

**An Overview of Human Rights
Organization Nepal
(HURON)
With Tibetan Refugees in Nepal**

May, 2017

Tibetan Dilemma in Nepal

The expansionist policy pursued by the Chinese Maoist government from 1949-1959 resulted in the internal displacement of over one million Tibetan citizens. Majority of them took refuge in India. However, a considerable number of Tibetans entered Nepal. Tibetan refugees started arriving in the 1950s, but their first major inflow in Nepal occurred after the 1959 Lhasa uprising (Maura, 2003)

In 1960, upon the request of Nepalese authority, the International Committee of the Red Cross (ICRC) established emergency relief camps. In a similar vein, the Nepalese government, with the assistance of funds donated by the office of the United Nations High Commissioner for Refugee (UNHCR) also set up refugee shelter homes. Till the mid-1980s, the Nepalese government welcomed the Tibetan Refugees with open hands as the latter were not perceived as a threat to Nepalese diplomatic relations with China (IRIN, 2013)

Nepal is not a signatory of the 1951 U.N. Convention Relating to the Status of Refugees that ensures the legal status and economic rights of refugees. The Tibetans crossing the border to Nepal as refugees were "recognized and registered" by the Nepali government from 1959 to 1989.

According to the Government of Nepal, Tibetans entering Nepal after 1989 do not have any legal status as refugees, nor have access to the protection of their human rights. (Mathur, 2014) Nepal entered into a Gentleman's agreement with the United Nations High Commissioner for Refugees (UNHCR) that allowed Tibetans to travel through Nepal in order to get to India. According to the Integrated Regional Information Networks (IRIN), more than half of the Tibetans who arrived in Nepal prior to 1990 lack any form of documentation, which prevents them from accessing education and legal employment.

Around 20,000 Tibetans live in Nepal. Many of them live in former detention camps that have transformed into permanent settlements. The largest communities in Kathmandu and Pokhara constitute up to 1000 people. Without documentation refugees cannot go to school and also have difficulty finding work. Outside of the settlements some refugees have found a niche working in tourism or selling Tibetan souvenirs. There is also an entire industry developing weaving and selling carpets. But officially, Tibetans can work in these sectors only with the possession of a residence permit. A few of them are worried that China could increase pressure on these remaining areas of opportunity. (UNPO, 2016)

Since the change in stance of Nepal's policy to grant asylum to Tibetan Refugees, the latter have been subjected to a number of problems. The most important problem encountered pertains to lack of documentation of refugees. Irrespective of the "official" statistics, a large number of refugees do not have access to any form of documentation, thereby denying them the legal right of education and employment. This is in sharp contrast to the pre 1989 period when Tibetan refugees were granted Refugee Cards (RC) by then Nepalese government to enable them to access basic amenities (IRIN, 2013)

Since 2008, increased pressure from China has led to a reduction in the number of Tibetans able to cross the Tibet-Nepal border and transit through to India (The Economist, 2012). From 1991 to 2008, an average of 2,200 Tibetans came across annually, according to the U.N. High Commissioner for Refugees. (LA Times, 2017)

Those who arrived before 1989 were issued refugee ID cards and benefited from de facto economic integration; however, more recent arrivals have no legal status and cannot

own property, businesses, vehicles, or be employed lawfully. Currently there are twelve Tibetan Refugee camps in Nepal, each supervised by a representative appointed by the Central Tibetan Administration (Central Tibetan Administration)

1. Choejor (Chorten & Jorpati)
2. Delekling, Chilsa, Solukhumbu
3. Norziling Tibetan Settlement Dorpattan, Baglung
4. Jampaling, Lodrik, Tanahu
5. Namgyeling, Tserok, Mustang
6. Paljorling, Lodrik, Pokhara
7. Phakshing & Gyalsa
8. Gyegayling, Rasuwa, Dunche
9. Samdupling, Jawalakhel
10. Tashi Palkhiel, Pokhara
11. Tashiling, Pokhara
12. Sampheling, Walung, Taplejung

Status of Tibetan Refugees in Nepal

Nepal is hosting refugees on humanitarian ground and would continue to do so despite its own socio-economic situation that does not allow the country to take up an additional burden of refugees. Nepal has been respecting the principle of non-refoul[e]ment. The refugees resident in Nepal are enjoying rights as per the prevailing laws and they are expected to respect the laws of the land. (Nepal, 2014).

Tibetan Refugees in Nepal without Refugee Cards

Kathmandu	4681
Mustang	311
Solukhumbu, Taplejung, Rasuwa	1100
Kaski	1543
Baglung	235
Manang, Gorkha	674
Tanahu	567
Lalitpur	220
Outside Refugee Camps & in various Gumbas	3000

Total

12,331

Based on a study done by in 2017 by Human Rights Organization Nepal, in coordination with all 12 camp in-charges', there are 12,331 Tibetan Refugees without Refugee Cards. Among 12,331 Tibetan Refugees in Nepal, 40% are under the age of 16 Years who are born in Nepal.



Source: Human Rights Watch, 2014

Proposed Bill for Refugee Protection Act in Nepal

A proposed act for protection of refugees has been drafted by HURON, Legal Department of Tribhuwan University, INHURED International, PPR Nepal & Pro Public in 2011.

The proposed act still remains unattended by the Government of Nepal. *The proposed act is included in Attachment-1*

Petitions, Legal Cases & Decisions

1. Reference No: 67-WH-0084

Case: *Application for Writ of Habeas Corpus on behalf of Tenzin Sherpa (including 12 other Tibetan Refugees) by Human Rights Organization Nepal, Advocate Indra Prasad Aryal*

Summary:

12 Tibetan Refugees were unlawfully arrested by Nepal Police on June 22, 2011. The police had arrested Tibetan Refugees while that they were organizing religious prayers at Bouddha, Kathmandu.

In apropos to Article 32 and Article 107 (2) of Interim Constitution of Nepal, Advocate Indra Prasad Aryal of Human Rights Organization Nepal (HURON) submitted an application for writ of Habeas Corpus to the Supreme Court of Nepal on June 23, 2011.

The Supreme Court of Nepal issued a writ for Habeas Corpus on June 24, 2011 for all 12 unlawfully arrested Tibetan Refugees. Nepal Police revealed that on the basis of information provided to them that Tibetan Refugees were organizing anti-China demonstration near Bauddha Stupa, the 12 Tibetan Refugees were arrested and to be tried through Public (Crime and Punishment) Act, 1970.

Decision:

The Supreme Court of Nepal issued an order on July 10, 2011 to release all 12 Tibetan Refugees who were arrested by Nepal Police who were found to not have followed the legal proceedings properly. Also, the Supreme Court sent a memo to Home Ministry of negligence and lack of respect by Chief District Officer of Kathmandu and Deputy Superintendent of Police in this matter.

2. Reference No: 67-WH-0062

Case: *Application for Writ of Habeas Corpus on behalf of Dhundup Kshering (including 9 others) by Human Rights Organization Nepal, Advocate Indra Prasad Aryal.*

Summary:

9 Tibetan Refugees were unlawfully arrested by Nepal Police on March 10, 2011. The police had arrested Tibetan Refugees while they were organizing religious prayers at Bouddha, Kathmandu.

In apropos to Article 32 and Article 107 (2) of Interim Constitution of Nepal, Advocate Indra Prasad Aryal of Human Rights Organization Nepal (HURON) submitted an application for writ of Habeas Corpus to the Supreme Court of Nepal on March 11, 2011.

The Supreme Court of Nepal issued a writ for Habeas Corpus on March 13, 2011 for all 9 unlawfully arrested Tibetan Refugees. Nepal Police revealed that on the basis of

information provided to them that Tibetan Refugees were organizing anti-China demonstration near Bauddha Stupa, the 9 Tibetan Refugees were arrested and to be tried through Public Security Act, 1989.

Decision:

Due to lack of evidence on part of Nepal Police to prove anti-China protests by all nine arrested Tibetan Refugees and the Nepal Police were found to not have followed legal proceedings as per the Public Security Act, 2046 (Article 4.1 & 4.2), the Supreme Court issued the order to release all 9 Tibetan Refugees on March 18, 2011.

3. Reference No: 64-WH-0040

Case: *Application for Writ of Habeas Corpus on behalf of Nwang Sangmo by Human Rights Organization Nepal, Advocate Indra Prasad Aryal.*

Summary:

Nwang Sangmo was unlawfully arrested by Nepal Police on June 11, 2008 at Shankha Park. The police had arrested her from her house, without warrant, in plain clothes on the ground that she was facilitating Tibetan Refugees in organizing anti-China protests.

In apropos to Article 32 and Article 107 (2) of Interim Constitution of Nepal, Advocate Indra Prasad Aryal of Human Rights Organization Nepal (HURON) submitted an application for writ of Habeas Corpus to the Supreme Court of Nepal on March 11, 2011.

Nwang Sangmo was to be tried for Public Security Act, 2046. The Supreme Court of Nepal issued a writ for Habeas Corpus on July 7, 2008.

Decision:

The Supreme Court ordered release of Nwang Sangmo on the grounds that there was lack of evidence from the Nepal Police supporting their claim.

4. Reference No: 068-WH-0021

Case: *Application for Writ of Habeas Corpus on behalf of Sonam Khampa (including 23 others) by Human Rights Organization Nepal, Advocate Indra Prasad Aryal.*

Summary:

Sonam Khampa (including 23 other Tibetan Refugees) were arrested from September 11 to September 13, 2011 in Humla and Sindhupalchowk districts. They had escaped

from Tibet and were on the way to Dharmashala, India. All 23 Tibetan Refugees were in the process of being sent back to the Republic of China by the Government of Nepal. Advocate Indra Prasad Aryal filed for Writ of Habeas Corpus pressuring the Supreme Court to release all Tibetan Refugees.

Since the Government of Nepal was scheduled to send back all arrested Tibetan Refugees back to China, the Supreme Court issued an interim order as per Article 41 (1) of Supreme Court Guidelines, 1992 to the Government of Nepal not to hand over the refugees to China.

Decision:

The Supreme Court released all 23 Tibetan Refugees on September 22, 2017. The Nepalese Immigration Department handed over all 23 Tibetan Refugees to United Nations High Commissioner of Refugees (UNHCR).

Letters, Correspondence, Press Releases & Incoming Appeals

Over the year, Human Rights Organization Nepal has maintained important correspondence for welfare of Tibetan Refugees in Nepal. These Letters, Press Releases' and Press Statements' have echoed for political and social welfare of refugees to the Government of Nepal and United Nations High Commissioner for Refugees.

The Letters, Press Releases' and Press Statements' pertaining to the Government of Nepal are included in Annex 1.

Human Rights Organization Nepal and United Nations High Commissioner for Refugees (UNHRC) has been in interaction over the years in the matter of Tibetan and Bhutanese Refugees. The Letters, Press Releases' and Press Statements' pertaining to Human Rights Organization Nepal and United Nations High Commissioner for Refugees (UNHRC) for the welfare of Tibetan Refugees are included in Annex 2.

Human Rights Organization Nepal and Tibetan Refugee organizations have also been in interaction over the years. Such documents pertaining to appeals and interactions by Tibet Youth Club are included in Annex 3.

Some glimpses of HURON with Tibetan Refugees

The Government of Nepal deports Three Tibetan Refugees

On June 2, 2010 two Tibetan men and one Tibetan women were arrested by Nepal Police from Muchu, Humla district of Nepal. Against the Gentleman's Agreement between the Government of Nepal and United Nations, these Tibetan Refugees were arrested and returned back to Tibet on June 3, 2010.

Human Rights Organization of Nepal sent inquiry letters to Home Minister, Hon. Bhim Rawal, Inspector Police General (IGP) of Nepal, Mr. Rameshchandra Thakuri to reveal the state of affairs of these Tibetan Refugees. Human Rights Organization of Nepal appealed to

the concerned authorities to show respect towards the refugees and record their situation and treatment by the police personnel.

Upon further inquiry by HURON, these Tibetan Refugees, Dawa 20, Dorje 21, and Pempa 22 were sent back by the Government of Nepal to Tibet on an Air Dynasty flight on June 3, 2010 from Hilsa, Humla. United Nations High Commissioner for Refugee (UNHCR) later confirmed the deportation.

In apropos to this prompt deportation, HURON questioned the Government of Nepal through letters sent to Home Minister, Hon. Bhim Rawal as the act being a direct violation of Gentleman's Agreement and serious Human Rights concern.

Nepal Police Disrupts conduction of Primary Election to elect Tibetan Refugee Representatives

On October 3, 2010, Nepal Police under the pretext of anti-China movement around Kathmandu disrupted Tibetan preliminary polls and confiscated thousands of ballot boxes filled with votes. Tibetan Refugee Welfare Office informed Human Rights Organization of Nepal (HURON) of the incidents around Kathmandu and urged the support of HURON in retaining back the confiscated ballot boxes.

Although no arrests were made, the Nepal Police did resort to lathi charges as the voters tried to discourage the police from such initiatives. HURON immediately sent a letter to National Human Rights Commission (NHRC) for support on this matter. Letters of Concern were sent the Government of Nepal to release the ballot boxes. The elections to elect Tibetan Refugee Representatives were being held in Nepal, India, Bhutan and North America.

Tibetan Refugees go on Hunger Strike in Nepal

On July 26, 2010, Tibetan Refugees from seven refugee camps went on Hunger Strike demanding refugee cards and relief materials. Human Rights Organization of Nepal (HURON) sent letters of concern to Home Minister, Hon. Bhim Rawal and National Human Rights Commission (NHRC) to look into their genuine demands and provide health facilities to the peaceful protesters.

On July 29, 2010 UNHCR Country Representative, Ms. Stephane Jaquemet & HURON President, Mr. Sudip Pathak discussed the ongoing hunger strike and confirmed UNHCR would provide support to Tibetan Refugees under distress. HURON issued a Press Release citing the support.

Letter of Thanks from United Nations High Commissioner for Refugees (UNHCR) in Nepal

In apropos to release of 23 Tibetans from Immigration Detention Center, Reference No. 068-WH-0021, UNHCR Country Representative, Ms. Stephane Jaquemet extended her warmest appreciation to Human Rights Organization of Nepal (HURON); in particular, President, Mr. Sudip Pathak & Advocate, Mr Indra Prasad Aryal of securing the release of all Tibetan Refugees.

The appreciation to HURON staffs that were supportive of Tibetans under detention at Department of Immigration was also mentioned who were vital in quick release. Ms. Jaquemet thanked HURON for the assistance in this matter as individual communications with various high level Nepalese officials were vital for the release.