

GLOBAL CAMPUS AWARDED THESES

2012/2013

Title:

Refugees and geopolitics: exploring US and Indian influences
in the treatment of Bhutanese and Tibetan refugees in Nepal

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the contribution of the European Commission
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DOI:10.7404/GC.Un.Syd.MHRD.20122013.03

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**REFUGEES AND GEOPOLITICS:
EXPLORING US AND INDIAN INFLUENCES IN THE
TREATMENT OF BHUTANESE AND TIBETAN REFUGEES IN
NEPAL**

KAMAL RAJ SIGDEL

**A THESIS SUBMITTED IN PARTIAL FULFILMENT OF THE
REQUIREMENTS FOR THE DEGREE OF MASTER OF ARTS
(HUMAN RIGHTS AND DEMOCRATISATION)
FACULTY OF GRADUATE STUDIES
MAHIDOL UNIVERSITY
2013**

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Thesis
entitled
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BHUTANESE AND TIBETAN REFUGEES IN NEPAL**

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was submitted to the Faculty of Graduate Studies, Mahidol University
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ACKNOWLEDGEMENT

I would like to express my sincere gratitude to my major advisor from the University of Sydney Dr. Susan Banki for all the guidance she has provided me from the very beginning of drafting the proposal to the finalisation of this dissertation. I express it with deep gratitude that I have hugely benefited from the depth of knowledge she has had in the areas of my research. Similarly, I would like to express my deepest gratitude to my co-advisor Dr. Michael George Hayes from Mahidol University, who guided me all the way through the course of the research. Without his one-on-one feedback and guidance, this project would not have come to fruition. I am thankful for all the knowledge and skills that he instilled in me during my research.

I would also like to express my sincere thanks to Dr. Latifa Laghzaoui, the external examiner, for the approval of the thesis. My sincere thanks also go to Ajarn Dr. Sriprapha Petcharamesree, Ajarn Yanuar Sumarlan, Ajarn Matthew Mullen and Ajarn Kwanravee Wangudom at Mahidol University for helping me during different stages of my research. Similarly, I am thankful to Dr. Nicola Piper, Director of MHRD Program at University of Sydney and Dr. Elisabeth Valiente-Riedl for the ample support they provided during this research and during the entire MHRD program. I am thankful to Prof. Michael Humphrey and Dr. Dinesh Wadiwel of the University of Sydney for helping me understand the broader human rights and democracy issues that helped shape my understanding on refugee protection. My sincere thanks also go to Anna Nooan, MHRD Projects Manager at the University of Sydney and Pannapa Huayhongtong (Gift), Kannika Janchidfa (Cherry) and Watcharin Sangkara (Rin) at Mahidol University for their valuable support during the research. I thank my wife Menaka for encouraging me to complete this research in time and my parents, whose love has given meaning to everything I do.

Kamal Raj Sigdel

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ABSTRACT

KEY WORDS: REFUGEE PROTECTION, TIBETAN REFUGEES, BHUTANESE
REFUGEES, GEOPOLITICS, DIFFERENTIAL TREATMENT, UNHCR, US, INDIA

This research makes an inquiry into the influence of the two powerful states, the US and India, in the treatment of the Bhutanese and the Tibetan refugees in Nepal. In particular, it provides a comparative study of the situations the refugees underwent in the course of their history, from their struggle for asylum following their first flights to the recent endeavours in finding durable solutions, taking into consideration the actual geopolitical context they lived in. The study employs the perspective offered by Goodwin-Gill, especially his concept on the role of geopolitics in refugee protection. Goodwin-Gill argues that unlike what the states often claim, the refugees have actually been subject to differential treatment guided mainly by the states' own geo-strategic interests rather than the interests of the refugees. The study shows that the states have influenced the refugees' treatment directly as well as through the UNHCR. Given the geopolitical reality, the host country Nepal is found to have become a passive recipient of the external influences when it comes to the treatment of the refugees and finding durable solutions. As a result, in spite of the fact that they are living in the same country, the two exiled communities were treated very differently, depending on the kind of political and geo-strategic interests they served for the influential states. While the continued presence of the Tibetan refugees near the Chinese border served the US and Indian interests to keep them as a bargaining chip to counterbalance Chinese actions in the region, the continued presence of the Bhutanese in the camps near Bhutan was perceived as a threat to regional security. This led to the Bhutanese refugees being prioritized for third-country resettlement and the Tibetans for continuing their political struggle. The study thus reveals that such differential treatment has had a concrete and far-reaching impact on the situations of the refugees.

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CHAPTER 1: INTRODUCTION

1.1. Introduction

The Tibetans, around 20,000¹ in number, and the Bhutanese, around 38,100 as of April 26, 2013, are the two largest refugee groups sheltering in Nepal since the 1950s and 1990s respectively (UNHCR Nepal 2012, TJC 2002, p. 2; UNHCR Nepal 2013). There were 108,000 Bhutanese refugees living in Nepal till 2006, but the number went down to 38,100 after around 80,000 were resettled in the US and other Western countries in the period between October 2007 and April 2013 (UNHCR Nepal 2013). Though Nepal is yet to ratify the 1951 Refugee Convention and its 1967 Optional Protocol, it has agreed to certain informal as well as formal mechanisms to handle these two protracted refugee situations. Both the refugee groups are currently under UNHCR protection.² As a poor country sandwiched between two of the world's powerful and competitive states, China and India, Nepal has been struggling to balance the conflicting interests of the two neighbouring states and world powers including the US while dealing with the refugees. Given the geo-strategically sensitive location of Nepal and its lack of any domestic framework to deal with refugee issues, the refugees have long been subject to ad-hoc, unprincipled and differential treatment from the host country and the international community, whose behaviour is guided by their own geo-strategic and political interests.

What inspired this research were the post-2006 developments in the Bhutanese refugee camps, where a permanent solution seems to have been found – mass resettlement to third countries. Introduced formally in 2007, this program suddenly changed the whole dynamics in the Bhutanese refugee camps, opening up both opportunities and challenges for the refugees.

¹ The exact number of Tibetan refugees is not available as there has never been a census for them in Nepal. But the UNHCR office estimates them to be around 15,000 and the Tibet Justice Center (2002, p. 2) puts the number at 20,000 as the Nepal Government has not issued refugee certificates to around 5,000 children born to Tibetan refugees living in Nepal since the 1950s.

² UNHCR has been in Nepal since 1991 managing camps for the Bhutanese refugees and protecting the Tibetan refugees who are not restricted in any camps. As the Nepal Government does not recognise the Tibetans entering after 1990 as refugees, the UNHCR has been issuing them identity cards.

The resettlement was a mixed bag. It liberated most of the refugees from a life of misery and uncertainty, as those selected for resettlement in the US and other countries were able to start a new life. However, at the same time, with the majority of refugees resettled far away from Bhutan, the demand for repatriation and prospects for a democratic change in Bhutan weakened (Dixit 2007). This also seemed to ignore Bhutan's actions that led to the forceful eviction of the Bhutanese ethnic minority.

However, there seems to be no such solution in sight for the Tibetan refugee community, who have been in Nepal since the 1950s. Much like the Bhutanese refugees, chances for the Tibetan refugees returning home is equally slim unless China agrees to go for a radical political change in Tibet as demanded by the Tibetans in exile. Despite this seemingly uncertain future, the refugees have not lost hope and the international community continues to support them in their political pursuit.

These developments highlighted not only the difference between the Bhutanese and the Tibetan refugees, but also how differently the international community treated them. This made it worth reviewing the entire history of these two refugee groups in light of the regional geopolitics that influenced the way the refugee groups evolved over time.

In this context, the research accessed and compared the states' behaviour, especially that of the US and India, who function with a strategic partnership in Asia, viz-a-viz China, towards the two refugee communities. The research focused on two specific aspects of the selected states' behaviour:

- 1) the historical and political treatment of the refugees between the period since their exodus and 2012
- 2) the efforts made in finding durable solutions for the two protracted refugee situations.

A study of these important issues helped explain and provide a more realistic understanding of past events and the latest developments unfolding in the two refugee communities.

1.2. Statement of the research problem

The circumstances under which the Tibetan and the Bhutanese refugee groups emerged (described in detail later in Chapter 2, 3 and 4) are not much different. Both of them became refugees when their fundamental human rights were severely curtailed by their respective undemocratic states: the Communist China in the case of Tibetans (TJC 2006; Siwakoti 2010a) and the absolute monarchy of Bhutan in the case of Bhutanese (Dhakal 2007, p. 4; Khanal Siwakoti 2010b; Khanal 1998). But these refugees received differential treatment from the states they approached and expected support from, such as the US, India and Nepal. Since the refugee groups had suffered serious human rights violations at the hands of repressive regimes, bringing about some kind of democratic political changes in their home countries was their main goal. To be more precise, democracy has been the agenda of both the refugee groups.³ They both wanted to return to their homeland but situations did not allow them to do so. Still today, there is no certainty as to when the situation would be favourable for their safe return. Both groups face the same regional geopolitical reality, where India, China and the US are the key players.

Under this situation, the two refugee groups deserve more or less similar and equitable treatment from the international community, whose basis of engagement is purportedly the universal values of human rights and democracy. The principle of non-discrimination, which is not only one of the key provisions of the Refugee Convention 1951 and its Optional Protocol 1967 but also a norm of customary international law, stipulates that refugees should be treated equally without regards to, among other factors, nationality.⁴ In

³ A section of Bhutanese people in the leadership of Tek Nath Rijal, who is one of the Bhutanese refugees in Nepal, has long been fighting for democracy from and outside Bhutan since the time before the Lhotsampas were forced to leave Bhutan in the 1990s. The Tibetan refugees, on the other hand, have been fighting for Free Tibet since the exodus of the 1950s. The first being the Khampa resistance launched from Mustang in Nepal in 1956. Tibetans continue to mobilise and demonstrate in the streets of Nepal and India demanding greater freedom and independence in Tibet.

⁴ Though none of the stakeholders -- US, India and Nepal -- has ratified the 1951 Refugee Convention or its 1967 Optional Protocol, they all have obligations under other treaties such as the ICCPR, which they have ratified, to equally treat the refugees. Article 22 of the ICCPR obliges a state party to "respect and to ensure all individuals within its territory and subject to its jurisdiction the rights recognised in the present Covenant, without distinction of any kind" (ICCPR Article 2.2).

this context, non-discriminatory treatment would logically mean that the refugees enjoy more or less same level of support.

However, the on-the-ground reality seems different, demonstrated by their very dissimilar and contrasting growth trajectories, experiences and abilities (see Table 1 and Table 2 at the end of this chapter). While the Tibetan refugees appear politically⁵ and financially stronger, the Bhutanese are deeply divided, unorganised and getting weaker by the day (Samphel 2009, pp. 60-63). While Tibetans still believe that their main agenda is to struggle for political reform in Tibet, the Bhutanese appear to be giving up the struggle for democracy in Bhutan (Dixit 2007, p. 6). The Tibetans have been successful in mobilizing the international community in support of their political interests, including the need for greater autonomy and freedom in Tibet and their role in pushing forward this agenda. The Bhutanese have been far behind in drawing the world's attention towards the need for political reform in Bhutan and the crucial role they could play in this situation.

However, when it comes to political struggle and resettlement, the Tibetans seem to be faring better than their Bhutanese counterparts. While a large section of the Bhutanese are being resettled in various western countries, the Tibetans, whose return to Tibet is as uncertain as that of the Bhutanese to Bhutan, are not even a priority on the US resettlement program (see USDS 2012a). Here, it is worth noting the fact that resettlement can have far-reaching and long-term implications in refugee communities' political, economic and cultural spheres. Resettlement does have some positive outcomes, which cannot be ignored, but at the same time, as some refugee leaders (Rizal 2010) argue, it may create uncertainty concerning the refugees' demand for a dignified return to their homes and democratic reform in their home country.

⁵ The Tibetan refugees have been politically active despite the Chinese pressure on Nepal to suppress the Tibetan refugees' 'anti-China' activities. This was, for example, visible when Chinese Premier Wen Jiabao had to cancel his visit in December 2011 (see Giri 2011; *Telegraph Nepal* 2011) because of the Tibetan refugees' power to stage protests in Nepal, and because of Nepal's inability or unwillingness to stop the Tibetan refugees from doing so despite China's request.

Today, the Bhutanese refugees seem to have all been dispersed with the resettlement program taking them to different countries. The voices that demand a dignified return to their homeland have slowly been dying out. Only a handful of the refugees, who are still against resettlement, have been demanding their right to return (*The Himalayan Times* 2012).⁶

This is, however, not the case with Tibetan refugees. The refugees, though they too have suffered from unequal and ad-hoc policies of the host and donor governments, still strongly continue to fight for their political rights from exile and the international community is as eagerly supporting their case as ever. For some reason, they are able to conduct very visible protests in Nepal and India despite the tight security and also get similar levels of encouraging media coverage and attention around the world (see for example *South China Morning Post* 2013; *Times of India* 2011). Though the Tibetan refugees have been around longer than the Bhutanese refugees, the Tibetans are not pushed or proposed for mass resettlement in third countries.

Given this situation, the key question this research explored was how these two refugee groups were treated in Nepal and what the influence or role played by the key foreign powers involved in handling these refugees was. In order to have a clear answer, the research has attempted to explore how these two refugee groups have been treated historically and what durable solutions have been proposed and implemented?

Bhutanese and Tibetan refugees: Some similarities (Table 1)

Both refugee groups lived at the same place and time
Both emerged out of repression at home
Both populations' rights were violated
Repatriation remains equally impossible for both
Local integration remains impossible for both

⁶ After the resettlement of around 80,000 refugees to the US and other countries, the remaining around 31,000 refugees have been struggling for repatriation and their number is decreasing as the resettlement program still continues (see UNHCR Nepal 2013).

Both want some kind of political reform at home
Both motivated to struggle for the same cause
Both cases show the country of origin in breach of IHRL

Bhutanese and Tibetan Refugees: Some contrasts (Table 2)

Bhutanese Refugees	Tibetan Refugees
A. Treatment of the refugees in the course of history	
Most US envoys visiting Nepal expressed concern over violations of Tibetan refugees' rights	Few US envoy visiting Nepal spoke about Bhutanese refugees rights
US Annual Human Rights Report (from 2007 to 2011) highlights no human rights violations of Bhutanese refugees in Nepal	US Annual Human Rights Report (from 2007 to 2011) highlights human rights violations of Tibetan refugees
US, India see Bhutanese refugees as "security" issue	US, India see Tibetan refugees as issue of human rights and democracy
Bhutanese refugees are on US government's top priority list of resettlement	Tibetan refugees are not on US government's priority list of resettlement
A deeply divided community, therefore weak and unable to mobilize	A strong and united community and therefore able to politically mobilize
Weak international network	Strong international network
Unable to mobilize international community to pursue their political interests	Able to mobilize international community to pursue their political interests
US fully engaged in finding solution to Bhutanese refugee crisis	It seems solution is a continuous struggle against Chinese occupation
India refused asylum to Bhutanese	India granted asylum to Tibetans
India captured and ferried them across Nepal border	Nepal hosted and also assisted their transit to India
India remained silent blaming Bhutan-Nepal "bilateral issue"	India assumed the responsibility on "humanitarian grounds"
B. Solutions prescribed/implemented and other treatment concerning country of origin	
Third-country settlement as a solution	No durable solutions in sight yet
Bhutanese refugees are not encouraged to fight for democratic changes in Bhutan	Tibetans are encouraged to continue fight for Free Tibet or some political reform in Tibet

Actions of the Bhutanese government is ignored	Actions of China on Tibet have been highlighted
--	---

[Table 1, 2.: Compiled from a number of sources, most of which are discussed in this thesis]

1.3. Research objectives

The main purpose of the research was to assess to what extent the US and India have influenced the treatment of Tibetan and Bhutanese refugees in Nepal. Therefore, the specific objectives of the research were:

- 1) to assess the historical, political context in which the Tibetan and the Bhutanese refugees emerged;
- 2) to assess the treatment⁷ of the refugees by local stakeholders in the host country – Nepal Government and the UNHCR; and
- 3) to assess how the US and India have influenced the treatment of the refugees in the given regional geo-political context.

1.4. Methodology

Given the nature of the research problem and the question raised, the research used comparison as a major tool of data analysis.⁸ The research was carried out based on secondary data. The secondary literature available in the UNHCR online repository included study reports, journal articles, newspaper articles, policy documents and surveys concerning Bhutanese and Tibetan refugees.⁹

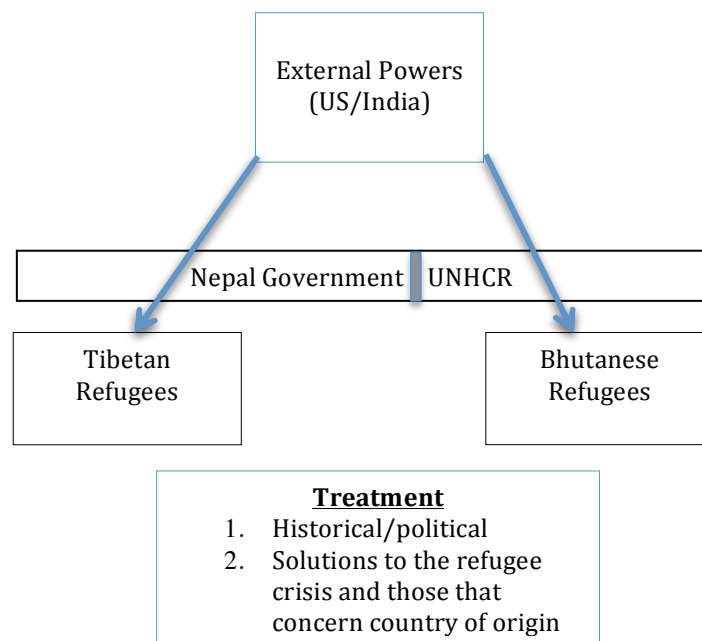
⁷ Treatment in terms of protecting refugees' rights and interests in the course of history and finding/prescribing a durable solution to the refugee crisis.

⁸ This research involved a limited "few-country comparisons" (Landman 2006, p. 66), i.e. the comparison of the treatment meted out to Bhutanese and Tibetan refugees and the instances of major influence from external powers in the given historical and political context.

⁹ The body of literature (both on Tibetan and Bhutanese refugees) was taken from different sources including the UNHCR, Human Rights Watch, Amnesty International, Integrated Regional Information Networks (IRIN), United States Committee for Refugees and Immigrants, International Federation for Human Rights, Canada: Immigration and Refugee Board of Canada, International Crisis Group (ICG), and others.

The research used Goodman-Gill's theory concerning the role of geopolitics in refugee protection (explained in detail in Chapter 2), which makes a compelling critique of the humanitarian grounds for refugee protection (Goodman-Gill 2008). This is a widely used model which postulates that **there is an inherent absence of a principled approach when it comes to refugee protection**, which is therefore, an act guided not by humanitarianism but by nation-states' political interests reflected in their foreign policy strategies (Goodwin-Gill 2008).¹⁰ With this approach in mind, the research tried to observe US and Indian influences in the treatment of these refugees in the following format which focused on two major areas of influence: 1) the historical/political treatment in the course of history since the beginning of the refugee crisis and 2) the durable solutions proposed for the refugee crisis.

Research Frame: Approaching the Research Questions



[Diagram 1]

The research thus began with the discussion within the abovementioned framework on the links between the regional geo-strategic politics and the crisis of the two refugee groups,

¹⁰ Goodwin's theory provided a framework to exploring the role of geo-strategic politics in handling the refugee problems. This model gave better insight into the states' tendency to welcome or support the interests of the refugees for some political or geostrategic interests.

followed by observation of the treatment of the refugees during their flights and during subsequent struggles in host countries in the form of humanitarian support, political support, and finally in locating the durable solutions. In a nutshell, the research used a well-justified mode of analysis (comparison¹¹), theoretical framework (mainly the model developed by Goodman-Gill¹²), approach (studying the treatment of refugees in two levels: historical/political and durable solutions¹³) and data sources (secondary¹⁴).

1.5. Scope

The scope of the research is the study of US and Indian influences on the treatment of the Tibetan and Bhutanese refugees in Nepal and not of those already resettled in third countries. The research was based on secondary literature.

¹¹ Modes of analysis for comparison: Given the nature of the study, which involved two refugee groups with contrasting situations, a comparative study was an appropriate method as it helped better understand and expose differential treatment of the international community to the refugees.

¹² Theories and approach: Since this research aimed to study state behaviour towards refugees and the (South Asian) regional geopolitics, the model developed by Goodman-Gill (2008) regarding the role of geopolitics in refugee protection allowed for greater insights into the behaviour of the states. The “securitisation” model (Buzan et al., 1998) allowed for a neorealist approach to the research question, thereby providing a more grounded understanding of the problem.

¹³ Similarly, the research approached the question of treatment or state behaviour towards the refugees only in two specific terms: 1) the historical/political treatment and 2) the solutions presented or implemented for the refugees. Treatment could mean a lot of things, but this research narrowed it down to the two areas mentioned above so that an in-depth analysis would be possible within the limits of available time and resources.

¹⁴ Nature of study: This research was designed to be based primarily on secondary literature because: a) the amount of relevant secondary literature available to the scholar was sufficient to address the questions raised and b) given the limited time and resources, it was impractical to conduct a research based on primary data, which would need extensive visits to refugee settlements in Nepal, and c) the researcher had already made several visits to the settlements of the two refugee communities in Nepal and had some first hand knowledge about the situation there.

CHAPTER 2: LITERATURE REVIEW

This chapter critically analyses the literature available on Bhutanese and Tibetan refugees in order to assess the issues covered so far, the gaps therein and the need for a comparative study of the treatment of the two refugee groups locating them in the exact geopolitical context. The chapter then moves on to discuss the theoretical possibilities in the study of refugee protection and geopolitics, especially the behaviour of local stakeholders such as the Government of Nepal and the UNHCR alongside the direct and indirect engagement of the external forces, mainly the US and India. The chapter further throws light on the norms and mechanisms that govern refugee protection in non-signatory states like Nepal and the realities on the ground.

2. Review of literature

There has been a considerable amount of previous academic literature on the refugees in South Asia, including Tibetan and Bhutanese refugees. However, most of the literature deals with individual refugees and does not provide a comparative study of the Bhutanese and Tibetan refugees taking into account the regional geopolitics. There are some journal articles (Subedi 2001; Pandey 2006) that have comparatively studied the two refugee groups. However, these articles do not study these two refugee groups in relation to the geopolitical context under which they emerged and lived in, and the transformations they underwent. Subedi (2001) focuses on analysing the differences between the two refugee groups in terms of their social, economic and cultural attributes and their human capital without discussing much about the geopolitical context that shaped them differently. Similarly, Pandey (2006) points out India's and China's role in shaping the two refugee crises, but does not engage in discussing the differential treatment and the influence of external powers. The article, however, does express the possibility of carrying out further comparative research of the two refugee crises.

Adelman (2008, pp. 209-237), does make a general comparison of protracted refugee situations in Nepal, Thailand, India, Sri Lanka and Pakistan, but does not engage in the comparison of the two refugee communities from the same country, which would have

allowed unravelling of what Adelman calls the dilemma of “national self-interests or universal morality” (p. 219).

There are a few studies that have attempted to take into account the geopolitical reality (Roberts & Roberts 2009; Goldstein 1995; Goldstein 2006; Siwakoti 2010a; Hutt 2003; Banki 2008; Dhungana 2010; Baral 1993) while dealing with some refugees in Nepal and India, but they are limited to only one refugee group, i.e. either the Tibetans or the Bhutanese. For example, the research works published by Roberts and Roberts (2009), McGranahan (2006 and 2010) and Goldstein (1995 and 2006) have explored how the US’s geostrategic interests played a key role in motivating and encouraging Tibetan refugees to wage armed resistance against Chinese forces in Tibet from Nepal’s Mustang. The authors, however, failed to highlight the contrast that would have been possible had they also brought the US response to the Bhutanese refugees into discussion. Another Nepali scholar, Gopal Krishna Siwakoti (2010a), in his research article presents a compelling account of the “exodus of the Tibetan refugees”, which he refers to as “a trail to hell”. However, since his research placed more emphasis on the human rights situation of the Tibetan dissidents, it does not focus much on the role of geopolitics in shaping the refugees’ flight and the subsequent struggles.

Hutt (2003) made an in-depth analysis of the dynamics of regional geo-politics concerning the Bhutanese refugees – especially the role of so-called Asian superpowers, India and China – in the context of the Bhutanese refugee crisis¹⁵, but it remains to be compared with the situation of Tibetans. Smruti (1999) tries to understand why the Nepal-Bhutan talks failed, but without giving much importance to the role played by India.

Similarly, in their book, *Refugees and Human Rights*, Patel & Trivedi briefly discuss the historical and geopolitical context when they say that the Bhutanese refugee problem festered for a long time due to “contradictory objectives of the three parties involved, i.e.,

¹⁵ Hutt states that "the negotiation between Bhutan and Nepal, the identification of the bona fide nationals of Bhutan in the refugee camps of southern Nepal, the terms and conditions for such identification and repatriation, etc. were all dictated by Bhutan ignoring the UNHCR, acquiesced by Nepal, and tacitly supported by India" (2005 p. 44).

Nepal, Bhutan and the refugees” (2000 p. 294). This, however, does not bring into discussion the regional power politics and ignores the role of India and the US in addressing the Bhutanese and Tibetan refugee crisis.

Well-known Nepali journalist, Kanak Mani Dixit (1993) argues in his research that Bhutan’s expelling of the Lhotsampas was possible with the tacit consent of India and western diplomats (Dixit 1993). Dixit’s study, which brings into light much of the political context, could be helpful in expanding the proposed topic.

There is some literature from local Bhutanese human rights activists and refugee leaders (Dhungana 2010; Rizal 2010) that demonstrates how regional powers such as India have been “biased” in responding to the Bhutanese refugees. These studies, though very insightful, are limited to explaining the possible political implications of the third country resettlement of the Bhutanese refugees.

Susan Banki is one of only a few scholars who has done extensive field-based research on the Bhutanese refugees. She points out what could be seen as the differential treatment of refugees when she states that Tibetan refugees move freely in Nepal despite having no legal status, but the Bhutanese refugees, who have valid legal status, remain in closed camps (Banki 2004, p. 7). These studies (Banki 2004) and some other works from the same author (Banki 2008a; Banki 2008b) take a look at the underlying geopolitics and provide a strong base for a comparative study of the two refugee groups.¹⁶

In the course of the research, this literature proved very helpful in observing the differences in the treatment of Bhutanese and Tibetan refugees. In the next chapter, the researcher presents the discussions on the theoretical frames that have shaped this study.

2.2. State interests and refugee protection

¹⁶ Banki’s other research warns that the humanitarian intervention, especially the third country resettlement, could prevent Bhutanese refugees from returning to their home country (Banki 2008a, p. 18). Banki further discusses how the Bhutanese were chosen to be resettled when “donor governments started locating solutions for the refugees, rather than only donating money” when Western countries had to fill their resettlement quota with potentially harmless refugees like the Bhutanese (Banki 2008b, p. 50).

Literature that discusses refugee protection at a theoretical level shows that there is an entire discourse focusing specifically on the refugee and geopolitics. Some of the scholars who have written extensively on the current discourse on refugee protection and geopolitics are B.S. Chimni (2000), Goodwin-Gill (2008), Arendt (1951) and so forth. They have positioned themselves under the larger neorealist theories of international relations.

The discussion centres around the question of whether the current refugee regime, which is represented by the UNHCR and its guiding documents, namely the 1951 Refugee Convention and its 1957 Protocol, is able to handle the refugee problems in the real world. The argument is that the existing regime fails to treat refugee issues as humanitarian issues for the simple reason that the "ideological basis to asylum" (Goodwin-Gill 2008, p. 21) has disappeared and instead of humanitarian interests, what motivates states to respond to refugee issues are their "self-interests" reflected in "certain foreign policy goals, such as resisting an opponent ideology or supporting valued allies; or it may seek to meet domestic needs, such as a shortage of labour or skills, on the one hand, or a hostile and isolationist public, on the other" (Goodwin-Gill 2008).

This observation resonates with Hannah Arendt's (1951) analysis of conflict between the interests of refugees and the interests of States triggered by conflict between state sovereignty and refugee rights.¹⁷ Resonating with Arendt's discussion on state sovereignty, the "securitization" theory propounded by the Copenhagen School (Buzan, Wæver, & Wilde, 1998) presents a framework that views the security, immigration and refugee issues in a much-interconnected way. Barry Buzan, Ole Waever and Jaap de Wilde (1998) argue that nation-states use "securitization" as an extreme version of

¹⁷ In one of her most referenced books, Arendt (1951, pp. 271-273) explores how the rights of the refugees are at the mercy of the interests of "sovereign" nation-states. Arendt argues that the Westphalian concept of state sovereignty, which is defined in terms of a state's power to control the state of affairs within a territory by different means such as citizenship, has deprived refugees of their legitimate rights. Arendt exposes the paradox underlying the concept of nation-state sovereignty: that the very sovereignty entitles the people within a territory to the rights to self-determination and at the same time, the rights to follow any means to achieve their goals (Arendt 1951, pp. 271-273). While the first set of rights could be manifested in democratic practices of decision-making, the second could take the form of genocide or ethnic cleansing, as experienced by the Bhutanese and Burmese refugees.

politicization that enables them to use extraordinary means in the name of security (Buzan et al., 1998, p. 25).

In the face of such strong political interests of States, the international refugee regime remains highly stretched. Scholars have pointed out with concrete examples where institutions like the UNHCR have failed when it comes to respecting the principles, which are supposed to guide the works of the UN body. Elisabeth G. Ferris (1993) offers a very critical view, of what she calls the “rule of the game [international refugee regime]”, when she argues that the rules are made in a way that make the states the real actors rather than being part of the system itself. “While often couched in humanitarian – even moral – rhetoric, decisions about how to deal with refugees and migrants are fundamentally decisions based on national interests” (Ferris 1993, p. 3).

Resonating with Ferris’s account, Gil Loescher (2001) makes an in-depth analysis of the UNHCR’s 50-year engagement with refugees across the globe and concludes that the UNHCR has hardly any option but to be enmeshed with world politics when it carries out its duties.¹⁸ Indeed, if one looks at the history of the UNHCR and the way it functions, it is clear that the UNHCR has been enmeshed in East-West conflict and refugees were taken as powers and tools in the bipolar rivalry. The instances include the US treatment of the Cuban refugees who were favoured, and the Croatian refugees who were unwanted. Though the context has changed following the end of the Cold War, the protection of the refugee remains highly politicized (Loescher 2001).

A similar study by Stedman and Fred (2003) also shows that in many situations international actors manipulate the refugees to fulfil their own geopolitical interests either through direct intervention or indirectly through the local armed groups that are already manipulating the refugees. In their book, *Refugee Manipulation*, Stedman and Fred present compelling cases of such manipulations of refugees during the Vietnam War

¹⁸ Loescher argues that “there has hardly ever been a time in the UNHCR’s history when government’s foreign policies or strategic interests did not affect their stand towards the Office. And there has been hardly any time when states offered asylum and accepted refugees without some form of political calculations or discrimination” (Loescher 2001, p. 6).

(1955-1975), the Afghan refugees in Pakistan and the Rwandan refugees in Zaire (2003). By the same token, the case of Palestine refugees cannot be ignored as they represent one of the longest refugee crises that has remained unresolved with the key international powers prioritizing their geopolitical interests at the cost of international law and norms, as pointed out in studies by Aruri (2003), Loescher (2001) and Goodwin-Gill (2008). Similarly, as pointed out by Human Rights Watch (2012) the recent cases of differential treatment of Burmese-Rohianga refugees in Thailand in contrast to that of other Burmese refugees is another example.

Therefore, given these past examples highlighted in the studies, what can be said here is that the states have long been treating the refugees differently based on their own interests and the perspective that take into account the role of geopolitics has been useful in studying the refugee situation more accurately. Consequently, if one were to consider the situation of the Bhutanese and Tibetan refugees with the framework used in earlier research in mind, which puts an emphasis on the geopolitics, the treatment of refugees by governments of Bhutan, India, Nepal and the US would appear more understandable given each of these countries' political interests. Based on the discussions above, it is now much easier and insightful to study the actions of the states towards the Bhutanese¹⁹ and the Tibetan refugees. The same model of securitization could be used to explain why Tibetans were accepted in India: the Tibetans were not perceived to be posing a security threat; rather, their presence was in the interest of India.²⁰

As pointed out by Loescher (2001), Goodwin-Gill (2008), Ferris (1993) and other scholars, the international refugee regime thus remains very much guided by states' political interests rather than the interests or needs of the refugees and in effect the states' interests are mediated through institutions like the UNHCR.

¹⁹ The theoretical discussions made so far provide a framework to understand the states' actions: Bhutan expelled its population out of a perceived threat to its monarchy and homogeneous identity; Nepal and India refused internal integration and/or asylum for geopolitical and security reasons; and the US pushed for resettlement partly because the Bhutanese presence near Bhutan was considered a threat to Bhutan and India was tacitly supporting Bhutan in getting rid of the ethnic minority (Hutt 2003).

²⁰ Analysts argue that India's policy to provide indefinite asylum to Tibetan refugees in its territory can be understood as a tendency of emerging great powers to create potentially useful devices that could be deployed as bargaining chips whenever the need arises, or whenever the competitor threatens its national interests (Thakur, A. 2013).

While these theoretical discussions present the problems inherent in the international refugee regime, it is also important to note how the regime operates in countries, which are not signatories to the 1951 Refugee Convention. The following section attempts to answer this question.

2.3. Refugee regime in non-signatory states

Countries like Nepal and Bhutan which are not signatories to the 1951 Refugee Convention or its 1967 Optional Protocol are not under legal obligation to follow the Convention's standard procedures and rules. If the country hosting the refugees is capable and ready to guard the rights of the refugees, there are, however, a few international norms, which are expected to be helpful in protecting the rights of the refugees.

As part of customary international law, even the countries not ratifying the 1951 Convention have obligations to protect the rights of the refugees. One such obligation stemming from customary international law is non-refoulement, which means "a state may not oblige a person to return to a territory where he may be exposed to persecution" (UNHCR 1994, para. 2).

Similarly, a non-signatory state might still be under legal obligation to protect the refugees because of its ratification of other international human rights treaties, such as the International Covenant on Civil and Political Rights (ICCPR).²¹ States like Nepal²², Thailand²³, Sri Lanka²⁴, Bhutan²⁵, India²⁶, Bangladesh²⁷ and others have not ratified the

²¹ For example, Article 2.1 of the ICCPR mentions that "each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." This provision incorporates the refugees also as they are "within" the state party's territory and "subject to its jurisdiction" (Article 2.1, ICCPR).

²² Nepal is party to six of the nine core international human rights treaties including the ICCPR, ICESCR, Convention on the Rights of the Child (CRC), Convention on Torture (CAT), Convention on Elimination of All Forms of Discrimination against Women (CEDAW) and International Convention on Elimination of Racial Discrimination (ICERD).

²³ Among the nine core international human rights treaties, Thailand is party to the ICCPR, ICESCR, CRC, CAT, CEDAW, ICERD and Disability Rights Convention.

²⁴ Sri Lanka is party to all core international human rights treaties except the Convention on Enforced Disappearances and Disability Rights Convention.

1951 Refugee Convention but they are signatories to some other important human rights conventions such as the ICCPR, CRC and ICESCR. Thus, with regards to the Bhutanese and Tibetan refugees, Nepal has clear legal obligation under the ICCPR, and ICESCR—which Nepal ratified in 1991—to equally ensure their civil and political as well as economic, social and cultural rights.

However, there are always a number of challenges to face when making a non-signatory state protect the refugees' rights in practice. Under such conditions, the objective of refugee protection could be achieved depending on the willingness and cooperation of the host state. The history of refugee protection shows that the host countries could be unwilling or unable to take necessary steps to protect the rights of the refugees and in many cases such reluctance on the part of host countries has led to gross violation of the refugees' human rights, including rape, arbitrary and unlawful detention, enforced disappearances, murder and torture (Goodwin-Gill & McAdam 2007, pp. 232-233). In most cases, therefore, it is evident that non-signatory states are more likely to treat the refugees based on their own political, economic or other personal interests rather than humanitarian ones (Goodwin-Gill 2008, p. 21, Betts & Gill, 2010, p. 18). Since the host state lacks any legal framework to deal with refugee issues, the refugees, especially those living in poor and non-signatory countries like Nepal are more likely to become useful tools to help the states meet their geo-strategic and political interests. Thus states' responses to the refugee situations become more ad hoc, inadequate and unprincipled making the refugees mere tools in the game of power politics (HRW 2012). Nepal's Bhutanese and Tibetan refugees are two such examples.

2.4. Regional geopolitics and its influence on the refugees

For a better understanding of how the refugee protection in Nepal is influenced by external powers, it is important to understand the political context under which the

²⁵ Among the nine core international human rights treaties, Bhutan, which had been under absolute monarchy till 2008, is party to the CRC and CEDAW only.

²⁶ India is party to many of the international human rights treaties including the ICCPR, ICESCR, CEAW and ICERD but not the 1994 UN Convention Against Torture.

²⁷ Of the nine core international human rights treaties, Bangladesh is party to the ICCPR, ICESCR, CRC, CAT, CEDAW, ICERD and the Disability Rights Convention.

influences have occurred (Adelman 2008). The main external powers that have played a key role in influencing the treatment of the refugees in Nepal are the US and India.²⁸

As for the US, it has long taken a keen interest in protecting the rights of the Tibetan refugees ever since their flight in the early 1950s and, since 2006, in resettling Bhutanese refugees. The US has been engaged in protecting the interests and human rights of the Tibetan refugees through continuous political, moral, financial and logistics support (Goldstein 2006; Republica 2010; ICT 2013). US involvement in military training and arms supply to the Khampa Tibetans to fight against Chinese forces in Tibet from Nepal's Mustang district (Goldstein 2006; Roberts & Roberts 2009; ICT 2011, p. 53), and their subsequent disarmament (USDS 2009b) are glaring examples of US engagement with the Tibetan refugee cause.

US interests in the Tibetan refugees are guided by its fluctuating geo-strategic interests in the Asian region, where China and India are the two key countries of engagement. One important interest of the US in Asia before and after the Cold War era was to find a counterweight to rising Chinese influence (Vaughn 2007, p. 25). Therefore, after the fall of the Soviet Union, the US "steered to New Delhi to join as a 'Strategic Partner' to counter China as declared by the US State Department as a 'strategic competitor'" (Khalid 2009, p. 57). The US not only believed that "India's rise [was] good for the world and good for the region" (Pyatt 2012) but also saw no other alternative to taking India's help in influencing affairs in the Asian region, including Nepal and China (Browne 2012, p. 134). Since India had similar objectives to meet in relation to its regional competitor, China, the US-India strategic partnerships brought the two countries closer leading to increased cooperation and collaboration on a number of issues,²⁹ ranging from sharing civil nuclear power technology (Rasgotra 2007, p. 123) to handling the protracted Tibetan refugee issues (Roberts & Roberts 2009) and "promoting

²⁸ This, however, does not mean that the other European countries such as the UK, Canada, Denmark, Norway, Switzerland, Sweden and others did not have any influence at all. Engagement of these European countries appears nominal when it comes to dealing with the Tibetan and Bhutanese refugees in Nepal. Besides these "external" powers, the countries of refugee origin, such as China and Bhutan, and countries of first asylum, such as Nepal and India, did obviously have their own interests and concerns over the refugees.

²⁹ These strategic partnerships have been manifested in programs such as cooperation on harnessing nuclear power: while the US shared its nuclear technology with India, China did with Pakistan.

democracy” (Vaughn 2007, p. 25). Given India’s continued border disputes with China, India considers the Tibetan refugees as a highly treasured “bargaining chip” (Topgyal 2011, p. 128) which could be used to counterbalance any potential Chinese aggression, occupation or attack in India’s territory (Norbu 1997, pp. 1087, 1094). For the US, the Tibetan refugees once served as forces to fight the “global danger” that “monolithic Communists” posed (Roberts & Roberts 2009, p.155) and at times to just “keep China occupied” (Western Shugden Society 2013).

Similarly, India has its own political interests with regards to Bhutanese refugees. As Dixit (1992) pointed out, India had special geo-political interest in supporting the Bhutanese monarch’s move to evict the Lhotsampas because its intention was to continue exploiting the water resources in Bhutan and its dictatorial regime that had long been loyal to India. This led to India’s rejection of asylum to Bhutanese refugees (Siwakoti 2010b), a complete silence over the condemnable acts of the Bhutanese government, rejection to engage in the talks aimed at resolving the Bhutanese crisis, and refusal to offer a passage for the Bhutanese to return home.

The US, as a strategic partner to India, finds it necessary to remain complicit if not actively support the Indian policy on Bhutan – in order to keep its partnership with India intact. In fact, the US remains on the same page with India when it comes to dealing with any issues concerning India’s neighbours—Bhutan and Nepal (Laise 1987). For this reason, the US is not interested in having any views against Indian interests in Bhutan given the fact the India remains a major US partner in the region (Laise 1987).

Thus, when the US and India collaborate on Nepal issues, their influence outweighs any other country’s influence, including that of China. In fact, India has considered Nepal as its “traditional sphere of influence” and it has always objected to any outside intervention in Nepal unless such an action is in the consent of India (Hagerty 1991, pp. 360-361). The 1950 Indo-Nepal treaty (India-Nepal Treaty of Peace and Friendship 1950) that accepts India’s control over Nepal’s defense related procurements, and the history of Indian intolerance of Nepal’s failure to meet Indian interests keep Nepal under Indian

hegemony. Furthermore, as a landlocked and India-locked³⁰ country, which depends highly on development aid³¹ from India and the US, Nepal is vulnerable to Indian and US influence (Government of Nepal, Ministry of Finance 2010).

Thus, it is in this geopolitical context that the treatment of the two refugees could be better understood. The following chapters, Chapter 3 and Chapter 4 in particular, will identify and resolve some of the puzzles seen in the concerned states' behaviour towards the Bhutanese and the Tibetan refugees sheltering in Nepal.

³⁰ Nepal is landlocked by India on three sides (south, east and west) and on the north lie the high insurmountable Himalayas bordering China. Thus Nepal's access to the closest seaport is the Indian seaports but it does not have direct access to them because of its landlocked situation.

³¹ Government of Nepal statistics of Fiscal Year 2010/11 shows that India and the USA are the third and fourth largest donors to Nepal. The first two positions being occupied by the UK and Japan (see Government of Nepal, Ministry of Finance 2010).

CHAPTER 3: HISTORICAL, POLITICAL TREATMENT OF THE REFUGEES

As framed earlier in Chapter 2, this chapter concentrates on the first major task of the research: the assessment and analysis of US and Indian influences in the historical/political treatment of the refugees. The second task to be undertaken in the next chapter is to examine the same influences in finding durable solutions for the refugees. In line with the limitations explained earlier in Chapter 1, the treatment has been understood in terms of support of the refugees in the course of their flight, in securing them asylum, in providing humanitarian as well as political support while in the host country. The chapter also explores how the states have influenced the refugees in all these processes or stages since their first flight.

3. Historical, political treatment of the refugees

The history of the Bhutanese and the Tibetan refugees in Nepal shows that they have been treated differently and this becomes visible when one looks comparatively at the states' response to the two refugee groups. One is puzzled as to why Nepal ended up supporting the US-proposed arrangement for safe transit of Tibetan refugees from Nepal to India despite Chinese pressure not to do so. Why did India respond so mercilessly to the Bhutanese refugees by denying asylum while it welcomed the Tibetans? Why did the US and India back and encourage the Tibetans to fight against human rights violations in Tibet, while they did nothing to help the Bhutanese fight for a similar cause in Bhutan? Why did India refuse to play any role in resolving the Bhutanese refugee situation when, in fact, it had a crucial role to play?

Better answers could be obtained if these questions were placed in the geopolitical context which, according to theorists like Goodman-Gill (2008), governs refugee protection. The section below unravels these puzzles by drawing upon the larger geopolitical context in which they occurred.

3.1. The Bhutanese refugees

The Bhutanese refugees living in UNHCR-managed camps in Nepal are the product of the ethnic homogenization process³² initiated in the late 1980s by the Royal Government of Bhutan (Kumar 1993; Hutt 1996; Khanal 1998; Banki 2008a, p. 3; Siwakoti 2010b; BRSG 2010; Shrestha 2011).³³ The Bhutan government has maintained that the refugees were “illegal migrants” and therefore they fled Bhutan when it started enforcing the “citizenship and immigration laws more strictly” (UNGA 2009a, p. 16). Bhutan argued in its 2009 National Report to the Universal Periodic Report (UNGA 2009a) that it had to enforce its citizenship and immigration laws (which, according to HRW, were deeply and discriminatory flawed) to monitor the unregulated illegal migration of ethnic Nepalese people. However, studies show that the Bhutanese refugees, also known as Lhotsampas, were forcefully evicted when the ruling elite perceived them as posing a serious threat to the national security and Bhutan’s distinct identity³⁴ as the former not only represented different culture and religion but also appeared politically much aware and intolerant of existing discrimination, undemocratic rule, and lack of freedom (Dixit 1992; Hutt 1996; Banki 2008; Grenier & Howard 2000; Evans 2010; Saul 2000; Frelick 1990).

3.1.1. The flight

Studies pointed out that besides the gross discrimination mentioned above (in Chapter 3.1), the Lhotsampas suffered religious and linguistic intolerance (UNGA 2009b, p.7; UNGA 2009, p.6; Society for Threatened Peoples 2009; Shrestha 2011, pp. 2-7; Bird 2012). The Lhotsampas were also perceived as a threat because they could potentially get

³² The ethnic Bhutanese minority became refugees in the 1980s when the Bhutanese security forces allegedly evicted them after stripping them of citizenship by imposing a discriminatory citizenship law -- Citizenship Act 198532 -- that tried to establish only one language (Dzongkha) and one culture (Tibetan Mahayana Buddhist) in Bhutan (BRSG 2010; HRW 2003b) to create a homogeneous Bhutan. In 1985, the Lhotsampas were asked to either show the proof of residence on or before December 1958 and prove their citizenship or leave the country (Hutt, 1996: 402). As many failed to show the documents obtained some 27 years ago, it was possible for the Bhutan government to declare them non-citizen and force them to leave.

³³ In their researches, Kumar (1993), Hutt (1996), Khanal (1998), Banki (2008a) and Siwakoti (2010b) argue that the ethnic difference and the threat it posed to the ruling Bhutanese elites was the reason that motivated the Bhutan Government to force the Lhotsampas out of the country. In her study of the resettlement program, Shrestha points how the resettlement project missed to take into account the historical fact that the Bhutanese refugees were forcefully evicted from their own country when Bhutan started the ethnic homogenisation process—Bhutanisation (p. 5).

³⁴ Bhutan argued in its 2009 National Report to Universal Periodic Report that it had to enforce its citizenship and immigration laws (which, according to HRW, were deeply and discriminatory flawed) to check the unregulated illegal migration of ethnic Nepalese people.

support for their democratic struggles in Bhutan from millions of ethnic Nepali people living in northern India and Nepal (Hutt 1996; Dixit 1992). Under this context, when the Lhotsampas continued to be more vocal demanding equal rights, and democratic reforms, the Bhutan government adopted harsh policies to get rid of these people, who were perceived as a threat to Bhutan's absolute monarchy.

Bhutan adopted two key policies—the Citizenship Act of 1985 and national census based on the same Act—to address the threats from the Lhotsampas and achieve its objective of a culturally homogeneous Bhutan. The Citizenship Act 1985³⁵ required each resident to show proof of residency in Bhutan prior to 1958, which was set as the cut off date. Those who were unable to provide proof, such as a receipt for the land tax paid to the government of Bhutan, were automatically declared illegal immigrants and were expelled.

In 1988, the Bhutan government adopted a new census policy that categorized residents into seven categories:

- F1 - Genuine Bhutanese
- F2 - Returned emigrants (those who had left Bhutan but returned)
- F3 - Drop-outs (those not available during the time of Census)
- F4 - A non-national woman married to a Bhutanese man
- F5 - A non-national man married to a Bhutanese woman
- F6 - Adopted (children legally adopted)
- F7 - Non-National (illegal settlers) (Hutt 1996, p. 403)

When the census was complete, most of the Lhotsampas found they did not fall under the F1 category (Hutt 1996). As security forces started demanding the Lhotsampas either qualify as F1 by providing proof of eligibility or leave the country, a mass-exodus of the people began. Security forces used torture, rape, intimidation, arrests, and death threats as tactics to force these people out (Amnesty International 1992; Baral 1993; Subedi 2001;

³⁵ The Citizenship Act 1985 has been criticized as being highly discriminatory in that it intentionally planned to deprive a section of the population from citizenship. The deprivation, according to a HRW report constituted violation of, among others, Article 15(2) of the Universal Declaration of Human Rights (Ridderbos 2003).

Rizal 2010). By the late 1990s, the Bhutan government managed to evict over 100,000 Lhotsampas.

While Bhutan claims that all those who became refugees in Nepal were illegal economic migrants, the refugees claimed they were bona fide Bhutanese citizens. When the Bhutanese king was once asked to explain the exodus of the Bhutanese into refugee camps in Nepal, he said they fled to the camps to get money, food and shelter for free (Pattanaik 1999, p. 1617).

This, however, does not mean that the nationality of the refugees is still disputed. It is well established by several researches and reports that the refugees were Bhutanese and Bhutan forcefully evicted them out of Bhutan in breach of international human rights norms and laws, including the Universal Declaration of Human Rights (HRW 2002b; Hutt 1996; Ridderbos 2003).

3.1.2. The trap

While the Bhutan government was committing violence against its own people, there was little concern raised by the international community and neighbouring countries.

Escaping execution in Bhutan, the Lhotsampas first came to the Indian state of West Bengal seeking asylum. However, India, instead of granting them asylum in adherence to established norms, ferried all the refugees across the international border into Nepal "against their will" (*Nepal Abroad* 2007) and refused to play any role in finding a solution stating that it was a bilateral issue concerning only Nepal and Bhutan (Pattanaik 1999).

As the Indian police forced the Bhutanese refugees into Nepali territory, the refugees were trapped. A narrow stretch of Indian territory that extends to the east separates Nepal from Bhutan (see map in Annex 1). The refugees made several attempts to go back to Bhutan crossing the Indian territory but they could not make it to the other side as the Indian security forces would not allow them into Indian territory to cross the Nepal-India border (*Nepal Abroad* 2007). The refugees were then bound to live in restricted camps in

Nepal awaiting negotiated settlement among the neighbouring countries including India, Bhutan and Nepal, none of whom are party to the 1951 Refugee Convention.

3.1.3. The bilateral talks

Ever since the Bhutanese refugees began to enter Nepal in the early 1990s, Nepal had been trying to bring Bhutan to talks to resolve the refugee problem. Bhutan continued to ignore Nepal's call for dialogue for the first three years. However, in June 1993, when the number of Bhutanese refugees in Nepal had reached 86,000 (Minorities at Risk Project 2004), Bhutan expressed readiness to start bilateral talks. Some analysts indicate that "Bhutan's new-found keenness to hold talks could have been timed to prevent Kathmandu from raising the issue at the European Community meeting in Brussels and the UN human rights conference in Vienna [June 1993]" (Minorities at Risk Project 2004). The only progress the Nepal-Bhutan bilateral talks made was to agree on categorizing the refugees into four groups:

- 1) bona fide Bhutanese evicted forcefully;
- 2) Bhutanese who have emigrated;
- 3) non-Bhutanese people; and
- 4) people who have committed criminal offenses, which, however, was criticized as being flawed. (Pattanaik 1999, p. 1613)

The talks continued but the two parties were unable to reach any agreement with Bhutan refusing to allow repatriation of any refugees except those who could prove their category '1' status, that is that they were "bona fide Bhutanese evicted forcefully", and Nepal unwilling to locally integrate the rest of the refugees. By 1996, six rounds of talks were held between Bhutan and Nepal but all failed to reach any conclusion. In the meantime, the Lhotsampas continued to flee Bhutan first into India and then to Nepal.

There was a realization among Nepalese officials that given the geopolitical context, the issue of Bhutanese refugees was unlikely to be resolved by simply talking to Bhutan alone (Hutt 1996). It required the direct involvement of India or the international community who had significant leverage on Bhutan (Quigley 2004). Nepal, however, was not in a position to internationalize the issue given the Indo-Bhutan treaty (India-Bhutan

Treaty of Peace and Friendship 1949), in which India controls Bhutan's defense and external policies. However, when the bilateral talks continued to fail, Nepal requested India to help resolve the problem through tripartite talks (Khanal 1898). India, however, refused to get involved in the talks saying it was a bilateral issue and should be resolved bilaterally (Khanal 1898). To a certain extent India continued to support Bhutan's interests when it came to handling the refugees. For example, in the first week of January 1996, Indian security forces arrested numerous Bhutanese Nepali refugees attempting to cross the Nepal-India border stating that "it will not allow its territory to be used for any anti-Bhutan movement" (Minorities at Risk Project 2004). Observers like Dixit (1991) noticed this "disingenuous" position of India as early as in 1992:

It would be disingenuous of India to imply that the problem of overpopulated camps in Jhapa is a bilateral one between Nepal and Bhutan. The refugee population enters India before ending up in Nepal. It is also Bhutan's public claim that most of the refugees have their origins in the Indian northeast. New Delhi has yet to accept or counter the claim. Also, an interpretation of the 1949 treaty [India Bhutan Treaty of Peace and Friendship 1949], which formalised relations between India and Bhutan, would indicate that India is treaty-bound to try and help sort out the problem. (Dixit 1992)

Many others, including Quigley (2004, pp. 194, 189), Hutt (1996), Chandrasekharan (2003), Stein (2004, p.179), Human Rights Watch (2003b), Logan (2006), Refugee International (2007, p. 2), Khanal (1998, p. 159), Dhakal (2007) and Siwakoti (2010b) also observed that either the international community at large, including the United Nations, or India's direct involvement was a must in resolving the Bhutanese refugee crisis.

However, Nepal could not internationalize the issue due to India's disapproval and India continued to refuse any role in resolving the crisis despite international pressure.³⁶ As a result, Bhutanese refugees, in desperation, continued their protests in the refugee camps. Amid uncertainty, home-minister level talks in late July 1997 seemed to reach a "breakthrough" as Bhutan agreed to take in those categorized under '2' –i.e. those who left Bhutan voluntarily (Ridderbos 2007). Earlier, Bhutan was ready to take in only those who could be verified as "bona fide Bhutanese forcefully evicted." However, neither could this agreement be enforced, as both parties were unable to sort out differences over the process of verification of refugees. At the 10th bilateral talks in December 2000 they finally agreed to establish the Joint Verification Team (JVT) that would identify, verify and categorize the refugees into the four categories previously established (CEMARD-Bhutan 2000). The verification began in the first refugee camp in 2001 and the results showed that most of the refugees—72.59 per cent of the total refugees in the first camp—were Bhutanese citizens though many had left voluntarily (Ridderbos 2007, p. 40). In the next round of talks in February 2003, Bhutan took a firm stand stating that it would allow repatriation of category one – bona fide Bhutanese who left voluntarily—but those who qualified for category two would have to apply for citizenship and must be prepared to undergo a two-year long probation period (Ridderbos 2007, p. 41). Bhutan continued to refuse entry to anyone from category 'c' and 'd'. Later in October 2003 at the 15th round of the Ministerial Joint Committee (MJC) meeting held in Thimpu, Bhutan agreed that the people in category 1, 2 and 4 would be repatriated and Nepal agreed that it would deal with the people in category 2 who did not wish to return to Bhutan (MoFA 2003c). However, during a briefing at the refugee camp in Nepal, the Bhutanese officials again argued that even those in category 2 would have to reapply and they would have to live in transit camps as foreigners for two years (MoFA 2003c). After the refugees reacted angrily to the announcement of the Bhutanese officials, the Bhutan team left Nepal ending negotiations. Bhutan's stand on the matter brought bilateral talks to a standstill

³⁶ Nepal's failure to internationalise the issue is reflected in Nepal's (and also Bhutan's) emphasis that the Bhutanese issue should be resolved through "bilateral process." (See, for example, statements released by Nepal's Ministry of Foreign Affairs after all Nepal-Bhutan bilateral talks held since 2001 (MoFA 2003a; MoFA 2003b; MoFA 2003c; MoFA 2013). All these statements stressed that the Bhutanese refugee issue should be resolved through "bilateral process." This emphasis on a "bilateral process" has been made only to make sure that Nepal does not offend India, which is against internationalising the Bhutanese refugee issue.

and there were no further efforts made to resume talks. The verification process stopped. After the deadlock, the international community and human rights organizations slowly realized that India would need to be directly engaged in resolving the refugee crisis.

In 2003, some human rights NGOs, including Amnesty International, Human Rights Watch, the Lutheran World Federation, and Bhutanese Refugee Support Group (BRSG 2010; HRW 2003b) that were observing the failed Nepal-Bhutan bilateral talks realized for the first time that the issue could not be resolved bilaterally. The talks were failing largely because Bhutan was getting tacit support from its main ally India, which could be evidenced by India's non-cooperation in the process of resolving the Bhutanese refugee crisis in Nepal. Therefore, some (Quigley 2004) even concluded that the problem would not be resolved without active engagement of the international community. They urged the international community to engage a broader range of actors, governments, UNHCR and other UN agencies to "devise a comprehensive and just solution to the 12-year-long refugee crisis" (HRW 2003a; HRW 2003b).

All these calls for broader engagement did not change India's position towards the Bhutanese refugee crisis. However, in 2006, some three years after the call for international engagement, the US came up with a proposal to resettle 60,000 Bhutanese refugees. Thus, these facts make it more than clear that, despite recognition by the refugees, the host country and human rights groups, that Indian engagement would resolve the issue, India refused to assume this responsibility, affecting the situation of the Bhutanese refugees in Nepal.

3.2. The Tibetan refugees

The Tibetan refugees are the second largest refugee population sheltering in Nepal and they have a relatively longer history. They are the product of Chinese policy to suppress the distinct culture of Tibet and arrest Tibetan autonomy (Goldstein 2006). After the Chinese invasion of Tibet in 1950, Tibetans' rights were at stake. Many Tibetans rose up against the occupation and soon it led to a full uprising against Chinese rule in 1959, when thousands of civilians were killed at the hands of the Chinese People's Liberation

Army (BBC, 2012). After an informal assurance of assistance from the US government (Goldstein, 2006), in March 17, 1959, the Dalai Lama fled to northern India followed by thousands of Tibetans—some of them stayed in Nepal while others moved to India—over the next few months (BBC, 2012). The exodus of Tibetan refugees to Nepal and India has continued ever since (UNHCR Nepal, 2012). In the following chapters, I will be tracing the history of the Tibetan dissidents as unofficial refugees in Nepal and looking at how the US and India influenced the treatment of them while in Nepal.

3.2.1. The early exodus and the armed rebellion

Following the 1959 Tibet uprising, thousands of Tibetans flocked into Nepal. Some of them came to settle in Nepal's capital city Kathmandu, others transited to India, where they could live in close patronage of their spiritual leader Dalai Lama. While those in Kathmandu and India appealed to the international community for humanitarian and other political support, a group of strong Tibetan fighters gathered in Nepal's remote district Mustang to fight a guerrilla war against the Chinese forces in Tibet. Nepal's Mustang region that borders Tibet was a suitable place for setting up a military base for these Tibetan dissidents, mainly belonging to the Tibetan tribe Khampa.

The Khampa rebels, who went underground in early 1950 to counter the 1949 Chinese invasion, came to Nepal's Mustang region to set up their army base, for which they received covert support from US intelligence agency the CIA, the government of India and the government of Nepal (McGranahan 2006, p. 123; Goldstein 1995; Goldstein 2006). In his widely read article published in the Indian magazine, *The Outlook*, R Sengupta (1999) writes how the rebellion was born:

China invaded Tibet in late 1949, and two years later, overran the brave but tiny Tibetan army to enter Lhasa. The Dalai Lama, 17 at the time, was forced into an uneasy compromise with Beijing. But when monasteries in eastern Tibet were razed in 1956, the local Khampa tribesmen revolted and formed an underground outfit, sending out desperate calls for help. The Dalai Lama's elder brother, Gyalo Thondup, in exile in India, promised to contact the Americans. (Sengupta 1999)

By 1958, there were over 5,000 guerrillas, whose core members were trained by the US, ready to fight against Chinese forces in Tibet from their base in Mustang (McGranahan 2006, p. 109). With this moderate-sized guerrilla force, the Khampa rebels continued their armed struggle in Mustang and many others joined the force when a large number of refugees entered Nepal after the Lhasa uprising of 1959, the time when Dalai Lama also fled to India. As UNHCR was yet to enter Nepal for their protection, some Tibetans settled in the mountains while others came to Nepalese cities like Kathmandu and Pokhara.³⁷ It was with the help of these Tibetan guerrillas that the Dalai Lama was able to escape Tibet in disguise and take refuge in India (Roberts & Roberts 2009). The Khampa rebels continued to assist the refugee flight while other refugees³⁸ in Kathmandu and Pokhara received humanitarian support from the Nepal government, the US government and other NGOs. The Tibetan refugees and their armed guerrillas in Mustang and other areas of Nepal were later also aided by international humanitarian organizations when in 1960 the Nepal government appealed for international support for the refugees. In response, the US government, Swiss government and ICRC jumped in to provide for the basic needs of the refugees living in the remote Mustang region. Later, the Tibetan government-in-exile in India also established its Tibetan Welfare Office in Kathmandu and started garnering support for the refugees from the Nepal government and other international donors (TJC 2002).

³⁷ When the Tibetan refugees started coming to Nepal in late 1950s, the UNHCR did not have its office in the country. The government of Nepal could only provide land for temporary settlement. The refugees therefore were scattered all over the country. Some Tibetan refugees were living in Chialsa in the Solu Khumbu mountain range east of Kathmandu; some in Tashi Palkhiel, on the outskirts of Pokhara; some in Dhorpatan, in western Nepal and others in Jawalakhel on the southern edge of Kathmandu (TJC 2002, p. 33). However, it soon became clear that the Tibetan refugee problem was going to be protracted and therefore needed a more planned approach to support their livelihoods while in Nepal. The government of Nepal initiated efforts to help the Tibetan refugees initially by granting land for agriculture and subsequently by calling on international donors such as the Swiss government to help design and implement projects to achieve long-term self-sufficiency of the refugees, which resulted in the establishment of export-oriented carpet factories where the Tibetan refugees worked (ICT 2011, p. 68). Other donors and organisations such as the USAID, the Protestant United Mission, the Nepal International Tibetan Refugee Relief Committee, the Norwegian Refugee Council, and United Nations affiliates, such as the U.N. Children's Fund (UNICEF) and the World Health Organisation (WHO), contributed additional aid in the form of medical care, primary school education, construction of housing, and food rations (TJC 2002).

³⁸ In the absence of the UNHCR, the organisations in collaboration with the government of Nepal continued to provide basic support to the non-combatant Tibetan refugees living in Kathmandu and Pokhara. Not surprisingly, the efforts and arrangements made for the protection of the rights of the Tibetan refugees prior to the arrival of the UNHCR remained to be far from durable solutions as they were largely ad hoc and inadequate.

While the armed resistance was still going on, the UNHCR made its first entry into Nepal in 1964 to protect the Tibetan refugees but by 1973 the UN office had stopped its Nepal operations concluding that the Tibetans were self-sufficient (USEK 1974, p. 1; TJC 2002). In due course, the US also engaged in training more and more Tibetan refugees to enhance the capacity of the Khampa resistance army. It is estimated that the US army trained at least 300 Tibetans by taking them to the US. In all these engagements with the Tibetans, the US intention “was to keep the Chinese occupied somehow” as Sam Halpern, Former Executive Assistant of the CIA said in a documentary about CIA engagement in Tibet (Western Shugden Society 2013).

3.2.2. The refugee flight and the gentleman’s agreement

The journey of the Tibetans from Tibet to Nepal and then to India that began in the early 1990s and reached its climax in 1959 had never been easy. The journey is still referred to as a “dangerous crossing” (ICT 2009). The dangers were not only from the Chinese army but also from the Nepalese security forces along the Nepal-Tibet border and within Kathmandu and Pokhara where the Tibetans used to get settled after arrival in Nepal. The Nepalese security forces at times used to arrest, beat, rob and even deport some of the Tibetans whenever they were found (TJC 2002). Ever since the Chinese occupation of Tibet, Nepal was asked to be vigilant of the Tibetan dissidents and not to allow them to use Nepal’s territory for any anti-China activities. In response, Nepal has always maintained the one-China policy, which means Tibet and Taiwan are part of China and there are no Tibetan refugees, only illegal migrants.

This became a serious problem for the Tibetan refugees simply because the flight of Tibetans did not stop even after the mass exodus of 1959. According to the UNHCR, even today around 800 Tibetans continue to flee Tibet and enter Nepal every month. This means these newcomers need proper protection from the government of Nepal. However, since Nepal was always under pressure from China not to allow illegal Tibetan migrants cross the international border, the Tibetan asylum seekers’ rights were at stake and they were in a very vulnerable situation.

Despite all this, Nepal ended up supporting the Tibetans with asylum and safe transit and this was because US influence outweighed Chinese influence. A case in point is the cancelation of Chinese Premier Wen Jiabao's planned visit to Nepal scheduled for December 2011. The plan was cancelled partly because the Nepal government did not guarantee the Chinese side that it would prohibit the Tibetan refugees from staging any anti-Chinese protests (which they had planned) during Premier Wen's visit.³⁹ This not only shows how politically powerful the Tibetan refugees have been in Nepal but also how much Chinese pressure weighs against that of the US and Indian.

Thus it was not a big deal that the US played a key role in making Nepal commit to protecting the rights of the Tibetan dissidents once they somehow entered Nepal. Though Nepal has been giving asylum to Tibetan refugees and allowing some of them to wage armed rebellion from Mustang since the 1960s, it has occasionally responded to the refugees on an ad-hoc basis and in adherence to established principles. In order to make Nepal commit to standard protection of the refugees, the US government in December 31, 1989 forged an informal agreement, which came to be known as the Gentleman's Agreement, with the government of Nepal, UNHCR, US embassy and Tibetan government-in-exile in India. The agreement guaranteed that Nepal would respect the principle of non-refoulement by allowing Tibetans, who enter Nepal, a safe passage to India and by cooperating with the UNHCR (Smith, Pitts, & Franks, 2011). The agreement also outlined the basic procedures to process Tibetan refugees through Nepal's immigration system till they reached India safely. The Gentleman's Agreement was a big achievement on the part of the Tibetan refugees. It was the only agreement, though informal, to which the refugees and most often the US diplomats could refer when having to ask Nepal to respect the rights of the refugees. Since it was an informal agreement, made so to deflect Chinese pressure, it did not surface much in formal US documents but

³⁹ The incident is one of several caused by Tibetan refugees' political activities. Reports claim that a very plausible reason behind Chinese Premier cancelling his planned visit to Nepal is that "Nepal allegedly failed to convince the Chinese side that no Tibetan protests would take place in Kathmandu during Premier Wen's visit" (Giri 2011; *Telegraph Nepal* 2011). Instead, Nepal's then Minister of Foreign Affairs Bijaya Kumar Gachhadar, a pro-Indian politician, suggested that Premier Wen use a helicopter to travel to places he was scheduled to visit while in Nepal. Given such insincere responses from Nepal's officials and given Chinese perception that the number of Tibetan protests in Kathmandu had increased since Prime Minister Baburam Bhattarai, who is considered as pro-Indian, took office in August 2011(Giri 2011).

remained the main point of reference in most US officials' diplomatic correspondence and meetings with Nepali officials in Kathmandu and elsewhere [see for example the letter by US senators to PM (McGovern, Wolf & Pitts 2011)].

3.2.3. Changed US policy and the impact of Tibetan refugees in Nepal

The US has been taking an immense interest in the Tibetan refugees since the beginning of the crisis in the 1950s and there are a host of resolutions⁴⁰ including a separate Tibetan Policy Act passed by the US Congress and Senate to explain the same. It is therefore already an established fact that the US has been one of the important external powers that has been influencing the treatment of the Tibetan refugees in Nepal since their first exodus in early 1950s. Since the US response to the Tibetan refugees—if looked at it from the perspectives offered by Goodwin-Gill—was based more on its geo-political interests in the region and China than on humanitarian ones, any changes in the regional dynamics and the US political interests could bring about changes to the way the US

⁴⁰ Some of the major resolutions and legislations adopted by the US are: 1) Senate Resolution 356 urging China “to reverse Tibet policies in wake of self-immolations and shooting of Tibetans”; 2) Senate Resolution 2784 (S. 2784) that awarded a congressional gold medal to Tenzin Gyatso, the Fourteenth Dalai Lama, in recognition of his many enduring and outstanding contributions to peace, non-violence, human rights, and religious understanding, was considered, ordered to be engrossed for a third reading, read the third time, and passed; 3) Senate Resolution 483 “expressing the sense of the Senate regarding the detention of Tibetan political prisoners by the Government of the People's Republic of China”; 4) Senate Resolution 212 “welcoming His Holiness the Fourteenth Dalai Lama and recognising his commitment to non-violence, human rights, freedom, and democracy”; 5) House Resolution 157 “expressing the sense of the House of Representatives that the Government of the People's Republic of China should, as a gesture of goodwill and in order to promote human rights, immediately release all prisoners of conscience, including Phuntsog Nyidron”; 6) House Resolution 410 on the scheduled visit of Jiang Zemin, President of the People's Republic of China to the United States in October of 2002; 7) House Resolution 476 “expressing the sense of the House of Representatives regarding several individuals who are being held as prisoners of conscience by the Chinese Government for their involvement in efforts to end the Chinese occupation of Tibet”; 8) Senate Resolution 252 “expressing the sense of the Senate regarding human rights violations in Tibet, the Panchen Lama, and the need for dialogue between the Chinese leadership and the Dalai Lama or his representatives”; 9) House Resolution 357 “expressing the sense of the House of Representatives regarding the recognition of the authorities of Tibet who are currently exiled in Dharamsala, India, as the legitimate representatives of Tibet”; 10) House Resolution 1646: Tibetan Policy Act of 2002, and other provisions contained in Title VI of the Foreign Relations Authorization Act, Fiscal Year 2003; 11) House Resolution 1779: The Tibetan Policy Act of 2001 “as introduced in the U.S. House of Representatives to support the aspirations of the Tibetan people to safeguard their distinct identity”; 12) House Resolution 4444: Permanent Normal Trade Relations With China “to authorise extension of non-discriminatory treatment (normal trade relations treatment) to the People's Republic of China, and to establish a framework for relations between the United States and the People's Republic of China”; 13) Senate Resolution 60: 41st Anniversary of the Lhasa Uprising “recognising the plight of the Tibetan people on the forty-first anniversary of Tibet's 1959 Lhasa uprising and calling for serious negotiations between China and the Dalai Lama to achieve a peaceful solution to the situation in Tibet”; 14) House Resolution 389 “expressing the sense of the House of Representatives with respect to a dialog between the People's Republic of China and Tibet; 15) House Concurrent Resolution 156 “expressing the sense of Congress supporting World Tibet Day”; and 16) Senate Concurrent Resolution 103 “expressing the sense of the Congress in support of the recommendations of the International Commission of Jurists on Tibet and on United States policy with regard to Tibet” (INPaT 2013).

responds to the refugees in Nepal. Likewise, changes in US-China relations become visible in the way the US responds to the Tibetan refugee crisis.

What is worth noting here is how the changing US-China relations in the 1970s affected the US's response to the Tibetan refugees in Nepal. Before US President Richard Nixon took office, the US had been taking a very different approach to communist countries. It was during President Dwight Eisenhower's administration that the US adopted a special National Security Directive which stated that the monolithic communism was "a global danger and that had to be opposed by the United States using covert means" (Roberts & Roberts 2009, p.155). The Eisenhower directive was intact when Nixon was running for the 1968 presidential elections. The US covert engagement in Tibetan refugees armed resistance from Nepal was in line with that US policy. However, when Richard Nixon took office, things changed. Nixon believed that there was no fundamental difference between the United States and China and both could develop a friendly relationship (p. 146). Nixon planned to make an official visit to China in 1972 and directed all state agencies, including the CIA to prepare for the visit. The new focus on China was more strategic and the Nixon administration needed to disassociate the US from all Tibetan issues to ease relations with China. Before Nixon could start formal negotiations with China, the US covert support to the Tibetan refugees in Nepal had to stop. To this end, the US stopped funding the Khampas in Nepal, the then Nepalese King Mahendra and the Tibetan government-in-exile in India. This was a measured step taken by the US as Roberts and Roberts (2009) write:

The government of the United States had used the Tibetans for its own purposes when it believed that Russia and China were allied against it. Now that the United States was playing China against Russia, it no longer needed the Tibetans.

Unceremoniously, the political establishment washed its hands of the superfluous Tibetans. (p.158)

The sudden change in US behaviour made the Tibetan refugees feel betrayed and a majority of the Tibetan guerrillas refused to disarm despite the clear message from the CIA that it was winding down its support. Shortly after this the US also started working with the Nepal government in disarming the Tibetan fighters. It was almost unthinkable

for Tibetan fighters to antagonize and fight against Nepal's army while thousands of fellow Tibetan refugees were sheltering in Nepal and had been doing so for many years. Most of the Khampas surrendered their arms responding to Nepal government's ultimatum to give up arms and live peaceful lives. The US, however, did help in the resettlement of the Khampas in Nepal (USEK 1974b). Having almost completely disarmed the Tibetan fighters, US President Richard Nixon visited China in 1972 and that was the start of a new era in US-China relations.

In making Nixon's China bid successful, the Tibetan refugees had to suffer and the Nepal Government had to change the way it had been treating the Tibetans. Roberts and Roberts describe how the US influenced Nepal's treatment of the Tibetan refugees:

In 1972, King Mahendra of Nepal died. His policy toward the Tibetan fighters in the neighbouring kingdom of Mustang had been one of benign neglect, at least so long as the CIA station in Kathmandu kept him on the payroll. Even when the Tibetan fighters created trouble for their neighbors by pillaging or looting livestock, Mahendra downplayed the incidents. (Roberts & Roberts 2009, p. 155)

After Mahendra's death, Prince Birendra became the King of Nepal. As young King Birendra was aware of Nixon's trip to China and that the US was trying to improve its relations with the communist country, he decided to follow suit. "If the United States was cozying up to Mao, it made sense for Nepal to follow suit" (Roberts & Roberts 2009). Thus in 1973, the new king opted for disarming the Khampa rebels by deploying the army, which US officials closely observed from Kathmandu.

Perhaps not by coincidence, that same year (1973) the UNHCR, that had been assisting the Tibetan refugees since 1964, stopped all operation and packed up office in Kathmandu (TJC 2002). The reason the UNHCR provided was that the Tibetan refugees were better off and needed no further support from the UN agency (USEK 1974d). Without UNHCR support and without favourable pressure from the US on the Nepal government, the situation of the Tibetan refugees in Nepal deteriorated in the years following the Khampa disarmament.

3.2.4. The Indian influence

Indian influence with regards to the Tibetan refugees in Nepal is intrinsically linked with the treatment of the Tibetans in India. Historical evidence shows that the assurance of Indian Prime Minister Jawaharlal Nehru to grant asylum to the Dalai Lama was the first clear political statement made by India on the Tibet issue and the Indian decision was a huge relief to the Tibetans who were looking for a safe and secure place to take refuge. Upholding its time-honoured tradition Nepal respected India's position on the Tibetan refugees by not playing a conflicting role in the matter. This compulsion of Nepal to respect Indian interests comes from the fact that as a tiny, landlocked and highly impoverished country Nepal relies heavily on India for keeping its economy afloat. This situation allows India to exercise, whenever necessary, a very high level of influence over affairs in Nepal (Graver 1991, p. 974; Wong 2013).⁴¹ The US does accept India's stake in Nepal and to some extent, China also seems to understand this reality (Graver 1991) as it has also acquiesced to some of India's actions in Nepal, such as the sanctions and economic blockade that India imposed on Nepal in 1998.

With this backdrop, Nepal could hardly remain uninfluenced or go against Indian policy or interests concerning the Tibetan refugees. The Tibetan refugees have served rather as a bargaining chip for India and this chip is believed to counterbalance China's potential role in Kashmir (Sikri 2011). From an Indian perspective, it is generally argued that "it would be politically suicidal for any Indian government to give China satisfaction on Tibet without getting a quad pro quo from China on Indian's concerns about China's policy on Pakistan and its stand on Jammu and Kashmir" (Sikri 2011, p. 66).

⁴¹ Nepal has been acquiescing relatively greater influence of India not only as part of tradition but also in some formal agreements and treaties. For example, Article 4 of the Nepal-India Friendship Treaty (1950), which still remains fully active, states that Nepal would be able to import arms and ammunition only "from or through" India. A breach of which in 1988 by King Birendra -- when he purchased arms from China -- cost Nepal very dearly with India imposing strict economic sanctions and blockade to Nepal (Graver 1991, p. 960).

Given this politically balanced role⁴² India has been playing with regards to the Tibetans, Nepal has no other option than to follow Indian policy. This has been visible in Nepal's treatment of the Tibetan refugees in its territory.

In the 1950s, when Tibetans started fleeing to Nepal and India, Nepal followed India's lead by providing Tibetans with safe shelter. Subsequently, India and the US managed to get Nepal on board in carrying out their collaborated covert operations in Mustang against Chinese forces in Tibet (Aryal 2004). Had it not been for Indian influence, Nepal would have hardly permitted the covert operations given the risks involved, such as the risk of antagonizing China. In fact, the combined US and Indian influence keeps Nepal from being guided by Chinese influence. In this context, it makes sense that Nepal is keeping its allegiance to the 'gentleman's agreement' for the good of the Tibetan refugees despite China's pressure to crack down on Tibetan refugees.

Given these realities, Indian influence is arguably very significant when it comes to the treatment of Tibetan refugees in Nepal. Nonetheless, unlike with Bhutanese refugees, Indian influence with regards to the treatment of Tibetan refugees in Nepal seems less direct compared to that of the US.

⁴² India does have clear political interests in Tibetan refugees at a strategic level but that does not motivate India to support the Tibetan cause at the cost of its relationship with China (Tibetan Parliamentary and Policy Research Centre 2006, p. 24).

CHAPTER 4: LOCATING DURABLE SOLUTIONS

As laid out earlier in Chapter 2, this chapter focuses on the second major task of the research—the analysis of US and Indian influences in terms of locating durable solutions for the two refugee communities. Structured in the following two chapters (one on the Bhutanese refugees and the other on the Tibetans) are the discussions centred around the geopolitics that affected the choice of solutions proposed and implemented, for example the US push for third-country resettlement for Bhutanese refugees and the general lack of motivation in the resettlement of Tibetan refugees.

4. Treatment of the refugees in terms of finding durable solutions

When it comes to finding durable solutions for refugees in Nepal, what puzzles is the fact that while there is no durable solution in sight for Tibetan refugees who have been living there for over 50 years now, Bhutanese refugees were selected for third-country resettlement (in 2006) barely 16 years since they first fled Bhutan. Equally puzzling is the fact that the Bhutanese refugee resettlement program was a success despite serious objections from a sizable number of refugees, the resettlement of Tibetan refugees remains in limbo despite the community's desire and demand for resettlement.

In addressing these puzzles, this chapter explores the refugees' situation in the existing geopolitical context and how external powers – the US and India – have influenced the whole process based on their own geopolitical interests. The analysis of the politics behind the durable solutions discourse concerning the two refugee communities in Nepal is crucial in exploring and tracing the continuity of the very differential treatment of the refugees discussed in Chapter 3.

Developed in 2003, the UNHCR's Framework for Durable Solutions elaborates three major options for the refugees: repatriation, local integration and third-country resettlement (UNHCR 2013, p. 5). The UNHCR has set up clear procedures, e.g. handbooks, on each of these three durable solutions to make sure that the refugees get equitable treatment based on their needs and situations and that all these interventions are humanitarian. However, as observed by Goodman-Gill's theory discussed in Chapter 2,

the application of these durable solutions is, by default, guided not by humanitarian principles but by states' political and strategic interests (Goodwin-Gill 2008). The cases of the Bhutanese refugees, who have been undergoing a large-scale third-country resettlement, and the Tibetan refugees, for whom no durable solution has been found thus far, are suitable examples to study to assess whether interventions have been carried out in the interests of the refugees or in the interests of the states and how that has directly impacted the refugees on the ground.

4.1. Durable solutions for the Bhutanese refugees

The Bhutanese refugee community is among the few first refugee groups in the world to benefit from the UNHCR's durable solutions program. Though the UNHCR is the central body that operationalises the resettlement program in collaboration with consulting the International Organization of Immigration (IOM), the US government played a lead role in formulating and implementing the resettlement program for Bhutanese refugees in Nepal since its inception in 2006 (Bureau of Population, Refugee and Migration 2013; *The Economists* 2009). Under the resettlement program, as of April 26, 2013, 80,000 of the total 108,000 Bhutanese refugees have resettled in the US, Canada, Australia and other developed countries (UNHCR Nepal 2013). Only 38,100 now remain in camps in Nepal as the resettlement program continues.

4.1.1. Establishing resettlement as the 'durable solution'

After 15 rounds of Nepal-Bhutan bilateral talks (from 1993 to 2003) failed to find any solution for the repatriation of Bhutanese refugees, there were increasing calls—though similar calls had been made since the beginning of their flight—from within the Bhutanese refugee community, human rights organizations and individual researchers, for greater engagement from the international community, including the United Nations and the Indian government to help resolve the crisis in the interests of the refugees, who always hoped to return home eventually (Chandrasekharan 2003; Stein 2004, p. 179; HRW 2003b; Refugee International 2007, p. 2; and Dhakal 2007). The failed Nepal-Bhutan bilateral talks on repatriation and the impossibility of local integration in Nepal due to both the refugees' and Nepal government's reluctance did not, however,

immediately prompt the refugees, the host country and the international community to consider third-country resettlement as the solution. The Bhutanese refugees were still fighting for repatriation, the international community was yet to come up with any such durable solution and the Indian government was refusing any role, terming the refugee crisis a bilateral issue between Nepal and Bhutan. Furthermore, the Nepal government, much in line with the wishes of the refugees, had been firm on its policy to prioritize repatriation as the only durable solution.

As a result, from October 2003, the date when the Nepal-Bhutan bilateral talks fell apart, till late 2006, there was no progress in resolving the refugee crisis and the refugees continued with their struggle demanding a dignified return to Bhutan. However, in late 2006, the US came up with a proposal of a durable solution for the Bhutanese refugees, which was the proposal for mass resettlement of the refugees in the United States. The US interests in the Bhutanese refugees and this proposal came as a surprise to many and some were even angered by the US proposal:

Instead of pressuring Bhutan through (South Asia's superpower) India, they say 'we want to take you to America'...Knowingly or unknowingly the U.S. is helping the terrorist government in Bhutan. (Logan 2006, para. 3)

It was in late 2006 that the US identified the Bhutanese refugees as one of the six “protracted refugee situations” on its priority list, which does not include the Tibetan refugees (Bureau of Population, Refugee and Migration 2013).

The US proposal came at a time when repeated attempts by the refugees to return to Bhutan had failed as the Indian security forces were denying the refugees permission to cross the Nepal-India border. The refugees had a plan to travel back to Thimpu to meet the Bhutan king and submit a memorandum demanding their rights be respected. A successful journey by the Bhutanese refugees to Bhutan would have potentially pushed the political struggle of the refugees to the next level and at the same time helped them highlight their justifiable demands for democracy and other important human rights issues that Bhutan has been able to downplay.

Given these circumstances, what is worth pointing out here is how the US proposal for mass resettlement of the refugees brought about a huge change in the camp dynamics (which is discussed later in the next section) and also in the Nepal government's position. Since the beginning, Nepal was for repatriation but with the US proposal, things were changing and finally Nepal changed its position on the Bhutanese refugee crisis by accepting the US proposal, which went directly against Nepal's long held position that supported repatriation (MoFA 2013).

As evidenced by its efforts to bring Bhutan to talks, which lasted 15 rounds without reaching any final agreement, Nepal was favourable for repatriation as the officials in Kathmandu saw it was more important for Nepal to recognize and fulfil its responsibility to hold the Royal Government of Bhutan accountable for the forceful eviction of its [Bhutan's] citizens (USEK 2007, para. 9). However, after the US proposal, the government of Nepal in October 2006 granted permission to the Bhutanese refugees to seek resettlement in a third country (USDS 2007, Section d) and as of April 26, 2013 a total of 80,000 refugees were resettled in the US and other countries (UNHCR 2013). The government had assured the US officials of granting such permission to some extremely vulnerable refugees in September 2006 (USDS 2006).⁴³

What is, however, worth noting here is whether or not the treatment of the refugees, in terms of prescribing the durable solution, has been based on the humanitarian principles and according to the clearly spelled out policy of the US government. US policy documents on refugees state that "ameliorating protracted refugee situations is its "foreign policy goal" and a "humanitarian priority" and it selects the refugees for resettlements based on "the extent of deprivation among the populations, and on the U.S. government's capacity to make a positive difference" (Bureau of Population, Refugee and Migration 2013).

⁴³ The 2006 US Department of State Human Rights Report of Nepal states "in September the government agreed to allow 16 extremely vulnerable Bhutanese refugees to leave the country for resettlement abroad. At year's end, the government had only allowed three of these refugees to leave."

This policy, however, does not seem to guide the US treatment of the Bhutanese and the Tibetan refugees. For example, the Tibetans should have been prioritized for third-country resettlement for the simple reason that their situation is far more protracted than that of the Bhutanese. Similarly, if the “extent of deprivation among the refugees” are to be taken into account, the Tibetan refugees, just like the Bhutanese, are considered equally “deserving” and “eligible” given the violation of human rights they are suffering, their protracted situation of statelessness and uncertainty of repatriation (see reports TJC 2002; USDS 2009a). Moreover, if the US State Department’s annual human rights reports are anything to go by, the situation of Tibetan refugees and their deprivation seems to concern the US the most—thus making them equally eligible and deserving candidates for the resettlement. The greater interests and emphasis put on the resettlement of the Bhutanese refugees by the US conflicts with its own (State Department’s) concerns that the Tibetan refugees are more vulnerable and deprived of many rights compared to the Bhutanese refugees in Nepal (USDS 2009a, section d). The State Department’s report describes that the Bhutanese refugees have less problems and their conditions in the camp are excellent:

The UNHCR monitors the condition of the Bhutanese refugees and provides for their basic needs. The Government accepts the refugee presence as temporary, on humanitarian grounds, but offers little more than a place to stay. The Government officially restricts refugee freedom of movement and work, but does not strictly enforce its policies. Visitors to the camps universally describe conditions as excellent. (USDS 2000)

In yet another report (USDS 1999), it is claimed that the “living conditions in the camps have improved “dramatically” since 1992. If one compares this situation of the Bhutanese refugees with that of the Tibetan refugees in Nepal, it is hard to explain why the former would be selected for mass resettlement despite strong opposition to the plan from a significant part of the refugee population. At the same time another question worth exploring is why Tibetan refugees would not be on the priority list for third-country resettlement despite their unequivocal desire to be resettled (TJC 2002, p. 2).

Now what better explains the US's behavior towards the Bhutanese refugees here is their underlying geopolitical interests, as theorists like Goodwin-Gill (2008), Loescher (2001) and Ferris (1993) claimed. The US pushed for resettlement of the Bhutanese and not the Tibetans not because the former appeared more willing or deserving than the latter but because it met US interests, which, as discussed in Chapter 2, were to help India and Bhutan get rid of the Bhutanese refugees to diffuse "regional tension" (USDS 2012a, p. 3) and support the Tibetans fight to free Tibet (Goldstein 2006; Roberts & Roberts 2009).

4.1.2. The Indian influence

Unlike US influence, Indian influence in finding solutions to the Bhutanese refugee crisis is not direct and visible. However, there are some actions that India has taken which indirectly influenced the treatment of the Bhutanese refugees in Nepal. Furthermore, India's acts in breach of established norms have significantly affected the durable solutions discourse in Nepal. For example, Indian government's disregard of the principle of non-refoulement by denying asylum to the Bhutanese during their first flights and its continuity of a relatively unsympathetic policy towards the Bhutanese directly limited the refugees' choices in Nepal.

A Human Rights Watch study indicated that India had a significant influence in the treatment of the Bhutanese in that it discouraged repatriation⁴⁴ and allowed "none of the residents of Khudunabari camp [...] to return to Bhutan" (Ridderbos 2007, p. 42). As discussed in Chapter 2 and 3, India's refusal to allow a way for the Bhutanese refugees to return to Bhutan was guided by India's geo-strategic interest in helping Bhutan get rid of the Lhotsampas so that it could continue to benefit from a pliant monarchy (Dixit 1992;

⁴⁴ A 2007 Human Rights Watch report reveals, for example, how a Bhutanese Ambassador to India openly argued that before any of the refugees could be repatriated, the Bhutanese authorities would have to process them individually, in effect subjecting them to re-verification – irrespective of the fact that they were verified by the Nepal-Bhutan joint verification team as bona fide Bhutanese (Human Rights Watch interview with Ambassador Dago Tshering, Ambassador of the Kingdom of Bhutan to India, Nepal and Japan, New Delhi, India, November 24, 2006 as cited in Ridderbos 2007).

Rizal 2010). The condition put the Bhutanese refugees in a real trap⁴⁵ by blocking their way back. Trapped in Nepal, the refugees could not have regular interaction and communication with their fellow citizens who were still in Bhutan and also lost the relative benefit of geographic proximity, which they would have enjoyed had they been allowed to move up to Bhutan or stay near the Bhutan-India border.

In a way, the Indian move actually limited the prospects for local political mobilization of the refugees, which could have provided the Bhutanese refugees with more power and leverage to push forward their agenda. The distance and the resulting disconnection between the refugees in Nepal and their fellow citizens in Bhutan made it almost impossible for the refugees to create opinion and mobilize people within Bhutan in favour of democratic political reforms as well as repatriation of the evicted population. The difficulties in local political mobilization not only aided Bhutan by keeping the unwanted population at a distance but also gave the resettlement countries an opportunity to write off repatriation as one of the available durable solutions, thus giving them a good reason to justify their move towards resettlement as the only available solution.

India's role becomes increasingly more evident if one compares it to its more sympathetic response to the flow of Tibetan refugees from Nepal to India.⁴⁶ Similar treatment of the Bhutanese by India would have completely changed the Bhutanese refugee crisis.

Similarly, Indian influence, though indirect, in finding durable solutions also stems from its longstanding hegemony in Nepal. Given the geopolitical reality, the Indian position against repatriation of the Bhutanese inevitably influences the treatment of the same

⁴⁵ The trap, as discussed in detail in Chapter 3, was a situation created by India's strategically motivated move to block the refugees' return to Bhutan but it also significantly influenced and shaped the process of finding durable solutions. Historical evidence show how India created the trap: "During the first week of [January 1996], Indian security forces arrested numerous Bhutanese Nepalis when they attempted to cross the Nepal-India border. India asserts that it will not allow its territory to be used for any anti-Bhutan movement. The [Bhutanese refugees], who have been residing in refugee camps in Nepal, were undertaking a protest march to Bhutan in order to press for their repatriation and for democratisation in the small kingdom. Over 90 Bhutanese were arrested while others were sent back to Nepal over two days. A small stretch of Indian territory separates Nepal and Bhutan (see Minorities at Risk Project 2004).

⁴⁶ In sharp contrast to its treatment of the Bhutanese fleeing their country and the Bhutanese refugees trying to return to Bhutan from Nepal, India has not obstructed the Tibetan refugees living in Nepal from entering India.

refugees in Nepal for the simple reason that Nepal can hardly continue to maintain its stand (repatriation as first priority) that conflicts with India's interests. This could be understood in the actual geopolitical context in which India finds it strategically beneficial to ignore the "ethnic cleansing" (Rizal 2010) in Bhutan not only to support the pliant Bhutanese monarch but also to ward off its perceived fear of the ethnic Nepali minority creating a greater nation-state of their own:

Both Nepal and Bhutan (whose foreign and security policies are determined by India based on a 1949 agreement) are within the Indian sphere of influence. Although dissidents say Indian support is crucial, New Delhi has not pressed [Bhutan King] Wangchuck to institute political reforms. The reason could be Delhi's shared fear about a "Greater Nepal" bringing together close to 30 million Nepali speakers in the Himalayas—20 million in Nepal, over 8 million inside Indian borders and the rest in Bhutan. (University of Maryland 2009, para. 10)

Given these realities, both India's action or inaction would influence the process of seeking durable solutions for the Bhutanese refugees in Nepal. Thus India's silence over the US-led resettlement—with its refusal to engage in Nepal-Bhutan talks,⁴⁷ and its blocking of the refugees from their return to Bhutan—was in itself a sign of silent agreement. India, thus, despite being a relatively discreet player, influenced the way the Bhutanese refugees were treated in Nepal in course of finding durable solutions.

4.1.3. US influence in changing Nepal's policy towards the Bhutanese refugees

Nepal's immigration laws that deal with refugees, mainly the Foreigners Act 1958, Immigration Act 1992 and some administrative directives, maintain that no foreigner shall be allowed to enter or exit Nepal without proper documentation, e. g. passports or any other kind of identity recognized by the law (Immigration Act 1992). When the Bhutanese refugees were selected for third-country resettlement, the US requested that Nepal fast-forward or skip procedures such as the need for issuing travel documents and exit permits, to allow the selected refugees to leave Nepal. Responding to the US request,

⁴⁷ Indian Prime Minister P.V. Rao has advised Nepal and Bhutan to resolve the issue of Bhutanese refugees in Nepal bilaterally and in the spirit of good neighborliness. The two governments had asked India to help mediate their dispute (BBC, 01/17/95) (University of Maryland 2009).

the government of Nepal agreed to exempt the Bhutanese from the lengthy processes required by the law to help execute the resettlement program for the Bhutanese refugees.

This change in the process of obtaining exit permits comes after long negotiations and pressure from US diplomats. These diplomats requested high-level Nepal government officials “to consider exempting the Bhutanese refugees from the Nepali regulation that required a travel document before issuance of exit permits (US Embassy in Kathmandu 2007).” The US Embassy officials’ lobbying with the Nepali counterparts was influential in that “the [Nepal Government] attendees agreed that the current process needed to be streamlined and planned to review their exit permit procedures in coming weeks” (US Embassy in Kathmandu 2007) and which finally led to exemption of the refugees from the Nepali regulations. Thus, it is more than evident that it was “in response to pressure from resettlement States, that the Government of Nepal agreed to allow the US to resettle 16 Bhutanese refugees” (World Refugee Survey 2007, p. 94) though it took some time to allow them to leave the country.

The US influence was so strong that Nepal had to forego its earlier interests to hold the Royal Government of Bhutan responsible for forcefully evicting its citizens. In one of the diplomatic correspondences, the US diplomats acknowledge that Nepal’s interests conflicted with that of the US:

“In April 26, Foreign Ministry Joint Secretary for UN Affairs Dinesh Bhattarai emphasized GON interest in holding [Bhutan] accountable for evicting its citizens and ensuring that at least a small number could repatriate to Bhutan” (USEK 2007, para. 9).

However, when the US continued pushing for the resettlement program, Nepal government officials acquiesced in the US-proposed solution. Nepal’s discomfort in accepting the US proposal was visible later in its statements issued after the program was successfully launched. Nepal’s Ministry of Foreign Affairs, for example, lauded the success of the resettlement program while also stressing that:

“[Nepal] has consistently maintained that the third country settlement is not a panacea for the permanent resolution of the problem; it is just a palliative

measure. All Bhutanese refugees have their inalienable right to return to their homeland with honour and dignity” (MoFA 2013).

This confirms that Nepal’s interests had been in repatriation, and not in resettlement. The surprising changes in Nepal’s priorities when it came to finding durable solutions for the Bhutanese refugees could thus be attributed to the continued engagement of the US.

These decisions of the Nepal government in handling the case of the Bhutanese refugees indicate that the US has been influencing not only the larger decisions of a sovereign state in finding durable solutions for the refugees but it has also been making its meaningful presence in the field in streamlining each and every step of the procedures that are crucial to successful implementation of the plan that is pushed for.

4.1.4. Information campaign as method of influencing resettlement

“An effective information campaign on resettlement will be critical in preventing pro-repatriation groups in the camps from gaining momentum,” US Embassy in Kathmandu in its briefing on the Bhutanese refugee resettlement program to the Secretary of State in Washington DC (USEK 2007, Para 9).

The information campaigns on the refugee resettlement programme launched by the UNHCR and the US in the Bhutanese refugee camps constitute an important part of the durable solutions discourse which exhibit how US influence is operationalised on the ground.

The campaigns were launched after the US proposal on resettlement sparked serious division and conflict among the refugees that threatened to put the whole resettlement project into jeopardy. This was one of the biggest problems facing the resettlement project. While the pro-resettlement group was motivated by the prospects of a new life in a new land, the anti-resettlement group had two major reasons to oppose the resettlement proposal.

Firstly, a significant number of refugees thought that opting for resettlement would “sap energy from activism for repatriation, and also reduce the numbers fighting for democratisation should the door back to Bhutan be opened” (Dixit 2007, p. 28). The refugees, who were already distanced because of India’s refusal to grant them asylum near the India-Bhutan border, feared that the mass resettlement of their fellow refugees to different third countries would make local mobilization even more difficult.

Secondly, the refugees had little information about the resettlement plan: where would they be taken? How would they be settled? What about the culture, the environment, and other important factors they would face when starting a new life? In the meantime, many rumours were spread in the refugee camps that created a fear of resettlement among the refugees.⁴⁸

Given these realities, countries interested in resettlement (the US and others) realized that the problem could be solved through an “information campaign” in the camps so that more and more refugees would support the resettlement plan and the anti-resettlement voices would not prove strong enough to pose a problem when executing the program safely.

This observation by resettlement countries, including the US, led them to launch massive media and information campaigns both inside and outside the refugee camps. While the UNHCR started its own, the US was also engaged in a separate information campaign in the camps. The Nepal government permitted both the US and the UNHCR to launch the campaigns in the refugee camps.

⁴⁸ Dixit (2007) explains the rumours in one of his articles: “Muna Giri, a young woman from Beldangi II who organises a women’s discussion group in a children’s library in the camp, laughs as she recounts some of the rumours that are circulating among the camp population: “They say that in America, if you get very sick they give you an injection and put you to sleep for good.” Krishna Maya Basnet, a feisty 79-year-old, chimes in: “They say that we’ll be made into fish feed. Well, let us be fish feed rather than stay here, where we don’t have firewood to feed ourselves!” In late May, allegedly fake emails were circulating in the camps in which some of the refugees already resettled in the US and Canada (an initial ‘test group’ of 18 refugees were resettled last autumn) were said to be complaining of conditions in the resettlement countries and opposing resettlement.”

The media campaign and the in-camp information campaign were able to clear the myths surrounding the resettlement program and thus garner huge support from the refugees. But what is worth noting here is the information campaign was more than just an information campaign. The deeply divided refugee community was overwhelmed with one-sided information, which empowered some refugees (the pro-settlement group) at the expense of the others (the anti-resettlement group). After the information campaign, it was said that an overwhelming number of refugees voluntarily chose resettlement, but given the context of that particular time, it was more a choice made in the absence of other options or in the presence of a disproportionately high level of information promoting resettlement.

Thus, the information campaigns had a direct impact on the camp dynamics and the politics therein. The campaigns thus clearly show how the US not only influenced the treatment of the refugees during implementation of the durable solutions but also how it shaped the whole process.

4.1.5. Influence in the name of security

Much like the information campaigns, the decision to strengthen security of the refugee camps following the rivalry created between the pro- and anti-resettlement groups is another situation where one can see the US influence at work. When rivalry between the two groups began turning violent as each of the groups started using threats, coercion and other violent means to push forward their agenda, there was a call for stricter police intervention to ensure camp security. It is worth mentioning here that while expressing concerns for worsening security conditions in the camps, the UNHCR, the pro-resettlement refugee group, the US (through its annual human rights reports⁴⁹) and actors in support of third country resettlement, mainly blamed the anti-resettlement groups for the violence (Abraham 2007, p. 1; USDS 2007, section d; USDS 2008, section d.). For example, the issue of security was the major issue raised consistently in most of the annual human rights reports on Nepal issued by the US Department of State after 2007:

⁴⁹ US State Department's Human Rights reports of Nepal prepared after the US proposed resettlement of the Bhutanese refugees highlights security problem in the camps (see USDS 2007, section d., USDS 2008, section d.).

Security was a problem in the camps through most of the year, both due to criminal elements in the camps and residual, although gradually fading political disputes among the refugees over third-country resettlement. The security situation improved during the year, principally as a result of increased government attention to security in the camps. (USDS 2008)

It soon became clear that the anti-resettlement group was creating problems as they were violating other refugee's right to free choice. What further necessitated action against the anti-resettlement group was that some of the radicalised youth within the groups reportedly joined the underground Maoist party – the Bhutan Communist Party (Marxist-Leninist-Maoist).

Thus, the worsening violence in the camps not only led to vilification and increased police scrutiny of the anti-resettlement advocates but also brought about a sense of urgency to fast-forward the resettlement program to prevent conditions from further deteriorating. At this point, UNHCR Nepal chief Abraham Abraham also thought “the longer the refugees stay in the camps [...] the more frustration will build – the greater the social ills, the greater the animosity. As numbers start leaving, hopefully the social problems will decline” (Abraham in Dixit 2007).

However, according to some refugee leaders, the increased focus on security to ensure immediate start of the resettlement program unfairly targeted only the anti-resettlement groups, who were perceived as the main problem. At this, Tek Nath Rijal, the Bhutanese refugee who has been struggling for democracy in Bhutan and repatriation of the refugees, was of the perception that “the international community is just giving pressure to exiled Bhutanese to opt third country settlement” (Rijal 2007, *The Bhutan Reporter*, Monthly Oct, p 4). Some also argue that the camp security was threatened not only by the “radicalised youth who claim to oppose resettlement” but also increasingly by other criminal elements and infiltration of the Maoists guerrillas who later in 2006 signed a peace accord with the government of Nepal (Dixit 2007). During the ten-year long war (1996-2006), the Maoists had made the refugee camps a safe haven and also provided

some refugee youth with arms training. Dixit (2007) argues that “the Bhutan Communist Party (Marxist-Leninist-Maoist), founded in early 2003, is believed to have grown out of this socialisation”. Furthermore, there were pent up frustrations among the refugees, as they had been living an uncertain life since early 1990 braving frequent ration cuts (DPA 2009) and uncertainty of support from donors. Under these circumstances, the overcrowded refugee settlements brewed conflict as the refugees, who were restricted to work outside, struggled with hand-to-mouth problems. All these factors contributed to increasing conflicts and crimes within the refugee camps.

However, when all these factors were causing clashes in the camps, pressure mounted on the government of Nepal to ensure camp security by mainly policing the anti-resettlement group’s activities. The government responded with increasing police personnel, restricting political activities and protest rallies in and around camps and taking action against those who reportedly disturbed peace in the camps.

The security situation of the camps was reported to have been “improved” (USDS 2009a) after a) the UNHCR and US launched information campaigns in the refugee camps, b) a majority of the refugees signed up for the resettlement program, and 3) the UNHCR and International Organisation of Migration successfully launched the resettlement process. The US Department of State report in 2009 acknowledges “the security situation in the camps improved as a result of the government’s continued security presence in the camps.” The US State Department annual human rights report further States, “An option of third-country resettlement diminished support among the Bhutanese refugees for the small but radical anti-resettlement groups previously active in the camps” (USDS 2009a). This was at a time when the anti-resettlement group was the minority and thus losing momentum.

The analysis shows that improvement of the security situation has been somewhat associated with the weakening of the pro-settlement group. Nepal’s security forces’ increasing vigilance in the camp curtailed political activities of the disgruntled pro-repatriation group, which resulted in a relatively peaceful camp environment. The

emphasis on security thus succeeded in creating an environment where the advocates of repatriation could not mobilise, whereas the massive media and information campaign on resettlement helped garner larger acceptance of the US proposal from the refugees. At the same time, there was a one-way flow of information to the refugees. This process would not have been possible without the strategic emphasis and pressure from US diplomats and the reports they published in the years following 2007, when the resettlement program began. Thus, the camp security issue was one that helped the US legitimately influence the process of implementing the resettlement program on the ground.

In a nutshell, motivated by its strategic interests, the US was thus able to influence the process of finding and implementing durable solutions for the Bhutanese refugees by first floating the proposal and then urging Nepal to change its stand on repatriation and push for resettlement instead, influencing necessary changes in Nepal's immigration procedures, building opinion within the refugee camps in favour of resettlement through information campaigns and securitisation of camp politics. This very energy and motivation that the US demonstrated in pushing forward the resettlement plan for the Bhutanese, however, fails to be seen when it comes to the Tibetan refugees – for they serve a different political interest for both India and the US viz-a-viz China.

4.2. Whither durable solution to the Tibetan refugees?

The history of the Tibetan refugees shows that in the early years of their flight, they were encouraged by the US and India to fight against Chinese forces in Tibet (Goldstein 2006; Roberts & Roberts 2009). In later years, unlike with the Bhutanese refugees, the international community continued to show further concern ensuring the safe flight and transit of the Tibetans by setting up informal arrangements like the “gentleman's agreement” for protection of Tibetans in Nepal (TJC 2002; Camp 2005) rather than finding durable solutions. Tibetan refugees thus continued to be sidestepped when it came to finding durable solutions and there is no solution in sight even today, while the Bhutanese refugees, who fled their homes more than three decades later received third-country resettlement. What made this happen? The sections below explain this puzzle.

4.2.1. Eligibility of Tibetan refugees for resettlement

The situation of the Tibetan refugees as described in numerous reports by government and non-governmental organisations, donors and NGOs, show⁵⁰ that they are as equally eligible for third country resettlement as Bhutanese refugees are. However, after over 50 years since some of the first groups of Tibetan refugees entered Nepal there is still no durable solution—e.g. third-country resettlement, local integration or repatriation—in sight. It still seems very unlikely that the Tibetan refugees will ever be integrated locally in Nepal and get Nepali citizenship though a nominal number of refugees have acquired Nepalese citizenships and passports through illegal means (TJC 2002; ICT 2011, p. 60). In general, as discussed in Chapter 3, the government of Nepal does not issue Nepali citizenship to Tibetans and because of the complex bureaucratic procedures the Tibetans are not motivated to apply for the citizenship though they are “theoretically” eligible for it (International Observatory on Statelessness 2013; TJC 2002). There has not been any official census of the Tibetan refugees to ascertain their exact number, which is said to be around 20,000 and the government of Nepal continues to reject any possibility for their integration in Nepal. What is extraordinary, however, is that Nepal continues to facilitate the flight of Tibetan refugees from Tibet into Nepal and then to India.

Similarly, regarding resettlement, though there are some exceptional individual cases of Tibetan refugees getting permanent third-country resettlement in the US and other countries, Tibetan refugees at large remain off the priority list of resettlement countries. Records show that in 1991, the US once decided to take in 1000 [out of the total 150,000⁵¹] Tibetans residing in Nepal and India based on individual applications (New York Times 1991).

⁵⁰ The reports includes annual human rights reports issued by US Department of State from 1990 to 2012 and other reports by the Tibet Justice Center, Amnesty International (see TJC 2002; Amnesty International 1992; USDS 2012b, USDS 2011; USDS 2010; USDS 2009a; USDS 2008; USDS 2007; USDS 2006; USDS 2005; USDS 2004; USDS 2003; USDS 2002; USDS 2001; USDS 2000; USDS 1999; USDS 1998; USDS 1997; USDS 1996; USDS 1995; USDS 1994; USDS 1993; USDS 1992; USDS 1991; USDS 1990).

⁵¹ According to McGranahan (2010, p. 13) there are 130,000 refugees in India and with 20,000 in Nepal, the total population of Tibetan refugees in Nepal and India reaches 150,000.

It should be noted that the current settlement of the Tibetans both in Nepal and India is not permanent, and therefore, not a condition to exclude them from the durable solution of third-country resettlement. However, given the lack of a concrete initiative in finding other options and the long history of Tibetan refugees in Nepal [and in India], it is also true that their settlement does not *appear to be* a temporary measure. As the Tibetan Justice Center (2002) argues the Tibetan refugees, by all measures, are eligible for third-country resettlement. For example, Tibetans in Nepal cannot simply opt for individual resettlement in third countries as they face difficulties in obtaining travel documents from the Nepal government. Since the Nepal government has stopped issuing identity cards to the refugees entering the country after 1998, many refugees, including the children of registered refugees remain stateless and illegal. It is estimated that around 5,000 Tibetans, who were born to Tibetan refugee parents in Nepal have not received any official recognition from the Nepal government. According to Ralston H. Deffenbaugh Jr., who worked in Nepal, the level of deprivation of Tibetans is actually high enough to make them eligible for durable solutions:

Tibetans remain socially alienated from Nepalese society. Their future is increasingly insecure in a country that reluctantly acknowledges but refuses to accept their presence. The fragile and unknown status of the Tibetan settlement residents highlights the need for a more durable solution that either permits the refugees to acquire Nepalese permanent residency or to resettle to a third country. (Deffenbaugh Jr 2006).

Given this reality, the only viable durable solution –among the solutions identified by the UNHCR—for Tibetan refugees is third-country resettlement. The refugees also seem to be open and keenly interested in opting for the third-country resettlement program as part of their durable solution (Tripa 2011), as they realise that repatriation is still impossible given China's refusal to meet their demands for autonomy and freedom in Tibet. There is a general conviction among the refugee population that third-country resettlement could address their precarious situation provided the governments, international community, and the UNHCR so wish. However, apart from a small number of cases, the international

community, including the US has not been able to adequately address the Tibetan refugees' request for third-country resettlement.

4.2.2. The US role

The US role seems to count the most when it comes to finding a durable solution to the Tibetan refugee crisis. The US has been a major donor to both the Nepal government and the UNHCR in Nepal and, whenever it wishes, is able to exercise its power to influence decisions in Nepal (ICT 2011, p. 86).⁵² Government records, for example, show that the US alone granted Nepal a donation of US\$ 48.5 million in the fiscal year 2010-11, making it the fourth largest donor to Nepal (Government of Nepal, Ministry of Finance 2010). Similarly, the US Embassy in Kathmandu exercises significant influence in Nepal because the US government continues to pay the lion's share of the funds that the UNHCR needs to implement the gentleman's agreement (TJC 2002, pp. 113-114). As one Tibetan observed, the UNHCR in effect channels US funds in order to confer 'international legitimacy' on the gentleman's agreement" (TJC 2002).

As expected by the Tibetans, the US government did make some efforts in the recent past to resettle some of the refugees in its land. In 2005 the US proposed that Nepal allow resettlement of 5,000 Tibetan refugees to the US (ICT 2009, p. 31). However, the proposal remains in limbo, reportedly due to the Nepal government's stand opposing resettlement (TJC 2002). The US government's official documents claim that the resettlement of the Tibetan refugees has not been possible solely due to Nepal's indifference (McGovern, Wolf & Pitts 2011, p.1). There is some truth in the US perception in that some Nepalese government officials have remarked that allowing US to resettle Tibetan refugees would mean officially recognizing the Tibetans as "refugees" instead of "illegal migrants" and thereby offending China. It is worth noting here that under Chinese pressure, ever since 1998 Nepal has consistently refused to officially recognise Tibetans entering Nepal from Tibet as refugees. This position, however, has never stopped Nepal from unofficially treating the dissident Tibetans as refugees by

⁵² Once when Nepal Government was dillydallying in issuing exit permits to Tibetan refugees, US Congressional Representative Frank Wolf warned to cut funding to Nepal (ICT 2011). However, no such pressure could be traced when it came to pushing for resettlement of Tibetan refugees.

facilitating their safe transit to India in coordination with the UNHCR and by committing to the so-called gentleman's agreement. Thus, the argument that Chinese pressure has been an obstacle to the resettlement of the Tibetans is uncalled-for. This could be one of the reasons but not the only one.

What is also evident is that following the 2005 US proposal for resettlement of 5000 Tibetan refugees, there have only been a few follow-ups from the US side. Available records show that on December 9, 2011, the US wrote a letter to the prime minister and president of Nepal expressing concern about Nepal's failure to work with the US government to resettle the Tibetan refugees in the United States (McGovern, Wolf & Pitts 2011). The letter mentions, among several other issues, the need for Nepal's cooperation in the proposed resettlement of 5,000 Tibetan refugees in the United States.⁵³ A letter to the Nepal Prime Minister by the International Network of Parliamentarians on Tibet (INPaT) is the only other proof of follow up of the US proposal, though not by US officials. The INPaT letter written on August 26, 2012 recommended the Nepalese PM accept US proposal to resettle the Tibetan refugees in the United States (INPaT 2010). Except in these few instances, the US seems comparatively less interested in the resettlement plan than in ensuring the uninterrupted "flow of the Tibetan refugees through Nepal" (Camp 2002, para. 11) and their subsequent transit to India.

This relative lack of motivation in the resettlement of Tibetan refugees resonates with the arguments that I made in explaining the strong motivation of the US in resettlement of the Bhutanese refugees. Thus, the US disinterest in the resettlement of the Tibetan refugees stems from its geo-strategic interests to encourage them continue their fight for human rights in Tibet and thus against China.

4.2.3. Indian role

India has probably played a more vital role than the US when it comes to influencing the political mobilisation of the exiled Tibetan community as a whole. India and the US,

⁵³ The US Senate in 2013 decided to grant 5,000 visas to Tibetans in India and Nepal (*Times of India* 2013), but this too is not a resettlement program and is too little given the 150,000 Tibetans in India and Nepal.

which have been working closely together as strategic partners in Asia since the time of the Cold War, have generally formulated similar policies when it comes to dealing with issues in Nepal, China and the region (Laise 1987, p. 51, Mulford 2006, Smith 1999, p. 24).⁵⁴ China perceived as early as in the 1950s that there was “some sort of Indo-US alliance to oust China from Tibet” (Prajapati 2011, p. 9) though their relationship was not as warm during that time.

India’s major role is in providing the refugees with unconditional and unlimited asylum and relatively greater freedom as compared to other refugees in India. Indian influence on the treatment of Tibetan refugees in Nepal is in one way or the other linked with India’s treatment of the refugee community in India. It is therefore hard to see the two refugee groups as separate communities as they are part of the single larger group that works in unison. Moreover, all Tibetan refugees who entered Nepal after 1998 are escorted to India through Nepal and due to the open Nepal-India border the refugees continue to move across.

Unlike with the Bhutanese refugees, India has been very helpful and sympathetic with the Tibetan refugees. However, their sympathy is guided to a greater extent by geo-strategic interests viz-a-viz China than by humanitarian ones. Given the power dynamics between Nepal and India, it is hard for Nepal to take decisions on Tibetan refugee issues without considering Indian views. It is almost common knowledge that India has unparalleled influence over Nepal’s affairs, including over their handling of refugee issues (Wong 2013). Nepal’s reluctance to take initiative on resettlement of Tibetan refugees is also a manifestation of Indian influence as India has an undeclared policy to “support, fully and wholeheartedly, the cause of the people of Tibet” (Zakaria 1965, p. 91) which is manifested in India’s continued support of Tibetan refugees’ settlement in India rather than in relocating them elsewhere. Without Indian and US backing, Nepal would have

⁵⁴ In one of his interviews R. Grant Smith, Consular/Economic Officer at the US Embassy in Kathmandu during 1964-1965, makes it clear that India and US worked together in Nepal: “We, the United States, were very concerned about Chinese influence, which led, while I was there, to the “deal” with India, that we would provide India some assistance - as I recall, some equipment - so that they could help build a portion of the east-west highway and preempt the Chinese down in Tarai from building roads down in the southern part of Nepal, which is plains and geographically much more connected with India. So there's a sense of cooperation with India vis-à-vis the Chinese and Nepal” (Smith, 1999).

hardly had the courage to continue to agree with the Gentleman's Agreement, allowing the Tibetan refugees a transit facility and tolerating the political activities they have been conducting for decades in Nepal. However, since it is usually executed through informal channels, there is no evidence of India directly intervening or influencing Nepal's decisions, particularly on Tibetan refugees' request for permitting them to resettle in third countries.

4.2.4. A comparison with the Bhutanese

The most striking comparison comes from the reluctance on the part of India and the US in pushing for third-country resettlement of the Tibetan refugees. Based on the fact that the Tibetan refugees have been around longer than the Bhutanese refugees and are no less suitable for durable solutions, they should have been prioritised for third-country resettlement more so than the Bhutanese refugees. However, the resettlement has not been considered as a durable solution when it comes to the Tibetan refugees. There have been some attempts in the recent past to also include the Tibetan refugees in the resettlement program, but this has remained unimplemented due to lack of sufficient follow up.

It is also worth noting the fact that the proposal to resettle Tibetan refugees came years after it was accepted that "Tibetans because of ethnic divergencies will probably never be totally assimilated into Nepalese mainstream" (USDS 2005b). It took more than four decades since the refugee crisis emerged for the US, which remained fully engaged in the issue, to come up with a proposal to resettle 5,000 Tibetan refugees. With the Bhutanese refugees, the proposal came within less than two decades of the birth of the crisis, despite very vocal opposition from a large section of the population.

Furthermore, the resettlement proposal is in sharp contrast with the one put forward to the Bhutanese refugees in 2006. While the US has said it is committed to considering resettlement for "as many Bhutanese refugees as express interest" (USEK 2012), when it comes to Tibetans it has set a limit of 5,000 refugees, which has been received rather suspiciously (Sarkar 2011). "The US offer to resettle only 5,000 Tibetan refugees, while

the diaspora has more than 20,000 members in Nepal, has been greeted with doubts by the Tibetans, who wonder why the US was ready to absorb 60,000 Bhutanese refugees but only a fraction of Tibetans” (*The Shillong Times* 2011).

Part of the problem in finding a durable solution to the Tibetan refugees also comes from the US policy that recognises the Tibetan refugees as “firmly resettled” (TJC 2002, p. 121), which, according to the US law, is a condition that disqualifies the refugees for resettlement. The Tibetan refugees argue that since they do not have any rights in Nepal, they cannot be deemed as firmly resettled to unjustifiably disqualify them for resettlement opportunity in the US (TJC 2002, pp. 125, 126).

Recently, the US government has been under increasing pressure from within (Garner 2012) and outside the country (TJC 2002) to seriously consider the possibility of resettling the Tibetan refugees living in Nepal and India. But, despite the pressure, the focus has been on ensuring the smooth outward flow of the refugees from Tibet (see Camp 2002, para. 11).

Thus, this indicates so far, as outlined in discussions in Chapter 2 on Goodman-Gill (2008) and other theories on refugee protection, that the geopolitical interests of the states motivated their response to the refugees creating a puzzling situation in breach of established norms such as the non-discrimination principle outlined in the 1951 Refugee Convention and its 1967 Optional Protocol. It was in the geo-strategic interests of the US and India to support the Tibetan’s fight for their rights in Tibet but since the Bhutanese refugees did not serve the same purpose, they received differential treatment. Continued presence of the disgruntled Bhutanese refugees in proximity of Bhutan was instead perceived as a potential threat for future regional tensions against Indian and Bhutanese interests and therefore it was in the States’ best interests to remove them from the region. This policy not only served India’s longstanding interests to tacitly support Bhutan in evicting its unwanted populations but also helped the US fulfil its own “resettlement quota” and support India in meeting its strategic interests in Bhutan. Thus, in unravelling these puzzles with concrete examples, this chapter laid out in detail why the differential

treatment of Tibetan and Bhutanese refugees was in the interests of the US and India and how they influenced the process of finding durable solutions for the two refugee communities.

CHAPTER 5: FINDINGS

5. Findings

The points below are the major findings summarised from the discussions made in earlier chapters.

5.1. Nepal as passive recipient of external influence

Nepal's historical, political, economic, social and cultural realities show, as discussed in Chapter 2.4, that it has long been susceptible to the influence of mainly India and other world powers such as the US. As a geographically small and economically poor country, Nepal has been heavily dependent on foreign aid from developed countries including India and the US. This allowed donor nations to have greater leverage on Nepal affairs that were of strategic importance to the former. The two protracted refugee situations – that of the Tibetan and the Bhutanese – have drawn similar interests and thus influences from external powers, mainly the US and India.

5.2. US and India as key players in Nepal

While India is already the country with the biggest clout on Nepal, its collaboration with the US in the regional geopolitics, including dealing with the refugee situation in Nepal—has made it possible for these two countries to act, when required, as the leading players in Nepal. As pointed out in Chapter 2.4, in discussions on geopolitical background, and Chapter 3 and 4, in discussions on the impact and protection of the refugees in Nepal, the combined strength and influence of the two countries in Nepal affairs outweighed the influence of any other powers in the world, including China. As Hagerty (1991) pointed out, India has been very possessive of Nepal as its “traditional sphere of influence” and has acted angrily whenever China attempted to exert its influence on Nepal (Hagerty 1991, pp. 360-361). Furthermore, Nepal's landlocked and India-locked⁵⁵ position, its compulsion to use Indian land for trade and transport with third countries, the Indo-Nepal treaty (India-Nepal Treaty of Peace and Friendship 1950) that accepts India's control over Nepal's defense related procurements, and the history of Indian intolerance of

⁵⁵ Nepal is landlocked by India on three sides (south, east and west) and on the north lie the high insurmountable Himalayas bordering China.

Nepal's failure to meet Indian interests, indicate that India continues to exercise greater influence over Nepal and Nepal continues to accept the situation.

This reality is reflected very clearly in the way Nepal treated Bhutanese and Tibetan refugees. For example, as discussed earlier, Nepal supported India and the US in setting up the army base for the Khampa resistance army in Mustang. The Nepal government then also agreed to provide land for settlement of the disarmed Khampa fighters. On US request and with Indian interests, Nepal also agreed to abide by the informal arrangement for the protection of the Tibetan refugees and to facilitate their safe transit to India. Similar influences are seen in case of the Bhutanese refugees. After India indicated that it did not want Nepal to a) internationalize the Bhutanese refugee issue and also b) try to make the refugee issue a trilateral one by seeking India's engagement, Nepal kept on routinely stressing in all its official statements that it wanted the Bhutanese refugee issue to be resolved through "bilateral process"⁵⁶ (MoFA 2003a; MoFA 2003b; MoFA 2003c; MoFA 2013) despite the fact that it knew in reality the "bilateral process" was not going to yield any results.

5.3. US-India collaboration on refugee issues in Nepal

The developments in the US-India relations so far show that the two countries have been working in a close strategic partnership in the Asia region. What unites the two powerful democracies in a closer partnership is a rising China. The US-India collaboration grew stronger after the Cold War and it reached new heights when they entered a nuclear cooperation deal in 2008 (Rasgotra 2007, p. 123). The partnership, which supported India's rising international role, was, according to US officials, a statement of the US conviction that "India's rise is good for the world and good for the region" (Pyatt 2012). Under this set up, the US and India would always prefer having coherent views on issues of strategic significance in the Asia region, including Nepal. This is also because, as Browne (2012, p. 134) argued, for the US, there is no alternative to taking India's help to influence affairs in Nepal. It is precisely because of this reality that the US has long been

⁵⁶ The Nepal-Bhutan joint statements, released by Nepal's Ministry of Foreign Affairs, after each of the bilateral talks since 2001 stressed that the Bhutanese refugee issue would be resolved through "bilateral process" (see MoFA 2003a; MoFA 2003b; MoFA 2003c; MoFA 2013).

observing Nepal through an Indian lens in that the US has rarely taken any position that would conflict with the position of India. For the US, it is necessary to take India into confidence while engaging on any issues in Nepal as India considers Nepal as a buffer state, a “traditional sphere of its influence” (Hagerty 1991) and security is India’s major concern.

The same modus operandi was applicable while dealing with Tibetan and Bhutanese refugees living in Nepal. The two states could collaborate in dealing with the two refugee groups mainly because of their corresponding interests or because it was strategically desirable to remain on the same page. Given the US history of greater sympathy for refugees coming from communist states (George 2004), and India’s strategic interests to use the refugees as a bargaining chip (Norbu 1997, pp. 1087, 1094, Topgyal 2011, pp. 127-128), the collaboration between the two states was possible. Therefore, from the time when the CIA aided the Tibetan refugees to wage guerrilla war against Chinese forces in Tibet, as discussed in Chapter 3, to the third-country settlement of the Bhutanese refugees (as discussed in Chapter 4), the US has taken India into its confidence.

5.4. Persistent differential treatment of refugees

The discussions in Chapter 3 and 4 pointed out that the US and India adopted two different strategies in the treatment of Tibetan and Bhutanese refugees. While the US and India seemed interested in supporting the Tibetans’ political cause, they remained disinterested when it came to the Bhutanese refugees. In the beginning of their flight, the Tibetans received a warm welcome whereas the Bhutanese were denied asylum and had difficulty finding shelter. Nepal was persuaded to cooperate with India and the US to help run a covert operation supporting the armed guerrilla war from Mustang. After the shift in US policy towards China in the late 1960s, Nepal was again persuaded to work in disarming the Tibetan guerrillas that were earlier encouraged to take up arms. The US also influenced the post-guerrilla war disarmament and resettlement of the refugees in different parts of Nepal and later played a key role in forging an informal agreement (Gentleman’s Agreement) with the Nepal government to support the safe flight and transit of the Tibetan refugees from Tibet into Nepal and India.

Similarly, for a long period of time the US and India paid relatively less attention to the plight of the Bhutanese refugees. In the beginning, the enforced eviction of the Lohtsampas from Bhutan did not receive as much attention as the Tibetan's first flight in 1959. The Bhutanese refugees were denied asylum in India and with much difficulty were able to find shelter in Nepal's restricted camps. Unlike the Tibetan refugees, the Bhutanese refugees suffered from being deprived of basic humanitarian needs and other fundamental human rights. While the government of Nepal curtailed several human rights of the Tibetan refugees responding to a call from China, the Tibetans had less severe problems with humanitarian needs given the history of support they received from the international community.

Similarly, as discussed in Chapter 4, for a long time the Nepal government did not take any initiative in finding durable solutions for the Tibetan refugees and even the international community remained less motivated on that front. The US proposed that the Nepal government resettle 60,000 refugees in 2006, which was materialised and implemented within a year. However, despite the fewer number of Tibetan refugees and their desire to be resettled elsewhere, the US proposed to resettle only 5,000 refugees in 2005, the implementation of which is still nowhere in sight. One excuse offered by the US is that Chinese pressure is preventing Nepal from accepting the US proposal to resettle 5,000 Tibetan refugees. However, given the fact that the US successfully persuaded the Nepal government to commit to arrangements that guarantee—much to Chinese chagrin—Tibetans safe transit when fleeing to India, the argument that Chinese pressure prevented the resettlement of Tibetans is certainly questionable.

The comparative analysis thus demonstrated the continuity of differential treatment—guided by responding states' political-interests—of refugees in Nepal, made possible by the collaboration between local stakeholders, the Nepal government and the UNHCR, who all played their part in the complex interplay of geopolitics.

5.5. US foreign policy shift affected treatment of refugees

The study, particularly discussions in Chapter 3.2.3, also revealed that US influence, in the treatment of the Tibetan refugees in particular has changed simultaneously with its policies on China. In the beginning, the US influenced Nepal in promoting the armed rebellion of Tibetan dissidents in Tibet. The US brought India on-board and used its secret agencies like the CIA to support the war. However, when the Nixon administration surprisingly changed the policy and started building friendly relations with China, the US influence in the treatment of Tibetan refugees in Nepal also changed. Nepal was asked, and supported by the US, to disarm the Khampas. The US response to the Tibetan refugees, therefore, seemed to be guided more by its geo-strategic interests than humanitarian ones though US officials, such as US Ambassador to Nepal Scott H. DeLesi (2011), often claimed in public that the intervention had always been humanitarian.

By the same token, the US, that remained relatively disinterested for years when the Bhutanese suffered serious deprivation and human rights violations, suddenly came up with a proposal to resettle 60,000 refugees while leaving the resettlement plan of Tibetan refugees in limbo. As expected, the US proposal on resettlement brought India on board. Though India does not seem to have used any visible tactics to influence the treatment of Bhutanese refugees, especially when deciding on their resettlement plan, its treatment of the refugees in the past and its strategic positions indicated that whatever was proposed happened with Indian consent.

5.6. US-Indian refugee policy operated on two levels

One of the important aspects of the US and Indian foreign policy viz-a-viz China was that they maintained their Janus-faced stand on China. Officially, both the US and India continued to support the Chinese position, which was that Tibet was always part of China, but unofficially on a geostrategic level, both supported several activities of the Tibetans that were considered “anti-China” or going directly against the “one-China policy” (Goldstein 1995, p. 145). The US and Indian response to Tibetan refugees was projected as purely “humanitarian” or with “human rights” concerns in mind though the

larger motivation was political. As Indian Prime Minister Jawarharlal Nehru rightly explained to the Indian parliament on 27 April 1959, India has “every desire to maintain the friendship between India and China, but at the same time, [it has] every sympathy for the people of Tibet, and [India is] greatly distressed at their hapless plight” (Tibetan Parliamentary and Policy Research Centre 2006, p. 50). The same could be said about the states’ responses to the Bhutanese refugees. As discussed in Chapter 3.1.3, by refusing to play a mediation role in Nepal-Bhutan talks while at the same time personally asking both the countries for an early solution to the crisis, India played a double-role (Dixit 1992). In a similar way, India claimed it had a policy to stand by democracy and promote democratic reforms in the region, but it stood firmly against Bhutanese refugees who struggle for the same democratic reforms in Bhutan.

5.7. Continued vitality of states’ self-interest as motivating factor

To a larger extent, as the discussions in the earlier chapters (Chapter 3, 4) indicated, the treatment of the refugees by the states have been guided by their political, geo-strategic interests, which could be anything ranging from security issues to bilateral trade and cooperation rather than humanitarian interests or in the interests of the refugees. While at some point in the history of the two refugee groups the states’ actions or inactions may appear to be that of a humanitarian mission, the larger motive, as Goodwin-Gill (2008), Loescher (2001), Ferris (1993) and others have said (Chapter 2), are geostrategic interests, which is demonstrated by the states’ differential treatment of refugee communities based on their country of origin. The changes in the states’ response to the refugees is directly correlated with the changed geopolitical situation and strategic interests of the states in question.

There were major changes visible in the way both India and the US influenced the treatment of Tibetan and Bhutanese refugees in Nepal. Both countries—which were highly influential in Nepal—treated the two refugees differently.

There appeared to be a huge difference in the way the US and India influenced the treatment of Tibetan refugees in Nepal before and after 1969, the year, when according to

Roberts (2009, p. 146), the Nixon administration enforced its revised China policy and decided to cut off funding to the Tibetan government-in-exile in India and the Tibetan armed resistance that had its base in Nepal's Mustang region. This move by the US, which was clearly guided by its political interests, had a huge influence on the political, economic and social lives of the Tibetan refugees both in Nepal and India. India, in this case, had been tagging along as it fully cooperated with the US in both arming and disarming the Tibetan fighters. The changes in the US and Indian response is more visible if their response to the one group (the Bhutanese refugees) is juxtaposed with their response to the other (the Tibetan refugees). For example, in a very disproportionate way, the US had given very high priority to the Tibetan refugees (compared to their Bhutanese counterparts in Nepal) and accordingly formulated a separate Tibet Policy Act 2002 and a host of resolutions⁵⁷ for the US Congress that exclusively dealt with the Tibetan refugee issues (INPaT 2002; Garner 2012). The main objective of the Act was "to support the aspirations of the Tibetan people to safeguard their distinct identity" (INPaT 2002). There was great emphasis placed on the need for protecting the "distinct cultural identity of the Tibetans. However, on the contrary, despite similar circumstances, the US had neither formulated a similar Act to deal with the Bhutanese refugees systematically, nor had it spoken of the need for protecting the distinct cultural, religious and linguistic identities of the Bhutanese refugees for which the Lhotsampas were feared and expelled from Bhutan. However, the US was very interested in resettling the Bhutanese and not the Tibetans. This reveals the underlying irony of US policy—supporting the Tibetans and yet not pushing for their resettlement; not supporting the Bhutanese in their political struggle against Bhutanese suppression and yet promoting their resettlement.

⁵⁷ See footnote no. 18 and INPaT (2013) for the list of US Congress resolutions on Tibet.

CHAPTER 6: CONCLUSION

The main objective of this research was to study US and Indian influences on the treatment of Tibetan and Bhutanese refugees in Nepal. Consequently, drawing upon the theoretical frames and the geopolitical background laid out in Chapter 2, the study mainly focused on two areas: firstly, on the general treatment of the refugees in the course of their flight and the subsequent political and economic struggles (Chapter 3); and secondly, the treatment in terms of durable solutions proposed or implemented for the two refugee communities (Chapter 4). This study led to the findings (Chapter 5) based on a comparative analysis of the treatment of the two refugee groups by the host country and the key external powers in the given geopolitical context – an issue which had not been studied in detail before. Though a single study is unlikely to cover all the issues, this study has brought to fore the complex historical and geopolitical realities in which the two refugee groups were treated very differently by the host and the other supporting countries, thus confirming Goodwin-Gill's theory on geopolitics and refugee protection. The study showed that the influences have been very concrete, far-reaching and substantive.

Resonating with Goodwin-Gill (2008), Loescher (2010), Frelick (1990) and others discussed in Chapter 2, the study showed the supporting states' [differential] responses to the refugees were not in line with established norms.⁵⁸ Instead, what motivated the differential treatment were the states' geopolitical and strategic interests and the actual contexts in which the refugees emerged and evolved. The study indicated that US influence was more visible in the treatment of the refugees in Nepal than that of neighbouring India. This was visible in the US initiative of arming and disarming the Tibetans in the early years of their flight, forging the gentleman's agreement, and proposing and enforcing the third-country resettlement program for the Bhutanese. These roles the US played were more far-reaching than the ones played by India, for example when it prevented the Bhutanese from marching back to Bhutan and declined to engage in Nepal-Bhutan talks in resolving the refugee crisis. The analysis also brought to fore the

⁵⁸ The states' responses did not conform with the norms such as customary international law (non-refoulement), the 1951 Refugee Convention, and its 1967 Option Protocol.

irony of US policy: supporting the Tibetans and yet not pushing for their resettlement; not supporting the Bhutanese in their political struggle against Bhutanese suppression and yet promoting their resettlement.

Given these conclusions, the empirical implication of the research is that a refugee crisis should not be purely considered as a humanitarian issue but also as an integral part or by-product of the complex geopolitics that involves the supporting states' concerns on security, sovereignty and regional geopolitics. While most states claim to have responded to the refugee crisis on humanitarian grounds, the history of refugee protection, as studied here, shows political and geo-strategic interests have largely guided their responses. Generally, political and geostrategic interests have guided the states' responses to most of the refugee crisis. Bracing this hard reality would help avoid unnecessary confusion and pave way for more realistic solutions and a better refugee protection regime that takes into account the exact geopolitical context. Even these so-called humanitarian interventions could serve as a political tool for states when their strategic interests coincide with humanitarian interests. Therefore, the bottom-line in any intervention should be to ensure that the interests of the refugees are guiding the refugee protection efforts.

Though this research explored the hard reality of how the political interests of supporting countries continue to be a decisive factor in handling Tibetan and Bhutanese refugees, the implications of such behaviour remain to be explored further, in terms of finding durable solutions, facilitating the safe flight of refugees and assisting them in their political activities in the host country, addressing the root cause of statelessness and delivering justice to the victims of such serious human rights violations.

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ANNEX 1

Map of Bhutan showing part of India, Nepal and China



Source: Human Rights Watch available at <<http://www.hrw.org/reports/2003/nepal0903/1.htm>>

BIOGRAPHY

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US\$22,715 - US Department of State award for winning 2012 competition of innovative democracy projects - Alumni Engagement Innovation Fund (AEIF) 2012.

NRs. 50,000 – Martin Chautari Fellowship 2010 – for research on “media constructs in the post-2006 Nepal”

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