

## Comparative Study between the Tibetan Refugees in Nepal & Rohingya Refugees in Bangladesh

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### ABSTRACT

The drastic rise in the number of refugees in recent times and the narrowing of the definition of refugees by states is the precursor to a greater human rights crisis. Refugee, according to international standards, is a person who is unable or unwilling to stay in the country of his nationality or is unable to avail himself of the protection of that country due to fear of the proposed establishment of persecution for reasons of race, religion, nationality, membership or political opinion of a particular social group.

Some regional systems extend the definition of a refugee to this international standard. Although the UNHCR and asylum countries may officially recognize some refugees, the refugee status is “legally constructive”. This means that all people who meet the above qualifications are legally refugees, even if they are not recognized as refugees by an external party such as the national government or the UNHCR.

The 1951 Refugee Convention sets out the standards for whether or not there are refugees seeking asylum - membership in race, religion, ethnicity, political or social group. Part of its magic is that it is resilient enough to reflect current realities.

**Keywords:** *Refugees, Tibetan Refugees in Nepal, Rohingya Refugees In Bangladesh*

No one leaves home unless,  
home is the mouth of a shark;  
No one puts their children in a boat,  
unless the water is safer than the land;"

-Warsan Shire "Home"

The convention was not designed with LGBTI individuals in mind but are found to be included. A journalist who receives a death threat may be included and - certainly involving someone fleeing ethnic cleansing. Who will not be included? People who have fled their homes for weather-related reasons are not refugees according to any convention - at least not yet. People who

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leave their countries primarily to find better opportunities to work or study are not refugees. Poverty is not one of the criteria for vulnerability or labeling an individual as a refugee.

### **THE DEFINITION OF A REFUGEE ACCORDING TO THE UN 1951 REFUGEE CONVENTION:**

"Because of fear of persecution for reasons of race, religion, nationality, membership of a particular social group, or political opinion, he is out of the country of his nationality and incapable or, because of such fear, he is unwilling to take advantage or it is a matter of national defence; Who does not have a nationality and is not out of the country of his or her former practical residence as a result of such incidents, is incapable or, due to such fears, is unwilling to return. "

Refugees are generally divided into two categories- those fleeing conflict and political repression. One can of course be both. There is a convention that states, that people moving from one country to another for economic reasons may be economic refugees. I reject this interpretation because he / she is vague, as it does not follow that people fleeing their homeland to another country is 'fleeing', which is an integral part of the definition of 'refugee', and by that immoral. There is a dog-whistle phrase used to make true refugees a monster.

### **OBJECTIVES**

1. To study Role of UNHCR for protection Rights of Refugees in Nepal & Bangladesh.
2. To study relation between Myanmar & Bangladesh with special reference to Rohingya refugees.
3. To study relations between China & Nepal with special Reference to Tibetan refugees.
4. To study Tibetan Refugees movement in Nepal
5. To study Rohingya Refugees movement in Bangladesh
6. To study the role of UNHCR regarding movement of refugees in Nepal & Bangladesh.
7. To study rights and protection given by Nepal and Bangladesh government to their refugees.
8. To attempt a comparative study progress report of personal achievement of refugees in Nepal and Bangladesh.

### **RESEARCH QUESTION**

1. Why does the refugee influx affect the economics of the host country negatively in the case of Rohingya refugees in Bangladesh?
2. What are the types of policy implemented by Nepal & Bangladesh for balancing economic situation, sources of stress and worry, social status, sources of joy and comfort for their refugees?
3. Anything new for refugees in the new constitution of Nepal & Bangladesh?

### **HYPOTHESES OF THE STUDY**

1. If UNHCR undertakes extreme measures to supervise and ensure that the rights of the Tibetan and Rohingya refugees in Nepal and Bangladesh respectively are protected then the conditions of refugees in Bangladesh & Nepal will improve, the strained relations between the host countries and parent countries of the refugees will ease, and lead to their overall development.
2. The Tibetan refugees are given legal status in Nepal
3. Rohingyas are given legal status in Bangladesh

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4. The negative economic impact of the influx of Rohingya and Tibetan refugees and the humanitarian response comes from the increased dependency of Bangladesh and Nepal on the developed countries

### **RESEARCH METHODOLOGY**

Methodology constitutes an important dimension of social sciences and without it no systematic scientific study is possible. Although the use of systematic and scientific concepts have raised unending debate but these two aspects have always been emphasized due to the fact that initially the basic premises of social sciences were derived from natural and physical sciences.

### **CONCEPTUAL FRAMEWORK**

Refugee is a subgroup- it is the asylum seeker. Asylum seekers formally explore the sanctuary in a given country. If their application is accepted they return to refugee status. It would be helpful if the inequality between the refugee and those other than him with the accepted claim for the sanctuary, was better described. By and large there does not seem to be an accepted general term for a refugee. There three types by definition:

#### **Refugee**

On the UNHCR definition: A refugee is one who has been forced to flee his or her country due to repression, war or violence. The fear of persecution of a refugee on the grounds of race, religion, nationality, political opinion or membership in a particular social group is well known. No refugee will be sent back to his / her country of origin unless he or she is convinced that the country [although not in the refugee's home territory] is safe for their return.

#### **Asylum-seeker**

An asylum seeker is someone who has left their country and claimed that "the fear of persecution because of a race, religion, nationality, political opinion or membership in a particular social group." Upon arrival in the "safe country" an asylum seeker must apply for asylum immediately upon arrival. In all UN-recognized countries, asylum seekers must be received and protected, and will not be sent until the case for their asylum has been investigated and judged.

#### **Migrant**

All other people living in a country other than their own.

- The UNHCR definition requires factors that are specific to each person. Generalised poverty or poor educational or career opportunities do not qualify for 'Refugee' status. People moving from their country for these reasons are regarded as 'Economic Migrants'.
- Similarly, an asylum seeker who, once he first arrives in a "safe country", chooses to move to another country of his / her choice, is no longer a 'refugee' but a migrant.
- If the country's selection factors include the level and availability of national social support systems, they are considered 'welfare travelers'.
- The aftermath of World War I was a refugee crisis. The absence of a comprehensive policy associated with the refugee flow was observed. It was for this reason that Friedtzh of Nansen was ordered by the League to assist Russian refugees after the October Revolution. The League also adopted the 1933 Convention on the International Status of Refugees.
- However, after World War II, there was an urgent need for an international response to the refugee crisis, which was filling large numbers of refugees. The United Nations adopted the Convention Relating to the Status of Refugees from 1951, as amended by the 1967 Protocol

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(Refugee Convention), which provided a detailed definition of refugees, the rights of refugees and the state's responsibility to them.

- Under the auspices of the League of Nations, various international instruments were developed to define refugees, but these definitions were limited to the nationality of the displaced population and failed to take into account other factors.

### **Law on Refugee Status**

The declarative nature of refugee law is outlined below in the Handbook on Procedures and Criteria for Determining Refugee Status prepared by the UNHCR:

"A person is a refugee in the sense of the 1951 Convention as soon as he meets the criteria contained in the definition. This must happen before his refugee status is formally determined. It does not recognize his refugee status. They do not become refugees because of recognition, but because they are recognized as refugees. "

This is also mentioned in the preamble of the European Union's Qualifications Directive, which states that 'recognition of refugee status is a declarative act'. This means that the state's reluctance to identify a person as a refugee does not mean that such a person is not a refugee. A person is considered a refugee until the factual preconditions stated in the refugee convention are met.

### **Burden on States**

States generally argue for state sovereignty to advance the appeal of less international regulation of refugees. The state has the right to control its borders in the interest of its citizens. The obligation to protect refugees and the principle of non-refusal are totally against these interests. At the present time the questions surrounding refugee law are given more importance due to the growing refugee crisis around the world. The methods of warfare, the smooth and rapid movement of people and the progress of globalization have made it difficult for states to secure their territorial borders and fulfill their obligations under the Convention.

The refugee movement brings additional burdens and problems to the host state for example burdens on resources, national security risks, infrastructure and the burden on the job market. Refugees often increase the economic burden on states through the need for social welfare programs and redistribution of domestic resources for immigration regulation.

## **OVERVIEW ON STATUS OF TIBETAN REFUGEES IN NEPAL**

Tibet, a country known as the "roof of the world", has a turbulent history rooted in Buddhism and centered around the attacks of various invaders. The Tibetan populated areas in the Himalayan region were first united in the early 7th century under a ruler, Songatson Gampo, and the Tibetan Empire was born. Tibet's history is essentially characterized by conflicting relations with China.

In the twentieth century, the rivalries and wars over control of the neighboring areas and, in particular, the important trade route, the Silk Road, marked the beginning of this difficult political relationship with China. (Kari 2001: 403) The peace treaty with China in 1822 outlined the borders of Tibet (BBC 2014).

In 1959, Tibetan resistance led to a full-scale uprising against Chinese rule. Thousands of Tibetans gathered around the Dalai Lama's summer palace to protest the Chinese annexation. The uprising lasted only twelve days and was violently ended on March 17, 1959, when the People's Liberation

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Army besieged the palace. The Dalai Lama, along with thousands of Tibetans, managed to cross the Himalayas to India. Thousands of Tibetans who could not escape were sentenced to death or imprisoned for showing sympathy for the Dalai Lama's government.

The uprising failed and as a result about 80,000 Tibetans fled into exile who became prisoners in their own country while closing the Chinese borders. The Dalai Lama was well admired in India and established his government-in-exile at Dharamshala in the northern part of the country. Most of the Tibetan exiles went to India with their leader, but some settled in Nepal.

Unlike the United States of America where a person born there automatically becomes an American citizen, even if both his parents are not American citizens, there is no such law in Nepal for good reason and therefore no person born in Tibetan or Nepal is eligible for it. A person born in Nepal will not automatically become a Nepali citizen, especially if both their parents are not Nepali citizens.

Even Nepalese born in Nepal are not Nepali citizens. They will have to apply for citizenship after the age of 16 and they will have to prove that they are legally related to someone who owns land in Nepal.

There is no freedom of speech in Tibet and they can do whatever they want, celebrate and pray to their deity 'Dalai Lama' as opposed to in Nepal. It is also easy for the Nepali government to get Nepali citizenship as there is an inadequacy in the proper investigation in the background. For the same reason, there is now a problem in the Terai region as too many Indians were able to get both Nepali and Indian citizenship due to poor management and policy of the Nepali government. This will definitely be a problem for Nepal and the same problems may be caused by the refugee Tibetans who have obtained Nepali citizenship, perhaps due to the fact that Indians have second citizenship.

There are between 13,000 and 20,000 Tibetans in exile in Nepal. Most of these stateless refugees have lived or been born in Nepal since the early 1960s. Nepal is home to the second largest population of Tibetan exiles, with India alone having the largest Tibetan population. (CTA 2010 and ICT 2012: 6) Tibetan refugees living in Nepal do not have passports or other legal documents, which significantly limits their rights and makes their lives very difficult. This lack of legal status can be seen as a major obstacle for Tibetans to live a normal and prosperous life in Nepal.

Nepal has an open border with India and if we give citizenship to every child born here, it will cause a huge demographic change here and we will not allow that to happen. Tibetans can meet various criteria despite applying for natural citizenship in Nepal but I don't think there are many such cases in Nepal.

In 1959, Tibet was annexed by the People's Republic of China. This led to the deportation of the Dalai Lama and thousands of Tibetans. Most of these refugees settled in India, where the government-in-exile of the Tibetan government was also established, but an estimated 20,000 Tibetans remained in Nepal.

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They are not recognized as refugees by the Nepalese government and do not have passports, Nepali or Chinese. These deported Tibetans exist in a stateless, informal way lacking legal identification documents.

They are holding people living in Tibetan refugee camps in Nepal with increasing police intervention stopping any “anti-China activities” and there are very limited possibilities to improve their situation.

For Tibetans in Nepal, 2011 was a year of constant harassment by security officials and did not give much hope for future improvement. In February, US Under Secretary of State Maria Otoro visited Nepal and expressed her concern about the treatment of Tibetan refugees in Nepal.

### **STATUS OF ROHINGYA REFUGEES IN BANGLADESH**

- The governments of Myanmar and Bangladesh continue negotiations on conditions for the return of Rohingya refugees to Myanmar. Meanwhile, children in the camps need formal education, and parents have the right to a livelihood to support their families.
- Since August 1, 2017, about 800,000 people have crossed the border to escape the horrific torture perpetrated by Myanmar's military.
- The Rohingya are a predominantly Muslim ethnic minority group in Myanmar. They represent 1 million of Myanmar's total population of 52 million and live in the northern part of the Rakhine state, which borders Bangladesh and India. As the Rohingya are not among the 135 officially recognized ethnic groups included in Myanmar's 2014 census, they are not eligible to obtain citizenship in Myanmar.
- Essentially stateless, without legal rights and protections, Rohingya children and families are vulnerable to human trafficking, child labor, child marriage, gender-based violence and other forms of exploitation and abuse.
- About 1 million Rohingya have fled Bangladesh and live as refugees in camps filled with places prone to recurring natural disasters. Many of them are struggling to recover from traumatic experiences and meet basic needs.
- Rohingya Refugee Crisis Myanmar has long faced violence and discrimination by the Rohingya people. Armed conflict escalated in Rakhine State in August 2017, causing the Rohingya to flee to Bangladesh. UN Secretary-General Antonio Guterres described the situation in September of that year as "the world's most developed refugee crisis and the dream of humanitarian and human rights."
- Rohingya refugees are living in an initial situation after surviving violence in Myanmar. With 40,000 people per square kilometer, the camps are the most crowded places on earth. Five members of the family or more, huddled in 10-by-16-foot shelters with only one room. Up to 20 people share the same outdoor toilet. They must wait in the water line for washing, cooking and bathing.

### **CONCLUSION**

The following are some of the key conclusive remarks in this study.

#### **Legal and administrative structures**

Nepal and Bangladesh did not comply with the 1951 Convention relating to the status of refugees or its 1967 protocol. There is no law in Bangladesh regulating the administration of refugee affairs or guaranteeing the realization of the rights of refugees.

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The absence of a national refugee and asylum legal and administrative framework puts refugees and asylum seekers in a precarious situation in Bangladesh, open to serious security risks and limited opportunities for a lasting solution to their plight.

### **Host communities and refugees**

The thousands of Rohingya who fled Bangladesh after 1992, and are not recognized as refugees, now live in the local population and, despite their 'illegal' status, have become entrenched in these communities. Yet these self-perpetuating Rohingya communities, as well as Rohingya refugees, suffer economic exploitation, harassment and extortion. Moreover, refugees are not included in the local and national development agenda, which means that their potential contribution to development is not taken into account.

Tibet is undeniably determined by geopolitical pressure; Nepal is known as the "juicy area between two stones" - those stones are the superpowers of China and India. Nepal is dependent on both enormous countries for trade relations and other support.

### **Safe entry into the region**

In the absence of a legal framework for asylum, asylum seekers and refugees who are prevented from attempting to enter Bangladesh without restriction are considered illegal entrants and are at risk of being detained. G.O.B. although not involved in systematic refutation, there is no specialized government body with the responsibility of determining refugee claims or providing formal references to the UNHCR.

### **Personal registration of refugees**

The GOB is responsible for registering refugees in Bangladesh. One serious gap in defence is the situation of the approximately 5,000,000 refugees who have been displaced by the GOB. Life legally inside a refugee camp without being recognized by. G.O.B. It currently recognizes some 21,255 refugees based on its 1992 registration while a recent profile exercise conducted by the UNHCR shows 26,317 living legally inside the camp.

A high proportion of vulnerable 'unregistered' groups are made up of children. There are restrictions on movement and employment. Refugees are not entitled to work legally in Bangladesh. The inability to survive without employment has led many refugees, especially men, to seek employment illegally.

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### ***Conflict of Interest***

The author declared no conflict of interest.

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