

## HUMAN RIGHTS WATCH

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December 6, 2013

Lila Mani Pokharel  
Home Minister and Secretary to the Government  
Government of Nepal  
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## Re. The situation of Tibetans in Nepal

Dear Minister Pokharel,

Human Rights Watch is an independent, international human rights organization that conducts research into the human rights situation in more than 90 countries globally.

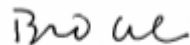
We are currently preparing a report on the situation of Tibetans in Nepal, focused on Tibetans residing in Nepal and Tibetan refugees from China attempting to transit through Nepal.

We write to you to present a summary of our findings, to pose some remaining questions, and to offer your government the opportunity to respond so that we may accurately reflect the government's views in our report.

So that we can incorporate all relevant information in our report, we request your response by December 20, 2013.

Thank you in advance for your assistance in this matter and we look forward to your response.

Sincerely,



Brad Adams,  
Executive Director  
Asia Division

## **Main Findings**

During several visits to Nepal in 2012 and 2013, Human Rights Watch researchers spoke with around 60 Tibetans, including Nepali citizens, legal residents, undocumented residents, recent arrivals, and the Department of Immigration detainees. We also met with embassies and consulates in Nepal, journalists, lawyers, and human rights and refugee rights advocates.

Nepal is to be commended for having allowed refugees to settle in the country following the escape of the Dalai Lama from Tibet in 1959, and since 1990 for generally observing the terms of the “Gentleman’s Agreement” between Nepal and UNHCR by allowing Tibetans from China trying to reach India to transit through Nepal.

However, our research indicates that Nepal forcibly returns to China many Tibetans arrested at the border or in the border area in clear contravention of the Gentleman’s Agreement and the international prohibition on refoulement. Former government officials told Human Rights Watch that several hundred such cases take place every year, with the Armed Police Force making on-the-spot decision about whether to allow refugees to proceed further or to forcibly return them to China.

Our research also found that Nepal is falling short of its obligations under international and domestic law in respect to refugee rights, that the suspension of the issuance of Refugee Certificates (RCs) has created a class of undocumented derivative refugees with tenuous rights, and that Tibetan refugees and Nepali citizens of Tibetan descent are facing increasing restrictions on the exercise of their cultural, religious, and political rights.

Our research shows that the government of Nepal has placed stringent restrictions on freedom of expression and assembly for Tibetans, especially since 2008. We found that many Tibetans in Kathmandu regularly confront illegal and abusive acts by police, including arbitrary detention, physical abuse, threats of deportation, and, not least, obstacles to effective redress.

## **Request for Information**

We present for your review the following questions regarding government policy on the topics of international legal obligations in respect to refugees, forced returns (*refoulement*), handling of cases of deportations from China, issuance of Refugee Certificates and other identity documentation, policing, and cooperation with China.

We look forward to receiving the comments of the Ministry of Home Affairs, the Department of Immigration and other relevant ministries on the above issues, information on any reforms the Nepali government is considering, and any additional comments you or other officials may wish to provide.

## **1. In respect to Tibetans reaching Nepal from China**

- 1.1. Please confirm whether it is government policy to forcibly return some Tibetans who have reached the border, or the border area, coming from China?
- 1.2. Please provide details about what criteria are applied by border security forces, including the APF, to determine whether to forcibly return Tibetans arriving from China or, in accordance with the Gentleman's Agreement, to allow them to proceed to Kathmandu.
- 1.3. Please provide the total number of Tibetans forcibly returned at the border for each year since 1990.
- 1.4. Please provide the total number of Tibetans allowed to proceed to Kathmandu in accordance with the terms of the gentleman's agreement after having been intercepted at the border or in a border area for each year since 1990.
- 1.5. Please detail the procedure for deporting back Tibetans to China. Is UNHCR informed of these returns? Are the Chinese authorities informed of these returns? Are there cases in which refugees are handed over directly to the Chinese authorities at the border?
- 1.6. Please indicate to what extent the Armed Police Forces collaborates with China's People's Armed Police border security in cases of forced returns.

## **2. In respect to Tibetans of Chinese Citizenry Forcibly Deported to Nepal**

- 2.1. How many cases of Tibetans carrying valid Chinese identification documents trying to re-enter China have been "deported" to Nepal by the Chinese authorities since 2008?

## **3. In respect to Tibetans residing in Nepal**

- 3.1. Does the government of Nepal intend to issue Refugee Certificates to Tibetans who arrived in Nepal before 1990 or were born in Nepal before the government stopped issuing Refugee Certificates?
- 3.2. What other forms of official identification does the government of Nepal plan to issue, or to allow UNHCR to issue, to undocumented Tibetan residents?
- 3.3. On what basis does the government of Nepal prevent lawful, peaceful, public demonstrations by Tibetans and their supporters, including individuals who have full Nepali citizenship?
- 3.4. On what legal basis does the government of Nepal prevent lawful, peaceful, expression of Tibetans on political issues such as the status of Tibet, the nature of Chinese policies carried out in Tibetan areas of China, the human rights situation in Tibet and China, and other issues that are regularly characterized by the police and senior government officials as being "anti-China?"

**4. In respect to security agreements between Nepal and China**

- 4.1. What safeguards exist or are being put in place to ensure that security cooperation with China does not violate human rights or leads to human rights violations by the Chinese government, including *refoulement*?