



COUNTRY OPERATIONS PLAN

Executive Committee Summary

Country: Nepal

Planning Year: 2005

Part I: Executive Summary

(a) Context and Beneficiary Population

Nepal is not a signatory to the 1951 Convention or the 1967 Protocol relating to the Status of Refugees. No specific and/or applicable national legislation relating to asylum-seekers or refugees exists. At the request of His Majesty's Government of Nepal (HMG-N), UNHCR has an advisory, support, co-ordination, and monitoring role in the protection and provision of humanitarian assistance to persons of concern to the Office. In 2005, UNHCR Nepal will maintain services to three beneficiary populations:

1. Care and Maintenance and related activities for over 104,000 Bhutanese refugees and asylum seekers living in seven camps in eastern Nepal. UNHCR will put even more emphasis during 2005 in identifying durable solutions for the long-term camp residents, rather than simply providing support. UNHCR will continue to ensure the provision of international protection for the refugees;
2. Tibetan new arrivals (in transit to a third country);
3. Individual mandate refugees and asylum seekers.

UNHCR will ensure that the refugees' basic rights are respected in accordance with internationally recognised principles.

Bhutanese Refugees and Asylum Seekers: The eastern districts of Jhapa and Morang, where the Bhutanese refugees reside are relatively well developed in comparison with other districts in Nepal. Nonetheless, the annual economic growth is stagnant at three to four percent and sound development measures are required to contribute to poverty reduction on a national scale. Care and Maintenance activities have met the basic needs of the refugees for the past thirteen years. However, without permanent solutions, this is an unsustainable strategy which has also given rise to frustrations in camps and tensions between the refugees and the host population.

In September 2003, the High Commissioner stated at the fifty-fourth session of the Executive Committee that UNHCR would promote self-reliance projects and gradually phase out its direct assistance in the camps. UNHCR has since made plans to try and shift its programme from one of relief to self reliance and development-focused whilst ensuring discharge of its international protection mandate. Throughout the transitional period, UNHCR will continue to promote the engagement of refugees in the planning process as they are an essential part of any solution. Refugees' trust in UNHCR, which has been developed and strengthened since over a decade, will be further built upon during this challenging transitional period.

The wish for voluntary repatriation among the refugees remains strong, but is voiced with caution. In February 2004, the expected first repatriation did not take place; mainly as a result of an incident in December 2003 in one camp, when unfavourable conditions of return were announced by the Bhutan-Nepal Joint Verification Team (JVT). Negotiations on repatriation

have taken place in a bilateral framework upon an understanding reached by the Royal Government of Bhutan (RGB) and the Government of Nepal. UNHCR was not part of the verification process, neither has UNHCR been granted access to Bhutan by the RGB. Moreover, the planned repatriation process and the conditions of return attached to it fell far short of minimum international standards. UNHCR will only verify that returns from Nepal are voluntary, as UNHCR will not be in a position to promote repatriation nor be directly involved in it. For the most vulnerable individuals and families and others for whom there is no viable solution.

In 2005, UNHCR plans to conduct a headcount/profiling exercise and a socio-economic survey, with the aim of gathering detailed information on the refugee families and economic aspects of their life, including identifying needs for developing vocational skills. It is also intended to identify opportunities for providing such skills in the host community, including areas where additional assistance is required. The strategy for 2005 will be confirmed on the basis of substantive data obtained from these activities. UNHCR will also conduct a mass information campaign to inform all actors, primarily the refugees, of its position with regards to durable solutions and plans to shift from relief assistance to sustainable developmental assistance.

To move forward with implementation, UNHCR has suggested to HMG-N to call for the setting up of a Task Force, under the leadership of the Foreign Ministry and with the participation of major UN partner agencies and relevant Ministries. The Task Force will provide a forum to discuss and co-ordinate issues relating to the protracted situation of the Bhutanese refugees and contribute to bringing developmental assistance to the refugees and the local population alike. This will help to redress the prevailing social and economic disequilibrium and reduce tensions between the two population groups.

The beneficiaries of the programme, the Bhutanese refugees and asylum seekers, who are mainly of Nepali ethnic origin, began arriving in Nepal in late 1991. The influx peaked in 1992 and some 80,000 individuals had arrived by the end of 1992. Upon the request of the HMG-N, UNHCR and the World Food Programme (WFP) commenced a Care and Maintenance project and distribution of food for the camp population. Those who arrived prior to 1 June 1993 were granted "prima facie" refugee status by HMG-N. New arrivals after this date were required to undergo Refugee Status Determination (RSD) screening and this has been carried out by the Nepalese authorities in consultation with UNHCR and in accordance with the internationally accepted standards.

As of 30 June 2004, a total of 104,235 individuals were living in seven camps located in Jhapa and Morang Districts of eastern Nepal. The population grew by 1.3% compared to the population at the end of June 2003, which was primarily due to natural growth. 51% of the total camp population (53,166 persons) are men and 49% (51,069 persons) are women. Of this, 7% are children younger than 4 years of age, 31% are between 5 and 17 years, 56% are between 18 and 59 years and 6% are older than 60 years of age.

Due to the prolonged stay in the camps, the problems of the refugees such as increased tension with the local population, suicide, domestic violence, alcoholism, trafficking and sexual and gender-based violence (SGBV) have become more pronounced. In 2005, UNHCR will continue to mainstream and strengthen networks among various agencies for dealing with gender issues through training, awareness programmes and capacity building for the refugee

community. Youth have been involved in awareness activities related to gender issues, child rights, prevention of SGBV and domestic violence.

While refugees enjoy full access to the courts of justice, as foreigners in the Kingdom of Nepal, they have no political rights. However, Bhutanese refugees enjoy *de facto* freedom of forming associations. The Refugee Women's Forum (RWF), the Bhutanese Refugees Aiding the Victims of Violence (BRAVVE), the Bhutanese Health Association (BHA) and the Children's Forum play an instrumental role in promoting refugee rights and participating in the delivery of assistance.

While ensuring comprehensive protection of refugees and overall programme management through strengthened monitoring activities, UNHCR will continue to encourage refugees to go beyond the delivery of assistance, and to engage in self-organised activities in the camps through various empowerment initiatives. UNHCR will continue to focus on the beneficiary populations according to its policy priorities; women, children, adolescents and the elderly and key sector activities, including environment. As part of preventive measures against SGBV, awareness raising and protection activities, including the High Commissioner's "Five Commitments to Refugee Women" will be continue to be implemented.

Co-ordination with UN agencies and diplomatic representations in Nepal will be further strengthened in order to bring about durable solutions for all refugees. Capacity building, including various training activities such as repair/maintenance of shelters, latrines and the water system will be provided to the refugees so that they will be able to take care of their individual needs. In the area of health and education efforts will be placed in integrating these basic services within the national framework with the support of specialised UN agencies and NGOs. Alternate cooking devices such as bio-gas and solar cookers will also be introduced.

The beneficiary population is estimated to reach approximately 105,000 in 2005 considering both the current population (103,650 as of 31 December 2003) and the annual population growth (1.3%). This figure may be adjusted with the outcome of the planned camp headcount/profiling exercise. Besides the refugees, the marginalised local population from the adjoining villages will also benefit from the programme. It is expected that the planned UN/UNHCR socio-economic survey would produce data required to try and address the needs of the host population.

Tibetans: The Ministry of Home Affairs (HM) and the Department of Immigration (DoI) are the main Government counterparts of UNHCR for the Tibetan caseload. No specific regulations exist regarding Tibetans. Those who arrived before 1 January 1990 (approximately 20,000) were granted refugee status by the Government of Nepal. With the understanding of the concerned authorities, Tibetans new arrivals (after 1 January 1990) are not to be refouled at the border, but are allowed to transit Nepal on their journey to a third country. Normally, new arrivals in Nepal are handed over to the DoI by police escorts. Costs in this regard are met by UNHCR. When police escorts are not available, Tibetan new arrivals are directly handed over to UNHCR or its implementing partner at the border. The DoI is subsequently involved during the departure of the Tibetans to a third country for the issuance of an exit permit. The transiting period in Nepal varies from one week to two months, depending on the health conditions of the new arrivals and/or their numbers.

In 2003, the number of persons who were found of concern to UNHCR was 1,815, a significant increase (by 42%) compared to the number of arrivals in 2002. If this trend

continues, it is expected that some 2,000 Tibetans will arrive during year 2005. Monks, nomads, farmers and students constitute the majority of new arrivals. No Refugee Status Determination of newly arrived Tibetans is carried out as such. The interviews are meant to ascertain their protection needs while in transit in Nepal and they are declared as persons of concern to UNHCR when found in need of protection.

UNHCR will continue its facilitating role for newly arrived Tibetans by assessing their situation and ensuring that those declared of concern for UNHCR receive proper treatment and adequate assistance before proceeding to a third country. Dialogue with regional and local Government officials will be maintained in order to secure compliance to the principle of non-refoulement. UNHCR will continue to disseminate information and build understanding as to the role of the organisation and the need for the protection of Tibetan asylum seekers, pending the determination of their status and onward travel to a third country.

A continued problem faced by the Tibetans who arrived before 1 January 1990, is the authorities' reluctance to issue Refugee Identification Cards (RIC) and birth certificate to minors and/or minors who turn 18. Efforts will continue in 2005 to assist the Government to issue RIC to those Tibetan refugees allowed to reside in Nepal who were not present during the census exercise in 1994-1995. Their children, who are now 18 and above and whose parents are holders of RICs, also need to be issued the RIC.

Urban Caseload (Individual Cases): UNHCR Kathmandu directly undertakes Refugee Status Determination under its mandate to all individual asylum-seekers of various nationalities approaching the UNHCR Representation in Nepal. Asylum seekers and mandate refugees are provided protection against refoulement in close cooperation and coordination with the Ministry of Home. Those in need of financial assistance are provided with a fixed monthly allowance to cover basic needs pending the identification of a durable solution. Individual refugees recognised by UNHCR are tolerated by the Government of Nepal. However, they have no right to work in Nepal and their prospect for long-term stay is essentially non-existent. The only viable durable solution for this group remains resettlement to a third country or voluntary repatriation when possible. As the procedure to obtain exit clearance/permits for mandate refugees departing from Nepal for permanent resettlement abroad is proven to be cumbersome and very lengthy, UNHCR will continue its dialogue with the Government to find a way to simplify the procedure and thereby ensure a timely departure of these refugees.

As of December 2003, 40 cases of mandated urban refugees and asylum seekers (equivalent to 46 persons) were under the protection of UNHCR Nepal. In 2005, UNHCR Nepal expects a similar number of urban mandated refugee and asylum seeker cases, of which some 30 persons may be in need of financial assistance.

The Government's attitude towards individual asylum seekers remains complex. Asylum seekers are detained for the sole reason of having entered or stayed illegally. An explanation could be that Nepal is seen as a transit country for further movement to the West. There were no reports of refugees having been expelled or extradited in 2003, but UNHCR will continue to monitor the situation closely and discharge its protection duties whenever required.

Throughout 2004-2005, UNHCR will prioritise various promotional activities. Target groups will be central and regional government officials, academics and civil society. UNHCR will

promote accession to the 1951 Convention and/or endeavour to convince the government to adopt national legislation on refugee protection.

(b) Selected Programme Goals and Objectives

Name of Beneficiary Population: Bhutanese Refugees and Asylum Seekers	
Main Goal: Actively support the Government of Nepal to seek durable solutions and provide international protection to the refugees while promoting self-reliance among refugees so as to gradually phase out direct assistance activities.	
Principal Objectives	Related Outputs
<ul style="list-style-type: none"> • Support the Government of Nepal for the protection of refugees • Support self-reliance activities for refugees and, at the same time, provide assistance to the surrounding communities to help redress the present imbalance in the living standards of refugees and host populations • Ensure that promotional activities toward accession to the 1951 Convention and adoption of national refugee legislation are carried out • Enhance capacity of the Office to implement durable solutions through development of staff as well as operational partners by engaging them in learning programmes and training 	<ul style="list-style-type: none"> • Enhanced understanding of refugee related issues • Minimum humanitarian assistance maintained for all • Establishment of community support mechanisms for Extremely Vulnerable Individuals • Facilitation of design and implementation of development assistance to Districts of Jhapa and Morang • UN agencies progressively take on implementing developmental assistance towards refugees and host populations, which will lead to a gradual phase out of UNHCR relief assistance in the camps. • HMG-N acceptance of the need for a refugee protection legal framework in Nepal • Improved efficiency and co-ordination among all actors.

Name of Beneficiary Population/Theme: Tibetan new-arrivals (in-transit) and Individual Cases
Main Goal:
(a) Tibetan new arrivals: Provide protection and assistance to Tibetan (new arrivals) taking the form of food, shelter, health care while transiting Nepal.
(b) Individual cases: Provide international protection to the individual urban mandate refugees and asylum-seekers and support the needy individuals with financial grant.

Principal Objectives	Related Outputs
<ul style="list-style-type: none"> • Tibetan new arrivals safely enter into and transit through Nepal • Ensure safe transit in Kathmandu and onward travel to a third country. • Monitor the situation of Tibetans (some 20,000 who arrived prior to 1 January 1990) and intervene with HMG-N on legal protection issues. <p>Individual Cases:</p> <ul style="list-style-type: none"> • Asylum seekers have access to fair and effective Refugee Status Determination procedures. • Seek durable solutions for recognized mandate urban refugees 	<ul style="list-style-type: none"> • HMG-N will comply with its non-deportation policy and grant unhindered access to UNHCR. • The new arrivals being arrested by police will be escorted to Kathmandu for processing. Access to adequate material assistance while in Nepal as well as financial support to travel to third country is provided. • The Tibetans who arrived prior to 01/1990 will be issued proper documentation of their status in Nepal. • Children born in Nepal will be registered and provided with ID cards and birth certificates • Certificates are provided to the recognised mandate refugees and asylum seekers. • Material assistance provided for those who are in need. • Cases needing resettlement are submitted to UNHCR Headquarters.