



## REFUGEE, MINORITY, CITIZEN, THREAT: TIBETANS AND THE INDIAN REFUGEE SCRIPT

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**ABSTRACT** Ideas of 'the refugee' in India, long integrated with concepts of the nation through the partition experience, have significantly contributed to India's lack of formal refugee legislation. The present article argues that the resultant vague conceptual basis—or 'script'—for refugee treatment has allowed India to deal relatively successfully with refugee situations of great variation and huge scale in the past when refugees were largely integrated into an existing narrative of 'minorities', a vital component of India's national identity and political landscape. However, recent pressures from within and from the international community to standardise refugee treatment and introduce a formal refugee law have combined with political events of recent years to disadvantage some refugee groups. This article seeks to understand the changes in refugee treatment in India today and focuses on Tibetans, who appear to suffer increasingly from association with a changing narrative that links refugees, penetration by outsiders, and threats to national security, arising partly as a result of the activities of refugee Tamils from Sri Lanka, and non-refugee incomers from Pakistan.

**KEYWORDS:** *citizenship, governmental conceptions, minorities, refugees, security, state, Tamils, Tibetans*

### Introduction

On 5 January 2000, a fourteen-year-old Tibetan monk, Ogyen Trinley Dorje, entered India after an arduous eight-day journey across the Himalayas. One of many Tibetans fleeing to India—at least 2000 per year at that time (BBC, 17 April 2008)—his arrival was treated with exceptional care by Indian authorities. Within days, senior Foreign Ministry officials and intelligence agencies interviewed the boy (Terhune, 2004: 235). Four days after arrival he was removed, before dawn and in great secrecy, from the guesthouse of the XIVth Dalai Lama to an undisclosed location, later revealed as Gyatso, a nearby Tibetan monastery. Confined there for over a year, he was eventually

given limited local freedom; restricted visits elsewhere in India were still under tight security, allowed or denied at the Indian government's seemingly random whim, two years later.<sup>1</sup> Eight years on, Dorje has been allowed his first foreign visit, to the USA, by the Indian government.

Ogyen Trinley Dorje is an extraordinary monk. As Karmapa Lama, head of one of Tibetan Buddhism's four sects, he is effectively third in line to the Dalai Lama.<sup>2</sup> However, the restrictions on this initially exhausted adolescent seem out of proportion. Being at first prohibited from speaking to the press for over a year (Martin, 2003: 132), why was he then, after a year of deliberation, given somewhat symbolic 'refugee status' in India, despite China's continued protests and the fact that 'refugee status' is formally absent from Indian law?

Such contradictions can only be understood by placing this scenario in a wider context. Far from being purely a diplomatic incident between India and China, Dorje's arrival invoked internal discourses concerning not only refugees but also communal tensions and border security, even the meaning of 'being Indian'—so effectively that much can be explained without recourse to foreign relations. These events provide a way to understand complex conceptions and interweaved discourses which govern how India is dealing with refugees.

Examining Indian governmental attitudes to refugees and the concepts which influence their treatment, the present article focuses particularly on Tibetans and argues that there exists a complex 'script'—unofficial, unacknowledged and uncodified—which governs the extremely diverse ways in which individuals seeking asylum in India are treated. Consisting of a battery of discourses, concepts and legal instruments, this script is flexible and constantly evolving rather than a set of rigid rules; yet its coercive force and utility to those in power causes seemingly incongruous events like those around Dorje.

A script for dealing specifically with Tibetans was formed around the first major refugee influxes from Tibet during the 1950s, out of pre-existing discourses regarding refugees, immigrants and 'guests' (Kumar, 1995). This has over time been modified, as the Tibetan community and its interactions with other actors in India developed. Importantly, India has persistently avoided the codification of refugee treatment into domestic law and has refused to sign relevant international instruments (Mani, 2007). I reconstruct here this script and notable changes, especially from the 1980s onwards, to explain the intricacies and changes in the treatment of Tibetans in contemporary India. The complex interactions between governmental concepts of the Tibetan community and other groups within India's territory, both incomers and citizens, indicate significant potential for cross-fertilisation between conceptualisations of different groups. More recently, it seems, refugee identity in India has become interlinked with violence—notably by Muslim Kashmiri, Pakistani and Sri Lankan Tamil militants—which appears to have significantly influenced the changing treatment

of the Tibetan community. The present investigation of changes in Indian official conceptions of Tibetans, refugees and identity seeks to place such changes more firmly into historical and political contexts than existing literature has done.

### **Tibetans in India**

The main influx of c. 85,000 refugees entered India with the Dalai Lama in 1959 (Hutheesing, 1960); another major influx of c. 25,000 followed from 1986. Otherwise there has been a steady trickle with c. 2,200 between 1996 and 1999, bringing the total to around 110,000 in 1999.<sup>3</sup> Compared to around 850,000 people displaced within India from Kashmir in the 1980s and 1990s (Bose, 2000: 6), Tibetans are a relatively minor feature in modern Indian population movements. Yet Tibetans constituted India's first experience of a large group of refugees who did not claim to be 'Indian', and also her first experience of UN involvement through the United Nations High Commissioner for Refugees (UNHCR) (Oberi, 2006: 101). The resulting crisis was significant in shaping, developing and challenging Indian ideas of 'refugees' formed during partition after 1947 (Kaul, 2001). Subba (2002: 136) calls Tibetans a 'model' refugee community within India. However, my findings indicate that having remodelled India's 'refugee script' during the early years, Tibetans are now relatively unimportant; other groups have usurped the concept-moulding role.

The more recent script applies to ordinary Tibetans as much as to high-profile figures such as the Dalai Lama and the Karmapa. Much of the Karmapa's contentious position connects to the Sino-Indian border state of Sikkim. Similarities in the treatment of Tibetans in important border states offer illuminating comparative pointers. In Ladakh, Jammu & Kashmir, in particular, with its large Buddhist population, the Karmapa is almost as popular as in Sikkim, where his visit in September 2001 was greeted by crowds of thousands (Martin, 2003: 135). Ladakh's population has many cultural links to Tibet (Kaul and Kaul, 1992; Kumar, 1995) and cultural commonalities between refugees and host populations are a central issue in Indian refugee conceptions. Ladakhis are an acknowledged, but often marginalised group (Behara, 2000) within an Indian state whose different cultural groups have been particularly contentious,<sup>4</sup> and which hosted much of the violence and refugee movement at partition.<sup>5</sup> Therefore it is a central question whether and how local circumstances affect Tibetans' treatment in such a state. Surprisingly, they appear not to have had much impact.

### **India's Changing 'Refugee Script'**

While India is one of the world's most significant refugee-receivers (Oberi, 2006: 1 and 8), most literature on refugees focuses on Western Europe and North America. This suggests that Indian concepts and treatment of refugees should receive more attention. The literature on Tibetans in India, moreover, features several notable

omissions. Studies on Tibetans in India (e.g., Palakshappa, 1978) tend to concentrate on Tibetan identities but fail to contextualise them. Oberi (2006) argues that domestic factors are more significant in Indian governmental refugee decisions than is currently acknowledged by academics. Material on official Indian concepts and treatment of refugees mainly explains that it is inconsistent and should be reformed (Samaddar, 2003; Chimni, 2003), without sufficiently examining reasons.

India's handling of refugees differs from most Western states in two fundamental ways. First, India has no formal refugee law and thus no governmental obligation to provide aid. Second, it harbours significant hostility to international involvement in refugee matters. Influenced by the exceptional experiences of partition—still the largest refugee flow ever (Houssain, 1997: 78)—which India felt the international community ignored, there is a prevalent attitude among Indians that international help is unnecessary and international attitudes are inappropriate to India's experiences. India has not acceded to any international conventions governing refugee treatment (Oberi, 2006: 22–23).

Thus internal, rather than external, attitudes have shaped India's 'refugee script'. As the Foreign Secretary said in 2000, the 1951 Convention has 'nothing to do with our way of life' (Oberi, 2006: 34). Governments select elements from the various existing international Conventions, pursuing many strategies to maintain ambiguity or inconsistency, using discourses of rights (limited but guaranteed) as found in such Conventions and other laws, or charity (theoretically unlimited but dependent on the providing authority) as is felt convenient. These peculiarities have produced an enormously flexible 'refugee script' in India, a pragmatic malleability that allows governments to use precedents and legal instruments quite unpredictably.

This is clearly reflected in the experiences of the Dalai and Karmapa Lamas. The Minister for External Affairs' comment, soon after Dorje's arrival, that 'if people walk in and want to stay for a while, they can be allowed to stay' (World Tibet News Network, 17 January 2000), reassured all sides that nothing controversial was planned. The verbally identical responses to several parliamentary questions regarding Dorje's status during 2000, that 'the Chinese side has been requested to share with us details regarding the circumstances of his departure' (Lok Sabha, 10 May 2000 and 17 May 2000) were opaque, while reassuring a domestic audience opposed to deporting Dorje. Earlier, Nehru, too, had avoided questions regarding the Dalai Lama's function (Sharma and Sharma, 1997: 27). Indian public figures have always kept to extremely vague statements in addressing the Tibetan question, providing nothing too antagonistic to either the Chinese or Tibetan side.

This cautious approach stems largely from huge ambiguities in Indian governmental concepts of refugees, many originating from partition.<sup>6</sup> Terms like 'refugee', 'migrant', 'displaced person', and even 'alien' or 'foreigner' are used interchangeably and are nowhere fully defined. A Lok Sabha debate in November 2002 with reference to Sikhs who migrated at partition shows that even 'citizen' is ambiguous, since partition migrants are still considered 'refugees' by some Members of Parliament (MPs).<sup>7</sup>

Such ambiguities mean that refugee discourses blur into other public concerns. The 'refugee script' and a script about demographic 'minorities'—with roots arguably lying in pre-colonial majority/minority mindsets (Gangwal, 1995), finding a more codified expression in British colonial classifications of India's peoples which often played groups against each other<sup>8</sup>—became linked at partition, when millions became refugees in India because they were a 'religious minority' in Pakistan. India's first government used the minorities discourse to define India as a plural nation of many minorities and to bring incomers into the fold.<sup>9</sup> Resultant ambiguities of refugee/minority/citizen/immigrant led to ambiguities of treatment.<sup>10</sup> Later, use of a 'legitimising discourse' of refugee-ship by Kashmiri militant separatists and their Pakistani collaborators, referring to themselves by the Urdu term for 'refugee/migrant' (*mohajir*) to evoke support for their campaign (Robinson, 2005: 450–51), blurred distinctions between 'refugee' and 'terrorist'.

Although India's lack of a formal refugee regime means that different groups retain somewhat separate identities in the eyes of government officials, changes in the treatment of Tibetans, discussed below, suggest that the conceptual blurring in governmental attitudes towards some groups has been creating a more generalising script which now confuses all 'refugees' with certain other identities. Increasing conflation of refugees with other, potentially threatening, immigrants (economic migrants, ethnic minorities who are seen as 'outsiders') has been a worldwide trend since the 1980s (Juss, 2006; UNHCR, 1997: 189). In recent decades, greater restriction has marked Indian treatment of all refugees.<sup>11</sup> India has dealt with an increase in isolated refugees by prosecuting such unprecedented incomers as illegal aliens, often deporting them (Samaddar, 2003). Such individuals do not fit India's internal conceptions of refugees, based largely on repeated experiences of huge inflows of 'neighbour-refugees', such as Tibetans, the 1971 influx from East Pakistan, or continuing migration of Hindus from Pakistan and Bangladesh. Suspicion of such individual incomers as potential sources of both internal discord and a drain on the state may also influence the tightening security measures for Tibetans.

Clearly, India's changing refugee treatment can be partly attributed to domestic politics (Dasgupta, 2002: 340). The function of 'cultural links' in legitimising the presence of refugees may have been largely redundant by 1971, when the government insisted that refugees from neighbouring East Pakistan were not welcome (Saha, 2003: 240). However, neither Indian domestic politics nor international pressures, which India has always resisted (Saha, 2003: 240–41), can explain the ubiquity of more restrictive recent attitudes towards refugees in India.

### **Changing Treatment of Tibetans and Changes in 'the Script'**

The Tibetan issue in India has been marked by surprisingly little legislation (Menon, 2003: 177) and there still is no legally enshrined definition for any Tibetan entering the country. Tibetans' initial reception was clearly mediated through ideas of 'hospitality',

largely born of partition,<sup>12</sup> mobilised in 1959 through well-planned early responses to Tibetan refugee inflows. Although they are obviously special cases, the different treatment of the Dalai and Karmapa Lamas illustrates some developments in the script. Upon crossing the border in 1959, the Dalai Lama was greeted by an Indian official to take his group to a nearby town for rest (Dalai Lama, 1990: 158), where a telegram from Nehru awaited them, saying they could 'reside in India'. After a year the Dalai Lama (1990: 160) moved to specially constructed headquarters at Dharamsala, rather than remaining confined in one monastery with no official permission to stay for over a year, as happened to the Karmapa in 2000. The Dalai Lama's first non-local excursion, to Delhi, came after only three months (Dalai Lama, 1990: 163); six months later he toured all over India. Security on his first house in Mussoorie (Marcello, 2003: 105) was nothing like the restrictions on Dorje. While Nehru indicated in May 1959 that it is entirely for the Dalai Lama to decide what to do and when to do it, confirming that he 'goes about in Mussoorie' (Sharma and Sharma, 1997: 39), this starkly contrasts with more recent governmental insistence on giving (or denying) permission for Dorje's every move (Sharma and Sharma, 1997: 39). These differences in treatment of the two Lamas are not due to their different offices. The previous Karmapa was just as generously supported by India as the Dalai Lama, with Nehru helping to fund the construction of the sect's new seat at Rumtek in Sikkim in the mid-1960s (Douglas and White, 1976: 119). Nor are they due to historical differences in Sino-Indian relations or Chinese pressure and influence in two different periods, as discussed further below.

Influenced by widespread media pressure (Terhune, 2004: 242), the hospitable approach was again activated in the acceptance of the Karmapa and clearly prevented his deportation in 2000; indeed it has remained active in general support across Indian political parties for sheltering Tibetans (Subba, 2002: 143). The partition inflows, however, also had other influences on conceptualisations of Tibetans: 'refugees' as huge groups rather than individuals; the 'neighbour-refugee' and 'refugee as kin';<sup>13</sup> and refugees as distinct, bounded groups arising from specific situations, requiring differential treatment. These themes set by partition have arguably undergone most change in recent decades.

The treatment of ordinary Tibetans has also changed, especially since 1986. Indian government aid now only stretches to transport to settlement areas (Kharat, 2003: 302; Wang Mo, Tsundue and Sanjee Gyatso, interviews 3, 9 and 13 August 2007), and the government has ceased to contribute towards housing or other needs. Governmental and popular suspicions regarding Tibetan refugees are heightening, with documented examples of antagonism towards Tibetans in India in recent decades that were not found earlier.<sup>14</sup> Lok Sabha debates (e.g. 23 April 2004 and 8 August 2006) now refer more frequently to Tibetan 'political activities' and most Tibetans now entering are not granted legal residence (Kharat, 2003: 302). Recent unprecedented application of the Foreigners Act in some cases of Tibetans has similarities with the treatment of non-neighbouring refugees. The government is now mobilising instruments previously applied only to those not recognised as part of large refugee flows.

Governmental attitudes formed at partition, seeing refugees as useful,<sup>15</sup> have thus been replaced by increasing suspicion of refugees as potentially damaging to the state. The less welcoming attitude is reflected especially by repeated tightening of restrictions on Indian citizenship, emphasising the government's discretionary power to determine who is an 'illegal migrant'.<sup>16</sup> Such government 'discretion' may explain the confusion of one Indian-born young Tibetan (if ignorance of the law does not), who could not get citizenship because his father was Tibetan—his mother is Indian—while his (Tibetan) half-sister's children had passports because of their Indian father (Wang Mo, 3 August 2007; Karma, 6 August 2007).

The reasons for such confusions and changes are far from transparent. Declining treatment may be partly due to a real increase in Tibetan agitation: a recent protest in Delhi, for example, was attended by 40,000 Tibetan refugees and accompanied by another 900 in Leh, Ladakh (Wang Mo, 9 August 2007). Some Tibetans in Leh are 'proud' of protesters and hunger strikers and think this is 'a duty of all refugee people', even if the government punishes them (Wang Mo, 9 August 2007; Sanjee Gyatso, 13 August 2007). However, Tibetan agitation has been largely peaceful and changes in treatment seem out of proportion. A BBC reporter (25 May 2001) explained the security surrounding Dorje in May 2001 by saying that 'he has been more outspoken...than the Dalai Lama', but evidence of this is thin. While Dorje has recently begun to voice more politicised opinions in relation to the 2008 Beijing Olympics (Time, 9 June 2008), his 'outspokenness' pales in comparison to that of the Dalai Lama both now and earlier. Less than a month after arriving, the Dalai Lama (1990: 160–1) provoked Nehru's anger and forceful discouragement by talking of establishing a government. While Dorje has repeatedly expressed hope for an end to the ban on his planned visit to Sikkim, his first public statement of this came over a year after his arrival (BBC, 27 April 2001). He has usually refused comment on his possible political role (World Tibet News Network, 21 September 2002), stating that 'I myself have no political intentions or ambitions' (BBC, 25 May 2001). Even after eight years and during his first overseas visit, to the USA in May 2008, Dorje's most inflammatory comment was to say that the situation in Tibet had reached a level of emergency, and that the Dalai Lama has the responsibility to bring about a peaceful resolution. This is hardly controversial, given the far stronger sentiments of many world leaders on the Tibetan issue in the run-up to the 2008 Beijing Olympics. The Dalai Lama himself has arguably become less outspoken, softening his stance towards China (BBC, 8 March 2003), which further suggests that declining Indian government provision of welfare facilities for ordinary Tibetans, now almost all provided by the Tibetan administration, is not caused by either Lama's outspokenness. The rising self-sufficiency of the Tibetan administration, as the Dalai Lama's international profile has increased,<sup>17</sup> is also unlikely to be a major cause, as the administration simply cannot provide basic needs for all (Kharat, 2003: 299). Other factors must be involved in India's changing treatment of Tibetans.

Tibetan refugees—including a high profile case like the Karmapa—thus illustrate India's contemporary changing flexible 'refugee script'. Although the two Lamas are special cases, the script's malleability, with its roots in partition, applies to India's dealings with all Tibetans, as testified by the experiences of ordinary Tibetans I interviewed. Initially, even Tibetan Muslims were given Indian citizenship by central government in Jammu & Kashmir in 1960 because they claimed Kashmiri origin.<sup>18</sup> Explanations for recent changes reveal a constantly dynamic conjunction of ideas and events, but still a largely internally constituted script. While governments have historically used the discourse of refugees as religious groups to excuse their presence,<sup>19</sup> increasing restrictions, probably following Muslim terrorist attacks in India (see *India Today*, 26 May 2008), appear to mark the script for more recent Tibetan refugees.

Another possible explanation might be external circumstances in terms of foreign relations. Changing refugee treatment could be attributable to greater paranoia worldwide regarding 'outsiders inside'. Especially since 9/11, the 'enemy of democracy' is no longer communism, but 'terrorism'. Tibetan protests are perhaps now more likely to be viewed by the government in terms of anti-state activity and therefore linked to 'terrorism' within India. However, India's Cold War neutrality and socialism did not lead her earlier to demonise communism and India's self-definition developed more in opposition to religious rule and 'regionalism', largely focused on Pakistan;<sup>20</sup> thus continued governmental opposition to matching international standards in refugee treatment suggests that specific links between discourses of 'refugees', 'terrorists', 'minorities' and 'citizenship' in India are not fundamentally affected by worldwide changes.<sup>21</sup>

Perhaps, then, more specific foreign relations, particularly India's bilateral relationship with China, can provide explanations? This may be especially significant for Dorje. Since entering India, he has been greeted as a potential political successor to the Dalai Lama (Brown, 2004: 267; Maheshwari, 2000: 137; Naher, 2004: 6; Terhune, 2004: 239–40; Time, 9 June 2008). He is a sensitive figure in relations between India, which shelters the Dalai Lama's unofficial government-in-exile, and China. Given that Dorje was previously in favour in Beijing, his flight was embarrassing for China (BBC, 7 January 2000; IPCS, 2000b). India's 1998 nuclear tests, accompanied by anti-China comments from the Indian Minister of External Affairs, may have contributed to a souring of Sino-Indian relations just before the Karmapa's flight and could account for the more cautious treatment.

However, counter-evidence showing no correlation between refugee treatment and bilateral relations far outweighs the above conjecture. China, embarrassed and irritated by the re-opening of the Panchen Lama debate,<sup>22</sup> was vociferously claiming that sheltering Dorje would violate the 1954 Panchsheel agreement on non-aggression between India and China within days of his arrival (Maheshwari, 2000: 139). Despite a year of Chinese pressure, however, Dorje was given 'refugee status' by India in February 2001. Moreover, central government had indicated far earlier that refugee status was probable: two weeks after Dorje arrived, the Defence and Home Ministers were



giving assurances that Dorje could stay for the time being and that asylum would be considered (World Tibet News Network, 17 January 2000). The Dalai Lama said less than two months later that 'friends' in the government had stated that Dorje would stay 'informally' (World Tibet News Network, 8 March 2000).

While some aspects of Tibetans' early treatment were affected by the Sino-Indian war in 1962 (Garver, 2001: 62), most were fixed well before this. The Indian government had a well-prepared infrastructure to shelter large numbers of Tibetans long before 1962 (Chatterjee, 2001). Nehru's 1959 decision to admit all Tibetans was based on strong long-term pro-Tibetan pressure within India (Kharat, 2003: 286–7). In 1954 he assured Tibetans already in India that they would not be deported nor their aid to the resistance movement inside Tibet restricted, even if Beijing demanded it (Garver, 2001: 53) Although in 1957 Nehru refused the Dalai Lama asylum, by 1959 the Indian media's opposition to China's actions forced him to admit the Tibetan leader and his people (Garver, 2001: 41).

Furthermore, the refugee inflow was not used as a foreign policy tool in 1962, as was the 1971 inflow from East Pakistan.<sup>23</sup> The government's failure to take this bait even during war shows it did not see Tibetan refugees in terms of bilateral relations. The government also failed to use the 'Tibet card' in 2000 to improve relations with its powerful neighbour through handing back the Karmapa. As in 1959 and 1962, however, bilateral relations cannot fully explain events in India following Dorje's arrival in 2000.

There was also no discernable change in the treatment of Tibetans after Mao's death in 1978, which effected an improvement in relations, nor did the 1986–89 inflow of Tibetans to India obviously affect bilateral relations (Garver, 2001: 68). India's revised citizenship laws in 1986 were, therefore, probably prompted in part by the inflow itself (and perhaps by Non Resident Indian [NRI] involvement) rather than desire to appease Beijing. India has never made much effort to do this: politicians' statements about China are consistently bland, with standard lines that Tibetans are not allowed to carry out anti-Chinese political activities on Indian soil and that the Dalai Lama is a purely religious figure, being repeated again and again (Garver, 2001: 72 and much official documentation). Accompanied by vagueness about what constitutes 'anti-Chinese political activities' (Garver, 2001: 74), this conveniently sidesteps the issue of the Dalai Lama's political activities abroad, which India does not limit. India also rarely prevents Tibetan protests and the 40,000-strong protest in Delhi in August 2007 prompted no reported state action. Frazier (2004: 315) argues that Sino-Indian relations have stagnated for the last 20 years, suggesting that their impact on the noticeably changing treatment of Tibetans during this period is insignificant.

A clue to understanding these changes is, however, found in Indian legislation surrounding the 1962 war. The 1962 Foreigners (Restriction on Chinese Nationals) Order does not refer to Tibetans, nor does the Foreigners (Internment) Order of the same year, contrasting with previous specific restrictions on the movements of

‘an indigenous inhabitant of the Tibet region of China’ in the Foreigners (Restriction on Movements) Order of 1960 (Sinha, 1962: 188–99). Tibetans were disregarded as a security risk by 1962, at the most hostile point in Sino-Indian relations, indicating that these relations did not significantly affect Indian perceptions of Tibetans. Conversely, measures were increased to protect Tibetans. The Extradition Act 1962 prohibited a foreign government which India did not have a treaty with—including China—from seeking extradition of its nationals from India (Sinha and Bagga, 1987: 258–68). Earlier, the Registration of Foreigners (Exemption) Order 1957 cancelled the obligation for Tibetans to explain why they had come (Sinha and Bagga, 1987: 207–09), showing willingness to accept such refugees without question even before the main inflow. Probably born of partition—only a decade before—this approach confirms how far Tibetans were accepted into India’s already-formed internal ‘refugee script’. The government’s domestic presentation of Tibetans’ treatment today supports this. Relatively frequent calls from opposition MPs recently (e.g. Lok Sabha, August 2004, December 2004, August 2006) for a political solution to the Tibet problem have been rebuffed, showing a desire to treat the Tibetans as an internal issue and not a matter of foreign policy.

This approach is reinforced by India’s notable insularity in refugee handling, formed during partition and confirmed by subsequent attitudes towards the international refugee regime, which has ensured that India deals with refugees according to dominant internal ideas. A strong internally constituted and mediated script enables India to control refugees domestically, faced with relative lack of control over the complex and often extremely volatile political topography of the surrounding region, which has supplied most of India’s refugees. Remarkably, national security concerns arising from neighbouring conflicts have usually led India to admit rather than bar large numbers of refugees. This builds on the partition experience of threat to the new state’s integrity from millions of people with ambiguous nationality. India’s post-1947 reaction was to destroy that threat by incorporating, and thus controlling, such migrants. India’s subsequent position as a relatively stable state surrounded by relatively unstable neighbours may have fundamentally affected her internal attitudes. Perceptions of exceptional external volatility may prompt both tight central control over concepts and ‘scripts’—and over refugees themselves—and the flexibility of the script and central government’s refugee handling. Ironically, the presence of threatening neighbours may thus have diminished the direct influence of those neighbours on India’s treatment of refugees.

This is partly reflected in India’s tendency to resist international intervention during refugee crises. UNHCR, established in 1950, missed India’s formative refugee experience—partition—possibly prompting a governmental perception that it is unnecessary. UNHCR (2006a) has provided virtually no help to two of India’s largest refugee groups, Tibetans and Sri Lankan Tamils. India’s membership of UNHCR’s Executive Committee from 1995 (Chimni, 2003: 31), far from signalling interest in the international refugee regime, is more motivated by India’s need to maintain its international reputation for aid purposes (Bose, 2000: 52), by competition with Pakistan

which became a member in 1988 (Sen, 2003: 401), and by a desire to re-exert control over this organisation after a rift over politicised comments by the then UNHCR High Commissioner for Refugees in 1971, who appeared to challenge India's control over refugees from what became Bangladesh, after which the government closed UNHCR's India office in 1975 (Saha, 2003: 240–1).

Throughout, India has sought to retain control over UNHCR by giving it unofficial and constrained roles.<sup>24</sup> The government's strategy from the early 1960s, seeking funding yet insisting on retaining autonomy,<sup>25</sup> may have arisen from the Tibetan crisis, which set a tense and ambiguous relationship between the government and UNHCR. Central government was hostile to UNHCR intervention despite its benefits, because it would compromise governmental control over the refugees; such tensions are still visible today. Although the government now allows UNHCR to operate an office, its actions in bailing refugees charged under the 1946 Foreigners Act so they can seek UNHCR refugee status, after which some are acquitted, and others deported (Sen, 2003: 415; Bose, 2000: 28–31), show the government is using UNHCR refugee status as a legitimating tool when convenient, while retaining ultimate discretion.

Governmental desire to 'twist the law' to retain control is evident in that most relevant legislation bestows discretionary power on central government.<sup>26</sup> Recent calls for national regulation of refugee handling have not been acted on and scholarly optimism of relaxation of central control seems misplaced.<sup>27</sup> Mounting challenges since the 1970s from the courts to governmental authority over refugees (Shunmugasundaram, 2007: 5–6), sometimes through 'judicial activism', i.e., strategies of interpreting the law liberally or creatively to favour refugees,<sup>28</sup> have recently been met with negative comments advising caution.<sup>29</sup> In the interplay between Government, the Courts, UNHCR and refugee leaders like the Dalai Lama,<sup>30</sup> governmental reassertion of national control remains powerful, in fact encouraging the entire system towards greater restriction for all refugees, including Tibetans, thus reinforcing the internal nature of 'the script', which is largely informed by centrally developed concepts formulated on a national level. Confirmed by the Minister for External Affairs' flat denial of rumours that the Karmapa 'has Indian origin' (Lok Sabha, 1 March 2000), the strength and utility of this 'refugee script' seems to make it unnecessary for Government Ministers to even consider opportunities to explain refugees' presence in relation to the competing discourse of the Indian diaspora, increasingly mobilised by NRI incomers claiming a place in the Indian nation.

Central control has facilitated an effective support infrastructure for Tibetans, as for other large refugee groups. Though now diminished in the provision of welfare, this has been strengthened in other areas. A system of permits and registration documents applies specifically and exclusively to Tibetans and is part of the central government's legal infrastructure for Tibetans. A Ladakhi judge I interviewed (Thinles Angmo, 9 August 2007) felt that this explains why she has never dealt with any cases involving Tibetans during her 30-year career, an assessment supported by the total lack of reported Indian Supreme Court or High Court cases involving Tibetans since 1950.

The official website of the Central Tibetan Administration refers in its judicial section to a Tibetan judiciary under the Tibetan government-in-exile, in existence since 1992. But it is only empowered to deal with cases involving 'the social welfare, or security, of the Tibetan exile community' and not with criminal or title suits involving individual Tibetans in host countries. The literature shows that many Tibetans echo the Indian government's internal focus on control (Fürer-Haimendorf, 1990: 94–5; Saklani, 1984: 348) and my interviewees agreed.

The strength of India's internal 'refugee script' is further demonstrated by the hardships befalling those who 'break' it. Refugees from non-neighbouring regions clash with India's conceptions of refugee, minority, or citizen, placing them 'outside the system' and excluding them from help as they do not fit any category except 'outsider'. Reports of destitution among young Tibetans who move outside the Tibetan settlements (Kharat, 2003: 299) also reflect this. Refugees who do not follow the government's strategy of 'creative ambiguity' and try to assert an unambiguous identity for themselves, either as a vocal political exile or a fully integrated member of the Indian nation, find themselves limited or disadvantaged by the strength of the script which produces this strategy.

The central script is also strong enough to override local circumstances. In northern areas, some mixing of local and Tibetan identities might be expected because of strong cultural ties. Ladakhis and Tibetans appear to mix freely (Musa Lone, 16 June 2007). However, Subba's (2002: 139–41) ample evidence from the media of India's Himalayan regions is illuminating, showing that tension is more evident where Tibetans and locals interact closely than in the more segregated Tibetan populations of south India. Subba (2002: 139) describes growing resentment of Tibetan refugees in Himalayan areas during the 1990s by local communities, echoed by Tibetans in Ladakh (Wang Mo and Tsundue, 3 August 2007) who claim that Ladakhis have become more hostile in the last decade. For Sikkim, Subba (2002: 141) cites complaints and locals' negative feelings that Tibetans have acquired Scheduled Tribe certificates and have 'appropriated' jobs reserved for the co-ethnic Lepcha and Bhutia peoples.

Baral and Muni (1996b: 28) claim that the presence of co-ethnic refugees 'exacerbates, consolidates and even politicises ethnic groups in the host country'. Yet my interviewees showed a strongly separate group identity of their own.<sup>31</sup> Tibetans did not get involved in the social tension between Ladakhi Buddhists and Ladakhi and Kashmiri Muslims in 1989. Conversely, Ladakhis generally take no part in Tibetan political activity.<sup>32</sup>

State and national governments encourage this separation. Differing perceptions of Tibetan Muslims in Kashmir exist: as 'insiders' with Indian citizenship according to the central government, or 'outsiders' according to the state government, which treats them as other Indian citizens from outside the state, according to Article 370 of the state's Constitution (Kaul and Teng, 1975: 86). This shows that regional authorities may occasionally challenge the central script. However, the Jammu & Kashmir and central governments largely agree on the treatment of Tibetan Buddhists. Local judge

Thinles Angmo (9 August 2007) asserted that Tibetans and Ladakhis are not seen in similar terms by local authorities. Indeed, Ladakhis are given different treatment in education, not being schooled in their native language until recently, while Tibetan refugees in Ladakh have always been taught partly in Tibetan, in special Tibetan schools set up initially by the Indian government and latterly by the Tibetan government-in-exile (Norberg-Hodge, 1991). In contemporary Ladakh, where 'local' Buddhists and Muslims mostly share facilities like schools, Tibetans are the 'separated minority', whether by their own choice or through the enforcing attitudes of local populations and authorities.

Some aspects of such separating attitudes can be identified. Few Tibetans took citizenship in India even before its restriction in 1986. In Jammu & Kashmir, Article 370 may further run counter to feelings of commonality between Ladakhis and Tibetans: with this law the government of Jammu & Kashmir rigidly distinguishes Ladakhi 'Jammu & Kashmir residents' from 'outsider' Tibetans. Norbu (1996: 87) refers to a Ladakhi intellectual's resentment of Tibetan refugee priests controlling six important monasteries in Ladakh. In this case cultural similarities may have encouraged a level of integration which places the two groups in competition, leading to a strictly maintained separation of politics and identity in both communities and in government. The centrally mediated governmental script is strong enough to triumph over cultural similarities.

### **Tibetans as a Minority**

Tibetan cultural links in northern Indian states thus seem paradoxically to enforce political separation, because of a clash between cultural commonalities and the tensions these bring, and governmental ideas of separation—expressed through permits, refugee certificates and other bureaucratic interventions—resulting in ambivalence or even animosity towards Tibetans. Moreover, the Indian authorities' infrastructure for dealing with Tibetans adds an extra dimension by distinguishing 'resident' and 'refugee', rather than simply Ladakhis and Tibetans.

A pertinent question therefore, is *how* Tibetans are conceptualised as separate. Their position reflects the paradox of 'outsiders inside', fundamental to a country as diverse as India and best expressed in the conjunction between Indian discourses of 'refugees' and 'minorities'. Since the 'minorities' and 'refugee' scripts have become further intertwined in recent decades through changes in both, understanding the perception of Tibetans as a minority within India is increasingly important to examine changes in their treatment.

Early on, Tibetans were sometimes regarded as part of other ethnic and religious minorities.<sup>33</sup> However, in Himalayan states, Tibetans are now treated as a distinct 'minority' of their own and commonalities with other 'minority' groups are only acknowledged in religion (Wang Mo and Tsundue, 3 August 2007; Sanjee Gyatso, 13 August 2007). One man, the only Tibetan monk living and teaching in a Ladakhi

monastery, said simply: 'Same Buddhist, same culture'. Ladakh has become a refuge for Tibetan Buddhism since Chinese religious persecution began, and is the only place where all four sects remain (Shakspo, 2005: 63). However, this can encourage tension as this cultural commonality does not appear strong enough to counteract the identification, by governments following a central script, of Tibetans and Ladakhis as separate 'minorities'.

Categorising people into separate minorities is a ubiquitous and well-established discourse in India (Ansari, 1996; Dewan, 1991; Hasan, 1996; Kodikara, 1996; Mahmood, 2001; Majeed, 2002b; Sorabjee, 1996; Wadhwa, 1975). Indian governments have found it convenient to simply insert the Tibetan community into this discourse as a 'minority'. Accusations by Lepchas and Bhutias about Tibetans appropriating Scheduled Tribes certificates (Subba, 2002: 141) reveal feelings of competition and firm ideas of the advantages of belonging to particular groups.

The Indian 'minorities' discourse is marked by inherent flexibility and the concept is also not clearly defined in Indian law. The Constitution limits definitions to vague religious, linguistic and cultural criteria (Articles 29 and 30) and the National Commission for Minorities Act of 1992 defines a 'minority' as 'a community notified as such by the Central Government' (Massey, 2003: 182). Early debates left ambiguities also in the treatment of 'minorities'. Although provisions for minorities were clearly necessary, those involved in framing the Constitution were ambivalent about separate minority reservations in Parliament,<sup>34</sup> deleted from the final Constitution along with many other measures protecting minorities (Ansari, 1996: 452; Khan and Yadav, 2001: 39).

Article 30(1) of the Constitution firmly bestows the right to separate educational institutions on 'all minorities'. The Indian Supreme Court held in 1970 that this included not only citizens, but all groups resident in India, so that citizenship was not a necessary qualification for claiming protection under Article 30.<sup>35</sup> Articles 29 and 30 thus open the 'minority box' to Tibetans as a linguistic and religious minority in India. Indeed their presence may have shifted the emphasis of ideas about minorities towards the linguistic arena after the religiously mediated crisis of partition. A report published well before the Tibetans' arrival (Government of India, 1948) claimed that most of India's minorities are religious, with few linguistic ones. However, Tibetans are differentiated in Buddhist areas from local Buddhists, showing that they are not considered as a discrete group on religious criteria alone. Nehru re-mobilised the constitutional linguistic criterion in his policy of funding separate Tibetan schools, which he himself suggested on first meeting the Dalai Lama two months after his arrival (Dalai Lama, 1990: 164), thus firmly implanting Tibetans into the conceptual framework for 'minorities' with the right to separate schools and education in their own language. This framework is still used,<sup>36</sup> confirming that Tibetans are regarded as an internal 'minority' in India. Central government attempts to shoehorn Tibetans into the 'minorities box' can be seen as a device to control and handle them more easily. But the government also operates some elaborate 'blind eye' policies towards

Tibetans, not officially recognising as a 'refugee' any Tibetan arriving after 1963 (Subba, 2002: 134), sometimes even excluding those arriving after 1959 (Lok Sabha, 29 November and 7 December 2005). The Minister of Home Affairs (Lok Sabha, 16 May 2000) defined those arriving after 1959 as 'foreigners' who should be allowed to stay subject to registration, yet claimed three years later (Lok Sabha, 22 April 2003) that 'India does not give asylum...to refugees from any country'.

Such ambiguities are reflected in actual practice. Wang Mo's and Tsundue's Refugee Certificates state 'born in India' despite the fact that they both arrived from Tibet less than 15 years ago. Other refugees are accepted with non-refugee justifications. Sanjee Gyatso (13 August 2007) holds a Tibetan Certification for Study as his official reason for being in India for the past 20 years. Central government preference for treating Tibetan refugees as an internal 'minority' rather than recently arrived 'refugee outsiders' is further implied by similarities between the experiences of Tibetan Buddhist refugees, and Tibetan Muslims who were earlier given Indian citizenship. The insertion of both groups into the 'minorities' discourse may have partially contributed to an overall decline in favourable treatment. During the 1960s, central and state governments were still generous to the Tibetan Muslims. However, this later declined when the community outgrew the settlement initially provided, and only the Dalai Lama's intervention in 1987 secured them a site to build on (Musa Lone, 16 June 2007). This particular 'citizen minority' and the Tibetan 'refugee minority' as a whole underwent a parallel decline in treatment after the government's withdrawal of direct financial support and land donations for Tibetan refugees since the 1980s (Kharat, 2003: 302); both declines can be seen as a result of domination of 'minorities' by 'majorities' when central government increasingly saw national integration as essential for modernisation (Narang, 2002: 72–73), especially in the 1970s and early 1980s under Indira Gandhi (Bose and Jalal, 2004: 182). Destitution among some Tibetans (Kharat, 2003: 299) shows that this 'minority' is, along with others, now being neglected by the government, reinforced by an absence of political will in recent decades to implement constitutional minority safeguards (Mahmood, 2001: 212–31; Massey, 2002: 100). Central and local governments are offloading the burgeoning Tibetan population onto a general concept of 'minorities'. This governmental conception of Tibetans as a 'minority' appeared to be shared by a Hindu nationalist group which targeted Tibetans as well as Indian Muslims (BBC, 16 November 2002).

The overall treatment of 'minorities' by Indian governments, however, cannot explain all recent changes in refugee treatment, like tightening citizenship laws and restrictions on Tibetans' movement. Arriving when the emphasis of the new nation was on integration, as documented for instance in Indira Gandhi's National Integration Committee of 1961, Tibetans were earlier accepted and 'absorbed', while governmental 'divide and rule' policies during the 1980s (Bose, 2004: 334) may have influenced increasing regulation and the withdrawal of citizenship rights from most newcomers. Changes in governmental attitudes which may have caused such swings in policy may therefore provide further explanations for differential treatment over time.

Tibetans have been treated by recent governments as a kind of ‘refugee minority’, reflecting further intertwining of the Indian ‘minorities’ and ‘refugee’ discourses in recent decades. Partition refugees created ‘alternative notions of legitimacy and citizenship in India’ (Chatterjee, 2001: 77); subsequent refugees would do the same. The term ‘minority’ in secular India has not been used to exclude groups from the ‘nation’, as Majeed (2002a: 2) argues, but to bring them in. It is possible for a member of a ‘minority’ to be within the ‘nation’, yet not an Indian citizen. The ‘minorities’ discourse may, indeed, counter the refugee/citizen dichotomy. Its strength is shown by the ineffectiveness, to date, of calls for a national refugee law, which would cement this dichotomy. The ‘minorities’ discourse and the ‘refugee’ discourse thus blur into one another,<sup>37</sup> and the longevity of some groups’ identities creates ‘permanent’ refugee-citizens in government eyes.<sup>38</sup>

Refugees in India are ‘not the uncomplicated “Other”’ (Oberi, 2006: 233). Tibetans as an example of a long-standing community of immigrants who have claimed—and also been ascribed—a refugee identity, have become integrated into the government’s scripts for conceptualising the wide variety of incomers it has to deal with, as well as themselves influencing these conceptual scripts. In the process, the identities surrounding Tibetans in India have taken on characteristics of, and become integrated with, scripts for dealing with internal groups. The strong rhetoric of ‘minorities’ in India ultimately ensures that everyone is an ‘other’. Through this management strategy, significant refugee groups are incorporated into the ‘nation of others’, as just ‘another other’, while individuals or small isolated groups may be repelled or expelled.

*The Hindustan Times* (5 July 2007) claimed that India pretends the Tibetan problem does not exist. However, the evidence shows not a government ignoring the problem, but trying to reframe it as an internal matter. By claiming that all ‘Tibetan refugees’ have resided in India since 1959, the government is incorporating them, using a revised script produced by blending the two discourses identified. Tibetans then become a separate group within both the ‘minorities’ and ‘refugee’ discourses, though the latter has no proper definition or provision in Indian law. The armoury of concepts constituting a script about ‘minorities’ can thus, for Tibetans, also be used to define a script about ‘refugees’. In the context of increasing governmental worry about Tibetan refugees, and increasing numbers of Tibetans, the ‘minorities’ discourse encourages easy regulation of Tibetans by penning them in as a bounded group, removing the urgency of moral obligations to ‘refugees’ and ‘neighbours’ which forced Nehru’s hand in 1959.

In this ambiguous refugee/minority position, it is unsurprising that Tibetans in India display ‘socio-cultural ambivalence’ (Subba, 1990: 156). Identity debates among Tibetan Muslims (Musa Lone, 16 June 2007) show that, far from being unambiguous ‘Indian citizens’, as their legal position claims, they occupy just another level of the Indian government’s deliberate grey areas concerning ‘refugees’, ‘nationals’, and ‘minorities’.



This flexibility has contributed to the decline in Tibetans' treatment in subtle ways, not simply as part of a general decline in governmental attention to 'minorities'. Tensions inherent in a 'minorities' discourse which separates groups yet strives to bring them together force governments to attempt to balance equitable treatment with restricting centrifugal tendencies. One solution Indian governments have found is to restrict the definition of a 'minority' to non-dominant, disadvantaged or powerless groups,<sup>39</sup> therefore removing the label from much of the population in the hope of increasing cohesion. This has however backfired (Narang, 2002: 72–73), with less powerful groups mobilising this definition for their own purposes, and the messy consequences show up now in domestic politics. Recent coalitions have been necessitated by many regional parties obtaining seats in parliament (Bose and Jalal, 2004: 168–70 and 190–1). Change in the 'minorities' discourse has produced increasingly powerful and threatening 'minority' voices, linked also to voices of 'refugee' concepts.

### **Refugees as a Security Risk**

Influenced by two extremely vocal 'minority' tensions, the rise of the Liberation Tigers of Tamil Elam (LTTE) in Tamil Nadu, linked to militant separatists in Sri Lanka, and the Kashmir insurgency, aided by elements from Pakistan, the 'minorities' discourse in India has since the 1980s increasingly become linked with concerns about border security and 'infiltration' by 'outsiders'. The resultant script, which now links 'refugees', 'minorities', threat and border insecurity, provides by far the most useful explanation of peculiarities in treatment of Tibetans in contemporary India.

Protecting national security, internally and externally, is one feature of recent Indian attitudes towards refugees which almost all parties agree on. The Draft Model Refugee Law (Bose, 2000: 57–63) allows refoulement in cases of national security risk. While intellectual opinion acknowledges the issue (Samadhar, 2002: 6), the Supreme Court has declared in recent years—reacting to increased opposition to 'judicial activism' in favour of refugees—that courts cannot influence lawmaking (*Times of India*, 7 August 2007), indicating a consensus that power over refugees' fate has swung at a high level back towards the government's script for 'refugees' and 'minorities', exerting a powerful impact on refugee treatment.

Subject to both 'refugee' and 'minority' discourses, Tibetans are thus also affected by new concerns regarding internal and external security. Fears about internal communal violence arising from intersect disputes have affected the Karmapa's experience, even though Dorje had been endorsed by the Dalai Lama in 1992. Rumtek was under police protection when Dorje entered India in 2000, following clashes between two rival factions supporting alternative candidates as Karmapa (IPCS, 2000a).

Communal violence does not, on its own, constitute a valid precedent for barring Dorje from Sikkim. The government was anticipating violent clashes soon after his arrival (BBC, 10 January 2000), but the previous conflict was not violent and there is only one other example of violence among the factions,<sup>40</sup> despite attempts by a third

candidate, supported by neither faction, to enter Rumtek in 2001 and 2003 (*The Statesman*, 2 December 2003). Popular agitation within Sikkim for Dorje to visit was limited to poster campaigns (*The Statesman*, 30 November 2002). The only recorded incidents of other violence involving Tibetans in India are a 1994 riot in Dharamsala after a Tibetan killed an indigenous man (Marcello, 2003: 141) and an incident where a monk burnt himself to death in protest against Indian police intervention in a hunger strike for Tibetan independence by six other Tibetans which had lasted more than six weeks (Marcello, 2003: 145).

This factional dispute, however, has enough parallels in nearby areas to arouse government suspicion of violence despite almost complete absence of evidence.<sup>41</sup> Thus a generalised fear of communal violence probably prompted increased security at Rumtek in December 2001, in a knee-jerk reaction, soon after 9/11 and following attacks on Parliament in Delhi by an unrelated, non-Tibetan group (World Tibet News Network, 31 May 2003). This also helps to explain why Dorje remains prohibited from even visiting Sikkim, much less moving there,<sup>42</sup> and why the government will not say whether this will ever be possible (Terhune, 2004: 246). The Dalai Lama's statement in 2000 that Dorje came to India 'to enjoy freedom completely' (Terhune, 2004: 247) jars ironically with this. A contemporary report from a New Delhi think tank states that Dorje's arrival does not pose a major problem for the Indian Government...therefore this incident should not impinge on Sino-Indian relations' (IPCS, 2000a). However, the underlying script appears to indicate responses to concerns about security, regardless of actual internal threat or risk to bilateral relations.

Rumtek also reflects external security aspects of the new script. Sikkim, a former kingdom on the north-eastern Sino-Indian border, absorbed by India in 1974 but not officially acknowledged by China as part of India until 2005 (*The Hindu*, 12 April 2005), provokes elements of the script concerning borders and threats of 'infiltration'. A report contemporaneous with Dorje's arrival in India claims his prohibition from Sikkim is a precaution until the government can ascertain his 'political leanings' (IPCS, 2000a). Other opinions reveal the deeper meaning of this phrase. Maheshwari (2000: 123) claims, while giving no evidence, that China has since the 1980s sent Chinese spies disguised as monks to infiltrate Indian monasteries and that preliminary investigations indicate that Beijing may have acquiesced in Dorje's departure (Maheshwari, 2000: 139). Dorje's teacher, Situ Rinpoche, was banned from India as an alleged Chinese agent. The Chief Secretary of Sikkim reported to New Delhi in 1997 that China was seeking to influence not only the religious consciousness of Tibetans, but of the entire Himalayan region (Maheshwari, 2000: 129–34). Linked to arrests and deportations of Tibetans with no papers, such rumours of espionage abound. The Indian official overseeing the Tibetan Reception Centre at Dharamsala said of a woman deported twice that 'there is every reason to believe that some refugees or tourists could be Chinese spies' (*The Telegraph*, 26 July 2006). Tibetan monk Sanjee Gyatso (13 August 2007) had heard that the Karmapa was a Chinese spy, but did not believe it. A less cynical Tibetan friend of one of my interviewees in Leh had heard that two

female Chinese spies dressed as Buddhist nuns had been arrested there the previous week (Wang Mo, 6 August 2007). The Ladakhi judge (Thinles Angmo, 9 August 2007) explained that such rumours have recently proliferated because of increased security concerns surrounding Tibetans, suggesting that they may have originated or increased with the appearance of Dorje, the only Tibetan Lama known to have enjoyed the favour of China and the Dalai Lama simultaneously. While these rumours may not have been initiated by anyone in government, their appropriateness to new governmental attitudes is confirmed by governmental responses, ranging from unprecedented arrests of unregistered Tibetans to increased worries about Tibetan 'political activity' voiced in Parliament, noted earlier. Dorje's case shows, and has further cemented, the conjunction of security concerns—both internal and external—and of refugee issues in India. A central governmental script, operating through security precautions, is embedding this link in local perceptions, now manifested in spy rumours.

Not therefore restricted to high-profile figures like Dorje, increased security bureaucracy has marked changes in the treatment of all Tibetans since the 1980s, perhaps especially since Dorje's arrival. Permits restricting movement by requiring renewal at the home settlement every few months, issued by the Indo-Tibetan Border Police Force and applying only to Tibetans, are a relatively recent feature in all northern border states (Wang Mo, 6 August 2007).<sup>43</sup> Sanjee Gyatso (13 August 2007) remembers that security did heighten in Ladakh around the time of Dorje's arrival in India.

However, it is not just fear of Chinese infiltration which has motivated central government to suspect and further restrict Tibetans. Thinles Angmo (9 August 2007) confirmed that nobody has ever been formally suspected as a Chinese spy in the Himalayan areas. Situ Rinpoche, while banned from the rest of India, was allowed to enter the sensitive Himalayan border areas of Jammu & Kashmir and Sikkim (Maheshwari, 2000: 98), showing that the general ban was not based on a well-founded estimation of all Tibetans as a threat. Indeed, India's central government allowed the rival candidate for the office of Karmapa, Trinley Thaye Dorje,<sup>44</sup> to visit Sikkim in 2002 (World Tibet News Network, 17 September 2002).

It is then perhaps India's changing conception of refugees as potentially dangerous 'others' which explains the ban on Ugyen Trinley Dorje entering Sikkim and the wider changes of Tibetans' treatment in border areas. 'National security' in this context is a deeply internal issue. Like fear of communal violence, it is based on an internal script which portrays refugees simultaneously as a dangerous 'minority' group and as infiltrators from outside seeking to damage India.

Indian governments' hostility to international help should also be seen in this light. Far from expressing ideological objection to states' intervention in, and possible coercion of, other states, as India has claimed (UNHCR, 2000: 161)—a claim disproved by her interference in Bangladesh in 1971, encouraging a government-in-exile on Indian soil and training Bangladeshi military forces (UNHCR, 2000: 67)—this hostility expresses a general fear of outside incursion and breached borders. When refugee flows breach India's boundaries, central government tries to retain control over its territorial

integrity in another area, integrating such flows and resisting international assistance, while clamping down on certain mistrusted individuals.

Shaped at partition when border-breaching refugee flows coincided with the need to define those borders, the link between refugees and breached borders has marked all of India's subsequent major refugee events, all of which have been cross-border flows from neighbouring states. India's geopolitical position has bequeathed this to her. She possesses long and porous borders with virtually every other state in the South Asian region (Oberi, 2006: 5–8). India is a relatively stable state surrounded by relatively unstable ones and contains many groups bisected by national boundaries. All these factors encourage neighbouring conflicts to cross her borders. These features give borders special potency in the 'refugee script', producing the deteriorating treatment described here.

It is thus reasonable to assume that the 'otherness' of refugees may be more keenly felt in border areas.<sup>45</sup> Separate treatment of Tibetans in Jammu & Kashmir is not unusual, but rather common to all northern border states. Examples include permit restrictions on Tibetans' movement applying to only these states (Wang Mo, 6 August 2007), the complaints of Lepchas and Bhutias about Tibetans in Sikkim, and a law in Himachal Pradesh similar to Jammu & Kashmir's Article 370, preventing those from outside the state from owning land there. The similar experiences of refugees in Ladakh, Himachal Pradesh (where Dorje resides to date), Arunachal Pradesh and Sikkim can all be attributed to the same border script. This also explains phenomena as diverse as the detention of suspect Sri Lankan refugees, central government's concern with 'infiltrators' from Pakistan across north-western borders, and the arrest of Lamas from Dorje's faction for smuggling, in 1992, amid claims (never proven) that they were a 'national security threat' (Maheshwari, 2000: 120). Security is far tighter in Ladakh than in Goa and Karnataka (Wang Mo, 6 August 2007; Sanjee Gyatso, 13 August 2007), neither of which forms a border to any incoming group or threatening state. The 'script', not applied equally throughout the whole of India, is centrally mediated and governs particularly India's border states as a group, overriding local circumstances.

This link between border states may hold a key to why the treatment of Tibetans has changed disproportionately to their actions. Another border-crossing refugee group has had far more impact on the 'script' since the 1980s, namely the influx of about 900,000 Sri Lankan Tamils, which dwarfed the 25,000 Tibetan arrivals during the 1980s (Bastiampillai, 1996; Bose, 2000: 15). The violent attacks of the LTTE, a militant group of Sri Lankan Tamil refugees, provoked increasing paranoia from the Indian government throughout the 1980s and 1990s.<sup>46</sup> It has consistently segregated into 'maximum security', rather than regular refugee camps, anyone suspected of having LTTE sympathies. In the 1990s, India embarked on a repatriation programme for all Sri Lankan Tamil refugees which some claim was forced (Bose, 2000: 22–25). The government's fears were confirmed in 1991 when the LTTE assassinated Prime Minister Rajiv Gandhi, provoking tighter restrictions and arbitrary arrests of Sri Lankan Tamil refugees (Bose, 2000: 24).

As an 'outside' group with local ethnic links in India, this refugee group has certain features in common with the Tibetan community in terms of how the Indian government experiences it. The two groups are on a similar overall scale.<sup>47</sup> Both lack UNHCR assistance (UNHCR, 2006a) and the rate of arrivals has been similar in recent years (Bose, 2000: 23–24). The development during the 1980s of the aim of *rangzen* ('independence') among the India-wide Tibetan Youth Congress (Nowak, 1984), contemporaneous with the LTTE's demands for 'independence' from Sri Lanka, may have brought Tibetans more firmly, in the eyes of central government, within the conceptual framework surrounding Sri Lankan Tamils. The LTTE, indeed, illustrate changes in the refugee script between the 1950s and recent years which they themselves have influenced. In contrast to the mobilisation of cultural links by the Indian government to bring Tibetans into the nation in 1959, the LTTE's recent attempts to use a similar rhetoric to placate the Indian government have been ineffective (Suryanarayan, 2003: 329).

Tibetans are today a far less influential refugee group within India than previously, fitting into and affected by—rather than modifying and challenging—India's script for refugee treatment. Security measures for Tibetans show the wider 'refugee script' in action, with governmental suspicions resulting from general ideas about refugees including more well-founded conceptions about Sri Lankan Tamils. Concepts are transferred between groups labelled 'refugees' and there has been a shift in governmental perceptions of Tibetans, from 'Tibetan' to 'refugee'. Sri Lankan Tamils are arguably the group that has most shaped the Indian 'refugee script' recently; and Tibetans, further down the refugee hierarchy, are now also subject to overzealous security. As Bose (2000: 55) says, 'the refugee issue needs to be disassociated from a security perspective' if their treatment is to improve.

## Conclusions

Initial ideas of 'cultural affinity' with Tibetans formed part of India's existing 'refugee script', set at partition, and used early on to bring them into the nation. Recent changes in this script now make such ideas far less functional. The refugee script is applied to Tibetan refugees in northern border areas not primarily because of their own actions, or local circumstances, but because government has come to link minorities, threat, border insecurity, and refugees via central perceptions, overriding local circumstances to conceptualise 'border states' (north and south) as a group. The fears which shape this script, mainly concerning national security following the breach of borders by other refugee inflows, are transferred to Tibetans, and so paradoxically their treatment as an external security risk is largely internally mediated.

Much in Indian government reaction is similarly paradoxical. The Karmapa's case uncomfortably mixed India's perceptions of itself as a hospitable refugee-receiver with perceptions of refugees as associated with threat. Paradoxes of hospitality yet

control, intervention yet neglect, integration yet segregation, and strict regulation despite refusal to standardise treatment, illustrate the overarching ambiguity of India's refugee regime.

The irony for the future, in India and elsewhere, is that such ambiguity can produce exceptionally generous or exceptionally hostile refugee treatment, while formal legal regulation produces something in between. A comprehensive refugee law would force India to decrease care for those with whom she perceives cultural or other links in order to help those she does not see as welcome. This is a dilemma facing other states, such as the UK, whose (theoretically) legally equal treatment of refugees may be contributing to hostility towards 'asylum seekers' from a population not encouraged to feel any link with them. Legal regulation also enforces a citizen/refugee distinction damaging to refugee-indigenous relations. A more detailed comparison between India and the more regulated UK would be a fruitful extension of this study.<sup>48</sup>

The dilemmas which face all refugee-receiving states also face India. However, so far her government has failed to grapple with them and has kept to a well-tested internal focus. Whether this will be sustainable in the era of globalisation remains to be seen.

## Notes

1. *The Statesman*, 31 January 2002.
2. BBC, 8 January 2000. His official title is 'His Holiness the 17th Gyalwang Karmapa'. I refer to him here as Dorje or the Karmapa.
3. Estimates vary widely between authorities. UNHCR (2006b) quotes a figure of 94,349, which probably only includes those who made themselves known to its office in Delhi. The above estimate, from the Dalai Lama's office (Bose, 2000: 6), is probably more reliable.
4. I use the term 'Ladakhi' here for a member of the ethnic group dominant in Ladakh (whether Buddhist or Muslim) that has cultural links to Tibet. However, there are other ethnic groups present in Ladakh, such as immigrant Kashmiris, whom I do not include under 'Ladakhis'. Another way to differentiate would be to distinguish 'Ethnically Tibetan Ladakhis' and other residents of Ladakh, but I want to avoid labelling as 'ethnically Tibetan' people who have cultural and linguistic similarities to Tibetans—although the Ladakhi language is regarded as entirely separate from the Tibetan—yet have been politically separate for many centuries. Ladakhi culture is not identical to Tibetan.
5. Oberi (2006: 44). The Kashmir conflict between the central government and Muslim Kashmiri separatists ranks as one of the most important in the history of independent India, and has involved a vociferous Ladakhi autonomy movement. The Ladakhis have recently been given two Autonomous Hill Development Councils for partial self-government (Behara, 2000; Kaul and Kaul, 1992).
6. The huge variation in the terms used to describe displaced incomers (internally displaced persons are more solidly defined) began at partition, when both India and Pakistan constructed incomers as 'refugees' rather than 'citizens', in the hope that they would return (Oberi, 2006: 47–48).

7. Partition, with its immediate problematising of the refugee/citizen distinction, had obvious lasting effects on this ambiguous terminology. During the 1971 East Pakistan crisis, Central Government initially referred to immigrants from East Pakistan as 'evacuees', hoping they would soon return, and only later conceded that they were 'refugees' (Saha, 2003: 239).
8. The idea that people could be categorised into various 'minority groups' arguably had earlier roots in the Indian caste system. The idea was taken up by the British who, introducing communal representation and playing 'minorities' against 'majorities' (Kodikara, 1996: 72), may have influenced the development of a more solid perception of communal boundaries. The concept was certainly cemented by the time of India's independence, as it was frequently referred to in the Draft (Ansari, 1996: 452) and final Constitutions. The terminology has been doggedly retained, as shown by the failure on 'at least two or three occasions' of one MP's attempts to introduce a Private Bill in Parliament to replace the word 'minorities' with the word 'communities' (Majeed, 2002b: 251–52).
9. In spite of sentiments expressed during the framing of the Constitution, the principle of 'relative equality', meaning differential treatment for different 'minorities', has been a major theme, cemented in 1992 by a judicial pronouncement to that effect in *St. Stephen's College v. The University of Delhi* (AIR 1992 SC 1630, at 1662). It is also seen in critical observations that special programmes for Scheduled Castes and Tribes were not mirrored by assistance for Muslims (Hasan, 1996: 218). The existence of a Ministry of Minority Affairs indicates consistent popular and governmental concern with 'minorities' and various specific legal amendments of provisions for groups or areas (Dewan, 1991; Galanter, 1984). Indira Gandhi's Fifteen-Point Programme for Minorities in 1983 and the National Commission for Minorities Act 1992 were preceded and followed by several occasional National Commissions for Minorities (Mahmood, 2001: 256–78).
10. Chatterjee (2001: 74–110) describes the conflict in West Bengal during the partition crisis between refugees who saw welfare services as citizens' rights, and the state and central governments who treated them as charity. A Lok Sabha debate, in December 2004, referred to Chakmas from Bangladesh as both 'refugees' and 'terrorists'.
11. The government's increasing suspicion of all refugees is suggested by UNHCR's optimism at the naturalisation of 21 UNHCR-registered Afghan refugees of Indian origin in 2006, despite the fact that it records 9,472 similar refugees in India who remain without citizenship (UNHCR, 2006a).
12. The first settlements were established within a year. By the end of 1961 the Government had created a Tibetan Refugees' Desk within the Ministry of External Affairs. In early 1960 the Minister was recorded as saying he did not see the Tibetan crisis as a short-term one (Oberi, 2006: 90–91).
13. Nehru referred to 'our brothers and sisters' in Pakistan in his speech marking independence, a sentiment mobilised again in 1959 by stressing in the Lok Sabha (5 April 1959) that 'Tibet, culturally speaking, is an offshoot of India' (Garver, 2001: 41).
14. In 1994 violence against Tibetan refugees in Dharamsala followed a murder by a Tibetan; in 2002 an extremist Hindu group widely circulated threatening letters and anti-Tibetan posters (BBC, 16 November 2002); in 1998, 21 Tibetans were arrested in Dharamsala under the 1946 Foreigners Act for not holding valid residence permits (Bose, 2000: 23); in 2004 and 2006 a Tibetan woman was arrested under this Act and deported from Calcutta for having no visa (The Telegraph, 26 July 2006); in Dharamsala in 2006 police threatened a Tibetan

- activist with the same if he did not remain in the town during the Chinese President's visit to Delhi (Students for a Free Tibet, 12 November 2006).
15. Tibetan settlements such as Mundgod (Karnataka) were founded in areas which would benefit from the implantation of an effectively captive agricultural workforce (Palakshappa, 1978: 22).
  16. In 1987 Indian citizenship was restricted to those with one Indian parent, effectively blocking second generation refugees (previously awarded citizenship if they were born in India) from citizenship rights under the Citizenship (Amendment) Act of 1986. In the Citizenship (Amendment) Act of 2003, it was stipulated that the non-Indian parent must not be an 'illegal migrant', with central government responsible for deciding this.
  17. Since the Cultural Revolution of the 1970s, the Tiananmen Square massacre in 1989 and the crushing of riots in Lhasa in 1987, the international community has taken more notice of Chinese brutality and of the Tibetan refugee situation (Dalai Lama, 1990: 166, 280–88). Rising numbers of converts to Tibetan Buddhism internationally (IPCS, 2000b) and the award of the Nobel Peace Prize to the Dalai Lama in 1989 (Marcello, 2003: 139) have compounded this.
  18. They retained the label 'refugee' to gain government stipends, though some consider these 'not really worth calling yourself a refugee for' (Musa Lone, interview 16 June 2007).
  19. Seen for example in the Minister for External Affairs' statement regarding Dorje ('If an outsider comes and professes his religion he is free...') World Tibet News Network, 17 January 2000).
  20. Bose and Jalal (2004: 174) argue that Pakistan was effectively pushed into the role of a secessionist region at partition.
  21. But see *India Today*, 26 May 2008 for the impact of recent terrorist attacks in India.
  22. The Panchen Lama is the Dalai Lama's deputy, a six-year-old boy who disappeared from Beijing in 1995 (BBC, 7 January 2000). This issue was revived worldwide upon Dorje's arrival in India.
  23. The inflow of refugees from East Pakistan was publicly used by the Prime Minister of India to justify the 1971 Indo-Pakistan war ('Pakistan cannot be allowed to seek a solution to its political or other problems...on Indian soil', see Baral and Muni, 1996a: 234). Migration was labelled 'demographic aggression' by Indian Government officials, because of its potential to incite communal violence by altering the ethnic composition of receiving areas (Oberi, 2006: 132). This same potential was surely present in the inflows of Tibetans to some areas of northern India, yet no similar comments were made by government officials in this case.
  24. Despite its requests for UNHCR help in 1963, the Government made it clear that it did not want an official UNHCR presence in India, something it did not allow for a further six years. After 1981, the UNHCR was restricted to working in India only under the banner of the UNDP (Kharat, 2003: 296).
  25. For example, in its objections to foreign UNHCR personnel accompanying UNHCR funds during the 1971 East Pakistan crisis (UNHCR, 1972: 18–21; UNHCR, 2000: 67).
  26. This includes section 3 of the Foreigners Act 1946, section 22 of the Passports Act 1967, and section 14 of the Indian Citizenship Act 1955.
  27. For details of a draft model law of 1998 and a more recent version of January 2004, see Bose (2000: 57–63). Intellectuals have repeatedly highlighted the need for a legal basis for refugee care (Gorlick, 2004; Samadhar, 2002: 15; Subba, 2002: 144) and have emphasised the problems of India's current ambiguous system (Bose, 2000: 51), possibly reflecting some



- measure of self-examination following the 50th anniversary of independence (Houssain, 1997). The circulation within the Home Ministry of the 2004 Draft Model Refugee Law (see Bose, 2000: 57–63), however, has only elicited repeated placatory assurances in the Lok Sabha (e.g. 2 May 2002, 20 December 2005, 8 August 2006) that the government is considering reforms.
28. Recently the Courts have used the Constitution, especially Article 51(c) ('The state shall endeavour to foster respect for international law and treaty obligations in the dealings of organised peoples with one another') and Article 21 on the protection of life and personal liberty, of which 'no person shall be deprived', to enforce the principle of non-refoulement as a lever, seeking to empower themselves to enforce international agreements using this domestic legal instrument (Sen, 2003: 403–04). In the absence of national laws, the courts are reading international conventions into their interpretations of Indian legislation (Sen, 2003: 402), thereby setting some important precedents for increased adherence to international norms. This also occurs, with similar reluctance, in other areas of Indian law.
  29. In a conference of the High Courts and Chief Ministers in April 2006, Prime Minister Manmohan Singh praised the judiciary's role as 'watchdogs of the fundamental rights of our people'. At the same conference in the following year, he cautioned that there is a thin line between judicial activism and judicial overreach (Shunmugasundaram, 2007: 1).
  30. The Dalai Lama's use of his rising profile and international support, for instance in securing new land for Tibetan Muslims from the government, may have made Central Government more wary of him, and perhaps more inclined towards restricting the Karmapa.
  31. Wang Mo, Tsundue and Karma (2 and 6 August 2007) were all adamant that Karma, born in India to a Ladakhi mother, is 'Tibetan'.
  32. Thinles Angmo (9 August 2007). I found only one example from the *Tibetan Bulletin* (Tsering, 2000: 29), of a march to Dharamsala in 2000 by 43 Ladakhis to spread awareness of the Tibetans' cause.
  33. See also note 15. A large Tibetan settlement was built at Mundgod in Karnataka partly because the area was known to be tolerant of religious and ethnic minority groups generally (Palakshappa, 1978: 22).
  34. The Congress President and Nehru both voiced opposition at independence (Government of India, 1948: 21), echoed by the Advisory Committee on Minorities in 1949, which recommended removing electoral and occupational reservations for religious minorities in the wake of partition (Ansari, 1996: 361–64).
  35. See *The Right Reverend Bishop S.K. Patro v. State of Bihar*, AIR 1970 SC 259.
  36. As stated in the National Commission for Minorities Guidelines of 1986 and the Government Policy Norms and Principles for Recognition of Minority-Managed Educational Institutions of 1989.
  37. For instance the debate over rights versus charity (Chatterjee, 2001; Samaddar, 2003) which characterises some Dalit perceptions of help given by the state (Majeed, 2002a: 11) as well as ideas about refugees (see particularly Mahmood, 2001: 256–78).
  38. A Lok Sabha debate in November 2002 referred to the need to rehabilitate 'refugees' such as Sikhs who came to India during partition. The Tibetan Muslims are another example.
  39. Early court cases in 1958 and 1971 ruled that a minority was any group, constituting less than 50% of the population of a state or of the country, which is characterised by a religious, linguistic or cultural identity which they wish to preserve (Khan, 2001: 12–13), further pinning the concept to an element of threat or marginalisation. The implications

- of inequality inherent in the word ‘minority’, though clearly problematic, have been widely utilized, for instance by the Dalit movement (Suresh, 2002: 222).
40. In 1977 a man claimed that the Tibetan government-in-exile had hired him to assassinate the previous Karmapa in Sikkim (Maheshwari, 2000: 20–21).
  41. The northern border states of Jammu & Kashmir and Assam are two of India’s most problematic states in terms of communal violence.
  42. As reported in *The Statesman* (27 June 2006); no subsequent evidence to the contrary is extant.
  43. Although I could find no concrete evidence of when the permit system was introduced, it probably did not come into being before the official constitution of the Indo-Tibetan Border Police Force, which issues the permits, by an Act in 1992. Its introduction may be implied in Kharat’s (2003: 303–04) assertion that the Karmapa’s arrival in 2000 contributed to strict new measures for Tibetans. The Refugee Travel Order referred to by Subba (1990: 6) did not apply specifically to Tibetans, so the specific permit probably antedates this.
  44. Trinley Thaye Dorje is also resident in India, at Kalimpong, having fled China with his family in 1994. I have chosen not to focus on his treatment, as it is far less well-documented. Also he has gained much less of a high profile and is less popular than Ugyen Trinley Dorje, whom the Dalai Lama has endorsed.
  45. Das (2002). Chakraborty (2002: 159–63) argues specifically that Chakma refugees from Bangladesh are regarded as ‘others’ in the border state of Arunachal Pradesh, but are more fully integrated in other states away from India’s northern borders. This is not the situation of tension between co-ethnics described above, as Chakmas do not claim ethnic links in Arunachal Pradesh, but a special circumstance of border areas.
  46. The Tamils were left virtually stateless when the Sri Lankan government refused to give them citizenship after independence in 1950. Refugees streamed into India during the 1980s fleeing violence between the government and the LTTE, which was carrying out a militant campaign for an independent Tamil state, which it continued in India (Bose, 2000: 15).
  47. There were 61,000 Sri Lankan Tamil refugees in India in 2006, and 90,000–110,000 Tibetans (UNHCR, 2006c).
  48. The UK is a signatory to the UN 1951 Refugee Convention and has a relatively well-defined legal refugee regime.

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