and tourists has been largely blocked, particularly during times deemed politically sensitive. Tibetans' freedom of movement is restricted across Tibet. Border monitoring has increased in a bid to stop Tibetans from fleeing to Nepal and India where they can share their experiences of living under Chinese rule and contribute to global alarm about Tibet. Tibetans who undertake religious pilgrimages to holy sites in Nepal and India are also a source of concern to China for the same reasons.

Life has become harder not just for those Tibetans attempting to cross the Tibetan border. The more than 20,000 long-staying Tibetans in Nepal serve as a physical and at times vocal reminder that all is not well across the border in Tibet. As such, China now seeks to establish an entrenched and more systematic approach to constraining the Tibetan community in Nepal as part of its Tibet stability strategy. Where once Tibetan refugees in Nepal were safe from China's reach, the Chinese government's new more complex engagement with Nepal renders Tibetan refugees increasingly vulnerable.

China demands that all governments with whom it has relations commit to a 'one-China policy,' and it sees any assertion by Tibetans of their unique identity as a threat to its sovereignty and territorial integrity. In Nepal's case, China has sought to stipulate the form of this commitment. Since 2008, China-Nepal interaction has been characterized by Chinese financial or other support given in return for Nepal's pledge to condemn, prevent or physically quash 'anti-China' activities on Nepali soil. But what constitutes 'anti-China' activity has never been defined – by either China or Nepal – leaving the term dangerously open to interpretation.

So-called 'Free Tibet' activities – a phrase employed by both Chinese and Nepali officials to refer to protests, gatherings and events which have an overtly political tone – are assumedly within the 'anti-China' category. But repression of Tibetans in Nepal since 2008 has gone beyond the political to include many aspects of Tibetans' cultural, religious, social, civil and economic lives. This report demonstrates that the widespread interpretation of 'anti-China' activities by the Nepali authorities leaves Tibetans dangerously vulnerable to political exploitation.



In an interview with The Kathmandu Post, China's Ambassador to Nepal, Yang Houlan, said: the "Chinese side highly appreciates that all administrations of Nepal have firmly pursued one-China policy, recognizing Tibet as an integral part of China and holding the position that the territory of Nepal would never be allowed to be used for anti-China activities by any forces."<sup>3</sup>

Positive Nepal-China relations are certainly within Nepal's sovereign interests; especially given the strong influence that some believe India has had over Nepal for decades. But Nepal has not fully sided with China on Tibet, and it maintains an agreement with the U.N. High Commissioner for Refugees and has been generally responsive to international concern about its treatment of Tibetan refugees. Nonetheless, Tibetans living in Nepal face socio-economic, cultural, civil and political challenges that undermine their human rights and their long-term security in Nepal.

## Findings:

The fact that Nepal has not ratified the 1951 UN Refugee Convention or its 1967 Protocol exposes it to political pressure regarding the treatment of refugees.

China has instigated a process of delegitimizing the Tibetan community in Nepal, which began in 1994 when Nepal stopped issuing or renewing refugee identification cards, and continued when the Office of the Representative of His Holiness the Dalai Lama and the Tibetan Welfare Office were forced to close in 2005. There is a fundamental need for documentation – whether refugee identification or citizenship – for Tibetans in Nepal. The status quo means that large numbers of bona fide Tibetan refugees in Nepal, including all those born after 1978, are effectively stateless, vulnerable to political exploitation, and unable to partake in state services or travel without threat of harassment, extortion or detention.

There is a correlation between China's post-2008 engagement with Nepal and the suppression of the Tibetan community by the Nepali security forces and bureaucracy. China's increased aid, support for security forces, high-level political visits, infrastructure construction projects and trade have all been openly contingent on Nepal's demonstrated commitment to a 'one China' policy through prevention of 'anti-China' activities by Tibetans. Over the same period, Tibetans' rights to freedom of movement, expression, assembly, cultural life and religion have been significantly curtailed in Nepal, including as follows:

- Peaceful protests are swiftly clamped down on, participants are arrested, and indications of Tibetan nationalism, such as flags or t-shirts, are confiscated.
- Cultural and religious gatherings are often interpreted as 'anti-Chinese' by the Nepali authorities and interrupted by police.
- Suspected would-be Tibetan protesters are preemptively arrested before 'sensitive' days, such as March 10, the anniversary observed as Tibetan Uprising Day. Politicized arrests of large numbers of Tibetans are also common around official Nepal-China meetings and high-profile Chinese visits. Undocumented Tibetans, including most youths, are at risk of detention by police corrupted by Chinese pay-offs.
- Threats and harassment by Nepali police of Tibetans involved in Tibetan media, NGOs and community organizations, with the aim of stopping their work, have been increasingly reported.

- Chinese government security agents work openly with Nepali police on the coordination of policing related to the Tibetan community. This significantly raises the pressure on Nepali police and increases the likelihood of arrest, detention and police maltreatment of Tibetans.
- Nepal and China's 2010 information-sharing agreement has been followed by unprecedented levels of surveillance of the Tibetan community by both Nepali and Chinese state agents, which facilitates arrests and threats.
- Since 2008, Nepali police have tightened up security related to Tibetans on the border between India and Nepal and have increasingly harassed, delayed, extorted and detained Tibetans attempting to cross. This threatens the quality of life of thousands of Tibetans who visit India for Buddhist pilgrimages, education, and to visit family.

Economically, Tibetans face issues in common with Nepalis that relate to Nepal's fragile post-conflict situation, but these are compounded by restrictions on their owning property, registering businesses and working in the public sector. Of great concern, recent policy changes have effectively excluded Tibetans from applying for further education or motorcycle driving licenses, policies which will potentially have a significant long-term impact on the Tibetan community's economic standing.

As a result of Chinese pressure, Tibetans in Nepal have had their official links substantially stressed with Tibet's India-based exile government, the Central Tibetan Administration. In 2010, Nepal's interference in exile elections led to the disenfranchisement of thousands of Tibetans in Nepal. Tibetans in Nepal have been left without effective community leadership, well-instituted welfare services or political representation, all of which significantly increase their vulnerability.

## Recommendations:

### Eroded safeguards

The combination of China's political strength and Nepal's relative weakness has left Nepal's hounded Tibetan population little to rely on in the way of protection as their legal status has been delegitimized and their representative and welfare offices shut down. Nepal may not have completely capitulated to Chinese pressure, but what few sources of protection remain for Tibetans are increasingly fragile.

- The Nepal government should issue long-staying Tibetans who have settled in Nepal before 1989 and their offspring official documentation that guarantees their right to live, work and study in Nepal, and allows their travel outside of Nepal.
- The Nepal government should respect Tibetans' fundamental rights and freedoms, including the right to peaceful assembly, in accordance with Nepali domestic and international law.
- The Nepal government should allow Tibetans to take up opportunities, such as the US government-proposed resettlement program, and seek other durable solutions for Tibetans in Nepal.
- The international community should work multilaterally to urge the Nepal government to implement a formal protection policy for refugees that embraces the intent of the Gentlemen's Agreement in all its aspects and regularizes the status of long-staying Tibetan refugees.
- The international community in Nepal should seek opportunities to demonstrate support the Tibetan community through mutual participation in social, cultural and other activities.

### Gentlemen's Agreement

In lieu of ratification of the UN Refugee Convention by Nepal, a 'Gentlemen's Agreement' exists between the Office of the UN High Commissioner for Refugees (UNHCR) and the Nepal government concerning the treatment of Tibetan refugees. According to the agreement, Nepal will allow Tibetans leaving Tibet a safe passage through Nepali territory to India, with the assistance of the UNHCR.

While the Gentlemen’s Agreement largely holds, Chinese pressure on Nepal to repatriate new Tibetan refugees back to Tibet is significant. Tibetans who have been forcibly handed over to Chinese authorities in Tibet face detention, hard physical labor, and torture. The act of forcible repatriation of any refugee to a place where their lives or freedoms could be threatened is known as refoulement. The last reported forcible repatriation of Tibetan refugees from Nepal was in 2010. However, the fact that the UNHCR no longer fields observation teams in the border areas, and the growing cooperation between Nepal and China on border issues, mean that there may be many more refoulements in the border areas which go undocumented.

- The UNHCR should resume monitoring of border regions to educate local authorities in the proper treatment of refugees, monitor adherence to the principle of non-refoulement by immigration or local security forces, and intervene when forced repatriation or other abuse occurs.
- The UNHCR must urge the Nepal government to adhere to the principle of non-refoulement by taking adequate and appropriate policy and administrative steps, which include written policy instruction to all border immigration and police, and training of Nepali police, security forces, and immigration authorities in proper procedures (as per the Gentlemen’s Agreement) and international norms.
- The UNHCR must make every effort, in concert with supportive governments, to preserve the Tibetan Refugee Transit Center in Kathmandu and its integrity as a secure place for temporary refuge and respite for Tibetans fleeing Tibet through Nepal and onward to India.

### **Nepali Judiciary**

Tibetans are not always able to rely on Nepal’s police force for protection, and may actively suffer from politicized policing. The Nepali judiciary, however, has fulfilled its independent role as an important recourse for Tibetans. Since 2008, the Supreme Court has made strong rulings in favor of Tibetans in several cases relating to detention of Tibetans following peaceful protests.

The Supreme Court ruled the detentions of Tibetans in such instances as “unnecessary” and “illegal,” and ordered their release. In this, the court demonstrated that it was beyond internal and external political influence. However, if the Supreme Court were to yield to the kind of pressure from Chinese that has infected other Nepali institutions, it would remove Tibetans’ last legal security in Nepal, leaving them open to inconsistent responses of Nepal’s put-upon political elite.

- The Nepal Supreme Court must continue to resist political pressure from without and within and recognize and rule on the clear distinction between Tibetans’ exercising legitimate rights and violating Nepali law.

### **Nepali Civil Society**

Over the past decade, the majority of Nepal’s civil society organizations have been engaged in working on conflict-related issues and human rights injustices that affect millions of Nepali people. Despite this, a few organizations have worked consistently on the Tibetan issue. The Human Rights Organization of Nepal (HURON), for example, maintains strong links with community leaders through its Tibet Desk, and they are often on the front-line after detentions are made, organizing lawyers, contacting other organizations and, so on. Rights organizations have also forged alliances with experts, academics and policymakers in a bid to include refugee law within the new constitution of Nepal. In October and November 2010, HURON, along with Sambad-Nepal, organized two interaction programs – in Lumle and Kathmandu – on the situation for refugees in Nepal. These produced a declaration in support of refugee rights. ICT is concerned about reports that police harassment also appears to be directed towards Nepalis who assist Tibetans. Such dissuasion tactics put Nepali activists in danger, deny Nepali citizens freedom of speech, and, if successful, would silence crucial on-the-ground support for Tibetans.

- Nepali civil society should raise concerns with their government about the operation of Chinese government officials and security agents inside Nepal who target the Tibetan community through surveillance, individual threats, detention center visits and police coordination.
- Nepali civil society should press for a comprehensive refugee policy to be devised and incorporated within the Nepal constitution which respects the rights of refugees, in line with international law.
- Nepali authorities must ensure that independent Nepali activists are able to continue their work supporting Tibetans without any danger of harassment.

## INTRODUCTION

**In the early morning hours of November 10, 2011, as local Tibetans performed prayers while circulating the stupa in the Boudha area of Kathmandu, a Tibetan monk named Butuk doused himself with gasoline and self-immolated. Still aflame, Butuk called out “stop the violence in Tibet” and “long live the Dalai Lama,” as onlookers quickly moved to extinguish the flames. Butuk survived the self-immolation protest, the second one undertaken by a Tibetan refugee in less than a week.<sup>4</sup>**

In 2011 Tibetans in Tibet witnessed the harrowing events of 12 self-immolation protests carried out in the name of greater freedoms and for the return of the Dalai Lama. These demonstrations against conditions in Tibet are tragic acts of defiance amidst the challenges Tibetans are forced to confront everyday in the People’s Republic of China (PRC). The restrictive policies in Tibet, which are harshly and sometimes violently implemented, have contributed to the continuing flow of Tibetans seeking refuge in exile, a dangerous journey most often taken through Nepal.

Discussions concerning Nepal are often preceded by observations on the country’s economic struggles, its geographic challenges, and tenuous regional political clout, all of which are seen in the light of its location between the giants of India and China. However, despite its royalist heritage and the recent traumas of a decade-long civil war that ended in 2006, the Nepali people have transformed their country into a dynamic federal republic that is now in the throes of forming a new constitution.

Within this context, over the course of 2011, 871 Tibetans, according to figures provided by the Tibetan Refugee Transit Center in Kathmandu, traversed the Himalayan mountain range and descended into a country that does not officially accord them refugee status and has shown increasing belligerence towards its long-staying Tibetan refugee community. This does not mean that Nepali officials view the Tibetans simply as another of their country’s many challenges in need of a solution. Absent legal status that affords meaningful protection to many long-staying Tibetan refugees and those in transit to India, Nepali officials have acted upon the Tibetans’ vulnerabilities with an accommodating nod to the interests of its northern neighbor, China.

The issue of Tibetans residing in Nepal has taken on increasing prominence in the relationship between Nepal and the People’s Republic of China, with Beijing taking full advantage of the widespread poverty and rampant corruption in Nepal,<sup>5</sup> through economic and other incentives. As it does in its diplomatic dealings with

countries around the world when addressing the issue of Tibet, Beijing routinely calls on Nepal to uphold a “one China” principle – that there is one, undivided sovereign China. In the case of Nepal, China’s utilization of “one China” is meant to imply that Tibetans – long-staying and transiting refugees – are a suspect sometimes dangerous element seeking to foment separation from China. In contrast, internationally, China hopes to obfuscate the Dalai Lama’s calls for genuine autonomy for Tibetans within the People’s Republic of China,<sup>6</sup> a position which is compatible with the principles on autonomy as set out in China’s constitution.<sup>7</sup> Chinese officials have identified territorial integrity and sovereignty as a “core issue” in order to justify their uncompromising stance on Tibet.

The number of Tibetans making the crossing from Tibet into exile has been in decline since 2008 when over 270 demonstrations, the overwhelming majority of which were peaceful, took place across Tibet. Although some analysts believed that the subsequent crackdown would lead to a significant uptick in refugee numbers, heightened security across the Tibetan plateau, including along the border with Nepal, has made the already perilous journey increasingly dangerous.

Prior to 2008, between 2,500 and 3,500 Tibetans fled into exile each year. Only those who entered Nepal before January 1, 1990, are recognized by the government of Nepal as refugees and therefore entitled to a government-issued refugee [identity] certificate (RC) and the right to reside in Nepal. Since 1998, however, the government of Nepal has refused to issue RCs to those eligible, including eligible dependents, leaving thousands of the estimated 20,000 Tibetans living in Nepal without any legal documentation.

Nepal is not a party to the 1951 U.N. Convention or 1967 Protocol Relating to the Status of Refugees, and current Nepali domestic law does not provide for the granting of asylum or refugee status. Tibetan refugees who have arrived or will arrive in Nepal after 1989 have been allowed to stay only in transit, and are intended to benefit from an informal agreement between the government of Nepal and the United Nations High Commissioner for Refugees (UNHCR), often referred to as the Gentlemen’s Agreement, which assumes cooperation among Nepali police and government officials with the UNHCR in providing for the safe transit of Tibetan refugees through Nepal and onward to India. The Gentlemen’s Agreement was put into practice in 1990 after Nepal stopped recognizing newly arrived Tibetans as refugees.

In recent years, however, the spirit of the Gentlemen’s Agreement has been compromised by border monitoring coordination between Nepali and Chinese officials and willingness by Nepali authorities to at times appropriate Beijing’s characterization of Tibetan refugees as “illegal economic migrants.” This has sometimes resulted in



the detention of refugees caught in transit or in Kathmandu, and the imposition of fines for violating Nepal's immigration laws. Further complicating the implementation of the Gentlemen's Agreement have been accusations made by the Chinese embassy in Kathmandu that Tibetan children making the journey into exile who are not accompanied by a family member are not refugees, but "trafficked children." Despite lacking credibility, given the serious nature of these accusations, the UNHCR and members of the international community have been obligated to follow up on these claims, delaying the processing of these children and their movement to a more stable Tibetan community in India.

The Gentlemen's Agreement has been further confounded by inadequate border monitoring by the UNHCR and inadequate training of border police by Nepali authorities.<sup>8</sup> The UNHCR's failure to conduct missions to educate Nepali border guards both raises the risks of forcible repatriation and means greater efforts must be undertaken by the Tibetan Refugee Transit Center staff or NGOs, whose effectiveness is constrained by lack of resources and a rescue mandate. The need to educate and instruct Nepali security forces on the implementation of the Gentlemen's Agreement is made all the more necessary given the findings of the U.S. State Department in its "Country Reports on Human Rights Practices for 2011," section on Nepal, in which it reported that "the most significant human rights problems were abuses committed by the security forces (including members of the Nepal Army, Nepal Police, and Armed Police Force), which were responsible for extrajudicial killings, torture, and arbitrary arrest and detention..."<sup>9</sup>

Despite the norms of international law and the attentiveness of some members of the international community, the Gentlemen's Agreement has been flagrantly violated by Nepali officials working in concert with Chinese officials to forcibly return, or refoule, Tibetan refugees. The principle of non-refoulement forbids the expulsion of a refugee into an area where the person could be subjected to persecution. And while Nepal is not a signatory to the U.N. Convention or Protocol Relating to the Status of Refugees, it has acceded to the U.N. Torture Convention in which the principle of non-refoulement is also enshrined.

## Chronology of Events in Nepal 2011:

### January/February

Nepal's deference to China's desired policies toward Tibetans can often be seen in how Tibetans are treated by local law enforcement, which in 2011 the U.S. State Department found: "routinely abused their 48-hour detention authority by holding persons unlawfully (i.e., without proper access to counsel, food, and medicine, or in adequate facilities), often at the behest of the chief district officer (CDO) or assistant CDO. It was not unusual for CDOs to direct police to arrest individuals for minor, petty infractions (e.g., unpaid taxes), and many of those orders (which were frequently verbal) were undocumented and appeared politically motivated."<sup>10</sup>

On February 13, 2011, as local Tibetans in Kathmandu attempted to hold leadership elections for a local community group, Nepal police in riot gear raided three voting locations and shut down the election on the orders of the CDO. The community group, Chushi Gangdruk, principally looks after the welfare of veterans of the Tibetan resistance force that battled the Chinese People's Liberation Army from 1958 until 1974. As one member of the election committee explained to ICT: "We are voting for our local community representatives so that when someone is sick we can take them to the hospital or when someone dies we can take the corpse to the graveyard. We help poor and homeless people, and we clean the streets and look after the environment in our community. We are refugees and not have such a government to look after us. Only community members do these jobs. We are here today, electing our community representatives in a democratic way."

Although the local police in the Boudha neighborhood had expressed no objections to the election and checked on the gathering when voting began at 9:00 a.m. without objection, Nepal police in riot gear arrived an hour later and told members of Chushi Gangdruk that Tibetan refugees are not allowed to hold elections for any reason, and that the raid was ordered by the CDO. Commenting on the incident, a police spokesperson later said, "We found them voting without the consent from the local administration, so we confiscated the ballot boxes."<sup>11</sup> It is also of note that the disruption of the election came in the course of a three day visit to Kathmandu by U.S. Under Secretary of State Maria Otero, who serves concurrently as Special Coordinator for Tibetan Issues, during which she met with newly arrived Tibetan refugees and reportedly raised U.S. concerns with Nepali officials about the status of undocumented members of Nepal's long-staying Tibetan refugee community.

Over the years the U.S. Government has demonstrated consistent concern for the plight of Tibetan refugees. As part of its overall annual contributions to the UN High Commissioner for Refugees (UNHCR), the United States funds the UNHCR office in Kathmandu, which supports the Tibetan Refugee Transit Center (TRTC) in Kathmandu. At the TRTC, Tibetans receive emergency care, clothing, food, and shelter. Tibetans may stay at the center to recuperate from serious illness or injury, but most depart for India after several days, following processing by the Indian government for entry permits. The Central Tibetan Administration arranges for the refugees to be sent to schools, monasteries, or Tibetan refugee settlements in various locations around India. All new refugees are provided an opportunity for an audience with the Dalai Lama – many Tibetans make the perilous journey into exile solely to be in the presence of their leader.

On February 13, Under Secretary Otero and U.S. Ambassador to Nepal Scott DeLisi visited the Tibetan Refugee Transit Center where some of the 172 new refugees spoke about the reasons they left Tibet and the dangers they encountered on the journey to Kathmandu, as well as their happy anticipation of meeting with the Dalai Lama and of the freedoms they expect to encounter in India. During the site visit, Under Secretary Otero reiterated the United States' continued support for the safety and welfare of Tibetan refugees in Nepal, and promised to carry the information they shared back to Washington, D.C.

On February 14, Under Secretary Otero and Ambassador DeLisi met with Prime Minister Jhala Nath Khanal, and their discussions reportedly included Tibetan issues.<sup>12</sup> According to a spokesperson for the Prime Minister, Under Secretary Otero "expressed concern about the Nepal government policy with regard to Tibetan refugees arriving in the country as well as identification of refugees who have been living in Nepal for decades."<sup>13</sup> According to The Himalayan Times, Khanal responded that the issue of Tibetan refugees in Nepal was very "sensitive" and Khanal's spokesperson asserted that, "The PM did not make any commitment on the issue."<sup>14</sup>



March 10, 2011. The “sensitive” issue of Tibetans in Nepal came to the forefront again when on March 10, 2011, Nepalese riot police used force to prevent Tibetans from commemorating the 52nd anniversary of National Uprising Day. The day commemorates the 1959 Tibetan uprising in Lhasa, and observations of the anniversary are considered by Beijing to constitute ‘anti-China activities.’ (Photo: ICT)

### **March**

The “sensitive” issue of Tibetans in Nepal came to the forefront again when on March 10, 2011, Nepali riot police used force to prevent Tibetans from commemorating the 52nd anniversary of National Uprising Day. The day commemorates the 1959 Tibetan uprising in Lhasa, and observations of the anniversary are considered by Beijing to constitute ‘anti-China activities.’

On the eve of the March 10 events in Kathmandu, Human Rights Watch, Amnesty International and the International Commission of Jurists issued a public statement calling on the Nepal government “to avoid serious conflict between police and demonstrators by taking reasonable measures, including pre-emptive consultation with leaders of the Tibetan community.” Brad Adams, Asia Director at Human Rights Watch, said: “The Chinese government has in the past put strong pressure on Nepal not to allow Tibetans to protest. We can see that in trying to comply with the wishes of the Chinese government the Nepalese authorities have effectively banned any gathering of Tibetans thus violating their freedom of movement.”<sup>15</sup>

Nonetheless, beginning in the early morning, around 3:00 a.m. on March 10, over 1,000 police were deployed, with hundreds gathering around Tibetan community centers and monasteries in order to prevent Tibetans from attending a gathering marking the event at Samtenling monastery. Police were even stationed at the gates of several Tibetan schools in order to prevent students from attending the demonstrations.

Nepal police can be seen kicking and beating unarmed Tibetan demonstrators who took to the streets in video posted on Euronews.net<sup>16</sup> and on the website of the UK's Telegraph newspaper.<sup>17</sup> The Telegraph cited local media reports that at least 15 people were detained and 20 injured in the day's altercations. A Tibetan residing in Kathmandu told ICT that the environment was "tense," adding that "people were incredibly nervous; it was terrifying." In an additional incident, several Tibetans, including a monk, were witnessed being beaten severely by Nepali people, not police, near the Boudha stupa. Later in the morning of March 10, police interrupted the traditional reading of the Dalai Lama's annual March 10 statement to the Tibetan people<sup>18</sup> in an effort to put an end to the event. Police withdrew only after repeated requests by local human rights monitors.

In addition to the restrictive measures implemented in Kathmandu, in a meeting between Chinese and Nepalese security officials held prior to March 10 on the Nepalese side of the border in Khasa, Chinese officials requested that Tibetans be banned from entering Nepal out of fear that they would openly celebrate the anniversary of the Dalai Lama's flight into exile.<sup>19</sup> Despite telling the Nepali media that "no decision was taken at the meeting" by the Nepalese officials, Chief District Officer Bishnu Kumar Karki, who attended the meeting, reportedly told his Chinese counterparts that 'anti-China activities' would not be tolerated. He added that Chinese security officials meet annually with Nepalese officials in February-March in order to request that the Nepalese officials prevent Tibetans from participating in 'anti-China activities' on the Nepal side of the border.<sup>20</sup>

Not long after March 10, Beijing announced that it would be recalling China's Ambassador to Nepal, Qiu Guohong.<sup>21</sup> Quoting "informed sources," The Kathmandu Post reported that the reason for the recall was partly due to "protocol" issues between Qiu and the Defense Attaché at the Chinese Embassy, Colonel Cheng Xizhong, related to Cheng's more senior standing in the Chinese Communist Party. Moreover, the sources said: "the Colonel was more assertive than ambassador Qiu, when it came to dealing with Tibetan issues and Beijing's core concerns in Nepal," adding that Beijing viewed Qiu as "weak," and not capable enough in dealing with Beijing's core issues with Nepal, i.e., Tibetan issues.<sup>22</sup> (China would announce in May that Yang Houlun as Ambassador to Nepal, its most senior ranking official to-

date to represent Beijing's interests in Kathmandu. Yang previously served as ambassador for Korean Peninsula Affairs and is a recognized security specialist.)<sup>23</sup>

By the end of March, Tibetans in Nepal were forced to look on as Tibetans living in exile around the world geared up to participate in democratic elections for the Chief Minister of the Tibetan exile government or Kalon Tripa and for their representatives to the Tibetan exile parliament or the Chitue. When the Tibetan community in Nepal had attempted to participate in the primary round of elections on October 3, 2010, Nepal police in riot gear stormed three separate polling centers and seized ballot boxes, disenfranchising thousands of Tibetans in the process. According to prominent Nepali human rights advocates, the Chinese embassy in Kathmandu had instructed the Nepali Home Ministry to stop the election, resulting in the raid.<sup>24</sup>

Despite international support, including a resolution of the European Parliament,<sup>25</sup> Tibetans in Nepal were left to forego participating in the March election and were left disenfranchised and without say in the administration of the Tibetan government-in-exile.

### **April**

On April 18 and 19, 2011, a group of some 30 Tibetans, undeterred by the events of March, carried forward in making their voices until plain-clothed and uniformed Nepal police broke up their private gathering at a community center in Kathmandu's Boudha neighborhood. The Tibetans were staging a 24-hour hunger strike in solidarity with those Tibetans experiencing the crackdown at Kirti monastery in eastern Tibet, which had been placed under tight security after a monk named Phuntsog self-immolated on March 16 and died on March 17, 2011.

One of the Nepal police demanded that a 42-year old Tibetan woman named Sonam Choedron remove her tee-shirt that bore the message "Save Tibet and stop the killing in Tibet." When she refused, she was told that if she did not comply, all of the Tibetan hunger strikers would be taken to prison. Sonam Choedron told ICT: "I felt absolutely humiliated. The police action hurt me a lot. It is not fair but it shows how badly Nepalese police are treating Tibetans. It is surely against Nepalese law. This was not a political rally, but prayers in solidarity - and in private - with the Kirti monk who lost his life."

The hunger strike, under the presence of police, was able to continue until its peaceful conclusion on April 19 morning. According to eyewitness sources, there was an unusually high number of what were thought to be Nepali intelligence officials present with the police.<sup>26</sup>

## May/June

Tibetans residing in Nepal are well aware of the broad powers held by Nepal's security forces, and the possibility of police intervention and the looming threat of detention that exists during every community gathering (public or private). According to U.S. State Department findings, overall in 2011 the Nepal "government limited freedom of assembly for the Tibetan community," and that "the assembly of Tibetans often led to strict restrictions that limited cultural freedoms."<sup>27</sup>

In addition to the substantial powers authorized to Nepal's Chief District Officers that are routinely on display, Tibetans are vulnerable to arbitrary detention under Nepal's broadly defined Public Security Act, which stipulates that security officials may detain individuals for up to 12 months without charge if they are deemed, among other things, a threat to domestic security and tranquility, or a threat to amicable relations with other countries. In addition Tibetan protestors are vulnerable to the Public Offenses Act, which allows for up to 25 days in detention without charge for crimes such as disturbing the peace.

It was the Public Offenses Act that was cited by Kathmandu's Deputy Superintendent of Police, Shyam Lal Gyawali, in attempting to justify why 12 Tibetans were detained on June 21, 2011, after hundreds of Tibetans gathered for a candlelight vigil at the Boudha stupa in Kathmandu. The Tibetans had gathered to express solidarity with those Tibetans living under the security crackdown in Tibet. Nepal police initially attempted to break up the vigil, which consisted of hundreds of Tibetans chanting prayers and carrying Tibetan and Nepali national flags, Buddhist flags and banners. The police ultimately allowed the vigil to continue but only after confiscating the flags and banners.

An article about the vigil appeared on June 24 in The Himalayan Times citing Shyam Lal Gyawali as saying: "The police had to intervene after the Tibetan exiles sporting headbands and t-shirts reading 'Free Tibet' tried to stage an anti-China protest... We have charged the Free Tibet activists under Some (sic) Public Offences Act for their involvement in disturbing peace in the society."<sup>28</sup> The prosecutor's office in Kathmandu also later accused the Tibetans of organizing an "anti-China" activity "harmful to China-Nepal foreign relations," according to an ICT monitor in Kathmandu.

While Chinese government officials advocated for the continued detention of the 12 Tibetans, they were held in poor conditions in a basement cell in the Boudha area. Among them was a 39-year old Tibetan man (whose name is known to ICT)

who was beaten with a bamboo baton and accused of being the main organizer of “anti-China” activities in Kathmandu. In addition to physical abuse, he was coerced into signing a confession and then locked overnight without drinking water in a bathroom at the Boudhanath police station. He told ICT that the Deputy Superintendent of Police (DSP) of the Boudhanath police station called him to his office, where there were another six or seven police officers, and accused him of organizing the candlelight vigil that evening. The Tibetan told him that he took part in the vigil, but that he was not the organizer. The DSP then got angry and slapped him in the face several times, dragged him by the hair onto the office floor, and accused him of being the main “Free Tibet” activist in Kathmandu. Other police officers recorded the questioning and beating on video. He told ICT: “Even though I was not an organizer of the vigil, he [the DSP] told me: ‘If you don’t confess, I will kill you tonight.’ Then he beat me with a bamboo stick. He hit me all over my body, but mostly on my legs. [Interviewee showed the scars on his legs. Even though it had been three weeks, the scars were still visible]. Then the DSP hit my knees and my stomach a few times while pulling my hair. I thought he was going to kill me, and then I confessed and said I was the organizer. Then he punched my mouth and locked me in the toilet with no drinking water or anything until 8:00 a.m. the next day.”<sup>29</sup>

On June 26, only days after the 12 Tibetans were detained for the candlelight vigil, Nepali authorities restricted birthday celebrations held for the Karmapa, the head of the Karma Kagyu school of Tibetan Buddhism.<sup>30</sup> This was the first time that officials interfered with this annual celebration. Security officials instructed organizers to limit the celebration to within the small courtyard of Gamsang monastery, and not to parade the Karmapa’s photo, the Dalai Lama’s photo, the Tibetan national flag or banners around the Boudha Stupa, and not to sing the Tibetan national anthem.

Hundreds of police in riot gear were then deployed in the neighborhoods of Boudha, Swayambhu and Jawalakhel, where a large number of Tibetans reside. Police stopped buses transporting monks from the Ngedon Wosal Ling and Benchen monasteries in Swayambhu, and nuns from Trango nunnery, on their way to join the celebration, and told them they were not allowed to proceed. An observer with HURON told ICT: “About 200 monks and nuns were stopped by police. There was an incident when police tried to confiscate Buddhist flags and the Karma Kagyu school flag from them, and a few monks were injured. After the incident, some monks and nuns protested in Swayambhu, carrying banners which police later confiscated.”

“All but a few of the monks and nuns stopped by police were Nepalis from the Himalayan region,” HURON monitor Tenzin Namdag told ICT. “They were not Tibetan refugees, and they did not have any plans to protest. They were not carrying Dalai Lama photos or Tibetan national flags with them, and they felt their right to



religious freedom was being denied.” A 27-year-old nun from Thugche Choeling nunnery in Swayambhu told ICT: “They made it impossible for us to go to Boudha to join the Karmapa birthday celebration, as we have done since the Karmapa escaped from Tibet at the end of 1999. The police arrived at our nunnery at 6:00 a.m. There were about 30 police officers at the gate with riot gear who kept us under very close watch. It looked very scary. Later, the chief police officer told us that we had to remain inside and not go to Boudha to celebrate.”

Over 50 police personnel in riot gear were stationed at Gamsang monastery in Boudha in case photos of the Dalai Lama, or Tibetan flags were displayed. While the Tibetan cultural show and birthday celebration itself proceeded without police interference, three Nepali intelligence personnel entered the monastery hall where prayers were being held and questioned organizers. The Second Secretary of the Himalayan Buddhist Association, Jigdral Sherpa (a monk from Kopan monastery), spoke during the function. He said: “Nepal is Lord Buddha’s birth place. If we are not allowed to celebrate our Lama’s birthday here, that is a serious abuse of religious freedom. Nepal is a democratic country and open society. I would urge the Nepal government and leaders to treat ethnic groups equally and respect our religious freedom, and that such things will not happen again in the future.”<sup>31</sup>

Security officials continued to harass the Tibetan community days after the celebrations for the Karmapa took place. On June 28, police in Boudha detained 39 Tibetans, including a 78-year old man, in three different areas of the neighborhood while they played cards and mahjong, accusing them of gambling.<sup>32</sup>

In a visit to Kathmandu in early June, U.S. Deputy Assistant Secretary of State for Population, Refugees and Migration Kelly Clements met with Deputy Prime Minister and Home Minister Krishna Bahadur Mahara and reportedly reiterated U.S. support for the Gentlemen’s Agreement as well as urged the Nepal government to begin registering Tibetan children born after 1990, the last time a census was taken of Nepal’s Tibetan community.<sup>33</sup> Clements advocated for the registration process to begin again, given the difficulties the lack of documentation has created for the pursuit employment and education in Nepal and abroad. Mahara reportedly told Clement they that Nepal government would “think positively” on the registration of Tibetan children.<sup>34</sup>

Deputy Assistant Secretary Clement’s message of U.S. support for the Tibetan community in Nepal did not go long without challenge. Shortly after arriving in Kathmandu on June 18, newly appointed Chinese ambassador to Nepal, Yang Houlan, also visited with Mahara. In their June 27 meeting, Yang called on Nepal to prevent any activities that could support the “Free Tibet” movement, according to a ministry

official.<sup>35</sup> Two days later on June 29, Yang met with Pushpa Kamal Dahal, the chairman of the Maoist political party and former Prime Minister of Nepal. Yang again raised Tibet, this time in the context of Nepal's adherence to a "one China policy," in addition to China-Nepal relations and Beijing's development aid to Nepal.<sup>36</sup>

## July

On July 6, 2011, hundreds of Nepal police in riot gear were stationed in various areas of Kathmandu to prevent Tibetans from celebrating the Dalai Lama's birthday. Nepali officials had refused to give permission for Tibetans to gather publicly for the birthday celebrations, instead ordering that the birthday should be observed only in people's homes. Nepal police confiscated pictures of the Dalai Lama and a "Happy Birthday" banner hanging inside a walled courtyard at Samten Ling monastery in the Boudha area of Kathmandu.<sup>37</sup>

Nearly 300 police in riot gear prevented access to Namgyal Middle School where the community celebration was to be held. Three Tibetans were detained by police for burning incense and throwing barley flour (tsampa) into the air, both ritual acts of celebration and offering. Several people were injured when some 50 Tibetans attempted to climb over a two-meter wall with barbed wire in order to avoid the blocked entranceways. An ICT monitor in Kathmandu said: "The atmosphere was tense, with many elderly Tibetans crying because they could not get into the celebration, and arguing with the police."<sup>38</sup> Virtually all of the several hundred Tibetans and Himalayan peoples who had gathered for the birthday event were forced to return home by police. Three Tibetan minors were injured when the police hit out at the crowd with bamboo sticks. Earlier the day before, several hundred Nepali police had been deployed in Boudhanath where many Tibetans live by the main stupa. In 2010, police set up checkpoints at different locations stopping Tibetans heading for the birthday celebrations. In 2011, however, restrictions were meted out verbally to Nepali human rights monitors as well as to Tibetan community leaders who had submitted a written request for permission to hold the birthday event. Local authorities said that no mass gathering and no pictures of the Dalai Lama would be allowed.

On July 10, having spent 20 days in detention, the 12 Tibetans detained in June at the Boudhanath candlelight vigil were ordered released by the Supreme Court of Nepal. The Court found that the detention of the Tibetans was "without reasonable explanation... and that said, detention is illegal."<sup>39</sup> According to Court documents, the Nepal Supreme Court chastised the Boudha police, the Chief District Officer, and the prosecutor's office involved in the detention for failing to provide a written explanation to the court for the Tibetan's detention and for failing to issue them arrest warrants.<sup>40</sup>

## August

As noted by the State Department's 2011 human rights report on Nepal, the Chief District Officer (CDO) is empowered with the authority to detain individuals for 48 hours, a privilege routinely abused.<sup>41</sup> According to human rights monitors in Nepal, it was the CDO in Kathmandu who ordered the detention of Thinlay Lama, the head of the Tibetan Refugee Welfare Office in Nepal, on August 5, 2011.<sup>42</sup> That day, Thinlay Lama had organized a press conference "to tell the media world about the problems faced by Tibetan refugees" and to specifically refute charges that had appeared in the Nepali press that his office was complicit in a case of two Tibetans who had attempted to leave Nepal with false passports.<sup>43</sup>

Following the press conference at the Hotel Ambassador, Thinlay Lama returned to his office in the Lazimpat neighborhood of Kathmandu at around 12:30 p.m., where he was detained along with his assistant, Jampa Dhundop, by six police officers and taken to the Hanuman Dolkar police station. Thinlay Lama was held in a private room where he met with his Nepali lawyer and a representative of HURON. Held in detention for approximately eight hours, a representative from HURON informed ICT that they were told that Thinlay Lama should not have organized the press conference while the police were investigating the case of the fake passports, and that the detention was on the orders of the Kathmandu CDO.

During his detention, Thinlay Lama was twice interviewed by the Superintendent of Police. During the mediation process that led to his release, Thinlay Lama had to agree in writing that he would coordinate with the local authorities before organizing formal programs, and verbally agree that he would officially register his office. The closing, registration and de-registration of Tibetan offices in Kathmandu has been a cat-and-mouse game between the Nepal government and the Tibetan community since January 2005. At that time, King Gyanendra closed the Office of the Representative of His Holiness the Dalai Lama and the Tibetan Welfare Office in Kathmandu, widely believed to be an act of reciprocation for Chinese political support. In October 2005, the Nepal Home Ministry approved the registration of the Bhota Welfare Society to replace the Tibetan Welfare Office, only to have it de-registered by the Nepal Foreign Ministry on October 24, 2006. Subsequent efforts backed by western embassies and the UNHCR to formally reopen a Tibetan office were unsuccessful. Given these events, the implications of the verbal agreement the Deputy Superintendent of Police required of Thinlay Lama are unclear.

On August 15, Nepali security officials invoked the Public Offenses Act to justify the detention of eight Tibetans prior to the August 16 arrival of the highest level official Chinese delegation to visit Nepal in several years, lead by Politburo member

Zhou Yongkang.<sup>44</sup> The targeting of the eight Tibetans, six of whom were detained from Boudha during the evening of August 15, while the other two were detained from the Jawalakhel Tibetan refugee settlement in Kathmandu in the morning of August 16, provoked a number of senior Tibetans in the community to go into hiding. Fear spread throughout the Tibetan community as reports emerged that police in Kathmandu were attempting to track down Tibetans known to have taken part in peaceful protests in 2008.<sup>45</sup>

Thinlay Lama, already in a sensitive position, received a call from the CDO warning against conducting any “anti-Chinese” activities. Other senior members of the Tibetan community received phone calls from authorities the day before Zhou Yongkang’s visit, warning that they risked arrest if they did not cooperate with the police.<sup>46</sup>

The detentions of Tibetans by the Nepali authorities and their invoking of the amorphous specter of “anti-Chinese activities” demonstrated the importance of the delegation’s visit, which, according to *The Kathmandu Post*, included an agenda related to four agreements on bilateral economic cooperation, including “Chinese assistance on strengthening Nepal’s security agencies, construction of a transmission line for the Upper Tamakoshi ‘A’ hydropower project and an increment in annual Chinese assistance to Nepal.”<sup>47</sup>

## **September**

While Tibetans residing in Nepal continued to face politically motivated harassment by security officials, the tenuous status of those Tibetans attempting the perilous journey to cross into Nepal took on acute significance in September (sometime between the 11th and 13th) when 23 Tibetans were detained in the border area and handed over to Nepal’s Department of Immigration in Kathmandu, contravening the protocols established under the Gentlemen’s Agreement that Tibetans are to be promptly handed over to the UNHCR for processing and onward transit to India. The group included eight minors (ages 13-17). In a further attempt to undermine the Gentlemen’s Agreement, the Chinese embassy in Kathmandu demanded in writing that the Tibetans be released to Chinese authorities for return to Tibet.<sup>48</sup>



Handwritten signature and date: 2011/9/13

## 中 华 人 民 共 和 国 大 使 馆

NCE/31 /11

The Embassy of the People's Republic of China in Nepal presents its compliments to Ministry of Foreign Affairs, Government of Nepal and has the honor to state as follows:

According to information from various reliable sources, the 20 Tibetan boys and girls arrested by Nepal Police on September 11, 2011 in Far Western Region of Nepal were coerced by human traffickers to have illegally crossed China-Nepal border and entered into the Nepali side. So they are the victims of human trafficking. This is a very serious case of organized crime and violation of human rights of the Tibetan people. Now this Embassy has been receiving calls for help from the families of the 20 boys and girls. Their parents are sincerely requesting both the Chinese Government and the Nepali Government to make necessary arrangement to send them back so the intactness of their families could be restored and human rights of the Tibetan people could be effectively protected. Therefore, it is kindly requested that upon their arrival in Kathmandu, all the 20 juveniles be handed over to the Government of Tibetan Autonomous Region, the People's Republic of China so as to ensure their reunion with their families.

The Embassy of the People's Republic of China in Nepal avails itself of this opportunity to renew to Ministry of Foreign Affairs, Government of Nepal, assurances of its highest consideration.



In a further attempt to undermine the Gentlemen's Agreement, the Chinese embassy in Kathmandu demanded in writing that the Tibetans be released to Chinese authorities for return to Tibet.

On September 21, Nepali lawyers working with the Kathmandu-based Human Rights Organization of Nepal (HURON) filed a habeas corpus petition with the Nepali Supreme Court challenging the continued detention of the 23 Tibetans. The next day, Nepali authorities released the group of Tibetans to the UNHCR for processing.<sup>49</sup> Later the same day, the Supreme Court ruled that the government could not deport the 23 Tibetans unless and until the Court issued a ruling on the petition, and that the representatives from the Home Ministry and police had to come to the Court to clarify why the Tibetans were detained without the issuance of arrest warrants.<sup>50</sup> Subsequently, the release of the group earlier in the day allowed for the court petition to be dropped. Sudip Patak, HURON's president, said: "It was one of the strongest and most immediate court verdicts we have ever had."<sup>51</sup>

The impunity with which China's diplomats feel they can target Tibetans in Nepal is made clear by their unsubtle disregard for keeping their coordination with Nepali officials behind closed doors – and lays bare the vulnerable position of Tibetan refugees in Nepal.

### **October/November**

On October 16, 2011, the Chinese embassy continued its public assault on Nepal's Tibetan community in a speech given by Chinese Ambassador Yang Houlan at the National Press Club in Kathmandu. Without providing supporting evidence or specific details, Yang declared during his speech that "We have the authentic information that our oldest and nearest friend Nepal is turning into a playground for anti-China activities. Some international and domestic forces are coordinating their activities against China."<sup>52</sup> Yang added, "We are fully confident that activities against China do not take place in a spontaneous manner in Nepal. Chinese authorities are being regularly informed of the clandestine anti-China activities being planned in Nepal. Nepal's political parties and government is also abreast of such activities."<sup>53</sup> While reiterating Beijing's public stance that "international forces" were working to support the "Tibet movement" in an attempt to limit China's development, Yang expressed China's appreciation for the 'one-China' stance taken by successive Nepal governments, adding, "Nepal understands the politics behind the anti-China protests. It is a political issue and Nepal has always supported China's concern."<sup>54</sup>

The day after the speech, four Tibetan community leaders were detained by authorities in Kathmandu. Three of the Tibetans – Trinley Gyatso and Jampa Khondup from the Tibetan Refugee Welfare Office and Tsering Dhundup, head of the Boudhanath Tibetan community – were taken into custody by Nepal police for several hours of questioning. A witness to the questioning told ICT that there were obvious indications that the questions followed directions from the Chinese Embassy.<sup>55</sup>

A fourth Tibetan community leader was also detained on October 17. Chime, the head of the Jawalakhel Tibetan settlement, was taken into custody and questioned by police for over an hour following a visit to the settlement by U.S. government officials earlier that day.<sup>56</sup>

On October 18, U.S. Congressman Jim Sensenbrenner arrived for a two-day visit to Kathmandu.<sup>57</sup> Congressman Sensenbrenner met with Prime Minister Baburam Bhattarai and reportedly raised concerns regarding the police crackdown on Tibetans in Nepal. During their meeting, Sensenbrenner raised the issue of safe passage for Tibetan refugees through Nepal and encouraged the prime minister to uphold the Gentlemen's Agreement. Rather than affirming Nepal's commitment to the Gentlemen's Agreement and international legal standards regarding refugees, the prime minister reportedly replied to Sensenbrenner's concerns by referencing Nepal's "sensitive position" given Beijing's expectations of Nepal on Tibet.<sup>58</sup>

Despite support from the international community for better treatment of its Tibetan population, the Nepal government continued to pursue actions that satisfied Beijing's demands to prevent "anti-China" activities on Nepal's soil.

On November 1, 2011, Nepal police detained 58 people after the Tibetan community in Bhanimandal gathered for a prayer service to commemorate the Tibetans who had self-immolated in Tibet.<sup>59</sup> A spokesperson for the Metropolitan Police Commissioner's Office later attempted to justify the detentions by saying that the prayer gathering was a ruse for holding an "anti-China" protest, and violated Nepal's 'one-China' policy. The detentions coincided with a November 1-6 visit to Nepal by Deputy Chairman of the Tibet Autonomous Region, Wu Yingjie.<sup>60</sup>

On November 3, U.S. Congressman Frank Wolf took up the issue of Tibetans in Nepal during a Congressional hearing on Tibet warning that Nepal risked jeopardizing U.S. government aid if it did not begin granting exit visas for Tibetans seeking refuge in the United States.<sup>61</sup> Congressman Wolf, a member of the House Appropriations Committee, which determines funding for US foreign aid, said that US aid to Nepal would come under review in 2012 if Nepal's record did not improve.<sup>62</sup>

In the early morning hours of November 10, as local Tibetans performed prayers while circulating the stupa in the Boudha area of Kathmandu, a Tibetan monk named Butuk doused himself with gasoline and self-immolated. Still aflame, Butuk called out "stop the violence in Tibet" and "long live the Dalai Lama," as onlookers quickly moved to extinguish the flames. Butuk survived the self-immolation protest.

On November 20, little more than a week after Butuk's self-immolation, U.S. Ambassador DeLisi wrote an opinion piece published in The Kathmandu Post making

a clear case for Nepal's protection of refugees not only as a matter of international law, but as "one of the strongest and clearest and most consistent examples of the values of this nation and its people."<sup>63</sup> Attempting to ground Nepal's Tibetan refugee issue in international norms rather than in the back-and-forth between competing Chinese and U.S. views, Ambassador DeLisi pointed to "Nepal's record of steadfast support, even in the face of pressure to change its policy." DeLisi continued: "[t]hose who seek to portray our [U.S.] position on Tibetan refugees as anti-China fundamentally misunderstand US policy and the importance we place on upholding universal values, rights, and principles."

At the time of the op-ed, Nepal was planning for a December visit by Chinese Prime Minister Wen Jiabao, which would have certainly included stern guidance on Tibet.<sup>64</sup> DeLisi wrote: "I am troubled, however, that today we find some who seek to make Nepal's respect for refugee protection and human rights an issue of political debate and there are others who seek to portray Nepal's hospitality toward Tibetan refugees as 'pro-' one country or 'anti-' another. In my view it is neither." Ambassador DeLisi concluded: "for the United States, humanitarian protection – not political gamesmanship – is our primary concern, and our focus will continue to be on protecting vulnerable refugees, rather than the politics of their countries of origin."

## **December**

The much anticipated year-end visit by Premier Wen was postponed due to what was characterized as "security concerns" by a "senior parliamentary source" who spoke with the AFP.<sup>65</sup> During the planning period, Chinese officials had made clear to their Nepali counterparts that they harbored doubts regarding Nepal's ability to quell 'anti-China' activities during Wen's time in Nepal.<sup>66</sup> After speaking with a Chinese delegation in early November that included Liu Qi, a member of the Chinese Communist Party's high-level Politburo, Prime Minister Baburam Bhattarai attempted to assuage those fears by once again declaring Nepal's adherence to a 'one-China' policy, implying that 'anti-China' activities would not be tolerated.<sup>67</sup> Wen's visit to Nepal would have been the first by a Chinese premier since 2001. The two sides were to discuss billions of dollars in investments from Beijing, in addition to Beijing's usual insistence that Kathmandu officials do more to combat the influx of Tibetan refugees into Nepal.<sup>68</sup>



## INFLUENCES AND ISSUES

**Since the brutal suppression of an uprising in Lhasa in 1959 prompted the Dalai Lama's escape into exile, continuing repression in Tibet has seen hundreds of thousands of Tibetans cross the Himalayas in search of refuge in northern South Asia. Nepal, the country into which most Tibetan refugees make that dangerous crossing, now plays host to a Tibetan refugee population of some 20,000. On average, between 2,500 and 3,500 Tibetans make the crossing annually, although tighter security restrictions across the Tibet Autonomous Region (TAR) and in the Tibet-Nepal border areas have caused these numbers to drop significantly since 2008.**

Nepal and Tibet have a long history of cross-border migration, through which generations have traded, intermarried and shared cultural and religious practices. In the seventh century, the Tibetan King Songtsen Gampo, widely regarded as the founder of Tibet, was said to have married both Nepali and Chinese princesses, from whom he developed an appreciation for what came to be known as Tibetan Buddhism. Tibetan Buddhism is also practiced in Nepal, particularly in but by no means restricted to, the mountainous regions. The Nepali ethnic groups who populate these regions also share ethnic and many cultural and linguistic traits with their Tibetan brethren. As a result of these centuries-old ties, the Tibetans who took refuge in Nepal from the late 1950s found themselves welcomed and were able to live throughout Nepal in relative freedom. This began to change in 1989, when the Nepal government stopped allowing the Tibetan refugees coming across its border to stay. Instead, a Gentlemen's Agreement established between the UNHCR and the Nepal government stated the latter's commitment to allowing Tibetans safe passage through Nepali territory and onward to India. Tibetan refugees who had settled in Nepal before 1989 were able to remain, recognized by their official government-issue Refugee Cards which allowed the bearers the right to stay and have freedom of movement inside Nepal.

In the years since, Nepal's Tibetan population has suffered at the expense of geopolitical pressures. Nepal has been described as the "yam between two stones,"<sup>69</sup> referring to its positioning between the two burgeoning superpowers of India and China.

The start of a process of delegitimizing the long-staying refugee population in response to Chinese pressure began in 1994 when the Nepal government stopped renewing and issuing Refugee Cards. Already prevented from owning land, property or business, without official documentation Tibetans are also unable to study or work in government institutions or apply for driving licenses or travel documents.

Undocumented Tibetans, including a whole generation of young people born after 1978, are vulnerable to harassment and detention by the Nepali police. In 2005, when India cut ties with Nepal over King Gyanendra's seizure of power, China stepped in to supply arms to the then Royal Nepalese Army. In return, King Gyanendra enforced the closures of the Office of the Representative of His Holiness the Dalai Lama and the Tibetan Welfare Office in Kathmandu leaving the Tibetan refugee population in Nepal without representation and vulnerable to further harassment.

2008 was a seminal year for Tibet, Nepal and China. Unrelated events that happened across the region have vastly affected the foreign policy of China, the political structure of Nepal and the resultant freedoms of the Tibetan people living under Chinese and Nepali rule. In March 2008, a Tibetan uprising began with a monks' protest in Lhasa and spread across the Tibetan plateau. China chose to respond with force, behind its borders. Communications were shut down across the region and, as thousands of Tibetans were rounded up into secret detention, journalists, international observers, tourists and diplomats were blocked from entering Tibet. In contrast, just a month later, in April 2008, Nepal celebrated its first democratic elections in over a decade, made possible by a peace agreement in 2006 which had brought to an end a 10-year-long civil war. The former guerilla movement-turned-political party won a landslide victory and installed their former commander, Pushpa Kamal Dahal, as Nepal's first Maoist Prime Minister. While Nepal celebrated the promise of a new era of stability, the way was left open for China to exert significant political pressure on Nepal's fledgling democracy. China's priorities with Nepal shifted strongly after the events of 2008 from trading arms to limiting the flow of Tibetan refugees – and suppressing the voices of those who had already taken refuge there.

While virtually all Tibetans in Nepal face significant challenges in their day-to-day lives, the local conditions where they live alter the ways in which they experience these challenges. It is useful for understanding the varying circumstances for Tibetans living in Nepal to envisage three geographical groupings: Kathmandu residents, Pokhara residents, and those who live in remote settlements (spread out across four different Himalayan districts which border Tibet – Rasuwa, Solukhumbu, Taplejung and Mustang).

## History of Tibetan Refugee Settlements in Nepal

**1959** – A Chinese military assault and counter uprising in Lhasa in March 1959, prompted the Dalai Lama and thousands of Tibetans to flee Tibet. While the majority of Tibetans found refuge in India, several thousand were given permission by King Mahendra to settle in Nepal.

**1960s** – The Chinese Cultural Revolution saw a sustained attack on the Tibetan Buddhist culture. Continuing repression in Tibet fed the refugee flow to Nepal. Camps were established throughout Nepal, many in mountainous lands procured by the Nepal Red Cross. The then Swiss Association for Technical Assistance (present-day Swiss Development Corporation) assisted the refugees by establishing farmland and carpet-weaving factories. As with Nepali citizens, Tibetans were allowed freedoms of expression, movement, assembly and religion as long as they did not participate in political movements.

**1970s** – Tibetan guerillas, supported in part by the CIA and with the knowledge of the Nepali monarchy, based themselves in Mustang and from there made incursions into Chinese-occupied Tibet. In 1974, the Royal Nepalese Army was deployed to disarm the guerillas, who were then settled in the Pokhara region. In the same year, Tibetan schools were co-opted into the national education system, at the loss of Tibetan language education, prompting many refugees to send their children to Tibetan schools in India. The carpet business boomed, becoming one of Nepal's biggest exports, bringing economic stability to the Tibetan community in Nepal and many Nepalis.

**1980s** – In the late 1980s, the most significant protests in Lhasa since 1959 prompted China's imposition of martial law in Lhasa and another exodus of Tibetan refugees into South Asia. Under pressure from China, Nepal stopped accepting new Tibetan refugees in 1989, but agreed to guarantee their safe transit through Nepali territory and onward safe passage to India.

**1990s** – In 1990, a people's movement in Nepal created a constitutional monarchy with a democratically-elected government. In the years following, Tibetans enjoyed some freedom to express their political views on the situation in Tibet. In 1994, China criticized Nepal for allowing such protests. In response, Nepal began to curtail protest outside Tibetan settlements and stopped the issuance and renewal of refugee documentation. In 1996, an armed insurgency was launched by Maoist rebels, who termed it a "people's war." Along with Nepalis, Tibetan business-owners faced extortion, and suffered as a result of general economic decline. Many Tibetans from the remote Himalayan settlements moved to settlements in the urban centers of

Pokhara and Kathmandu. Many Tibetans with capital and family connections chose to leave Nepal and emigrate to India, Europe or North America.

**2000 – 2006** – Nepal’s civil conflict intensified, sounding the death knell for the Tibetan carpet industry which began to collapse. In 2005, King Gyanendra dissolved parliament and seized absolute rule. India pulled out of supplying arms to the Royal Nepalese Army, making room for China to exercise its power. In return for arms, King Gyanendra forced the closure of the Office of the Representative of His Holiness the Dalai Lama and the Tibetan Welfare Office, leaving Tibetans in Nepal without representation. In 2006, a second people’s movement ousted the King and reinstated parliamentary democracy within a secular republic. The Maoist rebels signed a Comprehensive Peace Agreement which marked the official end to the decade-long conflict.

**2008** – In the year in which Beijing would host the Summer Olympics, protests erupted in Lhasa and spread across Tibet. Solidarity protests were carried out around the world, and Tibetans in Kathmandu held a series of sustained non-violent demonstrations which were forcefully put down by Nepali police. In April, Nepal held its first post-conflict democratic elections and the ex-commander of the Maoist rebel forces, Pushpa Kamal Dahal (nom de guerre Prachanda), was voted in as Prime Minister of Nepal.

**2009 – 2011** – China stepped up its engagement with Nepal, centered on Nepal’s treatment of Tibetan refugees. Nepali and Chinese state surveillance of the Tibetan community increased. Police response to protests was increasingly harsh. Arrests and detentions of Tibetans, particularly the young and undocumented and those in leadership positions, became prevalent, politicized and lengthy. Cultural and religious events were often interrupted by the Nepali authorities. Policy changes saw Tibetans unable to apply for further education or motorbike licenses, or to travel without harassment between India and Nepal. In 2010, thousands of Tibetans were left disenfranchised when the Nepali police confiscated ballot boxes in the election of the new leadership of the exile Tibetan government.

## Shared Himalayan Identities

The exodus of Tibetan refugees into Nepal, which started in large numbers in 1959, boosted the ties between Tibetans and Nepalis, and put Nepal on the global map for Buddhist practitioners and enthusiasts. As well as resonating with the many tourists who visit Nepal each year, the establishment of Buddhist monasteries presented an opportunity for many Nepalis to explore the religious and cultural heritage they share with Tibetans. In late 2011, Himalayan Buddhists gathered for a conference

on the Nepali plains at Lumbini, birthplace of the historic Buddha (fifth century), Siddhartha Gautama. Australian The Tibetologist Gabriel Lafite judged the significance of the conference as creating a renewed sense of “heartfelt identity” among Himalayan peoples “and their loyalty to the lamas and thus to a wider concept of Tibet as the spiritual home.”<sup>70</sup>

Significantly, the conference had the support of 17 members of Nepal’s parliament, including the Deputy Prime Minister, Vijay Kumar Gacchadhar, who attended as ‘chief guest.’ Nepalis often profess sympathy about the human rights situation in Tibet and frustration towards the Nepal government’s policies towards Tibetan refugees. Many Nepalis of Himalayan origin have also faced discrimination from the Nepali state which, until 2006, was a Hindu Kingdom based on a strict social hierarchy in which the Himalayan peoples ranked low. The present-day discriminatory treatment of Tibetans by the Nepal state at times also affects Nepalis of Himalayan origin.

Conversely, Tibetans who speak fluent Nepali can sometimes avoid detention in Nepal or fines at the India border by pretending to be Nepali citizens from the Himalayan regions. Tibetans arriving in Nepal after their arduous Himalayan crossing often find refuge first among Nepalis of Himalayan origin who live in the border areas. These communities have at times risked detention and fines to provide food and shelter to Tibetan refugees. In 2010, Sudeep Sunuwar, a Nepali citizen and schoolteacher in Lapcha, provided assistance to a group of Tibetan refugees. He was arrested along with the Tibetans and accused of human trafficking.<sup>71</sup> That Mr. Sunuwar’s humanitarian action was criminalized by the Nepali authorities shows Nepal’s lack of commitment to the Gentlemen’s Agreement and raises the stakes for others who assist Tibetans in need.

## **The Politicization of Refugee Assistance**

Nepal is not a signatory to and therefore not bound by the UN Convention on Refugees, although customary law obliges Nepal to provide sanctuary to persons seeking refuge within its borders. However, without formal law to back up government policy, the treatment of refugees has been significantly affected by political relations between Nepal and the states from which the refugees fled. This is starkly obvious when looking at the ways in which Nepal has dealt with its two large refugee groups, the Bhutanese and the Tibetans. While some 20,000 Tibetans live in Nepal, newly arrived Tibetans in Nepal have not been allowed to claim refugee status since 1989. In 2005, the Nepal government refused to enter into a process to resettle Tibetan refugees in the United States, although it has done so in the case of over 60,000 Bhutanese refugees.

## China's Increasing Influence in Nepal

### a) How the way was left open for China: Nepal's political context

Where Nepal was previously a monarchy, Nepal's internal conflict, people's movement and post-conflict secular state have spread power between vying entities. The way has been left open for China to exploit these divisions for its own gain vis-à-vis Tibet.

Nepal has endured a political sea change over the past decade. A Hindu kingdom became a democratic secular republic, by way of a Maoist-led armed conflict and a popular people's movement for democracy and the deposition of the King. Elections in 2008 saw the ex-head of the Maoist People's Liberation Army, Pushpa Kamal Dahal, take the helm of a Constituent Assembly in what was widely proclaimed as a 'new Nepal.' Nepal's population dared to hope that stability, prosperity and peace could be theirs. But the hope that was high in 2008 has been dashed by political infighting between parties over the writing of a new constitution and implementation of key aspects of the 2006 Comprehensive Peace Accord, including the integration of the Maoist army into the Nepal army, and the establishment of Transitional Justice mechanisms (role of truth commissions, accountability measures, reparations, and other reconciliation measures) to address the thousands of conflict-era human rights violations, including torture, rape and the disappearance of over 3,000 Nepalis.

Pushpa Kamal Dahal's government lasted just less than a year before he dramatically stood down in April 2009 after his failed attempt to sack the Chief of Army Staff, General Rookmangud Katawal. Since then, there have been three prime ministers and a leaderless period of seven months when political parties went through 17 rounds of voting to agree upon a candidate. Instability at the helm has set a standard for political dog-fights over the leadership position, leaving little time or apparent care for the issues which affect the nation. The deadline for the constitution has been repeatedly delayed since 2010.<sup>72</sup> The elapse of the most recent deadline, at the end of May 2012, forced Prime Minister Baburam Bhattarai, also of the Maoist party, to announce that political parties had failed to reach agreement on key components of the constitution. Fears of emergency rule were averted by his subsequent announcement that he would remain as interim Prime Minister up until new elections in November 2012.

A culture of impunity exists in Nepal, given that both 'sides' of the conflict are now in power and have little interest in prosecutions. Conflict-era impunity causes a breakdown in the rule of law. Policing is often politically biased and open to corruption. At the local level, political parties, rather than the rule of law, run the show and party allegiance is almost necessary to ensure a safe and easy life. Tibetan refugees

do not have the right to vote in Nepal and so are almost entirely excluded from this complicated yet protective system of patronage and power. Tibetans must face a corruptible and unaccountable police force alone and are vulnerable to political slander and mechanizations from political parties keen to curry favor with China.

Aside from the political quagmire, Nepal's economy is still struggling to establish itself post-conflict and is significantly reliant on foreign aid donations, particularly from the United States, United Kingdom, India and, increasingly, China.

Having a clear refugee policy stipulated in the new constitution would be a landmark step forward for refugee protection in Nepal, but alone it would not be enough to bring Tibetans into the full enjoyment of rights on par with Nepalis. A better future for Tibetans in Nepal depends on better governance with inbuilt mechanisms of accountability to Nepal's domestic courts and to international law. A stronger Nepal, both politically and economically, would be better able to stand up to Chinese pressures and incentives. In the interim period, counter pressure and dissuasion from other states, including India, is necessary to create safe living space for Tibetan refugees in Nepal while longer-term goals are worked on.

### **b) Nepal's relationship with India and China**

Sharing cultural and religious ties that date back centuries, for decades after 1959, Nepal was a safe haven for Tibetans. Over the past decade, the value placed on historical connections has changed dramatically as both Nepal and the People's Republic of China have seen the benefits of a closer relationship. Nepal has been described as the "yam between two stones,"<sup>73</sup> referring to its positioning between the two burgeoning superpowers of India and China. India has long had the upper hand when it comes to shaping Nepali statecraft, helped in no small part by the open and easily accessible southern border which facilitated the relationship. However, China's concerns about Tibet have made it an increasingly engaged player in recent years. Nepali politicians in turn have courted China in an attempt to balance India's overt political interference. More than ever before, how China and India relate to each other is now also being played out in Nepal, the nation they sandwich.<sup>74</sup> Nepali politicians realize that access to development and stability lie with managing these two relationships. Rather than being left as a buffer state between the two superpowers, Nepal Prime Minister Baburam Bhattarai envisioned Nepal becoming a "vibrant bridge."<sup>75</sup>

India is Nepal's most significant source of external financial support and a strong force within Nepali politics and media. The Indian army's support to the Nepal army

has enabled the latter to establish itself as a fiercely independent entity. India's financial support of Nepal significantly props up the economy, although old deals regarding trade, water and electricity simultaneously undermine it. Successive left-leaning Nepal governments, particularly since 2008, have been at pains to decrease India's influence over Nepal's internal operations. China's increased interest in Nepal presented an opportunity for them to do this.

The elected leaders in the aftermath of the conflict were the rebels-turned-politicians, the Unified Communist Party Nepal (Maoist). They are the Nepali political party most ideologically aligned to China and distant from India. So, despite the fact that China had armed the Royal Nepalese Army during the conflict, ex-rebel army leader Pushpa Kamal Dahal (nom de guerre 'Prachanda') in his role as Prime Minister in that critical post-conflict year 2008-2009, solidified political overtures to China by gracing Beijing with his first state visit. Although this made clear that the Maoists wanted to build a relationship with China, in practice the political bent of the different Nepali political parties, and the governments they have led, have not made much difference to Nepal's overall relationship with China. All parties recognize the need to have the relationship.

Signs of increased cooperation between Nepal and China appear to ruffle Indian feathers – not least because of the fact that, if completed, new road and rail links between Tibet and the Nepal-India border would be able to facilitate a Chinese troop deployment to India in under 24 hours.<sup>76</sup> Large tracts of the China-India border are contested and border incursions by both sides are frequent. China and India went to war in 1962, with India emerging the loser, and their relationship has remained tainted by this ever since. But despite China's increased engagement in Nepal, India still remains Nepal's dominant partner, being recipient of over half of Nepal's trade, and with Nepali currency pegged to the Indian rupee.<sup>77</sup> Indian consideration of China's ambitions in Nepal are increasingly seen through the lens of the Tibet issue and China's interests in the suppression of Tibetans. India will no doubt keep a watchful eye on the developing relationship, and in recent years has made efforts to shore up its own relationship with Nepal by fielding a series of high-level delegations to Nepal and appointing a senior diplomat as Ambassador to Nepal.<sup>78</sup>

### **c) The developing China-Nepal relationship**

In the late 1980s and early 1990s, Chinese pressure was strong enough to persuade the Nepal government to cease accepting new Tibetan refugees in 1989, and, in 1994, to stop issuing identification documents to those Tibetans who were already settled in Nepal. After King Gyanendra dissolved the government and seized power, India refused to continue to arm him in the conflict against the Maoist. China stepped into the arms-dealing breach<sup>79</sup> and may have used this to pressure Gyanen-



dra to close the Tibet offices.<sup>80</sup> The closures of these offices were a blow to the Tibetan refugee community. Deprived of representation and a link to the Tibetan government in exile, foreign embassies and other organizations no longer had an authoritative point of contact for various Tibetan concerns in Nepal. Then, in 2006, the King was deposed and Nepal moved towards democratic elections in 2008.

The 2008 uprising in Tibet shook China's political elite and created thousands of would-be Tibetan refugees, keen to escape political detention or further repression in Tibet. Since 2009, in a bid to mitigate the escape of Tibetans from Tibet and freedom of speech of Tibetan refugees, China has been on a diplomatic offensive<sup>81</sup> in Nepal, to ensure the latter's adherence to a 'one-China' policy. No longer able to approach a single entity (the monarchy) to effect change, China has had to reach out to a range of stakeholders, from different sections of the Nepal government to political party leadership, the Nepal army, Nepal police, the Armed Police Force (APF), and media. In doing so, China follows the precedent, which India has long set, of direct intervention in the running of the Nepali state.<sup>82</sup> In order to keep these Nepali stakeholders on-side, China employs a range of political tactics and financial incentives.

### **1) High-level diplomacy**

To maintain a tight clampdown on people, protest and information, China has extended its securitization plan across the Himalayan border into Nepal. The implementation of this has been fast and blatant. Since 2009 onwards, there have been a series of official high-profile meetings that have escalated in stature. Nepal has responded by mounting high-profile visiting delegations to Beijing from the Defense, Foreign and Home ministries, to counter-balance any Delhi-bound trips. These interactions have now become a mechanism for cooperation between the two states. Aware that power is fractured within Nepal, China has also extended invitations to the heads of state security forces, the Nepal army and all major political parties, all of whom, except the Nepali Congress Party, have taken up the offer of strengthening political ties through such delegations.<sup>83</sup> All these actors have also met regularly with the Chinese Ambassador and visiting Chinese dignitaries. China's bestowal of access and political acumen on various Nepali actors has come at a price – one which Tibetans have had to pay.

These interactions have been used to secure Nepali commitments to suppress 'anti-China' activities. In 2010, the first "Nepal-China Border Security and Law Enforcement Talks" saw both sides agree to share information and intensify policing on the basis of security, with China as financier. In Jun, 2011, China installed renowned specialist on regional security, Yang Houlan,

as its Ambassador to Nepal, giving “a clear indication that it puts Nepal in its priority list of diplomacy.”<sup>84</sup> The effects on Tibetans in Nepal of this security-focused high-level politicking have been profound.

In August 2011, in the days leading up to the high-profile visit of Zhou Yongkang – then security chief on the nine-person Chinese Politburo Police – Tibetan community leaders received phone calls from Nepali officials warning them that they should cooperate with the police and would be arrested if they did not. The head of the Tibetan Refugee Welfare Office in Kathmandu, Thinlay Lama, received a phone call from the Chief District Officer (CDO) to warn him that no ‘anti-Chinese’ actions should take place. Thinlay Lama, who left central Kathmandu for the duration of Zhou Yongkang’s visit, was detained by Nepali police for eight hours on August 5 after organizing and speaking at a press conference about the situation of Tibetans in Nepal.<sup>85</sup> Nepali police also detained eight Tibetans from the Boudha stupa area and a Tibetan refugee settlement in Kathmandu in advance of Zhou’s arrival.

A Tibetan researcher in Kathmandu noted that: “Tibetans are frightened. Normally things are insecure, but over the past few days Nepali intelligence and police are watching our every movement.”

While the eight Tibetans languished in detention, Zhou Yongkang and his delegation went on to hold talks with Maoist Chairman Pushpa Kamal Dahal (Prachanda) and Nepali Congress President Sushil Koirala, and signed four agreements on bilateral economic cooperation including “an increment in annual Chinese assistance to Nepal” according to the Nepali press.<sup>86</sup>

China has made clear the particular importance of Tibet in China-Nepal relations by facilitating political contact between the Nepal government and the Chinese government representative in charge of the TAR. In November 2011, Nepal’s Deputy Prime Minister Narayan Kaji Shrestha met with TAR Chairman Padma (Ch: Baima) Thinley to discuss bilateral relations and “matters of mutual interests, including trade, tourism, investment, economic cooperation and development between Nepal and Tibet Autonomous Region of the People’s Republic of China.” During the meeting, held in Lhasa, Shrestha reportedly thanked Padma Thinley for the Material Assistance Program that the Chinese government has been operating since 2009 in 15 northern bordering districts of Nepal. On cue and in almost the same breath, Shrestha reaffirmed Nepal’s commitment to a one-China policy.<sup>87</sup> In return, Padma Thinley spoke of his appreciation of “Nepal’s policy towards China and her support to maintain peace and stability in the bordering areas and not allowing any anti-

China activities in Nepali territory. He assured of further cooperation and assistance from the Government of TAR to Nepal's socio-economic development."<sup>88</sup>

The timing of meetings has also been used to increase pressure on Nepal. For two years running, China held meetings with Nepal in the month before March 10th – the anniversary of Tibetan uprisings in Tibet in both 1959 and 2008. The timing meant that Nepal's standard supportive statement of commitment to a 'one-China' policy included direct reference to preventing 'anti-China' activities around the anniversary day (see March 10 section for more information).

The largest amount of hype in Nepal regarding these meetings was around what was to be the highest ever Chinese delegation to Nepal – Chinese Premier Wen Jiabao's planned visit in December 2011. A political coup for Nepal's Maoist Party, who held the leadership, Nepal's political elite were on tenter hooks as to the outcome, with a substantial aid increase expected and the signing of a formal trade agreement a distinct possibility. China seized the opportunity to rack up the pressure on Tibetans through its hold over Nepal by cancelling the trip at the last minute over apparent concerns that Tibetan activists would present a 'security risk.' Nepali Prime Minister Baburam Bhattarai was left to face the flak of the public and politicians, including elements of his own party.

### **i. The case of Lharkyal Lama**

The extent to which China can now exert its political muscle inside Nepal was made clear on April 18, 2011, when "a diplomatic row erupted" over the appointment of Lharkyal Lama, a Nepali of Tibetan ethnic origin, to the position of Minister of Finance by the United Marxist Leninist Party (UML)-led government of Prime Minister Jhala Nath Khanal.<sup>89</sup> According to media reports, officials from the Chinese embassy met with Nepali political leaders after Lama's appointment caused them to have concern about Nepal's commitment to the 'one-China' policy.<sup>90</sup> By April 22, Nepali media was reporting that Lama had resigned from his position after multiple charges had been levied against him – namely, that he held three sets of documentation (Indian and Nepali passports, and Tibetan refugee documentation) and that he had been involved in "free Tibet" activities.<sup>91</sup> The high-level panel that the Nepal government set up to investigate the charges found Lharkyal Lama guilty of possessing multiple identification documents in July 2011.<sup>92</sup> Interestingly, Lharkyal Lama remains a Member of Parliament, suggesting that

his public harassment may have been enough to appease Chinese concerns in Nepal.

Lharkyal Lama maintained throughout that this was a “character assassination” that would have repercussions for the “Prime Minister Jhala Nath Khanal and the government as well as all indigenous nationalities of the mountains, minorities and Lamas of the country.”<sup>93</sup> The daily newspapers in Kathmandu ran stories that seemed to exploit his Buddhist background that included a photo of Lharkyal Lama with the Dalai Lama. That Nepali citizens of Himalayan origin are at risk of having their faith politicized and obstacles put in the way of their accessing political power in Nepal by the Chinese government, raises serious issues of state-sanctioned discrimination.

## 2) Buying Nepal

Although India remains Nepal’s major financial supporter, since 2006, China has gone from being a bit player to one of Nepal’s “top five development partners.”<sup>94</sup>

Trade significantly increased between China and Nepal after the signing of a trade Memorandum of Understanding between the two countries in 2009.<sup>95</sup> India still remains Nepal’s main trading partner – its 2010 tally accounting for around half of Nepal’s total trade that year<sup>96</sup>– but China is catching up. The trade volume between China and Nepal in 2010 was around US \$744 million, up 80 percent from 2009, although this is massively imbalanced in China’s favor.<sup>97</sup> China’s Ambassador to Nepal, Yang Houlan recognized the imbalance in a 2011 interview with *The Kathmandu Post* and spoke of the measures China is taking to right this, including the introduction of a zero-tariff facility for over 4,000 Nepali goods.<sup>98</sup>

The planned construction of dry ports by China at strategic points along the Nepal-Tibet border will also facilitate further trade. *The Hindu* reported that in 2011, China created a port of entry at Gyirong in Tibet, in order to create a further passage for land trade with Nepal that would include a 44.5-sq.km. “cross-border free trade zone” with Nepal.<sup>99</sup>

Tourism has also formed a significant part of trade talks, with China agreeing to promote Nepal as a tourist destination. As a result, Chinese tourist numbers rose by almost 75% between 2010 and 2011.<sup>100</sup>

Since the cessation of Nepal’s armed conflict, Saferworld (an international NGO that works to prevent violent conflict and promote cooperative approaches to security) has reported a “dramatic” increase in Chinese aid to Ne-

pal - from 10 million Nepal Rupees (US\$128,000) in fiscal year 2005/6 to NR. 2.55 billion (US\$32.5 million) in 2012/11NR, rising to 10 billion (US\$127.4 million) just a year later in August 2011.<sup>101</sup>

This substantial amount is broken down variously into infrastructure, security forces and the cessation of 'anti-China' activities. While the last is most obviously linked to Tibetans, all aid from China comes with one main request – that Nepal uphold the 'one-China' policy. In this, as one well-respected Tibetan commentator said, "Tibetans are an important resource for Nepal."<sup>102</sup>

### **3) Infrastructure: the politics of road and rail construction**

In recent years, China has been boosting development in Nepal by providing infrastructure. With the technical know-how and experience of high altitude construction, and the money and man-power to carry it out, China has set about building roads, bridges and hydropower plants inside Nepal. In addition to being welcomed by Nepalis, such infrastructure projects are also firmly in China's interest, as they boost the Chinese construction business and, more importantly, allow Beijing to challenge Delhi's upper hand that historically arose from having easy access to Nepal from its southern, western and eastern borders.

Historically, China has been recognized for its road-building in Nepal, constructing a highway in 1963 that linked Kathmandu with the Tibetan border town of Kodari, after the signing of a boundary agreement with Nepal in 1961.<sup>103</sup> Such skills are being employed again, as China seeks to solidify its hold on the region by creating land routes which link China, Tibet, Nepal and India. In 2009, work began on a 17km section of road linking Tibet and Nepal near Shyabru-Besi in Rasuwa district. When completed, this road will present the fastest land-route between Beijing and Delhi, bringing closer Prime Minister Baburam Bhattarai's dream that Nepal will become a 'vibrant bridge' between the two Asian giants.

In 2008, Nepal and China announced the implementation of plans to link the controversial Golmud-Lhasa railway with the Tibetan border town of Dram (Nepali: Khasa),<sup>104</sup> prompting commentators to predict a distinct shift in the power relations between India, Nepal and China, with Nepal needing to rely much less on India for trade.<sup>105</sup> On his return from a trip to China in November 2011, Foreign Minister Narayan Kaji Shrestha revealed plans to extend the railway further: "We have asked the Chinese to first link the rail network to Kathmandu and then extend to Lumbini...I have found the Chinese very positive."<sup>106</sup>

With such promise looming, China's sensitivity about the border is used as political leverage to engage Nepal on Tibetan refugees. In a BBC news report, China was said to be "worried that opening up the border could enflame an already unstable Tibetan plateau," and, in response, then Nepali Prime Minister Madhav Kumar Nepal "reassured Beijing that his government will not allow Tibetan dissidents to operate in his country."<sup>107</sup> "China has only one concern, that is the concern of Tibet," said Madhav Kumar Nepal, "[which] is why our policy towards China has been consistent. We believe in the one China policy, Tibet is an integral part of China and the soil of Nepal will not be allowed to be used against Tibet and China."<sup>108</sup>

Geopolitically and mirroring Chinese stated concerns, India fears the use of Nepali soil for 'anti-Indian' activities. The difference is that India imagines China as perpetrator of such activities. Such fears are understandable given that once the Lhasa-Khasa railway is built, Chinese forces would be able to be deployed to India's borders within 24 hours.<sup>109</sup>

At the border itself, Chinese workers have made moves to ingratiate themselves with the locals, donating rice and beer to Tamang and Sherpa villages while being careful to avoid Tibetan settlements.<sup>110</sup> Repeated broadcasts on local radio explain that China's intentions with the road are to support the Nepali people. In November 2011, as part of this road project, China pledged to construct a second 'friendship bridge' connecting the two countries over the Trishuli River at Rasuwaghadi on the Nepal-Tibet border.<sup>111</sup> The improved access across the border will undoubtedly assist Nepali locals who trade on a small scale level with Tibetans and Chinese on the other side of the border,<sup>112</sup> but it is likely to present problems for Tibetans. Since the road has been made passable, Tibetans residing near the border have noted increased numbers of Chinese people in the border area. Some of these have been officials who came into Tibetan settlements, took photos and spoke with the locals there, urging them to consider coming back to live in Tibet. More focus around the border will decrease the ability of Tibetans fleeing Tibet to cross into Nepal unnoticed. Ease of transport from Tibet will also make it much easier for Chinese authorities to deploy to the border areas during 'sensitive' periods in Tibet to prevent would-be refugees leaving, and will facilitate their pursuit of refugees across the border in a bid to intercept them before they reach relative safety in Kathmandu.

## 4) Beefing up Nepal's security forces

### i. The two armies

Although the Nepal army in general has a hands-off role with civilians, it holds significant political sway and as such is a good ally for China in its pursuit of Tibetan interests in Nepal. The Nepal army operates as a strongly independent entity, regarded by many as “the most stable and reliable national institution in the country.”<sup>113</sup> Previously under the control of the monarch, since the King was deposed in 2006 by a people's movement, the Nepal army has refused to bow to the will of either the courts or successive governments. Of the thousands of cases of human rights violations – including rape, torture, disappearance and murder – alleged to have been carried out by the then Royal Nepalese Army forces during Nepal's armed conflict, not one has been successfully brought to prosecution. The Nepal army has been able to maintain its independence through funding it receives from its long relationship with the Indian army and its role as fourth-largest troop provider to UN Peacekeeping missions worldwide. Its political strength and its continued interest in outside funding are facts which the Chinese government appears to use to its advantage.

During Nepal's conflict, China's dealings with the Royal Nepalese Army had been about the procurement of arms.<sup>114</sup> When King Gyanendra seized power in 2005, India severed contact but China stepped into the ring to provide the King and his army with weaponry. In the aftermath of the Nepali Peace Agreement and the 2008 Tibetan demonstrations, the nature of China's interaction with the Nepal army changed. The tone for this new relationship was set in November 2009, when a Chinese military delegation to Nepal led by Major General Jia Jialing met with Nepal's then Defense Minister Vidya Bhandari. Besides offering US\$2.5 million in military assistance for procuring non lethal hardware and logistics,<sup>115</sup> the Chinese delegation also pledged to provide training to the Nepal army, including interaction between the two armies at the Nepal-Tibet border area. While Indian press speculated on Delhi's rising concern at this continuing relationship,<sup>116</sup> this commitment showed the value attached by China to slowing the Tibetan refugee flow into Nepal.

In March 2011, the strengthening relationship between the two armies was demonstrated when the first Chinese Army Chief to visit Nepal

in nine years, Chen Bingde, Chief of the People's Liberation Army, arrived in Kathmandu with the ostensible aim of supporting Nepal's security. Backing up this claim, Bingde announced China's decision to give Nepal US\$19.8 million in military aid.<sup>117</sup> While Indian press reported it is as "a major step to expand China's strategic influence in India's neighborhood," Bingde made China's real concern, that of Tibetan refugees, clear, as was reported in the Times of India: "An instable (sic) Nepal would make it difficult for China to control the flow of Tibetan dissidents."<sup>118</sup> Describing the visit as "symbolic timing," The Kathmandu Post reported a Nepal defense ministry official as saying: "This visit depicts the increasing importance that China attaches to Nepal. They want to expand cooperation with Nepali security agencies for ensuring security of Tibet."<sup>119</sup>

The timing of Bingde was indeed symbolic, coming as it did just days after the Dalai Lama's announcement that he was devolving political authority as head of the Tibetan government in exile to an elected leadership, and days before election results for a new Tibetan Prime Minister (the balloting for which had been previously intercepted by Nepal authorities at three Tibetan settlements, as a result of Chinese pressure). Bingde's request and Nepal's following assurances, that 'anti-China activities' would not be tolerated in Nepal framed this entire financial deal. In a sign that China would be keen to continue strengthening military cooperation between the two countries, Bingde "got Kathmandu to work out a program of regular exchanges under the China-Nepal Comprehensive Partnership of Cooperation."<sup>120</sup>

Nepal's Chief of Army Staff Chhatra Man Singh Gurung and his Chinese counterpart Major General Chen Bingde went on to meet again, this time in Beijing in October 2011. The Chinese-side confirmed the first batch of the substantial funds that were promised in March 2011 (US\$7 million for a military hospital), and both sides discussed continued training opportunities for Nepal army personnel in China. In return, Nepal pledged its continued commitment to put down 'anti-China' activities on Nepali soil.<sup>121</sup>

## **ii. Policing the refugees**

The Nepal police and the Armed Police Force (APF) come under the auspices of the Nepal Home Ministry. Having suffered the brunt of the Maoist insurgency for five years before the Nepal army engaged in fighting, the Nepal police were left as an under-resourced force. De-



spite this, it is they who are called upon to ensure day-to-day security. The APF was established during the conflict to support the Nepal police. They have never been disbanded and are drafted in to supply back-up during protests and other higher risk occasions, but they cannot make arrests. The APF are also deployed to the Nepal-Tibet border and thus China's pressure on Nepal is likely to be a factor in the force's continuing existence. China is no doubt aware that these two police forces are key to enforcing Nepal's much-repeated promise to prevent any 'anti-China' activities occurring on Nepali soil, as well as to stem the flow of Tibetan refugees across the border.

In 2009, shortly after the visit of a high-level Chinese delegation to Kathmandu, the Nepal Home Ministry announced the deployment of APF personnel in the border areas, saying that this was at the request of the Chinese government.<sup>122</sup> According to nepalnews.com, it was the first time that a fully-fledged border security force had been installed along the border, and security bases were to be established at Tatopani in Sindhupalchok, Lomanthang in Mustang, Kimathanka in Sankhu wasabha, Limi in Humla and Tinker in Darchula during the first phase. Each base would have an APF squad under the command of a Superintendent of Police (SP).<sup>123</sup>

On July 26, 2010, the first "Nepal-China Border Security and Law Enforcement Talks" concluded with a pledge from Beijing for an annual aid package to enhance Nepal's handling of 'anti-China' activities. As part of this, Beijing and Kathmandu agreed specifically to establish high-level intelligence sharing capabilities targeting 'anti-China' activities and border management. Such aid has in the past seen China kit out the Nepal police with riot gear, tear gas tankers and batons – delivered with Tibetan protesters in mind, used by the Nepal police during times of unrest. This was followed by a two week training provided in Beijing to officials from the Nepal police, the APF and local authorities from the areas bordering Tibet.<sup>124</sup>

The relatively new focus on sharing intelligence suggests that Nepali security forces are also at pains to deliver on information. This in turn creates added pressure on Tibetans living in Nepal, who are aware that over the past few years their lives have been increasingly monitored and intervened in by the Nepal state. A Tibetan settlement leader from Pokhara shared this with ICT: "In March 2009, the CDO office called me to demand a CD with the list of names of all Tibetans living in the

settlement. A police officer came to pick up the CD and mentioned that this order came from the Chinese Embassy."<sup>125</sup>

Cooperation between Chinese and Nepali governments and militaries on information-sharing in part pertains to the border regions. The pledged cooperation of Nepal to upholding the 'one-China' policy in the border regions increases the vulnerability of the Gentlemen's Agreement between the UNHCR and the Nepal government to ensure safe passage of Tibetans through Nepal. It also seriously endangers Nepal's international obligation to the principle of non-refoulement. Cables from the U.S. Embassy in Delhi released by WikiLeaks confirm concerns that "Beijing has asked Kathmandu to step up patrols... and make it more difficult for Tibetans to enter Nepal," and that China "rewards (Nepali forces) by providing financial incentives to officers who hand over Tibetans attempting to exit China."<sup>126</sup>

China's support to the Nepal police extends beyond the financial. Since 2008, Chinese officials and police officers have been witnessed lending physical support to the Nepal police's suppression of Tibetans. On March 10, 2008, an American observer told ICT that they had seen and photographed Chinese government agents working with the Nepali police at a Tibetan demonstration, "directing them, positioning them, [and] telling them to remove people."<sup>127</sup> Similarly, in border areas, Chinese People's Armed Police (plain-clothed and uniformed) were increasingly visible as an often aggressive presence on the Nepali side of the border, particularly in the few months prior to the Beijing Olympics in August 2008 when the border was virtually sealed.

Many of the Tibetans interviewed for this report spoke too of undercover Chinese security agents operating in the midst of Tibetans living in Nepal. Some of these are said to be Tibetans who are recruited inside Tibet and sent on missions to Nepal, often for years at a time. Others are bona fide refugees who have lived in Nepal for years and have been persuaded to become informants, often as a result of financial difficulties or pressure put on family members in Tibet by the Chinese authorities. Such activities sow fear and suspicion among what used to be close-knit refugee communities. A large number of Tibetans in Nepal have family members in Tibet and are concerned that their behavior in Nepal could have negative repercussions. Others are afraid that the close relationship between the Chinese and Nepali intelligence services could affect any number of aspects of their lives, from their legal status,

to employment opportunities and chances of third country resettlement.

Tibetans report being more careful now about whom they trust, and they are less public in venting opinions. Such self-censorship was evident to the ICT research team. In stark contrast to ICT's previous years' Dangerous Crossing reports, almost all of the Tibetan interviewees who participated in the research for this report did so on condition of anonymity.

With increasing strength in Nepal, both through the Nepali security forces and its own people on the ground, the Chinese government is able to bring pressure to bear on the Tibetan refugee population like never before.

#### **d) Chinese cultural export and influence on Nepali media**

##### **1) Cultural export**

China is aware that long-term Nepali cooperation on Tibet necessitates outreach beyond the realms of politics and trade to the Nepali people who so decisively overthrew their King and prop up the political system through their allegiances to various political parties. India has led in cultural influence, nurturing connections that many Nepalis resist but ultimately view as historical and thus inevitable in their relationship with India. Given that Nepal's links to the north have been historically with Tibet, China has had to work hard to foster a sense of shared ties with Nepal. Such ties are important for China, both to mitigate the strength of the India-Nepal relationship and to build support for its hold on Tibet. To these ends, China has set up a series of China Study Centres (CSC) throughout Nepal which promote Chinese culture and language amongst the Nepali people "to maintain, strengthen, consolidate and advance not only a knowledge-based China outlook in Nepal but also excellent neighborly relations between the peoples of Nepal and China."<sup>128</sup> In addition to their focus on current connections through business and development, these centers co-opt the historic relationship between Nepal and Tibet as China's own, emphasizing the "kinship ties and... cultural and trade interactions with China's Tibet region for centuries through the world's highest mountain passes."<sup>129</sup> The centers organize scholar exchanges, academic conferences, and information dissemination on China. A number of books on Tibet have been published in Nepali language in recent years under the auspices of the CSC,

including 'Tibet on the Path of Change' in 2007.<sup>130</sup> A Chinese Confucius Center at Kathmandu University was set up in 2007 in conjunction with the Chinese government, offering over 1,000 Nepali students courses in the Chinese language. In March 2011, Chinese news service Xinhua reported this outreach to be having some success in raising Chinese language and culture in the popular consciousness, quoting Ashis Luitel, a Chinese language student in Nepal as saying: "We are neighbors with China and we share very close relations. Yet, because of language barriers there lies a hindrance for the people of both the countries to explore new arenas of friendship."<sup>131</sup> In June 2010, China Radio International established a branch in Kathmandu and started a Nepali service to teach the Chinese language on a wider scale.<sup>132</sup>

Nepalis who work in Nepal's extensive tourism industry should have increasing opportunities to practice their Chinese language skills. China and Nepal's tourism ministries have devised special measures to encourage tourism, including waiving visa fees for Chinese tourists and making the Chinese yuan convertible for tourists and businessmen.<sup>133</sup>

The fact that the majority of the China Study Centers have been established near to the India-Nepal border prompted The Times of India to speculate that the CSCs are potentially bases for spy activity directed at India.<sup>134</sup> In January 2011, Sashastra Seema Bal (SSB), a paramilitary force deployed along Indian northern borders, arrested three Chinese nationals who had entered Indian territory illegally.<sup>135</sup> The Chinese nationals claimed that they were engineers who had come to work in Nepal, but an SSB official said: "prima facie it seemed that they had come here as spies."<sup>136</sup> Whether this challenge to India's influence is rightly perceived or not, China's focus on exporting language and culture to Nepal certainly appears to be intended for that end.<sup>137</sup> Beyond this, China's cultural export to Nepal seems aimed at undermining the connections between Nepalis and Tibetans, and muting the sympathy for the Tibetans' situation which many Nepalis currently express.

## 2) Media

Nepal's media scene is fairly diverse and has the space and autonomy to be critical of the Nepal government. But there are other interest groups – including political parties, businessmen, and armed group members – whose exertion of pressure on media houses and individual journalists has led to Nepal being ranked at 106 out of 179 countries in Reporters Without Border's "Press Freedom Index 2011-2012."<sup>138</sup> Their desires to control media out-

put are aided by a culture of impunity which ensures little state response to threats, attacks and even murders of journalists. With such little state protection, media houses and individual journalists are left vulnerable to external pressures. Judging by the increase in negative news coverage on Tibet over the past few years, China is making outreach to Nepali media an integral part of its approach to consolidating its hold over Nepal vis-à-vis Tibet. However, there is no blind compliance of Nepali media with China – some publications entertain Chinese pressure when it suits their own interests, whereas others strive to maintain an independent voice. What is clear is that this has become a new frontier in negotiating representations of Tibet in Nepal's social consciousness.

Nepali language newspapers tend to be more negative in their reporting on Tibetan issues than their English language counterparts in Nepal. This works to China's advantage, as the Nepali language press is more widely read by Nepalis and, thus, provokes fewer reactions from the 'expat' or diplomatic readers of the English language press. Beyond this, the many Nepali language publications connected to Nepali political parties are ready and able to be influenced by China. Some Nepali media outlets have focused on China's suspicions that Nepal is being used as a base for "free Tibet activity." Articles often read more like conspiracy theories than new reporting. This includes rumors published in the Nepali press that by visiting the Mustang region, former U.S. Ambassador Nancy Powell was supporting "guerrilla resistance against China" during a trip taken before her resignation in July 2009. U.S. Ambassador Powell visited remote Mustang in northern Nepal, which borders Tibet, in order to visit a cultural preservation project and to pursue her interest in photography. But the visit was interpreted by some Nepali journalists as an "inspection of the Chinese-Nepalese border" in preparation for the "next Khampa rebellion."<sup>139</sup> In a reference to the Khampa guerilla resistance against China in the 1960s, supported in some measure by the U.S. Central Intelligence Agency (CIA), Bishnu Sharma of the Dristi Weekly reported: "A former army official who is well acquainted with the Khampa rebellion instigated by the American detective wing CIA three and half decades ago said, 'The activities [Nancy Powell's visit, and the visits of other ambassadors from Kathmandu] are directed at reviving the Khampa rebellion.'"<sup>140</sup> The Tibetan resistance force operated out of Mustang from 1959-1974.

In an indication of the level of concern about this visit to a sensitive border area, the Chinese Ambassador Quo Guohang visited Mustang himself in June. A Nepali-language weekly magazine reported: "The Chinese ambassador did not believe that the American Ambassador Nancy J. Powell reached

bordering district of Mustang to fulfill her photography passion, carrying her SLR camera. Maybe that is why within three months of her visit, the Chinese ambassador reached Mustang with his own associates. He not just kept an eye on whether there were any 'Free Tibet movement' going on in Mustang, but also inquired about it with the Nepali authorities and locals."<sup>141</sup> Further stories in the Nepali media fixate on Tibetan Buddhist monasteries in Nepal being centers for "free Tibet activities." In December 2009, the media reported that a National Intelligence Department (NID) report "listed 24 Buddhist monasteries in the Kathmandu Valley as sensitive for their involvement in the 'Free Tibet Movement' and 'anti- China activities'...The national spy agency has placed seven of them on the 'very sensitive' list from the security point of view. It has suggested the Home Ministry to keep tabs on altogether 43 monasteries in the capital [Kathmandu], out of 59 it studied."<sup>142</sup>

In response, the Nepal Buddhist Federation called the allegations "baseless," while noting that there was "a growing negative media campaign against monastery institutions established in the land of Buddha's birth and that the state police has been unnecessarily harassing our monks and nuns," and that there were attempts being made in the Nepali media to "fabricat[e] false and imaginary accusations such as storing weapons and organizing [a] so called 'Free Tibet movement.'"<sup>143</sup>

A strong example in 2010 of Chinese influence on the Nepali media was an article in the *Dhrishti Weekly* that claimed: "Western countries are preparing armed battle for freedom of Tibet through Nepali soil." The article claims that American organizations and Christian missionaries are collaborating with Tibetans who "have been providing [sic] commando training in Chkrawat jungle near to Dehradun, India." It also claims that the Tibetan Refugee Welfare Office is the Dalai Lama's "silent embassy" which has planted "trained Tibetan warriors" in Kathmandu.<sup>144</sup> While to the informed eye the article reads like a spoof, less informed readers of the newspaper may not be able to distinguish fact from fiction and, thus, doubt is sown about Tibetans among sections of Nepali society.

Nepali authorities have at times used press stories as an excuse to investigate the Tibetan community. For example, an ICT source explained that after hundreds of Nepali Buddhists had lent their support to Tibetan protesters during 2008, Nepali police used a questionable press report about guns having been found in Tibetan monasteries as a pretext to search monasteries for information that the authorities suggested may have been used to "brainwash" Nepalis into being "anti-Chinese." No such information was found.<sup>145</sup>

Although no one wanted to go on record saying so, a few Nepalis interviewed by ICT with ties to both the media and political parties were frank in their assessment that China makes direct contact with heads of media houses in order to restrict news on Tibet. One ex-Nepali Congress politician said: “All the big media houses are paid off by either China or India. In fact, these days I think some are paid by both!” Two journalists working at separate national daily newspapers spoke of having had their pitches for stories about Tibet repeatedly denied by their editors. “I think it’s a really important issue to write about, but I just can’t,” said one. Another said she felt that it was perhaps more acceptable to write about Tibetans in Nepal, but “writing an opinion piece about Tibetans inside Tibet is out of the question.” They were not sure about the background reasons, but were clear that their respective newspapers were under pressure from some source to limit their Tibet-related stories.<sup>146</sup>

In 2009, Tibetans in Nepal were shocked to see The Kathmandu Post run a 4-page center-spread about the benefits of development in Tibet, and the happiness of Tibetans living there under Chinese rule. Made to look like the paper’s own reporting, this was actually an advertisement paid for by the Chinese government.<sup>147</sup> Not all such paid propaganda is so obvious. Dolma Lama, Director of the Himalayan Society for Youth and Women’s Empowerment, an NGO headquartered in Kathmandu, believes that negative articles on Tibet are part of a Chinese government strategy to undermine Tibetans in the eyes of Nepalis and could have long-term effects if Tibetans cannot counter them with stories of their own. In an ICT interview in Kathmandu in January 2011, Dolma Lama said:

“The former Chinese Ambassador to Nepal made a remark on ABC news about not understanding why, even though China is putting so much money in Nepal, the Nepali people are still supporting Tibetans. He told the new Ambassador to change tactics, which is what they’ve now implemented and the Nepali media is being bribed to write negative articles about Tibetan refugees. To counter this pressure, you also need money to bribe the journalists. Even in 2008, despite so much international media attention, Nepali journalists were only willing to write articles for favors in return. They would ask ‘If I write this article for you, what will you do for us?’ meaning, how much are you willing to pay? The Chinese have enough money, but Tibetans do not. This will ultimately mean Nepalis are going to be negatively influenced against Tibetans through the media.”

Despite Chinese pressures, some prominent Nepali commentators have sought to shift the narrative on Tibet. Some among them appear to be motivated

by humanitarian concerns about the Tibet situation, others from the desire that Nepal make its own policies, independent of the ambitions of its neighbors, India and China. In an article published in January (2012), writer Arun KR Shrivastav, an editor for one of Nepal's most popular English-language newspapers, wrote boldly about the need for Nepal to develop a position independent to China's and in the nation's interests on the Tibet question. Arun KR Shrivastav's article, published in the influential Nepalese newspaper *Republica*, comments on the postponed visit of Chinese Prime Minister Wen Jiabao in December 2011, saying that it was "the last masterstroke by the outgoing leadership in China to link its relations with Nepal firmly and solely with the Tibet issue." KR Shrivastav calls for Nepal to take a decision on Tibet "based on conscience and interests of the nation" as opposed to the Chinese authorities' diktats. He writes, "The Chinese policymakers have failed to learn from the Tibetan culture and worldview. They have rather tried to obliterate it altogether. There is where China needs to amend its course. China should realize that finding a solution to the Tibet issue is crucial to its relations with Nepal because it affects Nepal like no other country."<sup>148</sup>

Chinese influence on the media goes beyond article content to how news can actually be reported. In this, China plays a significant role in determining the freedom of Nepal's press. In 2009, the Nepali authorities' crackdown on March 10 protests in Kathmandu included attempts at suppressing media coverage of the demonstrations. Kathmandu police seized the camera memory cards of local Nepali journalists seeking to cover a vigil at the Boudhanath stupa. Prior to March 10, a Tibetan journalist working for a Tibetan language newspaper in Nepal was accused of writing anti-Chinese articles and subsequently detained and his home searched. The journalist, whose name is withheld, was later released after paying a large bribe to officials. These actions took place in the context of intense pressure from the Chinese embassy in Kathmandu on the Nepal government.

In the run-up to Wen Jiabao's ultimately-postponed visit in December 2011, the Nepal Department of Information was reported to have decided to "limit the access to the media persons [during the visit] as per the request made by the Chinese authorities."<sup>149</sup> The *Economic Times* reported a senior Nepal government official as saying that: "Chinese officials have been continuously exerting pressure on the Nepalese government to allow only a few journalists during the event." Shiva Gaunle, of the Federation of Nepali Journalists, pointed out that "such a decision will deprive a large section of the media from accessing information."<sup>150</sup>



## The Situation for the Long-staying Tibetan Refugees in Nepal

### a) Legal status

Although Nepal is not a signatory to the 1951 Refugee Convention or its 1967 Protocol, it is bound by customary law to respect the principle of non-refoulement or forcible repatriation. Until 1989 Tibetans who had escaped from Tibet into Nepal were able to legally reside in Nepal, enjoying many of the rights of citizens. This came to an abrupt end in 1989. While no official reason was given at the time for Nepal to stop offering Tibetans refuge, the timing of the sudden cut-off speaks volumes.

Throughout the 1980s, the situation in Tibet had become increasingly tense. Chinese government reforms on the Tibetan plateau encouraged “thousands of unemployed [Chinese] migrants” to “drift into Tibet looking for work.”<sup>151</sup> So started what became a population transfer policy designed to drastically change the demographics inside the Tibet Autonomous Region (TAR). In 1987, the Dalai Lama released his 5-Point Peace Plan that called in part for the cessation of such population transfer. As tensions rose in Tibet, a series of non-violent Tibetan protests were staged in Lhasa in 1987, '88 and '89, led by monks from the Drepung and Ganden monasteries. These were violently crushed by Chinese state security forces and, after a protest on March 4, 1989, the Chinese Party Secretary in the TAR, Hu Jintao, declared martial law in Lhasa. The severity of the post-protest crackdown forced thousands of Tibetans to cross the Himalayas into exile in Nepal – the largest number since the initial refugee exodus in the early 1960s. Although the Nepal government may well have been concerned about being able to cater to increasing numbers of refugees, it is highly likely that significant pressure from the Chinese government kept them from doing so. This apparent capitulation to Chinese demands was to set a precedent for the political relationship between the two governments.

Tibetan refugees who had been living in Nepal were allowed to continue to do so but, after 1990 and for each subsequent year, the thousands of refugees who left Tibet seeking freedom in exile were denied refuge in Nepal. At this point, the UNHCR and the Nepal government entered into an informal Gentlemen’s Agreement providing for the safe passage of Tibetans through Nepali territory onward to India. Incidents or threats of refoulement at the Tibet-Nepal border, and a lack of access or monitoring of the border by the UNHCR, has increased concerns that Chinese pressure could be outweighing Nepal’s commitment to the Gentleman’s Agreement. Such concerns have led to calls from the international community, in particular certain western em-

bassies in Kathmandu, and Nepali civil society to respect international protection and human rights norms. The decision to cut-off Tibetan refugee intake in 1989 has reverberations still, especially for the thousands of Tibetans in Nepal who lack legal status. The end of the registration of Tibetan refugees ushered in a period where the relative freedom and security of Tibetans in Nepal could be politically manipulated – by both the Nepali and Chinese governments.

During the 1960s, the Office of the Representative of His Holiness the Dalai Lama, and the Tibetan Welfare Office were established in Kathmandu to provide important welfare and community services to Tibetan refugees, and to liaise with the Nepal government and international humanitarian organizations that were providing assistance at this critical time. These offices continued to serve the Tibetan community in Nepal until 2005 when they were closed on the orders of King Gyanendra. The Nepal authorities explained the closures as the result of registration infractions, specifically because the office registrations were not held by Nepali citizens, as required by law. In reality, King Gyanendra had just dismissed the democratic government of Nepal and usurped power, an act widely condemned by the international community, except by China that maintained that Gyanendra had acted within his sovereign rights. It is widely believed that Gyanendra closed the Tibet offices in return for China's expressed support.

The UNHCR and several foreign embassies in Kathmandu urged the government of Nepal to register an alternative Tibetan office to meet the critical ongoing needs of both the long-staying and newly-arrived Tibetan refugees. In June 2006, after months of appeals by the UNHCR and foreign diplomats, and reviews and machinations by the Nepali bureaucracy, the Nepal Home Ministry registered the Bhotia Welfare Society for this purpose. Despite meeting all the criteria for registration, the Nepal Foreign Ministry summarily instructed its de-registration the following November. Efforts continue to serve the Tibetan refugee community through various means, and a kind of informal Tibetan office operates in Kathmandu. However, absent the official mandate and stature held by the Representative Office and the Tibetan Welfare Office, many Tibetans feel exposed and disenfranchised. The lack of refugee documentation for thousands of Tibetans in Nepal adds to this sense of vulnerability.

### **1) Refugee Cards**

*Mr/Ms \_\_\_\_\_ is a Tibetan refugee. He/she is permitted to stay in Nepal in accordance with laws and regulations. He/she will enjoy*

*freedom of movement within the territory of Nepal, with the exception of areas forbidden to foreigners, unless his/her habitual residence is located in such an area.*

*-- Inside page of Refugee Identity Card (RC)*

*Living in Nepal is hard. There are not many opportunities if you don't have an ID. I was born in Nepal in 1989, but I still don't have an ID. We have no identification to say whether we are Nepali or Tibetan. Nepali people are good, but if the Nepal government would just give us refugee cards, then at least we would have a status.*

*-- Tenzin Kunga, Paljorling Tibetan settlement, Pokhara*

In 1974, the Nepal government began issuing Tibetans Refugee Identity Cards (RC), a state-recognized document which allows the holder to reside and have freedom of movement within unrestricted areas of Nepal.<sup>152</sup> Tibetans were eligible for the RC if they or their parents entered Nepal before 1990 and once they were 16-years old. They were obligated to renew their identity card with local Nepali authorities annually. After 1989, the RC document served to distinguish between those Tibetans who were allowed to remain in Nepal, and those who were obliged to pass through Nepali territory onward to India. In 1994, the Nepal government stopped issuing and renewing RCs to eligible Tibetans. This did not signify a change in official policy towards Tibetans who could carry on living in Nepal, using their out-dated RCs as proof of their right to reside there, but it did considerably weaken their status. This was most apparent when the offspring of RC-holders reached eligibility after the 1989 cut-off date. In some cases, Tibetans were added onto their parents' RCs when they were born, but this was done at the whim of local authorities in their settlement area. Even in these cases, this practice is not sufficient and creates obvious difficulties when both parents and child need the documentation. Without official records, it is hard to make an estimate on the exact number of Tibetans living in Nepal without RCs, but a substantial number of Tibetans are trapped in a bureaucratic limbo that precludes their legal access to a wide range of rights and services, including employment, higher education, driving licenses and travel documents (which permit foreign travel). Although they are bona fide refugees, their lack of an RC forces Tibetans into the grey areas of the law in order to maintain a normal life.

Tibetans without documents are also liable to be mistaken by Nepali authorities, whether intentionally or not, as newly arrived refugees. This

can lead to arrests, detentions and, most commonly, the extraction of bribes. In order to avoid the danger of this, explained an ICT source, undocumented Tibetans employ strategies such as self-imposed curfews to reduce the likelihood of being stopped by police in the evening. Likewise, the head of a Tibetan NGO in the Boudha area of Kathmandu said: “I keep my Tibetan staff who don’t have RCs behind the scenes so that if any Nepali authorities visit and questions us, I don’t put my staff in danger.”<sup>153</sup>

In 2002, the Tibet Justice Center, an American NGO, speculated that the stalled issuing and renewal of refugee cards was due to “bureaucratic inefficiencies, rather than any desire [on the Nepal government’s side] to withhold status from Tibetans legally residing in Nepal.”<sup>154</sup> Ten years on, with no change, it seems clear that political decisions underpin this bureaucratic stalemate. This is backed by the fact that in 1998, the Nepal government proved it was capable of producing RCs when it suddenly began processing RCs to Tibetans in the Kathmandu valley, although the process was just as suddenly suspended.

Tibetans interviewed for this report raised the issue of refugee documentation as a matter of significant concern in their lives. Lack of documentation is at the root of many of the socio-economic challenges they face, and leaves them vulnerable to human rights violations. At a practical level, such documentation should be in the Nepal government’s interests, as it would enable them to keep track of refugee numbers. On a political level, keeping Tibetans in a grey zone facilitates deniability of their status as “refugees,” which carries favor with China, and keeps them separated from civil society and its legitimate expectations from the Nepal government.

## **2) Citizenship**

Although rare, there are some Tibetans living in Nepal who have one of two forms of Nepali citizenship known as nagrikta and angrikta. Angrikta is a form of citizenship that was handed out to the Tibetan guerilla fighters after they were forced to lay down their arms in Nepal in 1974. In a gesture after the conflict, King Mahendra decided to formalize the status of Tibetan guerilla fighters who settled in Nepal, and some 1,500 Tibetans were given citizenship. Thereafter, their offspring would be born as Nepali citizens. In the late 1970s, the Nepal government rolled out a program to give citizenship (Nepali: nagrikta) to hundreds of thousands of inhabitants of the Himalayan region – including

Sherpas, Tamangs and Drolpas – who had been politically marginalized. The many Tibetans who had established homes in these areas outside of the Tibetan refugee settlements (and share a common ethnicity with these groups) were able to claim citizenship at their local government offices because they were not required to show any ID in order to do so. Most Tibetans did not take advantage of this opportunity because at the time few Tibetans viewed it as important as living circumstances were relatively comfortable. As the Tibetan settlements became more established and Tibetans wanted to start businesses, which would require citizenship, some were able to acquire a nagrikta through unofficial means. This has become more difficult but it is still possible, although the 400,000 Nepali rupee (US \$4,500) price tag is beyond the reach of most Tibetan refugees.

The cessation in Refugee Identity Card issuance has made having citizenship the only real source of security for long-staying Tibetans in Nepal. It is not surprising that the most successful and wealthy Tibetans living in Nepal, having property, land and hotels are the angrikta holders. Lack of documentation – either RCs or citizenship – handicaps Tibetans who might otherwise accumulate wealth and status in Nepal.

### **b) Socio-economic challenges faced by Tibetan refugees in Nepal**

Nepal's decade-long internal conflict (1996-2006) took its financial toll on the refugee community, as with many other communities in Nepal. News reports of violence led to a decline in tourist numbers – an income source which many Tibetans rely on. In addition, the Maoist rebels targeted private businesses and institutions in order to extort money to fund their war, a tactic from which Tibetans were not exempt. In the post-conflict period, Tibetans have faced similar issues to Nepalis in trying to re-establish a place in a bruised economy. But Tibetans also experience a second tier of challenges brought about as a result of Nepal's increasing ties with the Chinese government. Access, or lack thereof, to employment, business and higher education facilities now has a distinctly political element. It was not always so. In the early years of the Tibetan refugee situation in Nepal, the needs of the refugees were covered between the Nepal government and a number of international NGOs. Tibetans' social welfare was overseen by the Office of the Representative of His Holiness the Dalai Lama and the Tibetan Welfare Office. Land was provided or bought by the Nepal Red Cross, and business enterprises from farming to carpet-weaving were established. A decline in these enterprises was brought about by a number of converging factors including out-migration

from Nepal of Tibetans and the conflict itself. Instead of providing space for economic resurgence, the Nepal government compounded the situation of decline through a series of bureaucratic rulings, including on accessing further education and driving licenses. These measures effectively deepen the economic marginalization of Tibetans.

### **1) Remote Tibetan refugee settlements**

While the majority of Nepal's long-staying Tibetan refugees live in settlements in the vicinities of either Pokhara or Kathmandu, some of the original refugee settlements remain in four areas of Nepal's high mountainous regions. Three of these areas – Solukhumbu, Rasuwa and Walung, known collectively as 'Shawara sum' – are spread out along the Himalayan range and are close to border passes that lead in and out of Tibet. Settlements closest to the border fall within territory that the Nepal government categorizes as sensitive. Consequently, and particularly after recent high-level agreements between Nepal and China to share information regarding the border areas, the refugee activity in these areas is subject to monitoring by Nepal and China. Tibetan refugees who do not have RCs stating that they live in these areas are not allowed to enter.

The population in the remote Tibetan settlements has dropped significantly since the 1960s, hastened by the collapse of the carpet industry which once thrived in settlements like Solukhumbu. Most young people born into the settlements leave to study or work. Some now live in Pokhara or Kathmandu, while others have moved to India or emigrated to join family members in Western countries. A large portion of the remote settlements' population is elderly, increasingly leading to difficulties with traditional income-generating efforts that require physical effort, such as cattle-herding and agriculture. Specialized elderly care is also an issue in all of the remote settlements, and settlements also struggle to support their small local monasteries and maintain cultural traditions.

These settlements are to some extent reliant on outside funding for health, education and elderly care, social services traditionally supported by the Tibetan exile government. With constraints on the exile government's access to the settlements, international NGOs are playing a bigger role in ensuring that vital services reach the remote settlements. Some Tibetans in the remote settlements expressed their feelings of being cut-off from the Tibetan exile government, headquartered in Dhar-

amsala, India, and senior officials of the exile government are known to be denied entry into Nepal.

The number of Chinese officials, workers and other agents in these remote areas has increased along with construction and cooperation agreements made between Chinese and Nepali security forces. China and Nepal have plans for the construction of roads, bridges, dry ports and a railway line at significant Himalayan passes -- passes that many Tibetans use during their journeys into exile. Since the start of road-building operations on the Shabru-Kyirong pass into Tibet, "Chinese officials sometimes come down to Shabru and have a look around. They know about the Tibetan settlements in Shabru and who is working in them, and they bring food and other goods to give to the Nepalis," according to ICT interviews in the area. One interviewee explained that such "food and other goods" was a free 50kg sack of rice for every household and five computers to all the local schools. This gift-giving to Nepalis appears to be part of a public relations offensive so that Chinese workers "have a good reputation within the local Tamang community." Interviewees also reported that the Chinese have used local FM radio to repeat messages such as: "Chinese workers come here for the sole purpose of making local people's lives better, as China is the world's second largest economy... The road from Shabru to Kyirong , although a short stretch at 17km, will cost China US\$20 million and when it is connected it will turn an ancient trading track into a modern road...The local people will have great prospects of developing their living standards and the economy will improve with Chinese support."<sup>155</sup>

## **2) Health and elderly care**

Tibetans living in Nepal can be treated at any hospital, regardless of whether they have RCs, and those who live near Pokhara and Kathmandu have easy access. However, Tibetans in the remote Himalayan settlements face challenges when in need of hospitalization. The high altitude and cold weather keep at bay many of the diseases found in Nepal's warmer climes, but vitamin deficiency, vision and dental problems, and parasites are common ailments. Each of the remote Himalayan settlements has a clinic that can deliver basic care, but they are not always staffed by health professionals. According to a leader of Geygeyling Tibetan settlement in Rasuwa, women can face hardship and complications during child birth.<sup>156</sup>

Tibetan refugees with more than basic health concerns have no option but to make the long journey to Kathmandu or Pokhara. Even then, the highest levels of professional medical care are not available in Nepal. For life-threatening conditions it is common for Nepalis to travel to specialized hospitals in India or, for those who can afford it, Thailand, for treatment. Yet this emergency recourse is often not available to Tibetans. Prior to 2005, a recommendation letter from the Representative of His Holiness the Dalai Lama in Kathmandu was sufficient for the Indian embassy to issue entry permits for Tibetans. When Nepal's then King Gyanendra shut down the Office of the Representative of His Holiness the Dalai Lama and the Tibetan Welfare Office in January 2005, having come under considerable Chinese pressure to do so, he severed a lifeline for the Tibetans. The Tibetan Refugee Welfare Office, which functions as the quasi-official Tibetan office in Kathmandu, does not have the same status and letters of recommendation from this office do not carry the same weight. In lieu of an expedited process, Tibetans must undertake lengthy and expensive procedures to get a travel document or travel illegally overland to India. For many, neither of these options are feasible and, thus, the seriously ill are bound to live out their days in Nepal, often with no hope of a medical cure.

### **3) Property rights**

Tibetans without nagrikta, even those with RCs, are not allowed to own property in Nepal. This extends to many forms of property, including houses, offices, cars and land. Land on which Tibetan settlements were built belongs predominantly to the Nepal Red Cross. Much of this land is in the Himalayan regions and, though suitable during the initial refugee exodus in the early 1960s, the population shift from these settlements to Kathmandu and Pokhara has put pressure on the lower-altitude settlements with limited land and housing. Tibetans who live outside of the settlements tend to rent their homes from Nepali citizens. Those Tibetans who wish to have the security of a home, or a business property, can only do so through personal arrangements with nagrikta-holding Tibetans or Nepali friends or business partners, in whose name the property will be registered. This is in many ways a gamble for Tibetans, and creates a tiered system within Tibetan society where those with nagrikta or connections are able to increase their wealth, while others are restricted to living within the defined walls of a settlement on borrowed land.



#### 4) Bike licenses

Motorbikes, which are relatively inexpensive, are one of the few things which Tibetans are allowed to own in Nepal. The Nepal government started to issue driving licenses for Tibetan refugees soon after issuing RCs and travel documents in 1974. Any Tibetan refugee with an RC could apply for a driving license -- either after passing their driving test or, as is more common in Nepal, by paying a 10,000NPR bribe (US \$110). In a country where motorbikes are a prevalent form of private transport, driving licenses have been crucial for mobility. However, around March 2011 Tibetans started identifying problems either in getting new driving licenses or renewing them. Without official statement or notification, the Department of Transport Management in Nepal has apparently changed the requirements for the application process. Applicants must be able to provide photocopies of both their current license and nagrikta. Overnight hundreds of Tibetans have been forced to quit driving or drive illegally. This will impinge hugely on many businesses and livelihoods and will make vulnerable any Tibetan who attempts to flout what essentially amounts to a government ban on refugee mobility. A Tibetan man working in Kathmandu had the following to say:

"I had a driving license for more than 15 years and had no problems renewing it after five, and then ten years. With my license set to expire for a third time, in July 2011, I went to the Department of Transport Management in Nepal to renew it, as I had two times before. I noticed immediately that the application form said 'citizenship card requested.' In Nepal, it used to be that if application forms requested a citizenship (nagrikta) number or photocopy, they would also accept a RC as an equivalent. That was certainly always the way it had been with my driving license. But when I passed my form to the officer, the guy said 'nowadays the Department of Transport Management in Nepal does not renew driving licenses using RC as ID or issue new licenses for RC holders.' I pointed out that I had already successfully renewed it twice before and he said 'I don't know the reason. I just know I can't take RC holders driving license renewal application form, only Nepali citizens.' And then he said he was genuinely sorry and told me that this was not his decision, and that there had been a few Tibetans who had come in with RC in the past few weeks and they also hadn't been able to apply. Another friendly officer said 'if you come here to renew your bike license with a RC, you're just wasting your motorbike petrol. There is no chance to do it these days.'

It is a huge problem for me because I live in the Jawalakhel Tibetan camp, south of Kathmandu and every day I have to go to travel work in Boudha, which is about 8 kilometers away. Without a valid driving license, I run the risk of being pulled up by the traffic police who are everywhere checking licenses after 6 p.m. if I took a bus or minibus, it would take hours. I am lucky, as since my license expired, I haven't been caught yet by traffic police, but it is a constant worry. If I am caught by the police I will be heavily fined."

The changes in the driving licenses application forms are similar to recent policy changes in Nepali university application forms (see education section below). Both appear to be designed to exclude Tibetans and prevent them from being able to carry out normally functioning lives in Nepal. It is highly likely that these bureaucratic changes are part and parcel of Nepal's response to Chinese political pressure. Indeed, China had already shown a prior interest in the Nepali driving licensing system, with Chinese state news agency Xinhua reporting on the 2009 launch by the Nepali Department of Transport Management of a digital records system which will allow easy access to details of all license holders.<sup>157</sup> Beyond suppressing protests and cultural events, these quieter changes, if continued, have the potential to have long-term crippling effects on the Tibetan communities that already struggle to survive in Nepal.

## **5) Education**

Many of the Tibetans making the journey out of Tibet each year do so in pursuit of a Tibetan education unfettered by the diktats of the Chinese state, which often focuses on Chinese language education. As such, the majority of Tibetan families strive to send their children to schools with a curriculum which includes Tibetan language. Since the beginning of the Tibetan refugee crisis in the early 1960s the provision of education has been a priority of the Tibetan exile government. Schools – both monastic and lay – were set up to cater predominantly to Tibetan children born in exile and those who every year continued to make the perilous journey out of Tibet. The 13 Tibetan schools in Nepal are operated by the Snow Lion Foundation, an NGO established in 1972 by the Swiss Development Cooperation, in cooperation with the Department of Education of the Tibetan exile government.<sup>158</sup> Open not just to Tibetans, these schools educate many Nepali children too, particularly in the remote areas.

In the 1970s, all schools in Nepal were nationalized. This meant that all the Tibetan refugee schools were forced to make changes to bring them into accordance with the national standard curriculum. Tibetan refugee children were still entitled to attend schools but were no longer able to study a specifically 'Tibetan' education. Most families who could afford to chose at this juncture to send their children to Tibetan boarding schools in India. This established a pattern of cross-border migration for education which continues today and is in part why the ability to cross the Nepal-India border is so crucial for Tibetans. Although the Nepal government reversed this policy change in 1981, not all of the Tibetan refugee communities were then able to sustain their schools. The Settlement Officer at the Shabru-Besi Tibetan settlement had the following to say to ICT:

“Education is the back bone of our society. So when we first came into Nepal, we set up a school in Shabru but, in the late 1970’s, the government of Nepal took control of it under their education policy. Later, due to a lack of funds for purchasing land for the school, our children began attending a Nepali school which goes up to class twelve. Since Tibetan language isn’t taught in the Nepali schools, we have a special class in the morning and evening so that the Tibetan children can learn Tibetan. We also teach extra classes for the children in math and English, as the standard of the Nepali school isn’t high. Tibetan children are at the school from 7 a.m. until 8 p.m. It is a long day for them, but we think it’s important that they get their Tibetan education.”

Tibetan high schools exist only in Pokhara and Kathmandu, so children from Tibetan settlements outside these areas must leave their families and live in hostels run by the high schools. Many Tibetans choose at this juncture to send their children onto Tibetan schools in India, which many perceive as providing a better education.

Although the secondary school education for Tibetans in Nepal is less than ideal, all are able to access education – whether expressly Tibetan or Nepali. This changes when it comes to higher education. Until recently, Tibetans with RCs could apply for places at government-run colleges and universities but, in 2010, a new application form was rolled out by the Nepali Department of Education. For the first time, students were required to submit the numbers from their parents’ citizenship (nagrikta) cards. Such a requirement immediately excluded most young Tibetans from accessing state-provided higher education. They now

join the Tibetans without RCs – a majority of the young – who can only apply for private colleges which, interviewees pointed out, tend to be prohibitively expensive for most Tibetan refugee families.

In lieu of reliable options for higher education in Nepal, most young Tibetans who can afford to, look to institutions in India. Here again, documentation, freedom of movement across the border, and cost are all issues. When considered in combination, higher education is no longer a viable option for most young Tibetan refugees, which feeds into a sense of hopelessness about their future in Nepal that many young Tibetan interviewees expressed.

## 6) Employment

### i. Decline of the carpet industry

In the early 1960s, the Swiss Agency for Technical Assistance and the Swiss Red Cross sought to create a sustainable industry for the initial influx of Tibetan refugees into Nepal. Many of the Tibetans had led monastic or nomadic lives, and were not equipped with the knowledge to farm. Instead, it was mainly to their carpet-weaving skills which the Swiss turned, setting up the Jawalakhel Handicraft Center in 1960. Further carpet centers followed in Solukhumbu, Dhorpatan and Pokhara and the industry was born. In many Tibetan settlements, the majority of refugees were supported by the carpet industry, which eventually provided an economic grounding from which many were able to launch private carpet businesses. At the height of the industry there were some 280 Tibetan-owned carpet factories, and more than 300 additional home-based weavers

As a result of tourist interest and overseas marketing in Switzerland and the US, Tibetan carpets became one of Nepal's most important commodities. Many Nepalis were employed in Tibetan carpet factories – sometimes up to 90% of the factory's workforce. By the 1980s, the carpet industry was bringing in one third of Nepal's foreign currency earnings.<sup>159</sup>

However, during the internal conflict in Nepal (1996-2006), the Maoists raised funds for their insurgency, in part by extorting so-called 'under table' (UT) taxes from private businesses through their corresponding union, the All Nepal Trade Union Federation

(ANTUF). Tibetan refugees were not exempt; in fact, their more precarious legal status in Nepal made them easier targets for extortion. “For some of the larger factories, the ANTUF would demand up to one lakh NPR (US\$1,116) a month. These factories had two choices, either shut down entirely, or significantly cut back on the number of people working within the factory,” said researcher Swetha Ramaswamy.<sup>160</sup>

A Tibetan factory owner from Boudha concurs, “We were blackmailed, to pay a lot of money or our business would be closed down.”<sup>161</sup> Refusal to pay was dangerous. During the conflict, a carpet factory in Jampheling Tibetan settlement, Jawalakhel, was attacked and its owner’s house bombed for his refusal to pay an eight lakh NPR (US \$8,928) bribe. Tibetans who had made a success in this sector suddenly found themselves in an economic stranglehold, exacerbated by dwindling tourist numbers as the conflict continued.

Empowered by the Maoist movement and encouraged by a range of politically-affiliated unions, workers across Nepal began to campaign for their rights and an end to unregulated working conditions. Tibetan interviewees explained that the factory workers’ demands, backed up by the threat of violence, went beyond what seemed reasonable or possible.

“I owned the third largest carpet factory in Nepal, between 1975 until 1990. It collapsed after the Maoists began to gain power and make too high demands. Now this factory is still running but with less than ten people,” says Tibetan entrepreneur Pembu Gyantse.<sup>162</sup>

Nepali citizens who had learnt the carpet-weaving trade from working in the Tibetans’ factories began to have the competitive edge. They were better able to protect themselves from Maoist demands and, as citizens, were in a stronger position to navigate the bureaucracy and party politics related to business in Nepal. It was not long before the market was flooded with carpet options, and Tibetans had been squeezed almost completely out. The loss of the industry was a huge blow to the Tibetan refugee community in Nepal, the majority of whose main source of income had been eliminated in the space of a few years. The

follow-on effects were in part political. “When the carpet industry folded, we Tibetans lost our clout”, explained a Tibetan businessman, “The Nepal government no longer sees any reason to be nice to us.”

The vitality of individual Tibetan communities suffered too, as settlement demographics shifted dramatically. A Tibetan businessman, now living in Canada, estimates that around 60 percent of the Tibetans who previously ran carpet factories left Nepal during the conflict period -- either from fear of extortion and attack, or from concerns about their economic future. Although the Chinese government was not overtly involved in the carpet-business decline, it may have realized a substantial benefit. For a lengthy period of time, the largest donations to the Tibetan exile government were from the Tibetan carpet factories in Nepal. Five years after the conflict ended, the Tibetans who remained in Nepal are looking for sustainable employment alternatives. Some believe that all is not lost with the carpet industry. Ramaswamy concludes that “a diminished market is not a dead market.”<sup>163</sup>

## **ii. Farming**

While most of the Tibetan settlements in Nepal are either urban or contained, a few of the more remote settlements have access to arable land. Not traditionally farmers in Tibet, the refugees had to learn new agricultural skills on arrival in Nepal. Land in Solukhumbu district was successfully farmed for a number of years but the rate of out-migration from the settlements of the young and able has made it an unviable long-term option for those left behind. In Jampaling settlement in the Pokhara valley, Tibetans continue to farm the land, but weather and soil conditions make this difficult. Unfortunately, the scope for farming to provide more sustainable revenue for the Tibetans in Nepal remains limited.

“I am not dreaming of the USA, because I like the slow life here,” said Sonam Chomphel, a 21-year-old from Jampaling Tibetan settlement, Pokhara. “If the agriculture work would give me enough earnings, then I wouldn’t find it a problem to work in the fields. This would be a good solution, letting me stay in the settlement with my parents.”

But while environmental and market issues could perhaps be overcome, lack of status also plays a part. Tsering Sither, camp leader of three of Pokhara's settlements explains: "After our old tractor broke, we found a sponsor to buy a new one for farming in Jampaling settlement. We trained a man to be the tractor driver. He took driving lessons for a few months and sat a driving test, which he passed. When he went to apply for a driving license, the license office refused to give him one, saying that 'Tibetan refugees, even with RCs, are not allowed to apply for driving licenses.' That was a dead end for the whole process."<sup>164</sup>

### **iii. Public sector demands**

Tibetans without citizenship or RCs are denied employment with government-affiliated institutions. In a country where the private sector is far from stable, there is little job security, and almost every Tibetan interviewed had a personal story about this. One interviewee, a young college-educated man from Pokhara, applied for a job with a national bank but was refused because he "didn't have the correct ID." What makes this more difficult is the fact that this restriction is not officially stated, leaving room for local government officials to exploit Tibetans. As a Tibetan community leader and restaurant owner from the Pokhara area explains: "We have a doctor. He was born in Nepal, educated at all levels in Nepal, up to being a medical doctor. His family paid everything but he is not being given a license to work. They say he doesn't have a right to work here. He even paid for his license, and the government accepted his payment. When youngsters hear about these things, they give up."

### **iv. Private sector dilemmas**

Beyond the public sector, "Tibetans without RCs can work in restaurants, hotels, as a trekking guide or private teacher, but these are not high paid jobs," explained Kusang Wangmo, a 33-year-old Tibetan woman from Pokhara.<sup>165</sup> Such jobs are harder to get without having the correct identification papers, as Karma Dorjee of Paljorling, Pokhara, explained: "It is hard in Nepal to get a job, even in the private sector, since Nepali companies would prefer Nepali employees with a citizen card."<sup>166</sup>

Nepali employers are well aware that taking a Tibetan on board, however legitimately, increases their chances of facing problems with the authorities. “There has been no announcement or explanation from the Nepal government about why Tibetans are not allowed to have jobs in local Nepali communities,” says Tsering Sither, leader of three settlements in the Pokhara area, “but all the employers know that they cannot take on Tibetan employees, that it would be seen as somehow illegal and would have serious consequences if they were to do so.”<sup>167</sup> Many interviewees mentioned an incident where a Tibetan girl from a Pokhara settlement had been working for the private Shangri-La bank for three years. One day, completely unexpectedly, the local trade union informed the owner of the bank that he should not be employing the girl, because she was Tibetan. The bank management committee themselves appeared to like her, as a close neighbor said, “She’d always done her best, and quite a few Tibetans now have accounts with that bank because of her.”<sup>168</sup> But the union placed the bank in such a position that she was effectively forced her to quit her job. As Tsering Sither pointed out, “In the current climate, even the owner has no rights once the trade union is mobilized. This is the challenging situation.”<sup>169</sup>

The girl was eventually reinstated in her job when the situation had calmed down, but this story serves as a much upheld example of the precarious situation many Tibetans face in the workplace. There are different dynamics at play. For one, political parties mobilize unions in order to garner votes and, in return, they must protect their members’ right to work. Having no voting rights, a Tibetan refugee is very unlikely to be affiliated with a Nepali political party, let alone a politically-affiliated workers’ union. As such, they are vulnerable to political mechanizations in the workplace. Another dynamic is China’s obsessive hounding of Tibetan refugees on Nepali soil. It is generally understood among the political class in Nepal that discriminating against Tibetans brings Chinese political favor.

Recognizing that these dynamics “affect all Tibetan refugees in Pokhara,” Tsering Sither has attempted to find out what is going on behind the scenes and has asked several Nepali officials about this, including Pokhara’s Deputy Superintendent of Police. Their answer points to political collusion. “[The Police] know that Ti-



betans are not allowed to apply for jobs, whether in government or private sectors. But they don't know who made this decision, whether it is a Nepal government decision or a Chinese policy being implemented in Nepal."<sup>170</sup>

A 38-year-old Tibetan woman who was born in Tibet and has been living in Nepal since 2005 told ICT: "I came to Nepal in 1998. A relative of mine who lives here helped me to pay 8,000 rupees (US \$90), so I was able to get one of the last RCs the government ever issued RCs. I realized how lucky I was since many of my friends in Nepal haven't got any legal documents. I opened a small shop in Boudha using the name of my landlord, who had advised me that if I opened a shop with only an RC for identification, I would have problems with the police. For the ten years I had that shop, I was visited by police many times. Most of the time I gave them 500NPR (US \$6), and they never caused any problems. My landlord also had a good relationship with the Boudha police officers. I sold Chinese instant noodles and green tea in my shop. I was able to get these products from one of my relatives who had a shop in Kasag town, which is just on the other side of the Friendship Bridge [that connects Nepal and Tibet]. Before 2008, I used to travel frequently up there to get the goods. The RC was useful for travelling at that time and the Nepali police let me go if I gave them 1,000 – 2,000 rupees 'for their tea.' But from 14th March 2008, the Chinese closed the border for about ten months, and my relatives had to close their shop in Kasag. I ran out of goods in my shop and decided to close it in September 2008.

I looked for a new job for months. Since 2009, many Chinese tourists have been coming to Nepal, and there are good opportunities to get jobs in travel agencies and hotels if you speak Chinese. My friend and I went to the tourist area, Thamel, to search for a job. Most hotels and travel agencies need Chinese speakers as receptionists, tour guides, etc. Whenever I gave them my CV, they asked me whether I have citizenship. All hotel managers or tourist agency people said that they cannot employ Tibetan refugees. If they do, they will have lots of problems with the police. The most disappointing incident was at the Yak and Yeti Hotel. They needed a Chinese speaker as a tour guide. It was a full time job for 18,000NPR (US \$200) per month, not including tips. The

guy I met at the hotel said he was looking for a Chinese speaking tour guide and was excited because I speak four languages; Tibetan, English, Nepali and Chinese. He gave me an appointment and said I should bring all my documents and a passport photo. During the interview, he asked me about my background and how good my Chinese language is. When he saw my RC, he said he had to ask his boss because he wasn't sure whether or not they were allowed to employ Tibetan refugees with RCs. The next day, when I went to his office, he just said sorry and gave me back my documents and said that his boss had told him that Hotel Yak and Yeti can't employ Tibetan refugees because it is too risky. I was so disappointed and asked him why, but he cut me short, saying that he had got to go. 'You should come back to see me with a nagrikta,' he said. Later I learned that the same thing had happened to many Tibetans living in Kathmandu.

#### **v. Self-employment**

Given the difficulties of finding employment, some Tibetans attempt to create their own. However, most do not have the capital required to invest in a business venture, and all who do need a close Nepali friend or business partner in order to register a business or buy property. Since Chinese pressure increased after 2008, the Nepal government and police have brought in a range of measures, many unofficially, which further constrict Tibetans' ability to provide for themselves and their families.

In 2009, ICT quoted a Tibetan who runs a guesthouse in Boudha as saying: "Since May 2009 Tibetans holding an RC are not allowed to register any businesses, including restaurants, shops and guesthouses. Those who had already opened businesses with their RC would have to pay double the tax to the Nepalese government. The police and people from the tax office came to my guesthouse to check my registration in May 2009. They told me that if I registered my guesthouse with my RC I had to pay double the tax, but luckily my guesthouse is registered under the name of my landlord, who is Nepalese, otherwise I would have had to pay double the tax. This new policy about taxing is clearly because of Chinese political pressure. Every Tibetan knows the Chinese government wants to destroy the Tibetan community in Nepal, creating as many difficulties as they can for us, both politically and economically. If the Nepal government doesn't let

us do business, then where do we go and how do we eat? I think the Chinese government is not happy to see that there are many Tibetan restaurants, shops and hotels [in Nepal] because these are major sources of income for Tibetans, who depend on these businesses.”

A recent rare success story in the form of a noodle factory in Paljorling Tibetan settlement, Pokhara, has been tempered too by political interference. Set up by a young Tibetan entrepreneur, the factory employs three Tibetan staff members. Its owner sees much business potential, given the positive response from both Nepali and Tibetan communities but feels this is being thwarted by local authorities.

“I had some ideas to improve and protect the business. In order to carry any of them out, we have to register our noodle factory and the quality of the product has to be examined by the local authorities. When we went to do so, the Nepali authorities told us that Tibetan refugees are not allowed to register any factory which produces a product that will be consumed by the local Nepali community! But in the past, the Tibetan community in Pokhara used to have access to Nepali local markets to sell carpets, handicrafts and Tibetan cultural products. We feel that our day-to-day living has been targeted and is being seriously limited.”<sup>171</sup>

As a result of these pressures, and especially in the aftermath of the carpet business collapse, many Tibetans, particularly around Pokhara, have taken to what they call the “something business.” This is the street side hawking of Tibetan-style jewelry and handicrafts to tourists, within the tourist haunts in Pokhara or on the numerous trekking trails in the surrounding hills. It is a meager existence but, for some, the only hope they have of making ends meet. Recently, this too has been threatened. In 2011, the Deputy Superintendent of Police in Pokhara urged the Tibetan settlement leaders there to prevent refugee sellers from coming to Pokhara’s tourist areas. None have been arrested for doing so yet, but the threat remains. For one settlement head, the larger threat is the loss of what for some is the last viable source of income.

“If Nepalis [authorities] decide to prevent Tibetans’ doing ‘something business,’ what will be the future of those Tibetans living on doing ‘something business?’ I cannot see any other alternative things that they could do - they will be devastated when the day comes.”<sup>172</sup>

The same Tibetan is convinced that the behavior of local police is impacted by Chinese pressure. “Members of Pokhara’s police force have received frequent training sessions from Chinese police in the Mustang district of Nepal [on the border with Tibet]. Those police personnel who have received Chinese training in Mustang now have strong negative attitudes towards Tibetan refugees.”<sup>173</sup>

In 2009, The Kathmandu Post carried the following story: “Nobody likes to leave their homes! Look at that house, people are sitting down to eat, there is food on the table. That is how my family left their home: food on the table, clothes and utensils, everything where it should be. They heard gunshots and the screams of people, so they picked their children and ran. The old couldn’t come, just the young and the strong. They had nothing by the time they came to Mustang. Even the hats had been picked clean of the fur, shredded and boiled, swallowed whole because nobody had the strength to chew...”

“When our neighbors’ country was doing well, when there was peace, when there was one strong government, we could go to and join our hands and ask for favors. We had a prosperous time. But now your country is itself not in good times: your leaders spend much time fighting each other...”

“When we weaved carpets, there was enough money to go around. I am not saying we spent our evenings sorting banknotes into neat piles, but there was no want for food, and there was no want for occupation. The women weaved, the men set the looms, the children cut designs into the finished carpets, and the old folks washed and dyed the wool. Everybody was occupied, and everybody was drawing a salary, however small. They said our carpet was bad because children worked on them. But we have to always speak the truth: it is true that some factories outside the settlements used children, but our children were going

to school, and helping out with the family business. They were not wasting their lives by the looms. But they said that was bad. There used to be 150 looms in Hemja settlement. Now there are perhaps six women still weaving.

“So we carry these bags and come to Lakeside. Younger men take bags and climb three, four days away, waiting for tourists. We never had the money to open a shop of our own, so this bag is all I have. My children are educated, very well educated, but they have no ID, so they can’t work. Most children in the settlement are very well educated—many have a degree, SLC (School Leaving Certificate) is very common. But they can’t find a job without an ID. My husband stays home. We choose a shady corner or a shop that has closed for the day, spread our wares and wait until sundown. There is no other option. This is not our country, so we can’t make demands.

“The situation is different now. Two years ago, the police used to chase us away, arrest us, or call us to the station to tell us not to come to Lakeside. Some business owners are compassionate, they have the light inside them, and they let us set our spread outside their shops or restaurants. I don’t run after the tourists. But we have to always speak the truth: sometimes, some people do. We sell one or two pieces in the entire day: that is our livelihood. So some people bother the tourists. But shopkeepers become upset if they see a tourist spending money on our goods instead of buying from the shops. Then they make the police come after us...

“Nobody wants a life like this. We come here every morning and spread the contents of our bags. In the evenings we pack everything and return to the settlements. We have survived. It would give us peace if our children didn’t have to live this life. But we don’t have a country of our own, and we can’t make demands.”<sup>174</sup>

Tenzin Palkhiel from Pokhara’s story is an exception to the common experience, but worth noting. “Six years ago, after I finished Tibetan High School, with the support of a foreign investor, I became the partner and manager of the juice factory in the Tashi Palkhiel settlement. I now employ 28 staff and run different businesses like the juice factory, handicraft shops, a motor workshop,

an Electra shop, a small wool factory, a livestock shop and now I am thinking of setting up an essential oil factory. Every morning I volunteer to lead football training sessions for young Tibetan kids.”<sup>175</sup>

The combination of conflict, politics and Chinese interest in Nepal means that the common Tibetan refugee experience is a life of economic uncertainty. The effects of this are felt throughout the refugee community, by the young and the old. Refugee leader Sonam Sangpo explains that “for the elder generation it is very difficult to adjust to a new environment [in Nepal]; losing their identity, culture and lifestyle. From being a nomad living without neighbors, living freely [in Tibet], now living in a small settlement [in Nepal], life is very difficult. If the children have a good income and can support the family, that would bring less worries to their parents. But [because this isn’t usually possible] mentally there is no way to support.”<sup>176</sup>

The pressure to provide, particularly under these circumstances, weighs heavily on young shoulders. Tenzin Kunga, a young man in Paljorling, Pokhara, told ICT: “In the last couple of years I have realized that living in Nepal is difficult” says Tenzin Kunga of Paljorling, Pokhara. “The pressure of taking care of my family with no good opportunities is difficult to live with. The small salary we can earn is hardly enough now that the price of food and lodging is getting more and more expensive.”<sup>177</sup>

As a result of the economic deadlock in which most Tibetans find themselves, many look outside Nepal for assistance. Remittances - funds sent from relatives living or studying overseas – form a substantial part of the refugee economy. Some refugees also have foreign sponsors, often arranged through Buddhist organizations or international NGOs. Karma Dorjee, a student from Pokhara, explains: “I am now in my second year of BA Computer Applications at a private college. Half of the college fee is paid by the foreign NGO Green Tara, the other half is paid by me.”<sup>178</sup> While money from external sources sustains much of the refugee population, it is for the most part borne of personal relationships and certainly not a solution for all Tibetan refugees in Nepal. Some refugees believe that remittances may even exacerbate the employment problem. “Many Tibetans are jobless” Kunsang

Wangmo, another refugee from Pokhara explains: “If they can depend on their family because of foreign country sponsorship, they do not feel the urge to work, since the salary is so low.”<sup>179</sup>

But most young Tibetans are keen to do something for themselves, the alternative being to hang around the settlements beside the empty houses of those who have left and the school yard where they studied for an imagined future that looked very different.

“I often find myself depressed while thinking of my future. I’m not satisfied with my income, and music brings me no earnings. I wanted to open a restaurant on the lake side [tourist area of Pokhara], but I didn’t have enough financial means. Finally, I opened a restaurant in the Tibetan settlement but I left after a few months because it was an unhealthy environment – too much drinking and playing cards.”<sup>180</sup>

A combination of factors, including Nepal’s deteriorating political situation, the worldwide economic crisis and particularly China’s growing influence in Nepal leads many Tibetans to doubt the viability of a stable economic future in Nepal. Many expressed that their ideal desire was to remain in Nepal, given its cultural and geographical proximity to Tibet, but that current conditions leave them no option but to look to a future elsewhere.

#### **vi. The immigration dream**

“I would rather stay here in Nepal, near my family and relatives and be successful, instead of washing dishes in a foreign country,” said Tenzin Namdhak, a 30-year-old teacher from Tashiling settlement, Pokhara. His view was echoed by many, but other interviewees argue that because the odds are stacked high against Tibetans being successful, overseas employment is the only option left.

“If I would get the chance to go abroad, I would do it,” said Karma Dorjee, a young man from Paljorling settlement in Pokhara, “It will be much easier to support my family.” Another young man, Tsewang Tamding also noted that, “with a passport or green card Tibetans can enjoy more freedoms and even go and visit Tibet.”<sup>181</sup>

Long-staying Tibetan refugees face difficulties leaving Nepal. In one example, the US Government, prompted by the conditions for many Tibetans in Nepal, offered to resettle Tibetan refugees who lacked permanent status in Nepal. Since then, the Nepal government has refused to allow the resettlement process to go ahead, despite repeated requests from the US Government.<sup>182</sup>

Notably, interviewees who had the financial means to receive private higher education and thus were able to build job opportunities in the private sector were markedly less pessimistic about living in Nepal. Tenzin Namgyal, a young man in his twenties from Tashi Palkhiel Pokhara, said: "A year ago I was dreaming of going to the USA, for new opportunities. But my business, and being with my family and friends, makes me happier here." However, Tenzin and others like him are among the few who have managed to navigate the substantial documentation, property, business and education hurdles which the Nepal government has in place – something the majority of the Tibetan refugees have neither the capital nor capacity to do.

## Suppression of Tibetan Culture and Religion in Nepal

Degradation, and even criminalization, of Tibetan culture and religion by Chinese government policies in Tibet is one of the main reasons that Tibetans risk their lives crossing the Himalayas into freedom in exile. As testament to this, soon after its own establishment, the Tibetan exile government established the Tibetan Institute of Performing Arts (TIPA) in Dharamsala, India as a conservatory to preserve and perform traditional songs and dances. In the relative havens that are Nepal, India and Bhutan, over the past 60 years, Tibetans have been able to perform, explore and develop their own unique cultural heritage away from the restrictions of Chinese rule, including celebrating key Tibetan festivals such as Losar (Tibetan New Year, February/March) and the Dalai Lama's birthday (July 6).

In Nepal's remote Tibetan refugee settlements, Tibetans often feel that the Tibetan Buddhist culture is endangered by out-migration and a lack of funds. The inhabitants of Chialsa in the Solokhumbu region struggle to sustain their small monastery. Their 60-member performing arts troupe is now comprised of only a few young women who are left to perform at ten important events in the Tibetan calendar. In the overcrowded city-based Tibetan settlements, the difficulties in maintaining culture are not about a lack of numbers. Where once Tibetans in Nepal were able to freely gather to mark cultural events, over the past three years, state interventions in these have become common. A tacit understanding which existed between the



Tibetans and the Nepal authorities that events within the settlement boundaries would be left unhindered has also been repeatedly broken. Nepal's increasingly restrictive behavior in this regard is a result of Chinese pressure to quell 'anti-Chinese' activities. The border between cultural and political is being blurred, at the expense of Tibetan's free expression of their cultural identities.

Tibetans and Nepalis have historically shared cultural and religious practices that were developed throughout the Himalayan region. Tibetan Buddhism is practiced throughout Nepal's mountainous districts and has many adherents, even among Nepal's political elite. Tibetan culture and Buddhism is synonymous with Himalayan, and Nepali, life and is respected as such by Nepali people. It was therefore normal that Nepal's President Ram Baran Yadav and Foreign Minister Sujata Koirala would plan to attend a centennial celebration of the birth of a famous Tibetan lama, Dilgo Khyentse Rinpoche at Shechen Tibetan Buddhist monastery in Kathmandu in 2010. However, at the last minute, as his helicopter was circling the monastery, the plan was cancelled. The Chinese embassy had sent a written statement to the Nepal government saying that the acceptance of the Tibetan invitation would be regarded as a gross violation of Nepal's avowed commitment to the 'One China' policy, according to a report in Indo Asian News. Chinese Military Attaché Colonel Cheng Xizhong met Foreign Secretary Madan Kumar Bhattarai to express his government's displeasure about a scheduled visit to the Tibetan monastery by the president and his entourage.<sup>183</sup> Chinese pressure creates a wedge in the age-old relationship between Nepali and Tibetan peoples, and puts the Nepal government in an increasingly difficult situation. This is particularly evident on Tibetan New Year, Losar, and the Dalai Lama's birthday, where Nepal Police have been deployed in recent years to monitor and, in some cases, actively disrupt these cultural events. That everything cultural is at risk of being deemed 'anti-Chinese,' points to the fact that far beyond garnering support for its One-China policy, China is keen to export its own oppression of Tibetan culture to Nepal.

### **a) The Dalai Lama's birthday**

The Dalai Lama's birthday is an important cultural and religious festival day which unites all Tibetans. The devotion of the Tibetan people towards the Dalai Lama as their spiritual and national leader is perceived by the Chinese government as a threat to its authority in Tibet. Despite the fact that the Dalai Lama officially devolved political authority in the Tibetan exile government to an elected leadership, the Chinese government continues to conflate his person with Tibetan desires for self-rule.

In 2010, police set up checkpoints at different locations across Kathmandu, stopping Tibetans heading for an event organized at Jawalakhel Tibetan settlement. Buses and taxis were pulled over, and their occupants checked over

by police. As well as violating Tibetans' rights to freedom of movement, this discriminatory tactic affected many Nepalis of Himalayan origin. According to an ICT source, any person who looked like they might be Tibetan was taken out of their transport and forced to return home.

The following year, in 2011, a new low bar was set in violations of freedom of belief and assembly, when an outright ban on Tibetans celebrating the Dalai Lama's birthday was announced by Laxmi Prasad Dhakal, chief government administrator of Kathmandu district.<sup>184</sup> Restrictions were laid out verbally to Nepali human rights monitors and Tibetan community leaders in response to a letter requesting permission to hold the birthday event. Local authorities said that no mass gathering and no pictures of the Dalai Lama would be allowed. That Tibetans were refused permission to celebrate publicly, with Nepali officials saying they should do so only in the privacy of their homes, set a disturbing new precedent for how Tibetan lives can be curtailed in Nepal. To enforce the ban, several hundred Nepali police in riot gear were deployed in various areas of Kathmandu. In the Swayambhu area, around 300 police in riot gear blocked access to Namgyal Middle School where the birthday celebrations were due to be held. Three Tibetans were detained by police for burning incense and throwing tsampa (barley flour), a traditional way of celebrating the birthday, and three Tibetan minors were injured when the police struck out at the crowd with bamboo sticks. An ICT monitor in Kathmandu said: "The atmosphere was tense, with many elderly Tibetans crying because they could not get into the celebration, and arguing with the police." Virtually all of the several hundred Tibetans and Himalayan peoples who had gathered for the birthday event were forced to return home. In Boudhanath too, Nepali police confiscated pictures of the Dalai Lama and a birthday banner hanging inside a walled courtyard at Samten Ling monastery.

After being prevented from joining the birthday celebration, a 56-year-old Tibetan woman told an ICT monitor: "The Nepal government treats Tibetan refugees and Himalayan Buddhists as if they were gangsters or robbers. We are not here to protest against the Chinese government, or even the Nepal government, but just to celebrate His Holiness the Dalai Lama's birthday, as we have done since we arrived in this country as refugees. We want to show how much we love His Holiness the Dalai Lama and how important he is for us."

Organizers and participants at most Tibetan cultural events are wary of having their event shut down, and there have been many examples of this happening. For example, on June 26, 2011, just weeks before the Dalai Lama's

birthday celebrations were banned, a celebration in Kathmandu of the birthday of the Karmapa, another important and popular Tibetan lama, was also disrupted by Nepali police, with observers reporting hundreds of police in riot gear deployed in every corner of the Boudha area.

### **b) Tibetan New Year or Losar**

Based on the Lunar calendar, Tibetan new year or Losar falls in February or March each year. Tibetans celebrate Losar usually over a three-day period through religious programs, community events and activities in their own homes. Losar is also celebrated by ethnic groups throughout Nepal's mountainous region. Although inherently apolitical, a 'no Losar' movement in 2009 called by Tibetans inside Tibet was taken up by Tibetans in exile as a mark of respect for those who had suffered the violent crackdown following protests across Tibet in 2008.<sup>185</sup> By not celebrating Losar that year, Nepal's Tibetan community stood in solidarity with Tibetans inside Tibet. Although the most political of new years, no incidents were reported that year in Nepal. However, increases in Chinese pressure meant that Losar became a sensitive date on Nepal's radar. This was obvious the following year, when on February 13, 2010, 14 young Tibetans (five females and nine males) were arrested from a noodle cafe after having celebrated Losar in a bar in Thamel, the tourist district of Kathmandu. Wrongly accused by the Nepal Police of planning a "Free Tibet" protest, the 14 were detained and only released when they had paid a considerable amount for bail.

## **Civil and Political Challenges Faced by Tibetans in Nepal**

*"OHCHR-Nepal [the Office in Nepal of the UN High Commissioner for Human Rights] continued to be concerned at the manner in which the police, under clear direction from the Ministry of Home Affairs, have prevented members of the Tibetan community from exercising their rights to freedom of movement, assembly and association"<sup>186</sup>*

*-- OHCHR- Nepal's final report to the UN Human Rights Council, December 2011.*

The year 2008 saw an unprecedented assault on Tibetans' civil liberties in Nepal, which has paved the way for continued and escalating breaches of internationally recognized civil and political rights in the years since. Where once Tibetans were able to protest, assemble and carry out religious ceremonies freely, constraints on these freedoms have been marked since 2008. Although the RC issued to Tibetans promises freedom of movements within Nepal, bar sensitive border areas, Tibetans' freedom of movement are increasingly curtailed. In conjunction with a crippled economic outlook, these serious infringements on civil and political rights strike at the

heart of a desperate Tibetan population and are damaging on both individual and community levels. They also deny Tibetans recourse of protection from Nepali police and expose them to corruption by the same.

#### **a) Freedom of movement**

*"International human rights law prohibits restrictions on the freedom of movement, including that of non-nationals, except when the restrictions, prescribed by law, are 'necessary to protect national security, public order, public health or morals or the rights and freedoms of others,' and are consistent with the other fundamental rights. The restrictions placed by the Nepal government on Tibetans have not met these requirements."<sup>187</sup>*

#### **Human Rights Watch**

*"The Government (Nepal) continues to obstruct peaceful gatherings by Tibetans and Nepalis of Tibetan origin, including detaining demonstrators in violation of orders from Nepal's Supreme Court."<sup>188</sup>*

#### **International Commission of Jurists and Human Rights Watch**

For large numbers of Nepal's Tibetan population, the ability to travel to and from India is crucial. Many refugees have family and friends among the 94,000-strong<sup>189</sup> Tibetan refugee population there. Dharamsala, in Himachal Pradesh, is the centre of Tibetan life outside of Tibet. It is the seat of the Tibetan Government in Exile and prominent sections of Tibetan civil society, including the Tibetan Women's Association, the Tibetan ex-political prisoner organization Gu Chu Sum and the Tibetan Centre for Human Rights and Democracy. India is also home to some of the best Tibetan-curricular schools, including the only schools for Tibetan children with special needs. In terms of religion, large numbers of Tibetan monasteries - including that of Tibet's spiritual leader, the Dalai Lama - are spread throughout India. The many Buddhist pilgrimage sites in India are a pull for Tibetans, and Buddhist teachings, like the Kalachakra initiation, draw thousands of practitioners to India.

The ease with which Tibetans in Nepal could travel to India came to a sudden end in 2005 with the closures of the Office of the Representative of His Holiness the Dalai Lama and the Tibetan Welfare Office. Where travel could be expedited by a letter of recommendation from an official Tibetan representative, this was no longer possible, leaving Tibetans wishing to travel by air to India to apply for a refugee travel document – a lengthy and expensive procedure.

Restrictions have also increased for Tibetan refugees with the equivalent Indian RCs coming into Nepal. The Indian License Office no longer issues the recommendation letters which were used as travel documentation. As a re-

sult, the number of Tibetan exile government officials and India-based Tibetans travelling to Nepal has been impacted, contributing to a deterioration in communications between the Tibetan refugee communities in Nepal and Dharamsala. According to the former head of one of the Tibetan refugee settlements in Pokhara, “in the 1990s and early 2000s MPs and other exile leaders from Dharamsala used to visit Tibetan communities in Nepal on average nine times in a year, and all of them travelled by air. Now it’s not easy for exile MPs and other VIPs to travel here by bus because it would take them more than 40 hours.”

In terms of overland travel, prior to 2008 Tibetans were able to pass unhindered across Nepal’s famously open southern border either by passing as Nepali citizens, or by showing their refugee identification documents or any photo ID, such as driving licenses or school identification cards. It seems that having an RC is now only useful for reducing the size of the bribe. Depending on the whim of the police officers in charge, those without RCs can expect to pay in excess of 5,000 NPR (US \$56), and risk being sent to detention at the Immigration Office.<sup>190</sup>

Tsering, a 44-year-old Tibetan man who lives in Kathmandu said: “Since 2008, Nepal has refused to accept Indian schools IDs and RCs as valid ID for crossing the border. Tibetan refugees have been experiencing harassment and extortion from Nepali police at the border or other checkpoints on their way to Kathmandu. Under these circumstances, it has become very common to give bribes to Nepali police because nowadays it is the only option that Tibetan refugees have in order to make sure they reach their final destination once they’ve crossed the Nepal border. The Nepali police can confidently stop Tibetans and mistreat them or charge a heavy fine because no one reports the incident or investigates them.”

Tibetan refugees report that the price of bribes, or ‘tea money,’ as it is colloquially known, has risen in the past few years as Tibetan ID documents have been delegitimized. This is a serious problem for the hundreds of young Tibetans who study in Tibetan schools in India and journey back to Nepal annually for their 45-day winter vacation. As all of them were born after 1989, assumedly none of them have RC cards. This new policy of harassment at the border severely threatens the future of Tibetan refugees being able to access quality Tibetan education outside of Nepal.

Such anecdotes are real-life examples that undermine the concept of refugee documentation and expose Tibetans to exploitation by a host of actors, in-

cluding corrupt officials on the India-Nepal border. The border has become a site where Nepal can demonstrate its commitment to a one-China policy. As such, in the run-up to the Tibetan Uprising anniversary March 10, Tibetans have been held at the border, on suspicion of being would-be protesters. During March 2010, more than 150 Tibetan pilgrims returning to Nepal were delayed at the border, accused of planning to protest in Nepal.

### **1) Tibetan religious pilgrims**

Lumbini in Nepal, the birthplace of the historic Buddha, and Bodh Gaya in India, where he is believed to have attained enlightenment, are important pilgrimage sites for Buddhist practitioners, including Tibetans. This practice has continued for decades, at times when travel between Tibet and Nepal has been possible. Prior to 2008, both Nepali and Indian border guards on the India-Nepal border operated according to an informal open-door policy for pilgrims from Tibet, even those without proper documentation who were typically identifiable by their appearances.<sup>191</sup> Since 2008, the Nepali side of the border has markedly stepped up its vetting of Tibetan pilgrims, and those without documentation can be stopped, turned back or detained. In such a way, an ancient cultural practice integral to Tibetan Buddhism is being marred by modern politics.

### **2) Refugee resettlement**

In September 2005, then US President George Bush responded to the vulnerabilities of Nepal's Tibetan refugee population by proposing a program to resettle certain Tibetan refugees in the United States. In November 2007, on a visit to Nepal, the then U.S. Assistant Secretary of State for Population, Refugees and Migration, Ellen Sauerbrey, was told by the Nepal government that the US Bhutanese resettlement plan should be completed before talk of the Tibetans could begin. In December 2011, three members of the US House of Representatives<sup>192</sup> wrote to the Nepali Prime Minister, asking that they allow the resettlement program to go ahead. "We believe," the letter read "that Nepal's long-term interest will be best served by upholding its stated commitment to human rights, particularly with respect to giving Tibetan refugees visas to leave Nepal."<sup>193</sup> This letter formed part of a congressional inquiry into the issue following a November 2011 hearing where Dr Lobsang Sangay, the Kalon Tripa or Tibetan exile government's chief minister, testified on the challenges facing Tibetan refugees in Nepal. One of the authors of the letter, Representative Frank Wolf, had warned the Nepal government in November 2011 that, "as a member of the House Ap-

appropriations Committee that determines US funding, he would try to block funding to Nepal unless it grants exit visas to Tibetans who seek refuge in the United States.”<sup>194</sup> Though this is significant pressure to levy at the Nepal government, China has also been politically persuasive over the same issue and has reportedly objected to the resettlement program.

In response to China’s sensitivity on the issue, the Nepali authorities have kept close tabs on any related events. “In 2009 we organized an information gathering regarding the resettlement program with the US Embassy,” reported Dolma Lama, Director of the Himalayan Society for Youth and Women Empowerment. “Ten Nepali officials from the Intelligence, Home Ministry, External Ministry and the police all visited the venue and were trying to get the agenda of the meeting and wanted to meet the organizer. Once our staff gave them an agenda they left, probably due to the fact that US Embassy people were inside. After this incident I worked for a few days outside the office in a hotel, to avoid these people,” she said.<sup>195</sup>

A US embassy official told a regional news magazine: “It’s no secret that Nepal is close to China and far from the United States, and certainly this is a difficult position to be in. So we are sensitive to Nepal’s concern in this regard, and hope that in the future we can work something out. There is no time limit on this: the offer doesn’t run out. This is a group that we know and are concerned about, and we know that there needs to be a resolution.”<sup>196</sup>

### **3) Travel documents for international travel**

In order to travel by air to countries outside Nepal, Tibetan refugees require a travel document. The first of these were issued in December 1974 for three Mustang Tibetan guerrillas who were travelling to the US as part of a CIA training program.<sup>197</sup> After the 1980s, the number of Tibetans applying for travel documents increased, prompting the Nepal government to regulate the application process. The applicant must now be able to produce a police letter certifying a clean criminal record, an invitation letter, the invitee’s bank statement and passport copy, an air ticket, a letter with details about the trip and an RC. Kathmandu’s Chief District Officer is required to verify all the documents and issue an approval letter. The travel document, with a validity of one trip in one year, is issued by the Central Passport Office in Kathmandu for a fee of 5,000NPR (US \$56).<sup>198</sup>

“It took me more than 40 days to get the Nepali travel document” explains Tenzin Phuntsok<sup>199</sup> “I didn’t have any trouble getting the letter from my local police office as I gave them 2,000NPR (US \$23). But in the CDO office, it is impossible to get their approval unless you give them 10,000NPR (US \$112). They always try to find some problem with the invitation letter, bank statements and other documents in order to get more money from me. I had to CDO office more than ten times to get letter. I then also had to bribe the Central Passport Office in Kathmandu 10,000 NPR (US\$ 112) so that they would produce my travel document before it expired. My total bribe of 22,000NPR (US \$248) wasn’t actually bad compared to other applicants – some people end up paying 35,000 – 40,000 rupees.”

Nepal police are now making travel documents contingent on having a clean slate – not just a clean criminal record, but also no involvement in political protest. “An officer at the CDO asked me if I had been involved in any anti-Chinese protest since 2008, because if so they would not give me the letters [of recommendation required for the travel document]. They said to me they would check with all the police stations in Kathmandu and if they found my name then my chance to get a travel document would be over. I was so worried about it because I had been detained four times in 2008, but luckily they did not find my name in their records.”<sup>200</sup>

#### **4) Movement within Nepal**

The year 2008 saw a peak in restrictions on Tibetan movements in Nepal when Tibetan refugees protested repeatedly in response to the uprising and violent crackdown across Tibet, the Olympic torch relay, and the Beijing Olympics. The behavior of Nepali police and politicians that year, in part provoked by Chinese demands, set the standard for how freedom of movement has been restricted ever since. As stated in the RC, Tibetans who are not resident in settlements in certain restricted areas are not allowed to travel there. Following March 2008, the Nepal-Tibet border was virtually sealed, and Tibetans were prohibited from moving in the border area on the Nepal side. While Tibetans with RCs can fly to Pokhara and the Indian border, ICT has heard that most travel agencies in Kathmandu appear to be following orders and will not sell Tibetans air tickets to fly north to such places as Namche, Jiri or Jomsom, despite the fact that, although fairly close to the Tibetan border, none of these places are in restricted areas.



Since March 2009, the area surrounding the Chinese consulate in Kathmandu has been a restricted zone for Tibetan protests. The consulate, situated at a bustling crossroads in the city, was effectively shut down by Tibetan protesters at times in 2008. Any Tibetans carrying out protests in this area will be arrested immediately. In order to further limit the occurrence and publicity of Tibetan protests, at times of political sensitivity, such as March 10 Tibetan Uprising Day, it is common for Nepali riot police to surround Tibetan areas in Kathmandu, effectively constraining any would-be protests. In July 2010 Tibetans were intercepted en route to the Dalai Lama's birthday celebrations south of Kathmandu, with more than 100 Tibetans detained.

Measures of control which limit freedom of movement have also increased within Tibetans' daily lives in Kathmandu. Spot ID checks from police in Tibetan areas have become common. They are so prevalent in Boudhanath, in fact, that young Tibetan men without papers observe a self-imposed curfew of 6:30 p.m. because they fear being hassled, fined or detained by police.

### **b) Arrests, detentions and Supreme Court action**

Tibetans in Kathmandu face detention for non-violently protesting, for being suspected of planning protests and often, simply for being outside after dark without identity papers. There is no Nepali law which details the treatment of Tibetans or mentions 'anti-Chinese' activities and, as such, when Tibetans are charged and detained it is usually under the general crime of 'social offenses.' In recent years it has become increasingly apparent that most Tibetan detentions are a way to demonstrate Nepal's commitment to a one-China policy. Of considerable concern to ICT is that, fines are prohibitive and arrests and detentions are often preemptive and increasingly frequent, widespread and of increased duration. Nonetheless, Tibetans still attempt to raise their concerns to the United Nations, the Nepal government, and the international community by exercising their right to non-violent public protest.

Reflecting Nepal's shifting policy towards the Tibetan community, construing free speech and political demonstrations directed at China as "criminal," a Nepal Home Ministry spokesman stated that: "The government is [sic] stick to one China policy and we will not allow activities directed against our neighbors... It is natural that precautionary measures should be taken to control criminal activities."<sup>201</sup>

Since 2008, a strategy of preemptive arrest has been employed by the Nepal police in the lead up to potentially sensitive dates. This strategy sees Nepali police raid shops, guesthouses, monasteries and homes in Tibetan areas, often under the cover of darkness, in order to arrest Tibetans suspected of planning to protest. In anticipation of Tibetan protests in Kathmandu in 2009, according to information received by ICT, on March 8 and 9, 2009, 25 prominent Tibetans who were suspected of playing a leading role in protests in Kathmandu in 2008 were detained, in some cases during police searches of their homes without provision of warrants or stating reasons for the detentions. This strategy of preemptive political arrest includes high-profile Tibetan community leaders. Since 2008, Thinlay Gyatso and his successor Thinley Lama have been repeatedly threatened with detention for their positions at the Tibetan Refugee Welfare Office – the closest approximation to a representative office for Tibetans since the closure of the Tibet offices in 2005. Regardless of the Nepal’s government refusal to recognize them as legitimate representatives of the Tibetan people in Nepal, their frequent arrests – most recently of Thinley Lama on October 17, 2011 in the run-up to Tibetan protests planned globally will have leant Nepal some political currency with China.<sup>202</sup>

That Nepal uses arrest and detention of Tibetans as a tactic to appease China was made clear in February 2009, when Nepal police arrested over a dozen Tibetan monks and nuns from the Chabahil area near Boudhanath, Kathmandu. While the nuns were freed later in the evening, nine of the monks were held in police custody. Although the Superintendent of Police Nawa Raj Silwal reasoned that: “the arrested do not have necessary documents and visas to legally live in Nepal,” the timing was key. Nepal’s daily national, Republica, reported that the arrests came “a day after visiting Chinese Assistant Foreign Minister Hu Zhengyue asked Prime Minister Pushpa Kamal Dahal to effectively curb possible anti-China activities in Nepal.”<sup>203</sup> When Nepal’s Home Minister visited Beijing for a week in February 2010, it was seen as no coincidence that almost 30 Tibetans were detained in Nepal in the days prior to and during the visit.

Nepal’s political crackdown on Tibetans through its police force leaves them exposed to corrupt police looking for some quick cash. Tibetans living in Kathmandu who are out after dark are routinely stopped and questioned by police. Those who arrived in Nepal after the 1989 cut-off date and without the proper legal documents face detention, extortion

and the threat of deportation. “These days the police are checking Tibetans on the street for their ID,” explained a group of young Tibetans in their early twenties in Boudhanath. “This happens mostly in the late evening. If you speak good Nepali it is possible to pretend be a Sherpa, Tamang or Gurung, and the police will let you go. But newcomers who cannot speak Nepali are being taken to the police station and put in prison until they pay their bail,” they said.<sup>204</sup> Young male Tibetans are particularly targeted by police for arrest and detention, partly because they fit the protester stereotype, but it is perhaps no coincidence that the young also tend to be undocumented and thus less able to protect themselves.

A Tibetan source in Kathmandu described Tibetan detentions as a “game” that combines politics, Chinese pressure, lack of documents and corrupt police officers. If Tibetans are arrested for lack of papers or planning protests, others can go immediately to the police station and offer a bribe to the policeman in charge. If he has yet to log the detained Tibetan’s name in the log book, then the bribe will usually be enough to set the Tibetan free. The same source told ICT that this tactic does not usually work when the arrests are more public in nature, as on March 10, or if they are to serve as political currency with China.

On February 17, 2010, 14 young Tibetans (five females and nine males) were detained by Nepal police early in the morning in a noodle café in Thamel, the heart of Kathmandu’s tourist area. One of the Tibetans told ICT: “Suddenly a group of police with a truck came and told us to get in. They did not give us time to ask why; they were using wooden sticks and started beating us. At the police station, they locked us in a cell for the rest of the night. They started asking us about our identity cards and where we were going. They thought we were going to do a protest. They searched our bodies but found no Tibetan flags or other evidence. Later we managed to contact our families and friends. But in order to secure our release we had to pay.”<sup>205</sup>

While these young Tibetans were able to secure bail, it is of great concern to ICT that the duration of detentions of Tibetans has also substantially increased since 2008. Where previously Tibetans were kept for up to 24 hours, they can now expect to stay for weeks in indefinite detention. In several cases, related more expressly to political protests, this situation has prompted Nepali human rights advocates to seek the intervention of the Supreme Court.

### 1) Supreme Court rulings

The Supreme Court of Nepal has stood out in the years since Nepal's conflict ended in 2006 as one of the few institutions to remain substantially politically unbiased. This has been evident in its strong rulings in favor of conflict victims, and against the interests of political parties and the military who would rather see a culture of impunity maintained. Its treatment of cases of Tibetan detentions, until recently, has been as stalwart, offering hope and protection to the vulnerable refugee community.

On March 22, 2010, in a strong ruling for the Tibetan community in Nepal, the Supreme Court ordered the release of three young Tibetan men -- Sherap Dhondup, Sonam Dhondup and Kelsang Dhondup -- who were detained in Boudhanath neighborhood of Kathmandu on March 9 and accused of "posing a threat to Nepal-China relations," with the police also claiming they found weapons on the Tibetans, an allegation that the Tibetans denied while talking to reporters, saying it was "totally fabricated."<sup>206</sup> The following year, lawyers associated with the Human Rights Organization of Nepal (HURON)<sup>207</sup> filed a petition for habeas corpus at the Supreme Court<sup>208</sup> on behalf of 12 Tibetans who had been arrested following their participation in a candlelight vigil in the Boudha neighborhood of Kathmandu to express solidarity with Tibetan demonstrators in Kardze (Chinese: Ganzi) Tibetan Autonomous Prefecture in Sichuan province who were under an intense security crackdown. In what was a victory for Tibetan refugees' rights, on July 10, 2011, after 20 days in detention, the Supreme Court of Nepal ordered their release. According to an ICT monitor in Kathmandu<sup>209</sup> the prosecutor's office had accused the Tibetans of organizing an "anti-China" activity "harmful to China-Nepal foreign relations," but court documents obtained by ICT showed that the Supreme Court found that their 20 days in detention was "without reasonable explanation...and that said detention is illegal." The Nepal Supreme Court chastised the Boudhanath police, the Chief District Officer and the prosecutor's office involved in the detention for failing to provide a written explanation to the court for the Tibetans' detention and for failing to issue arrest warrants for the Tibetans, according to the court documents.

These steadfast rulings and others like them gave hope to Kathmandu's Tibetan community, and proved Nepal's Supreme Court to be above the realms of politicking and able to withstand Chinese influence.

## 2) The dangers of demonstrating

Nepal has a cultural history of protest. In 1990, a 'people's movement' saw sustained non-violent demonstrations which brought democracy to a Hindu Kingdom. In 2006, a second people's movement deposed the King and paved the way for multi-party democracy in a secular republic. Nepalis are used to taking to the streets to make demands, facilitated by a usually restrained police force. In this context, the suppression of Tibetan protests is particularly striking.

While Tibetan protests happen at various times throughout the year, Nepal police's reaction to Tibetans around March 10 serves as a case study for increasingly draconian policing of peaceful political protests by Tibetans in Nepal. March 10 is marked as the anniversary of a large scale non-violent uprising in Lhasa, Tibet in 1959 which was brutally crushed by the Chinese army, prompting the Dalai Lama and many thousands of Tibetans to escape Tibet. It is observed by Tibetans living in exile and their supporters around the world. March 10, 2008 saw the start of a second uprising in Lhasa, that soon spread throughout Tibet. Shaken by the extent and intensity of the 2008 uprising, the Chinese government launched a brutal crackdown across Tibet, killing some and detaining thousands. As part of the post-2008 response, the Chinese government extended its security measures beyond Tibet's borders leading to current attempts to prevent Tibetan protests in Nepal. While the exact definition of what constitutes 'anti-Chinese' activities from the viewpoints of the Chinese and Nepali states has never been made clear, the post-2008 clampdown has made it evident that Tibetan's political expressions are firmly included, and will no longer be tolerated in Nepal. And so it is that a tension is created. While foreign governments and international institutions engage the Nepal government in advance of March 10 to urge restraint in dealing with Tibetan protesters, the Chinese authorities make it abundantly clear that they expect Nepal to impose the same limits on civil and political rights that are imposed on Tibetans in Tibet.

High profile Nepal-China meetings have been timed in recent years to be in the run-up to March 10, which increases the pressure on Nepal's handling of Tibetans during this time. The first such meeting was in the year following the 2008 uprising, on February 26, 2009, when Chinese Vice Foreign Minister Hu Zhengyue met with Nepali officials in Kathmandu to discuss the prevention of 'anti-China' activities. Due to its significance as the 50th anniversary year of the March 10 uprising, the Chinese government termed 2009 a "sensitive year" for China and

“urged increased surveillance to curb anti-China activities in Nepal.”<sup>210</sup> The following year on February 6, 2010, Nepal’s Home Minister Bhim Rawal, accompanied by the chiefs of Nepal Police, Armed Police and state intelligence agency National Investigation Department, conducted a week-long visit to Lhasa and Beijing to discuss border control and preventing so-called “anti- China” activities by Tibetans on Nepalese soil. Following the visit, The Himalayan Times quoted Deputy Inspector General of Nepal Police as saying: “We will take stern action against the Tibetans if they dare to stage anti-China demonstrations [this week].”<sup>2011</sup>

Nepal now ramps up its repressive policing every March 10. In 2009, Chinese pressure led the Nepal government to turn the areas around Chinese diplomatic enclaves in Kathmandu into prohibited zones. Nepal police were ordered to arrest anyone staging protests, demonstrations or holding meetings at these “prohibited zones.”<sup>212</sup> Then in March 2010, Thinlay Gyatso, the head of the Tibetan Refugee Welfare Office, was arrested and, he said, officially warned by police that if a Tibetan were to attempt to protest inside the restricted zones around the Chinese embassy, they would be shot.<sup>213</sup>

So it is that the annual March 10 lock-down in Tibet is getting closer to being replicated in Nepal. As well as limiting freedom of expression and assembly, it also has an effect on Tibetans’ freedom of movement. Since 2008, China has routinely closed down the Tibet Autonomous Region in the run-up to, and for a period after, March 10. The closure of the Nepal-Tibet border affects the livelihoods of many Nepalis who run tourism businesses which run trips to Tibet, as well as substantially increases the difficulty for Tibetans seeking to cross the border into Nepal to seek refuge in India. China’s paranoia about external forces entering Tibet and fomenting unrest during February and March may also reflect its desire not to allow tourists and journalists in to Tibetan areas to witness state repression. However, this official reasoning has spread to Nepal where, in response to Chinese pressure, Nepali border forces hold up Tibetans attempting to come into Nepal from India around the anniversary date. In March 2010, more than 150 Tibetans trying to return to Nepal after an important religious teaching by the Dalai Lama in India were left stranded at the border. The Tibetans were only allowed to return to Nepal following the intervention of HURON, who made it clear that the Tibetans were pilgrims and not intending to instigate any demonstrations.

In the run-up to March 10, 2009, Nepal Police went on a pre-emptive arresting spree – a tactic which has been much employed since. Twenty-nine Tibetans were arrested across Kathmandu on February 27, 2009, accused of illegally entering from India and Tibet to stage protests. On March 8 and 9, 2009 up to 25 prominent Tibetans who were suspected of playing a leading role in protests in Kathmandu in 2008 were detained by Nepali police, in some cases during police searches of their homes without providing warrants or reasons for the detentions. Nepali police also detained 16 Tibetans who had actually protested on February 28, 2009 near the Chinese embassy in Kathmandu. One police officer admitted that the detentions had resulted from increased pressure from China. A planned seven-day prayer vigil in the main Tibetan community centers was prevented, and police in riot gear were stationed in Tibetan communities. A large police presence was also deployed to the Tibetan Reception Center on March 9, 2009, and plain-clothes officers entered the premises and demanded information about people there. One Western observer told ICT: “There is a strong visible presence of police/armed police in what passes for riot gear here patrolling Tibetan areas in the valley and around the two PRC diplomatic missions. By night there are road blocks and foot patrols in Boudha (and perhaps elsewhere) targeting Tibetans. If you are out without papers it will cost you a few hours of abuse in detention and 50,000 NPR (US \$681).” In the end, the Tibetan community in Kathmandu chose to mark the March 10 anniversary with a prayer ceremony in the Boudha area of Kathmandu, attended by over 1,000 Tibetans.

In 2010, ICT monitors reported that in the week prior to March 10, Nepal police started searching guest-houses almost every night in Boudha, the center of the Tibetan community in Kathmandu. A number of Tibetans who did not have regularized legal status in Nepal were taken into custody and only released upon payment of a bribe, typically 10,000 NPR (US\$134).

One senior Nepali police officer was quoted as saying: “We won’t spare any pro-Tibetan if found guilty of provoking anger. They will be immediately arrested and handed over to the Department of Immigration for deportation.” Despite these threats, Tibetans continued to peacefully protest. A total of 23 Tibetans were detained in Kathmandu on March 10 and 14 following protests at the Chinese embassy. The length of their detention was extensive, relative to previous years. Although a 90-day jail sentence under a security law that allows detention without

trial was imposed on 18 of the Tibetans, they were released after 20 days following dialogue between HURON and the Nepali authorities.<sup>214</sup> In 2011, observers reported Nepali riot police using “undue force” as Tibetans gathered to commemorate the 52nd anniversary of Tibetan Uprising Day. Beginning in the early morning hours of March 10, more than 1,000 police were reportedly deployed in an effort to stop the Tibetan community in Kathmandu from marking the anniversary. Hundreds of police in riot gear gathered around key Tibetan centers such as monasteries and schools in order to prevent Tibetans attending the anniversary event held at Samtenling monastery. Nepali police could be seen kicking and beating unarmed Tibetan demonstrators who took to the streets in video posted on Euronews.net and on the website of the UK’s Telegraph newspaper. The Telegraph cited local media reports that at least 15 people were detained and 20 injured in the day’s altercations. A Tibetan residing in Kathmandu described the environment as “tense” adding that “people were incredibly nervous; it was terrifying.” In an additional incident, several Tibetans, including a monk, were witnessed being beaten severely by Nepali people, not police, near the Boudha stupa.

Amnesty International, Human Rights Watch and the International Commission of Jurists issued a statement calling on Nepali authorities to abide by its international obligations and its own domestic laws in its treatment of the Tibetan community. Highlighting the issues of “preventive arrests and policing restrictions on demonstrations and freedom of movement that deny the right to legitimate peaceful expression and assembly during anniversaries and festivals marked by the Tibetan community,” the groups cited the strong pressure Nepali authorities receive from the Chinese government.<sup>215</sup>

### **c) Disenfranchising refugees**

Nepal’s restrictive attitudes to peaceful protest have been mirrored in its response to entities relating to Tibetan governance in exile, headquartered in northern India. Until recently headed by the Dalai Lama, the government – while not officially recognized – is respected by many of the world’s states and, in ambassadorial style, fields representative offices across the world. In 2005, Tibetan representation was closed in Kathmandu and remains so, despite repeated attempts to negotiate the reopening of the Tibetan Welfare Office, including from the international community. This closure was a huge blow to the Tibetan refugee community and substantially weakened their situation, by rendering them leaderless in Nepal.



The attack on Tibetan governance in exile, and thus Tibetan refugees' representation, continued on October 3, 2010, when Tibetan refugees across the world voted for a new head of the Tibetan exile government. In all other countries where Tibetans reside around the world, including India and Bhutan, the election process proceeded smoothly. But in Nepal, Nepal police in riot gear seized ballot boxes from three different locations in Kathmandu, leaving 9,000 Tibetans disenfranchised from the election process.<sup>216</sup> In justification of their actions, the Nepal Police claimed that the elections were "anti-Chinese." Indicative of the close relationship between China and the Nepal Police, claims were made that the Nepal Police officers had acted without orders from the Prime Minister, Home Minister or indeed anyone in government.<sup>217</sup>

On receiving a threat from the Nepal Police, the Head of one Tibetan settlement in Kathmandu took drastic measures to protect his settlement's votes. "During the elections we received a threatening call [from Nepal Police] warning us not to carry out the elections. For that reason I made sure the elections in the settlement were finished on time. When the Nepali police came to confiscate our ballot boxes, I made sure the boxes were hidden, and I hid as well! I didn't tell anybody about the threat and so my staff were protected because they also didn't know where I or the boxes were."

Although the Nepali authorities had basically given permission for the election to go ahead, according to Tibetan sources in touch with prominent Nepali rights advocates, the Chinese embassy in Kathmandu had instructed the Nepal Home Ministry to terminate the election. A Tibetan eyewitness to the seizure of the ballot boxes said: "This was a terrible day for Tibetans in Nepal. People felt desperate. Many of the Tibetan elders in the community were crying, they were not able to do anything as there were so many police and they were so aggressive."<sup>218</sup>

This act of disenfranchisement of a whole community set a precedent which allowed further Chinese and Nepali state intrusion into Tibetan refugee organizations. On February 16, 2011 Nepal police in riot gear again shut down Tibetan elections in Nepal. This time they were for the leadership of the Tibetan community group Chushi Gangdruk, which focuses on community welfare, including that of the now-elderly veterans of the Tibetan resistance force that battled the Chinese People's Liberation Army from 1958 until 1974. Regular elections in the Chushi Gangdruk organization had taken place for many decades without interruption. A police officer involved in the raid then told the members of Chushi Gangdruk that Tibetan refugees are not allowed

to hold elections for any reason, and that the raid was ordered by the Chief District Officer.<sup>219</sup> A member of the Chushi Gangdruk election committee spelled out to police why the elections were important and thus why their interference was so offensive: “We are voting for our local community representatives so that when someone is sick we can take them to the hospital or when someone dies we can take the corpse to the graveyard. We help poor and homeless people, and we clean the streets and look after the environment in our community. We are refugees and do not have such a government to look after us. Only community members do these jobs. We are here today, electing our community representatives in a democratic way.” Tibetans without community leaders are less able to provide assistance or handle crises when welfare services and authoritative representation are needed. This could lead to greater hardships for many refugees and, ultimately, a breakdown in the functioning of Tibetan refugee society – an occurrence which would suit China, but which would only create problems for Nepal as refugee host state.

#### **d) Political identity**

In line with repression of freedom of expression through peaceful protest and interference in refugee self-governance, Nepal police have become increasingly sensitive to symbols of Tibetan nationalism. Where once Tibetan national flags seemed as plentiful as prayer flags in Nepal, it is now a rare sight. When combined with community gatherings, it is highly likely to raise the ire of the Nepal Police who have gone to quite extreme lengths to censor such expression.

The UN Human Rights office in Nepal (OHCHR) reported that on February 14, 2010, police seized Tibetan flags from Tibetans, and prevented them from wearing t-shirts displaying flags during a candlelit ceremony.<sup>220</sup> A year later, police intolerance increased during a similar incident in April 2011, when both uniformed and plainclothes Nepal police entered the Boudhanath community centre in Kathmandu where about 30 Tibetans were taking part in a peaceful vigil and 24-hour hunger strike in solidarity with the people of Ngaba, Tibet. A Tibetan national flag, banners and posters were seized before, in a disturbing abuse of power, one of the police officers demanded that 42-year old Tibetan woman Sonam remove her t-shirt, which bore the logo ‘save Tibet and stop killing in Tibet.’ When Sonam objected, she was told that if she refused to comply, all of the Tibetans present, including the hunger-strikers, would be arrested and taken into detention. Forced to remove her shirt in public, Sonam told ICT: “I felt absolutely humiliated. This is not fair and the police actions hurt me a lot. It is typical of the way Nepalese police treat Tibetans and surely against Nepalese law? This was not a political event, but prayers in solidarity

and in private for someone who lost his life.”

The politicization of community events that relate to the situation inside Tibet continued in November 2011, when police interrupted an event that was actually inside the Jawalakhel Tibetan settlement where Tibetans were gathering to mourn those Tibetans who had self-immolated inside Tibet. The Times of India reported that as Nepal police broke up the gathering, they “tore down banners and photos of Tibetan spiritual leader Dalai Lama” - an act of huge religious offence to Tibetans. This “agitated” the Tibetans who then “shouted anti-China slogans and called for a free Tibet.”<sup>221</sup> In such a way, Nepali security forces turned a quiet community event into a public protest which then apparently justified the arrest of over 50 of the Tibetans present.

### **e) Effects of intense police pressure on community relations**

When speaking of Tibetan community relations with the Nepali authorities, most interviewees recognized that relations had been good in the past. Such relations have been maintained through “calling, inviting them to have lunch, and communicating with them.” All interviewees noted that being able to speak Nepali greatly improves the relationship. But times are changing. Interviewees from the Jawalakhel settlement south of Kathmandu noted that where previously the Chief District Officer of Lalitpur would come to have lunch and accept favors from the Tibetan community, he now declines the invitations. A prominent Tibetan leader noted that good relations in general between Nepal police and Tibetans “became cool after Nepali officials received an invitation to Beijing or Lhasa for trainings and sight-seeing. We noticed a negative change in attitude towards the Tibetan situation among Army, Police officers, local authorities and the Home secretary.”

#### **1) Nepali surveillance**

China’s intense post-2008 engagement with Nepal on the basis of security has included demands, and deliverance of resources to assist these, that the latter increase its surveillance of the Tibetan community in order to prevent ‘anti-Chinese activities.’ China announced 2009 as a ‘sensitive year’ for the country and “urged increased surveillance to curb anti-China activities in Nepal.”<sup>222</sup> By the following year, on July 26, 2010, Beijing had instigated a high-level mechanism, run by the two respective Home Ministries, to share intelligence and information on security matters in order to contain anti-China activities in Nepal, including the border areas. A senior Nepali official told The Kathmandu Post that: “The Chinese side has assured of full support to enhance capacity building, train Nepali security personnel to be deployed across

the northern border and seek Nepal's full commitment on information sharing on anti-China activities with effective law enforcement mechanism to contain such activities,"<sup>223</sup> Such a security and information sharing agreement has significant implications for Tibetan refugees fleeing through Nepali territory on their way to India, but also for the safety of Nepal's long-staying Tibetan population.

## **2) Meddling with monasteries**

Tibetan Buddhist monasteries in Nepal have long been centers for spiritual learning, and were boosted by the exodus of Tibetan refugees into Nepal after 1959. The monasteries tend to be run by Tibetan refugees but the majority of monks and nuns within these Tibetan Buddhist institutions are Nepali citizens from the Himalayan regions who are also followers of Tibetan Buddhism. In 2008, many such Buddhist monks of Nepali Himalayan origin joined in Tibetan protests in Kathmandu, in solidarity with their Buddhist brethren in Tibet.<sup>224</sup> China, and thus Nepal, has been wary of monasteries ever since. Following the 2008 protests, Nepali authorities launched an investigation into monasteries throughout the Kathmandu valley in a bid to uncover 'anti-Chinese' propaganda, which they fear could have potentially 'brainwashed' the Himalayan Nepali citizens into supporting Tibet. None was found. In line with official concerns, numerous stories also circulate in the Nepali press about monasteries being dens, and even gun stores, for "free Tibet" activities.<sup>125</sup> The defamation of Tibetan monks and monasteries appears to be an attempt to undermine their typically high levels of credibility and popularity with the Nepali populace, many of whom are Buddhist adherents.

## **3) Police harassment**

Some Tibetans interviewed for this report spoke of threatening phone calls that they had received from Nepalis whom they believe were police officers. These calls related to specific activities, such as NGO events, journalism and other forms of community organizing, and appeared to have the aim of stopping these activities. While this has not always been a successful tactic, it has left a Tibetan community aware of its own insecurity, leading to heightened fear, suspicion and self-censorship. The experience of the Tibetan Women's Association (TWA) – a long-established Tibetan NGO that is well-respected globally – provides a good case study.

“TWA organized benefit nights - a sort of dinner dance and Tibetan cultural evening - in Kathmandu’s Radisson Hotel for many years with huge success. Then suddenly in 2008 the Radisson Hotel cancelled the event, apparently because of pressure from the Home Ministry. After 2008, in the run-up to all public Tibetan events, TWA committee members receive calls from the Nepali authorities who warn them not to attend or organize such events. I also received such threatening phone calls. In the beginning I was afraid to go outside, but now I am used to it, although my husband still urges me to keep a low profile. Some former TWA committee members were among those held in prison for one and a half months before some sensitive Tibetan dates. The upshot has been that TWA no longer organizes any activities that could be seen as being politically-sensitive. Instead we focus on social or environmental issues, which can benefit both Tibetans and Nepali people.”<sup>126</sup>

One woman working for another NGO spoke of how police had regularly interrupted their events. During one, they wrote down the agenda points, but did not manage to get a list of participants. At another - a Buddhist introduction event in 2010 during the visit of a large Chinese delegation to Nepal - police in plainclothes attended the meeting. “There was no further disturbance, they were just present,” the woman explained, “but since these incidents, I feel paranoid. I only feel at ease now when I’m in India. This has even influenced my choice to not paint my house in an outstanding color, just so that it doesn’t stand out from the other houses. I also chose not to put up a nameplate on the house, so they are not able to find my house quickly.”<sup>127</sup>

#### **4) Chinese surveillance**

It is not just the Nepali authorities who are monitoring the Tibetans. Since 2008, there has been a steady infiltration of Chinese agents working undercover in Nepal, with the aim to shore up China’s security by ensuring the Nepali state represses Tibetan refugees in Nepal. Some of these are Chinese government-employed Tibetans who pose as refugees, others are bona fide refugees who have been pressured by other agents to become informants. That so many Tibetan refugees in Nepal have close family members still in Tibet leaves them exposed to such blackmail. Chinese agents have been observed working behind police lines at protests, directing police to detain certain suspects. Chinese agents work with Nepal Police, but there have also been reports of

them directly engaging with Tibetan activists – a fact far more frightening for a Tibetan population well aware of the violent extent to which the Chinese state can go. One Tibetan refugee interviewee who was arrested by Chinese security forces when on a clandestine trip to visit family back in Tibet told ICT that when in Chinese detention he had been shown hundreds of photos of Nepal-based Tibetan refugees by Chinese-employed Tibetan agents who were keen to identify them.

## Support for Tibetan Refugees in Nepal

There are few Nepali civil society organizations who work on the rights of Tibetan refugees. Understandably, many Nepali human rights organizations are heavily focused on issues relating to seeking truth and justice from the conflict period, or on campaigning for the rights of historically marginalized groups; women, LGBT, Dalits. The Human Rights Organization of Nepal (HURON) in October and November 2010, along with Sambad-Nepal organized two interaction programs – in Lumle and Kathmandu – on the situation for refugees in Nepal. A participant at the Lumle program wrote afterwards in *The Kathmandu Post* that: “An unspoken compact binds the participants: it feels clandestine, illicit, necessary, to convene so far from Pokhara, practically a remote corner away from Kathmandu, and to talk about the Tibetans, the Bhutanese, the forgotten, the swept-aside, and the silenced.”<sup>128</sup>

These programs produced a declaration in support of refugee rights but the same participant lacked hope for the success of this declaration in the face of a weak government, readily pressured by China. “It is hard to fathom the duplicity, the shamelessness, the cowardice and hypocrisy of our ‘democratic’ leaders. By evening, I am angry and ashamed and tired. The participants pass a somber 14-point Lumle Declaration, vowing to do everything necessary to protect the lives and futures of these human beings --regardless of their Tibetan or Bhutanese or Burmese or Somali or Afghan or Nigerian or Iraqi inheritance. I am not convinced: the resolution is aimed at the very politicians who have failed the refugees for 50 years now. It asks the habitually shameless to answer to a standard of integrity.”<sup>129</sup>

HURON has lobbied relentlessly for a refugee law to be included within Nepal’s constitution – so far, unsuccessfully. All this good work may be in jeopardy. ICT is concerned about reports that police harassment related to Tibetans appears to be directed also towards Nepalis who assist Tibetans. Such dissuasion tactics put Nepali activists in danger, deny Nepali citizens freedom of speech, and, if successful, would silence crucial on-the-ground support for Tibetans.

## CONCLUSION

**The slide from Tibetans being a tolerated, integrated refugee community in Nepal to their current status of insecurity and impoverishment has been incredibly fast. China's coverage of almost all aspects of Nepali authority – from government, to political parties and media – creates intense pressure on both the Nepali state and the Tibetan population. This runs counter to the centuries-old historic and cultural ties of the Tibetans and Himalayan peoples in Nepal. China appears also to take the long view. Bureaucratic changes on education, bike licenses and travel will compound the impoverishment of the Tibetan community. Through provision of infrastructure and aid to Nepal, China is solidifying its grip on both the land and the authorities who run it. Rumor and intrigue in the press, and continued pressure on state authorities will undermine Tibetans' standing within Nepal, eroding the protections and support they once might have had. The situation looks set to deteriorate, despite hope in the form of independent voices in the Nepali press and civil society. Under such conditions, it is crucial that the international community, including India, add weight to these Nepali voices in a bid to tip the balance in favor of Tibetans' fundamental human rights to live and prosper, both in Tibet, and in refuge in Nepal.**

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### Front cover photograph:

March 10, 2011. While Tibetan protests happen at various times throughout the year, Nepal police's reaction to Tibetans around March 10 serves as a case study for increasingly draconian policing of peaceful political protests by Tibetans in Nepal. (Photo: ICT)

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The International Campaign for Tibet (ICT) is a non-profit membership organization that monitors and promotes internationally recognized human rights in Tibet. The International Campaign for Tibet was founded in 1988 and has offices in Washington DC, Amsterdam, Berlin, London and Brussels.

# DANGEROUS CROSSING:

Conditions Impacting the Flight  
of Tibetan Refugees  
2011 Update

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