

CHAPTER – ONE

INTRODUCTION

1.1 Background of the Study

A refugee is someone who has been forced to flee his or her country because of persecution, war or violence. A refugee has a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership of a particular group (UNHCR). According to the Convention relating to the Status of Refugees, held by world governments in Geneva in 1951, a refugee is someone who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his/her nationality and is to or, owing to such fear, is unwilling to avail himself/herself of the protection of that country.’

Etymologically, the word refugee is linked to the Latin word *refugium*, meaning refuge or to flee back, from *re-* “back” and *fugere* “to flee”. As for the word *asylum*, this was originally derived from the Greek word *a*, meaning “not”, and *sulon*, “right of pillage”. By putting these two words together, the Greeks referred to a place where pillage was forbidden.

Nepal has a long tradition of providing asylum to refugees. Currently, Nepal is home to 38,490 refugees officially recognized by the United Nations High Commissioner for Refugees (UNHCR). Tibetan and Bhutanese refugees account for a large majority of Nepal’s refugee population. An official record of the Government of Nepal confirms that 12,540 Tibetans living in different parts of Nepal. The Tibetan refugees living in Nepal are dispersed in over 21 districts of the country in Tibetan refugee camps (NUCRA, 2015).

In the years 1959, 1960, and 1961 following the 1959 Tibetan uprising and exile of the Dalai Lama, over 20,000 Tibetans migrated to Nepal. Since then many have emigrated to India or settled in refugee camps set up by the International Committee of the Red Cross,

the Government of Nepal, the Swiss Government, Services for Technical Co-operation Switzerland, and the Australian Refugees Committee.

The Tibetan refugees in Nepal can be classified into two categories i.e. those who arrived in Nepal before 1989 and those who arrived in or are arriving in Nepal after 1989 (new arrivals). This classification is based on the right of residence of Tibetan refugees in Nepal. The Tibetan refugees who arrived in Nepal before 1989 and their descendants are entitled to lawfully reside in Nepal. They 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. Many of these recent arrivals transit through Nepal on their way to India. So, the thesis mainly focuses on the status, constraints, and impacts of Tibetan Refugees who arrived in Nepal after 1989 and residing in the Bouddha Area who are considered to be illegal.

The 25-year-old Palden Lama, a Tibetan Refugee, born in the settlement and has lived his entire life in Nepal says: “Without any form of identification paper, I don’t know where I belong. There is no future for me in Nepal,”. This is not only Palden Lama who is facing the problem, but many refugees are in such problems due to lack of documents. According to Sudeep Pathak, Head of Human Rights Organization of Nepal (HURON) “Their lack of an RC or any form of documentation means they are totally stateless and have absolutely no place in this world.” The study shows that 90 percentages of the Tibetan and Bhutanese refugees are facing various problems: identity, unemployment, health, socio-cultural and religious, access to further education, food, shelter. Refugees are found involved in various frivolities: murder, rape, looting, fake citizenship, fake passport, smuggling, and protest including self-immolation. (Karki, 2016)

Despite the development of a standard of treatment of refugees, there is an absence of a clear indication of the extent of rights that are entitled to refugees in the host country. The UNHCR Consultant and author of Political Rights of Refugees, Ruma Mandal (2003) argue that the political rights of refugee’s rest on a delicate balance between protecting the essential human dignity of such persons and the need for states to respect each other’s sovereignty and to protect their community in general. The issue of the political rights of

refugees in the host State is embedded in controversies, diverse State practices, and uncertainties. The entitlement of political rights is often determined by the host state in the context of its relationship with the country of origin.

1.2 Statement of the Problem

The refugee problem in South Asia is one of the most acute of this continent and one of the most acute in the world. Most of these problems have become prolonged refugee situations. This is because the armed conflicts which originally forced people to leave their own country have dragged on for many years, making it impossible for them to return to their homeland. In many instances, these refugees and displaced persons are being hosted by poor countries in the world. The economics of these countries have deteriorated drastically and are today characterized by rapid declining in agricultural production, environmental threats, serious problems in social services, increased costs of essential goods, and risen unemployment.

In 1959 A. D. thousands of Tibetians crossed the rugged Himalayans and entered Nepal. Nepal granted refugee status to them and was allowed to settle on land donated by the Nepal Government. Nepal is facing several problems due to the Tibetians refugees. Since then, the government of Nepal is entitled to impose a certain restriction on the rights of Tibetan refugees, including the right to freedom of expression and performing certain socio-cultural activities. However, there are contentions on whether the currently imposed restriction is lawful or not. The government asserts that the existing restriction is a lawful restriction whereas human rights organizations consider the restriction as unlawful. (UN Human Rights Council, 2012).

In the early 1960s, the Nepalese government arranged the first temporary settlement land at the Bouddhanath area including four other areas. Bouddhanath area has been selected as an area for the studies. The time and resource limitation is confined to this study. Therefore, the study concentrates on the particular issue of the constraints and impacts of Tibetan refugees of Bouddhanath in Nepal.

As we know, a large number of Tibetan refugees are living in Nepal for long period, Nepal is facing various problems. Nepal provides the land for living to the refugee. By this Nepal is facing various problems like un-wanted pressure from the Chinese government to control the actions of refugees. It hampers the socio-economic condition of Nepal as refugees have different social and cultural backgrounds. It hampers the economy of Nepal because the receiving nation has to feed the refugees, it affects the employment of Nepalese youth when the government gives work permits to refugees, and so on. These are some of the problems caused by Tibetan refugees in Nepal so we have to study the problems regarding Tibetan refugees in Nepal.

Thus, the study would concentrate on the particular issue of constraints and the impact of Tibetan refugees in Nepal, especially in the Bouddha Area. The study would discuss the constraints and impact of refugees, targeted with the issues of Tibetians entering Nepal after 1989 do not have any legal status as refugees, nor have access to the protection of their human rights. This study tries to depict the socio-political as well as adjustment problems of Tibetan refugees who have been living in the Bouddha area.

Further, this study would examine the influence of Nepal's northern neighbor China in restriction concerning freedom of expression of Tibetan refugees in Nepal, observing that restrictions on rights of refugees often are driven by states political preference and national interest in light of the relationship with the country of origin of refugees.

1.3 Research Questions:

Accordingly, this study aims to analyze these basic questions:

1. What are the socio-political obstacles faced by Tibetan refugees in Bouddha, Kathmandu?
2. What are the constraints and impacts of Tibetan Refugees in the Bouddha Area?
3. How the refugees have been going through the social adjustments with the new locality?

1.4 Purpose of the Study

The main purpose of the study is to analyze the socio-political obstacles faced by Tibetan refugees in the Bouddha area of Nepal. Specifically, the study has the following objectives:

1. To find out sociopolitical obstacles faced by Tibetan refugees in Bouddha, Kathmandu.
2. To examine the constraints and impacts of Tibetan Refugees and their process of social adjustment in the new locality.

1.4 Significance of the Study

The researcher decided to conduct his research in the Bouddha area of Kathmandu to examine socio-political obstacles faced by Tibetan refugees. In this sense, the significance of the study would help to understand the condition of Tibetan refugees in the Bouddha Area and facilitate further in-depth study on the same subject. The study would try to find out the constraints that are faced by Tibetan refugees, most of those who arrived in Nepal after 1989 and also if they have restrictions on rights and expression, and also if they feel free or not as human beings. If the purpose of the study is fulfilled, it would be preliminary information to policymakers, planners, politicians, and beurocrates.

1.5 Limitations of the Study

Research is a scientific and systematic investigation of new facts. However, it is not perfect at all - notwithstanding. The researcher would try to make this research more scientific and systematic. Although, due to the lack of perfect knowledge, constraints of time, money, and other resources the research would limit within a certain geographical locality and certain issues. Since this research would be conducted only for the partial fulfillment of the Master's Degree in sociology. Therefore, it would not have wider application. The findings would be based on the information collected from the Bouddha area of Kathmandu and the information would be collected at a specific time because of

which the findings would not be generalized in a wider area or another locality and would not be applicable for all time.

CHAPTER - TWO

REVIEW OF LITERATURE

In every research work of academic significance, theoretical understanding is very necessary to provide a good basis and sharper insight into the research agenda. This section of the study provides a review of major theoretical and empirical studies associated with the socio-cultural condition of Tibetians refugees of Nepal. Many authors have given their conclusions on similar studies supported with their findings. The result shown by one greatly supports or might vary with the other since it depends on the availability of the data and scope of the study. The reviews of theoretical and empirical works made on different periods along with major conclusions are presented in this section.

The review of literature in this study has been organized as follows:

2.1 Theoretical Reviews

2.2 Empirical Reviews

2.3 Policy Reviews

2.1 Theoretical Reviews

Various theories talk about refugee Issues. Some of them are the Migration Theory of Refugee, Social Exclusion Theory, Post-Colonial Theory of Refugee, Trauma Theory of Refugee, Social Integration theory of Refugee. I could apply all of them but due to lack of time and I do think as according to the topic, it would be best to apply only two of them. One is, Social Exclusion Theory, where mostly I would try to figure out the constraints of Tibetan Refugee in Bouddha Area of Nepal and with the help of Migration Theory, it will help to know the impact of Refugees. I would also use the Trauma theory of Refugees for further context.

Several studies have been carried out related to the refugee. Ortensi (2015) in *The Integration of Forced Migrations and Refugee Studies*, discussed that for centuries, people have been discriminated and forced to flee their homes because of conflict, political, racial, and religious persecutions, natural disasters, and inhuman treatments that

took place in their societies. In exile, they sought either refuge or the protection of other countries.

People fleeing their homes due to persecution or war is not a new phenomenon, however, a large number of forced migrants in today's world creates new challenges and a rather negative attitude toward refugees from the host countries. The international refugee regime assists to tackle refugee situations around the world, however, despite its help, the host countries, which themselves are in most of the cases developing countries, tend to struggle to provide both to the refugees and their populations. From this view, this thesis aimed to examine the constraints and impacts of refugees on a developing country.

The phenomenon of people fleeing their homes as a consequence of persecution, war or other conflict has always existed. The international community started to take this phenomenon seriously due to World Wars I. and II., which caused a huge number of people to escape their home countries. During this period, the international refugee regime was created based on a treaty and an international organization, to assist and protect these vulnerable people and find solutions for them. The treaty was the 1951 Geneva Convention and Protocol and the created international organization was the United Nations High Commissioner for Refugees (UNHCR), responsible to help millions who had fled or lost their homes.

It is important here to distinguish this term from the term asylum seekers because these are often used interchangeably, however legally they are different. According to the Oxford Dictionary, asylum is the protection granted by a state to someone who has left their home country as a political refugee. The institution of asylum developed together with international human rights. In 1948, the General Assembly of the United Nations incorporated the institution of asylum into the Universal Declaration of Human Rights, stating that everyone has the right to seek and enjoy asylum from persecution. A forced migrant who arrived in a country and applied for protection is an asylum seeker until the refugee status is granted for him. Every country has its procedure to evaluate the request of the asylum seeker and decide to grant the refugee status or not. In case the request is

denied because the person is found not to be a refugee, the asylum seeker is asked to leave and return to his home country (Dauvergne 2012).

As it was mentioned above, the Convention grants protection, establishes human rights, obligations, and responsibilities relating to refugees. Among others, it includes the right to receive identification and travel documents, the right to work, freedom from discrimination, access to education and the courts, the right to own property and freely choose a place of residence. The Convention also contains an important principle, namely the principle of nonrefoulement. It means “that no one should expel or return (“refouler”) a refugee against his or her will, in any manner whatsoever, to a territory where he or she fears threats to life or freedom.” (UNHCR, Convention, and Protocol Relating to the Status of Refugees, 2010).

Even though it was a significant achievement to create a general definition for refugee, as world politics changed over the years, the understanding of the term had to change as well. The UNHCR’s mandate expanded to address a broader range of people, therefore what we understand under the term refugee also broadened to include people fleeing from human rights violations (outside of the category of persecution), survival migrants, such as people fleeing from environmental disasters or state fragility. Furthermore, it also includes internally displaced people (IDPs). IDPs are people “who like refugees, flee conflict and persecution, but remain in their country of origin” (Betts and Loescher 2011), in other words, they flee their homes but do not cross international borders. They might seek safety in another town, a nearby village, other settlements, or even in forests and fields. Even though IDPs are not under international law, because their country and their government are responsible for their protection, the UNHCR provides assistance to them (USA for UNHCR 2017).

The first refugees abandoned their homes due to religious persecution or conflicts that emerged in their societies. But the highest number of refugees ever recorded, was produced during and after the two world wars. This led to the necessity of creating a structure that could help these people. In the 1950s, the United Nations High Commissioner for Refugees was created, replacing the previous refugee agencies that

existed under the League of Nations. Its mandate was to provide refugees with international protection, as well as to seek “permanent solutions for the problem of refugees by assisting governments and private organizations to facilitate the voluntary repatriation of such refugees or their assimilation within new national communities”. Today, there are 43.3 million displaced people worldwide, of which 15.2 million are refugees, 27.1 million are internally displaced persons, and 1 million are waiting for their asylum application to be adjudicated (UNHCR’s 2015).

According to UNHCR’s 2015, many of them flee to neighboring countries to find protection. However, others, attracted by a higher standard of living, prefer western countries as destinations. Since its beginnings in the early 1950s, Nepal has also been providing shelter to many refugees. The expansionist policy pursued by the Chinese Maoist government from 1949-1959 resulted in the internal displacement of over one million Tibetan citizens. The majority of them took refuge in India. However, a considerable number of Tibetians entered Nepal. Tibetan refugees started arriving in the 1950s, but their first major inflow in Nepal occurred after the 1959 Lhasa uprising. King Mahendra of Nepal earned considerable gratitude for opening the Nepalese borders for Tibetan refugees. The asylum was granted to all Tibetians, irrespective of their social status. Refugee Camps were built along with the mountain passes that linked Nepal to Tibet. This was a commendable action on King Mahendra’s part, considering the threats of reprisal issued by the Chinese government. The refugees were faced with a plethora of problems. There were serious food shortages, coupled with a lack of shelter and basic healthcare facilities.

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 mid1980s, the Nepalese government welcomed the Tibetan Refugees with open hands as the latter was not perceived as a threat to Nepalese diplomatic relations with China.

In 1986, Tibet signed a treaty with China. One of the major impacts of the treaty was the restriction on the entry and transit of Tibetan Refugees into Nepal. From 1989, owing to Chinese pressure, Nepal embarked upon an even stricter border control policy leading to more restrictions on the entry of Tibetan refugees (Mandal, 2003).

Since the Cold War, political and ethnic conflicts are forcing a huge amount of people to cross borders; in 1974 the UNHCR counted 2.4 million refugees, by 1984 this number changed to 10.5 million and by 1996 it grew to 27 million refugees, internally displaced persons and asylum seekers. According to the recent data of the UNHCR, as of June 2017, 65.6 million people are forcibly displaced worldwide due to different reasons, but the attitude of the receiving societies towards them is rather negative.

Refugees and social exclusion are inevitable terms. Refugees are excluded from both their past and present locality. Janet Taylor's concept of social exclusion concerning refugees is remarkable to understand the social exclusion of refugees. Taylor and MacDonald have focused on the theory of exclusion in order to study the poverty and particular situations of refugees in Australia. They have studied the refugee in terms of poverty and social exclusion and raise issues for further research and policy development. (Taylor & MacDonald 1992; 1994)

Refugees are deprived of basic human rights. They are in non-belongingness since they are far from their homeland. They do not belong in particular places neither in their past homeland nor in the current land where they have been living. Thus, they are in exclusion. Thus, this research includes the theory of social exclusion to find out the current constraints and impacts faced by Tibetan refugees located in the Bouddha area.

2.2. Empirical Reviews

First, the situation of refugees was considered as a temporary issue and the receiving Western countries welcomed refugees due to their depleted manpower and labor shortages. However, as a consequence of the Great Depression in 1931, already at this time, the problem of undertaking refugees in host countries which cannot even support their people came forth. The experience of economic recession by the receiving countries

in the 1970s further enhanced their perception of refugees from the developing world as a threat to economic and political stability (Barnett 2002).

The refugees are seen to be surviving in very pathetic conditions around the globe. The Rohingya people are one of the most persecuted minority groups in the world. Following a concerted campaign of extreme violence by the Myanmar authorities against Rohingya people in Myanmar's Rakhine state in August 2017, over 700,000 Rohingya fled over the border into the Cox's Bazar district of Bangladesh. Today, over 9,00,000 Rohingya live in Cox's Bazar. Living conditions in the refugee camps there are dire. Many people lack access to clean water, sanitation, health care and shelter. Outbreaks of multiple vaccine-preventable diseases have sprung up among the population. Given the trauma many have experienced, mental health support needs are acute.

A three-year-old boy found lying face down on a beach near the Turkish resort of Bodrum was one of at least 12 Syrians who drowned attempting to reach Greece. Turkish media reported that his five-year-old brother had also met similar death. They fled out of Syria due to the fierce civil war. These types of sample cases tell us the terrible living condition of the refugees. (Karki, N. B. 2016).

There are several studies available on the causes of forced migration, its impacts on the refugees, moreover, theories on the impact of voluntary migration on the host countries are accessible. However, theories are less available on the impacts of forced migrants on the receiving countries. One interested in handling a refugee crisis may intrinsically focus on the most affected and vulnerable actors of it, the refugees. Nevertheless, the massive influx of refugees deeply affects the host country and the local population as well. The writer of this paper finds it equally important to consider the effects of the refugee influx on the host countries because in many cases the refugees have to stay for a long period. It is seen, that their living would only be sustainable if their presence does not undermine the living of the population in the host country. Therefore, this paper aims to examine the impacts of the refugee influx on the receiving country.

The refugee crisis has become a real problem for Nepal. The presence of refugees has given rise to economic, social, cultural, environmental, and many more other problems in

Nepal (Zetter, 2007). Researchers have shown that the refugee problem has created a serious security threat to some hosting nations. In the mid-1990s, in several parliamentary debates in Kenya on the question of crime and security, several members including cabinet ministers blamed refugees for rising criminality in the country. As a consequence of these events (conflicts) during the past decade and a half, there has been increasing recognition that massive refugee flow may threaten international peace and security. (Loescher, 2001).

The case of Nepal and the Tibetan refugee crisis has been chosen to examine the impacts of the influx, as this refugee crisis is considered one of the world's fastest-growing refugee emergencies today. As stated in the Oxford Dictionary an arrival or entry of large numbers of people or things is an influx. From this definition, we can conclude that an influx is determined by the number of people entering, compared to the population of where they enter. Even though the term influx already carries the arrival of a large number of people, the UNHCR often talks about a mass or large-scale influx of refugees (László, & Schmidt 2018). In their perspective, largescale influxes include refugees (meaning those under the 1951 Convention and 1967 Protocol) and persons in fear of external aggression, occupation, foreign domination, or events seriously disturbing public order. UNHCR declares that a mass influx can only be defined with the resources of the receiving country, however, it specifies the term as "a significant number of arrivals in a country, over a short time period, of persons from the same home country who have been displaced under circumstances indicating that members of the group would qualify for international protection, and for whom, due to their numbers, individual refugee status determination is procedurally impractical." (UNHCR 2000).

Concerning the current case, it can be said that an influx occurred, since a significant number of Tibetan Refugees (over 12,000) escaped to Nepal. Even though this amount of population movement did not significantly change the population size of the origin - and the host country, its ratio considerably affects the local population.

The situation of the Tibetians is cumulatively disadvantageous because they are not only refugees but a stateless minority, therefore the international attention is focused on their

situation. As reported by the UNHCR in June 2017, there were 10 million stateless people in the world, who are not citizens of any country, hence they do not have access to basic political, economic, social, and other rights. This number refers to stateless persons understood under international law, meaning those “who are not considered as nationals by any State under the operation of its law” (UNHCR STATISTICS 2018). Notwithstanding that the Universal Declaration of Human Rights declares that every person has the right to have a nationality, people can become stateless for many reasons such as sovereign, legal, technical, or administrative decisions or mistakes (USA for UNHCR 2017).

Concerning the current case, the Tibetians in Nepal are called refugees in the literature but also characterized as a stateless minority in Nepal. In the years 1959, 1960, and 1961 following the 1959 Tibetan uprising and exile of Dalai Lama Tibetians exodus began. The large number of refugees fleeing to Nepal under such a period is outstanding, and the fact that the refugee influx in those years was not the first time the only time they have fled to Nepal raises the question of how the country can cope with the high amount of stress, even though it is a reoccurring situation. (McLagan, 1996)

The Nepalese government historically has maintained an accommodating attitude toward Tibetan refugees, a generous response from such a poor country. However, in 1989, the flow of refugees surged in the wake of a political uprising inside Tibet. In response, the Nepalese government established an arrangement with the UNHCR whereby Tibetan refugees arriving after 1989 would not be allowed to resettle in Nepal. The UNHCR would interview them, designate them as "persons of concern" as appropriate, and facilitate their prompt, safe transit to India for resettlement there. Although never formalized, this arrangement became known as "gentlemen's agreement." (Dangerous Crossing, 2003)

Despite the non-governmental - and international help, Nepal faces difficulties in providing shelter, food, water and sanitation, clothes, and their political and legal status. Since the impact is a broad phenomenon, this paper is envisaged to give a picture upon the impact of Tibetan refugees on the economy of Nepal, considering its status as a Least

Developed Country by the United Nations, hence having its development challenges, and the emergency humanitarian assistance they receive from developed countries. Therefore, the following research question has been formulated.

Since the change in the stance of Nepal's policy to grant asylum to Tibetan Refugees, the latter have been subjected to several problems. The most important problem encountered pertains to the 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 to education and employment. This is in sharp contrast to the pre-1989 period when Tibetan refugees were granted Refugee Cards (RC) by the then Nepalese government to enable them to access basic amenities. 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 (Hutt, M. 1996).

Refugee Identity Card (RIC) was supposed to have been given to Tibetians who arrived before 1989. Human Rights Watch states that between 1995 and 1998, Nepal also stopped issuing new RICs to children of RIC holders, leaving those who came of age (16) after 1998 without documentation. Even those Tibetians in Nepal with a RIC had no legal rights beyond the ability to remain in the country, and the Nepal-born children of Tibetians with legal status often lacked documentation. Tibetan refugees had no entitlement to higher education, the right to work, business ownership or licenses, bank accounts, or legal transactions, including documentation of births, marriages, and deaths. Tibetians with an RC are granted very few actual rights - they are allowed to reside in Nepal and travel within Nepal, although this latter provision is restricted in areas along the Nepal-China (Tibet) border.

The representative from the Tibetan Refugee Welfare Office also noted that it is almost impossible for Tibetians to gain access to higher education in Nepal, as it requires proof of Nepali citizenship. Sources report that without Nepali citizenship, Tibetians are unable to own property or a business. According to sources, the land upon which the settlements are located is owned by the Nepali Red Cross and held in trust for Tibetan refugees. Other sources note that it was the International Committee for the Red Cross that own the

settlements in collaboration with the Royal Government of Nepal, the Swiss government, the Services for Technical Co-operation-Switzerland, the Australian Refugees Committee, and others voluntary organizations. According to sources, motorbikes have been an exception to property ownership for Tibetians, though a more recent requirement for proof of citizenship for a driver's license has made obtaining a license difficult for some. (Frechette, A. 2002).

It goes beyond doubt that the change in Nepal's policy is the result of pressure exerted from China. Since the United Communist Party of Nepal (UCPN) came to power in Nepal, the foreign policy of Nepal has been constantly influenced by its Chinese counterpart. In 2011, China offered economic aid to Nepal worth US\$70 million in return for Nepal's pursuing a tough policy towards the Tibetan exiles. (Simkhada, 2013)

There has been a blatant denial of their fundamental right of freedom and expression under Chinese influence. On 3rd February 2009, the Nepalese government imposed a ban on protests and demonstrations around the Chinese embassy and visa offices in Kathmandu, citing security reasons. On 10th March 2010, many Tibetians refugees were arrested after clashes with the police during a protest in Kathmandu, on the 59th anniversary of the Chinese invasion of Tibet. A further manifestation of the deplorable right of the freedom of expression of Tibetan refugees became conspicuous when they chose not to carry out demonstrations, fearing repression by the police and the government, on the occasion of World Refugee Day on June 20, 2013. The dilly-dallying of the Nepalese government on the burial issue of Tibetan monk Shamar Rinpoche also highlights the influence of China in contemporary Nepal politics. Nepal had denied permitting cremation for two weeks, leading to widespread accusations that it was following a policy of obeisance towards China. (Rawski & Sharma, 2012).

A 2014 report "Under China's Shadow: Mistreatment of Tibetans in Nepal" published by the international rights group Human Rights Watch documents the sordid plight of the Tibetans in Nepal. The document mentions how the increasing Chinese influence in Nepal and its overarching economic deals have led Nepal to abandon the terms of a Gentleman's Agreement that it had concluded with the United Nations refugee agency

and which is a critical instrument in ensuring the safe passage of Tibetans seeking to escape from China and/or reach India.

2.3 Policy Review

From 1959 to 1986, but particularly in the years before 1974, Nepal generally facilitated the work of foreign governments and humanitarian aid organizations involved in helping to resettle the first wave of Tibetan refugees. The Nepalese government viewed the settlements as an efficient long-term solution to a potentially serious refugee crisis. It, therefore, maintained a large *laissez-faire* approach toward them. In 1975, UNHCR historian Louise Holborn lauded Nepal for provid[ing] for the survival of thousands of Tibetan refugees and giving them “the possibility of becoming contributing members of the societies of their host countr[y] while at the same time preserving their own identity.”

Before 1986, the Nepalese government also tended to tolerate the arrival of new refugees for several reasons: It lacked the practical ability to enforce a strict border-control policy; fewer new refugees arrived during China’s Cultural Revolution (approximately 1966-1979) because the Chinese government then maintained strict control over the movement of the Tibetan population, and in any event, the Nepalese government did not perceive the number of newly arriving Tibetan refugees as a threat or a diplomatic liability during these years. The 1966 Agreement on Trade, Intercourse, and Related Questions Between the Tibet Autonomous Region (TAR) of China and Nepal permitted Tibetans living in the border regions of the TAR and “religious pilgrims” to cross the Tibeto-Nepalese border without a passport or visa, provided they registered at the border. Nepal renewed this Agreement for another ten years in 1976.

The Nepalese government’s *laissez-faire* approach toward Tibetan refugees began to change and tighten in 1986. In that year Nepal and China executed a new treaty that significantly restricted the ability of Tibetans to travel through or into Nepal. Soon after, in 1987 and 1989, the Chinese government suppressed a series of pro-Tibetan independence demonstrations in Lhasa. This led to a resurgence in the number of Tibetans fleeing into exile.

In 1989, pressure from the Chinese government and the growing number of new arrivals led Nepal to initiate a strict border-control policy. The Nepalese government made clear that it would henceforth refuse to accept or recognize new Tibetan refugees. At about the same time, however, UNHCR reestablished an office in Kathmandu to assist Nepal with its Bhutanese refugee crisis. With the tacit approval of Nepal's Ministry of Home Affairs, UNHCR also began to facilitate the transit of newly arriving Tibetan refugees through Nepal to India. The funds for this informal and low-profile operation initially came from the United States, which provided an "infusion of \$100,000 in 1991" to support the "refugee protection and processing program."

Nepal does not have any particular legislation relating to refugee or asylum seekers in force. There is no reference to the term 'refugee' in Nepalese law and there is no official policy of the government towards the treatment of refugees in Nepal (Ghimire, 2013). *The Immigration Act* of 1992 is the closest legislation that deals with the entry of non-citizens in Nepal. As per the Act, all persons who are not citizens of Nepal are classified as foreigners. It states that "no foreigner should be allowed to enter into and stay in Nepal without obtaining a passport and visa," and it limits the entry of foreigners to prescribed routes. (*Immigration Act* 1992, Section 3) The same Act also empowers immigration officers under the MoHA to investigate infractions of these regulations and to detain, fine, and deport persons charged with the violation (Section 8, 9 & 10). The absence of a particular legal framework relating to the treatment of refugees in Nepal leaves the fate of refugees in Nepal in ambiguity.

Despite the absence of a particular law dealing with refugees, some of the fundamental rights guaranteed under the *Constitution of Nepal, 2072* are applicable to Tibetan refugees living in Nepal. For instance, Article 12 provides that "every person should have the right to live with dignity". Similarly, the Right to justice (Article 24), Right against preventive detention (Article 25), Right against Torture (Article 26), and Right against exploitation (Article 29) has potential application in the case of Tibetan refugees as protection under these rights are not restricted to citizens, unlike other rights. Furthermore, Article 17(3) relating to education and cultural rights acknowledge the rights of each community residing in Nepal to preserve and promote its language, script,

culture, cultural civility, and heritage, and Article 22 relating to the right of the child recognize a certain set of rights of children. Both Article 17(3) and Article 22 along with the aforementioned constitutional provisions are applicable in the case of Tibetan refugees. (Constitution of Nepal, 2072)

As a party to various human rights instruments, the legal obligation of Nepal in the matter of Tibetan refugees is to be derived from the international human rights law regime. UDHR in Article 14 specifically recognizes the “right to seek and to enjoy in other countries asylum from persecution” (UNGA, 1948). Similarly, as a state party to ICCPR, Nepal is under a specific obligation under Art. 2 to respect and to ensure, to all individuals within its territory and subject to its jurisdiction, the rights recognized within the framework of the covenant (UNGA, 1996).

The Rights guaranteed under ICCPR which ensures the safeguard of personal integrity, liberty, security, and political rights have the same significance for Tibetan refugees within the jurisdiction of Nepal as for Nepalese citizens.

Similarly, Article 3 of the CAT, reads “No State Party should expel, return ("*refouler*") or extradite a person to another State where there are substantial grounds for believing that he/she would be in danger of being subjected to torture” (UNGA, 1984) is of significant importance about Tibetan refugees. Furthermore, Nepal is also under obligation prescribed under the principle of *non-refoulement* as this principle has crystallized into the norm of customary international laws (UNHCR, 1994). Hence, it is evident that Nepal is under a plethora of obligations arising out of international human rights instruments and customary international law concerning Tibetan refugees.

2.4 Gap Analysis

There are several studies available on the causes of forced migration, its impact on the refugees, moreover, theories on the impact of voluntary migration on the host countries are accessible. However, theories are less available on the impact of forced migrants on the receiving countries. (Indra, D. M.1999). The refugee crisis has become a real problem for Nepal. The presence of refugees has given rise to economic, social, cultural,

environmental, and many more other problems in Nepal (Zetter, 2007). As stated in the Oxford Dictionary an arrival or entry of large numbers of people or things is an influx. From this definition, we can conclude that an influx is determined by the number of people entering, compared to the population of where they enter. Even though the term influx already carries the arrival of a large number of people, the UNHCR often talks about a mass or large-scale influx of refugees. (László, & Schmidt 2018)

Most of the study on refugee and forced migration concentrates on why the host country receives refugees? what are the consequences of refugees in the receiving country? Normally, refugees stay in the receiving country for some short period but Tibetan refugees were staying here since 1950. Normally the receiving country receives refugees to manage the population of the country, to use them in the country's development, to increase the production system by using them. But Nepal is an underdeveloped country, having a massive unemployment rate. Despite its underdevelopment, population and unemployment Nepal welcomes the Tibetan refugee. They were the stateless minority. So, Nepal welcomed them. (Kelley, N.2007). Since China has an incredible influence over Nepal and also after the blockade faced by Nepal in past, many times, Nepal tried to develop a stronger relationship with China. (Shakya, S. 2013). Since the United Communist Party of Nepal (UCPN) came to power in Nepal, the foreign policy of Nepal has been constantly influenced by its Chinese counterpart. (Simkhada, 2013)

Research and journals have been done before. But there is a lack to study about socio-cultural constraints that shape the living of Tibetan Refugees in Nepal furthermore they also lack the impacts of such constraints. Though there are few journals and researches done, it is not sufficient. This thesis tries to fulfill that gap, but that also may not be enough. Other researches and journals are needed to see constraints and impacts in a wider way.

After the devastating earthquake in Nepal, Nepal is, even more, trying to build a stronger relationship with China while both countries do have communist political parties in power. Because of this crucial relationship with China what are the impacts of Tibetan refugees in our country, what are the socio-cultural constraints that shape the living of

Tibetan refugees in Nepal are not studied sufficiently by the earlier studies done by various scholars and organizations. so, I am going to study in these issues, where researcher believes this thesis would help one or other ways to find broad perspective.

An official record of the Government of Nepal confirms that 12,540 Tibetians living in different parts of Nepal at present. The Tibetan refugees living in Nepal are dispersed in over 21 districts of the country in Tibetan refugee camps. (NUCRA, 2015). It is clear that the Nepal government has bargained the status of Tibetan refugees for Chinese humanitarian aid as well as military assistance. It has virtually paid no heed to the calls of international organizations and human rights groups to ensure fair treatment of refugees from Tibet. The problems are further aggravated by the fact that Nepal is not a signatory to the 1951 Refugee Convention of the UN, which explicitly states the rights of refugees and issues guidelines, laws, and conventions to ensure their fair treatment.

Examined in a broader perspective, the current scenario of Tibetan Refugees in Nepal due to increasing Chinese pressure has implications for India too. China in recent times has embarked upon a strategy of encircling India by entering into development as well as a security cooperation partnership with its neighbors. India needs to assert its presence in Nepal through diplomatic means as well as by stepping up economic aid to Nepal. To ensure the protection of human rights of the Tibetan refugees in Nepal, India, along with the United Nations, and the European Union must exert pressure on Nepal to sign the 1951 Refugee Convention.

Nepal is not a party to the 1951 Refugee Convention or its 1967 protocol (Gamble and Ringpapont 2013, 37; Nepal 3 Apr. 2014; Nepal 31 Mar. 2014, 18; US 27 Feb. 2014, 14), and has no laws concerning refugees or asylum seekers (ibid.; Nepal 31 Mar. 2014, 18). The US Department of State's Country Reports on Human Rights Practices for 2013 notes that "the government has not established a system for providing protection to refugees and does not provide for local integration as a durable solution" (US 27 Feb. 2014, 14). A 2002 report by the Tibet Justice Center (TJC), a "non-profit membership group" that "promotes human rights, environmental protection and peaceful resolution of

the situation in Tibet," notes that refugees in Nepal have no legal status and are viewed as foreigners and non-citizens (TJC June 2002, 47).

Sources indicate that there are between 15,000 and 20,000 Tibetans currently living in Nepal (Human Rights Watch Mar. 2014, 3-4; UN 4 June 2013), many of whom were part of the initial wave of refugees who arrived from Tibet following the Lhasa Uprising of 1959 (ibid.; Human Rights Watch Mar. 2014, 3-4). According to Human Rights Watch, Tibetans crossing the border to Nepal as refugees were "recognized and registered" by the Nepali government from 1959 to 1989 (ibid., 4). According to the Integrated Regional Information Networks (IRIN), more than half of the Tibetans who arrived in Nepal before 1990 lack any form of documentation, which prevents them from accessing education and legal employment (UN 4 June 2013).

According to sources, Nepal began denying refuge to Tibetans arriving after 1989; consequently, the majority of Tibetans began transiting through Nepal on their way to India (US 27 Feb. 2014, 15; ICT Oct. 2012, 57; Gamble and Ringpapontsang 2013, 37). Sources also report that Nepal entered into an informal agreement with the United Nations High Commissioner for Refugees (UNHCR) that allowed Tibetans to travel through Nepal in order to get to India (ibid.; ICT 2012, 57). Sources suggest that 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 (US 27 Feb. 2014, 15; Human Rights Watch Mar. 2014, 37; The Economist 17 Mar. 2012).

In 2014, Human Rights Watch issued a report, *Under China's Shadow: Mistreatment of Tibetans in Nepal*, which details the alleged increase in, and impact of, pressure from China on Nepal's domestic policies regarding Tibetans (March 2014). In response to the publication, the Nepal Ministry of Foreign Affairs stated that the report is "ill-founded" and adds that though Nepal is not a party to the UN Convention Relating to the Status of Refugees, it is hosting refugees on humanitarian ground and would continue to do so despite its 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-refoulement.

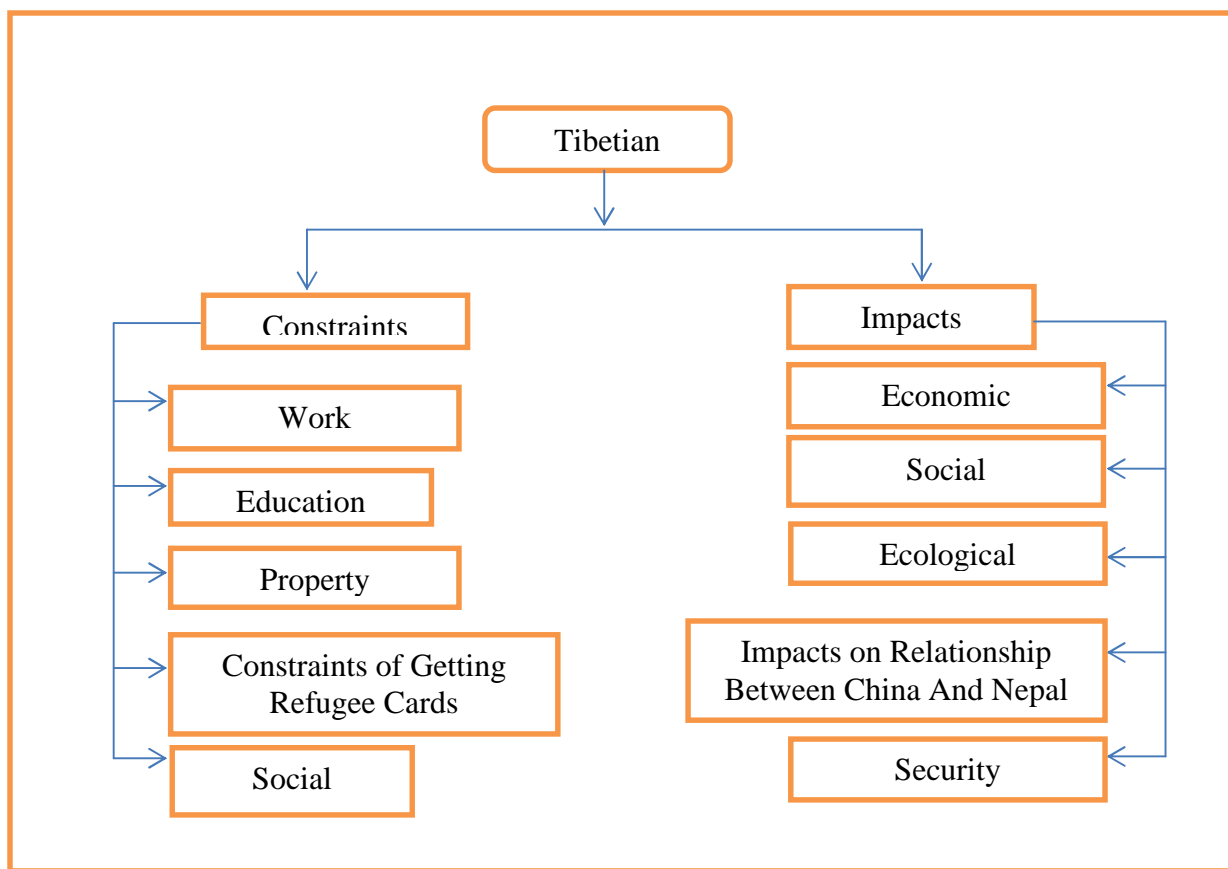
The refugee residents in Nepal are enjoying rights as per the prevailing laws and they are expected to respect the laws of the land. (Nepal 3 Apr. 2014)

2.5 Conceptual Framework of the Study

Social-cultural variable plays a crucial for molding human behavior in society. In this study, the major variables are the socio-cultural and economic status of Tibetan refugees. Caste, education, marriage, caste, family background, public activities relation, social recognition, etc. are some important social variable which affects the human behavior. Occupation, expenditure, investment, trade, volume, profit, saving, utilization are some economic variables of a society.

In this study, these socio-cultural and economic variables would be an analysis which is shown in the following figure:

Figure 2.1: Conceptual Framework of Study



The socio-cultural variables like the status of identity, family structure, livelihood occupation, etc affect the living of the refugees. As Nepalese society is a caste-based society, the Tibeto-Burman population is known as Bhotiya. It means Nepalese society takes Tibetan refugees as Bhotiya under the caste system. This affects the marriage of the refugees because they have to choose the bride and groom from their own community. They were from different social and cultural environments. so, it is hard for them to adjust to our society. And our society is also affected by their arrival. Many of the refugees can't get a higher education because for getting it they need citizenship. The economic condition of those refugees is not good as they have to suffer from unemployment problems like many Nepalese youths. If they have money and wish to invest they can't do so their living period is uncertain, they are not the citizens of Nepal and there is no such law that permits refugees to invest in Nepal. These are some of the socio-cultural and economic variables which constraints the life of Tibetan refugee.

CHAPTER - THREE

RESEARCH METHODOLOGY

3.1 Research Design

Every study has a research design that sets the logical and systematic planning as well as the direction of the study. According to the nature of the study different types of research designs are used for different types of study (Young 1988, Kothari 1988). The present study emphasizes on gaining familiarity with children's education and achieving new insights into it, thus this is an exploratory type of research. As the study aims to determine the lawfulness of restriction on freedom of expression of Tibetan refugees in Nepal and the potential influence of China, this study has used qualitative content analysis to answer the research questions.

In qualitative research, content analysis is acknowledged as one of the “the longest established methods of text analysis among the set of empirical methods of social investigation” defines qualitative content analysis as, Further qualitative content analysis is, considered as the most relevant approach in qualitative analysis of documents as it comprises of understanding the underlying ideas and themes in the materials being analyzed (Bryman, 2004; 392). “Probably the most prevalent approach to the qualitative analysis of documents that comprises a searching-out of underlying themes in the materials being analyzed”.

The determination of the lawfulness of the restriction imposed on Tibetan refugees in Nepal needs analysis of legal texts. Further, the content of freedom of expression needs to be discussed and analyzed against the data relating to the restriction of freedom of expression of Tibetians, obtained through interviews and other sources. In this study facts and laws are brought together to determine the lawfulness of the restriction, in light of relevant case law and jurisprudence.

In the study of possible Chinese influence, different factual events and incidents would be brought to discussion to establish the existence of Chinese influence in a matter

concerning freedom of expression of Tibetan refugees. Hence, the qualitative content analysis would be adopted in this study as an appropriate approach.

3.2 Nature and Source of Data

The nature of data of this study would be qualitative and quantitative. They would gather from both primary and secondary sources. The primary data would be collected from the fieldwork of this area. Camps of Tibetan refugees would be observed. Tibetan refugees and officials from the Home Ministry of Home Affairs would be interviewed to collect the data. Secondary data would be collected through the published and unpublished documents related to the present study.

3.3 Universe and Sampling

The respondents for an interview would select on certain pre-determined criteria. Tibetians who have been staying in the Bouddhanath area, Kathmandu would be a universe of study. Among them purposive sampling would be done with 60 Tibetan refugees for the study purpose based on different gender and age groups would be interviewed as the sample of this study. This would be the sample of the study.

As regard, representatives of government and relevant ministries, local officials from the Home Ministry of Home Affairs would be selected for interview. As a representative of the relevant ministry, they would be able to provide with necessary information. Academicians and legal professionals who had worked in this sector and have contextual knowledge of the subject matter would be selected for interview.

3.4 Techniques of Data Collection

3.4.1 Observation

Observation is key to any research undertaking as this gives practical insight into the subject and issue of the problem under research. The researcher will especially observe and interact with Tibetan refugees, their lifestyle, their camps to collect the required information.

3.4.2 Interview Schedule

An interview is frequently used as one of the important means to get information on various sectors of respondents. The pre-understanding of issues associated with the study was based on the secondary data available on the subject matter. This reading was supplemented through fieldwork in Kathmandu (Bouddhanath Area) to observe the impact of the restrictions on the life of the refugees. I would interview 60 Tibetan refugees to know the constraints they are facing. Besides, I will also talk to Nepali locals to know the impacts they are facing due to refugee settlements. Also, 3 officials from the Ministry of Home Affairs would be interviewed. I would also approach the Tibetan Refugee Welfare Office in Lazimpat, Kathmandu, and the office of the UNHCR-Nepal.

3.5 Data Presentation and Analysis

The collected information would be presented and analyzed systematically and scientifically. However, the presentation of data is determined by its nature. Therefore, the qualitative data would be called in the form of words, would be presented in a systematic way to strengthen the arguments and analysis them in logical ways based on obtaining information. Similarly, quantitative data which would be collected in the form of numbers would be classified based on its nature and presented in tables, bars, and diagrams and show them in percentage and ratio. After the presentation of data, they would be analyzed and interpreted in logical ways, based on the facts.

CHAPTER - FOUR

DEMOGRAPHIC REPRESENTATION OF RESPONDENTS

4.1 Physical Location of the Study Area

The study area of this thesis is Bouddha of the Kathmandu district. It is an area about 11 kilometers far from Kathmandu city center. It is one of the most popular tourist destinations in the Kathmandu area due to the historical Bouddha Stupa. It is home to one of the most important stupas outside of Tibet and one of the largest stupas in the world build in the 5th century. Tibetan merchants have rested and offered prayers here for many centuries. For centuries, Bouddhanath has been an important place of pilgrimage and meditation for Tibetan Buddhists. When refugees entered Nepal from Tibet in the 1950s, many decided to live around Bouddhanath. That is why even today it is a prime location for migrated Tibetians. Therefore, the study is carried out in Bouddha Area to find out and identify constraints and impacts of Tibetan refugees.

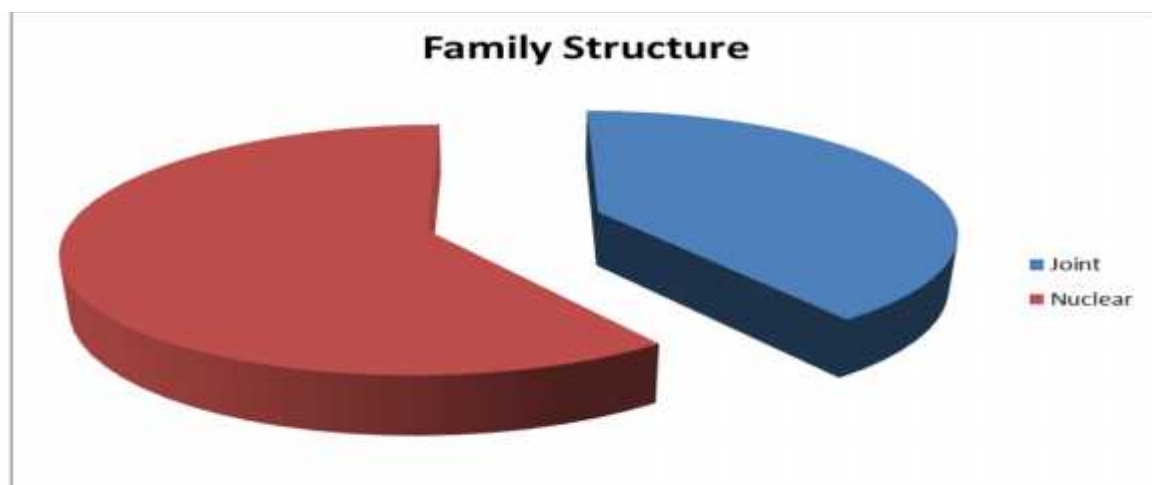
4.2 Demographic Setting of the Respondents

4.2.1 Family Structure of Respondents

Family is one of the important social institutions that have a vital role in the process of socialization. The nature and size of a family affect the education system, health, employment, etc. The family structure of the respondents is shown in the following figure.

The family compositions were found different. A majority of people lived in a nuclear family and very few were shape in a single family. Out of 60 households, 36 (60%) families lived in Nuclear and the remaining of 24 (40%) families lived in Joint family.

Figure No. 4.1 Family Structure



4.2.2 Age Group of Respondents

Tibetan Refugees around Bouddha are from different age groups. This table presents the age group of the respondents:

Table No. 1 Age Group of Respondents

Age Group	No of Respondents	Percentage
21-40	12	20
41-60	36	60
61 Above	12	20
Total	60	100

Source: Field Survey, 2020

The majority of the respondents (60%) are from the age group of 41-60 years. Similarly, the other 20% are from the age group of 21-40, and the rest 20% are above 61 years.

4.2.3 Gender Ratio of Respondents

Among the respondents, 48 (80%) are males, and the rest 12 (20%) are females. This table presents the sex or gender of respondents:

Table No. 2 Gender Ratio of Respondents

Sex	Number of Respondents	Percentage
Male	48	80
Female	12	20
Total	60	100

Source: Field Survey, 2020

4.2.4 Religion of Respondents

Religious belief is also an important aspect of society. The study area is heterogeneous in terms of religion. The majority of the people are Buddhists. Most Tibetians generally observe Tibetan Buddhism or a collection of native traditions known as Bon. There is a minority Tibetan Muslim population. There is also a small Tibetan Christian and also there are some Tibetan Hindus.

Today, one can see Tibetians placing Mani Stones prominently in public places. Tibetan lamas, both Buddhists and Bon play a major role in the lives of the Tibetan people, conducting religious ceremonies and taking care of the monasteries.

4.2.5 Occupation of Respondent

Tibetian Refugees around the Bouddha area adopted different occupations for their livelihood. These are presented as follows.

Table No. 3 Occupation of Respondent

Occupation	No of Respondent	Percentage
Hotel	44	74.43
Job	10	16.66
Construction Work	6	10
Total	60	100

Source:Field Survey,2020

A large portion of the survey household had their traditional caste-based occupation. Total 44 (74.43%) had their small hotels, 10 (16.66%) had a regular job and the other 6 (10%) had construction work as their occupation.

4.2.6 Respondents Living Period in Nepal

Tibetian Refugees around Bouddha have been living for years. This table presents their living period in Nepal after leaving Tibet.

Table No. 4 Respondents Living Period in Nepal

S.N	Description	Number of Respondent	Percentage
1.	For 5 years	6	10
2.	For 6-10 years	12	20
3.	For 11-15 years	24	40
4.	For 16-20 years	10	16.66
5.	For more than 20 Years	8	13.33
	Total	60	100

Source: Field Survey, 2020

Majority of the respondents 24 (40%) have been living in Nepal from 11 to 15 years. Only 6 (10%) have been here more than 20 years. Other 20% have been living from 6-10 years and rest 16.66% have been living for 16 to 20 years.

4.2.7 Respondents Having Refugee Cards

Tibetian Refugees around Bouddha have been living for years but the majority lacks a refugee card. This table presents their card status:

Table No.5 Respondents having Refugee Cards

Sn.	Description	Number of Respondents	Percentage
1.	Yes	12	20
2.	No	48	80
	Total	60	100

Source: Field Survey, 2020

Among the respondents, only 12 (20%) have refugee identity cards. The majority 80% do not have an identity card as a refugee.

CHAPTER - FIVE

CURRENT SITUATION OF TIBETIAN REFUGEES LIVING AROUND BOUDDHA

There are remarkable numbers of Tibetan refugees living in the Bouddha area. They are from different age groups, different occupations, and different time-period of their arrival. However, the majority of them do not have refugee cards which somehow hampered them for their better livelihoods including occupation, health, and education. They even have been going through identity crisis since they belong to nowhere; neither in Tibet nor in Nepal. Thus, they have been facing a lot of problems here. This chapter focuses on their problems based on the field survey and responses to questionnaires.

In the previous chapter it is revealed that among the total 60 respondents, only 12 have authorized refugee's identity cards. It is clear that for those who have identity card of refugee have more opportunity than other who do not have cards. The refugee who had entered Nepal earlier had more chances to have identity cards. But those who have entered later years have little chance to have it. Why is it so?

5.1 Reason behind Not-Having Refugee Card

There are various reasons behind not-having identity card for Tibetan Refugees around Bouddha who have been living for years. The majority of respondents think it is due to the political or national relationships between Nepal and its neighbors. This table presents their assumptions behind the difficulties of refugee identity cards.

Table No. 5.1 Reason behind not having an identity card

S.N	Description	Number of Respondents	Percentage
1.	Nepal unclear policy regarding refugee	22	36.66
2.	China's Influence over Nepal	25	41.66
3.	Economic Condition of Nepal	2	3.34
4.	Political Instability of Nepal	6	10
5.	Above all	5	8.34
	Total	60	100

Source: Field Survey, 2020

Majority of the respondents 25 (41.66%) think that it is due to the China's influence over Nepal that makes difficult to obtain refugee identity in Nepal for Tibetan refugee. Other 22 (36.66%) think it is due to Nepal's unclear policy regarding refugees. 6 (10%) regards Nepal's political instability behind it. Only 2 (3.33%) have blamed Nepal's poor economical conditions. And rest other 5 (8.33%) assumes all these four different reasons have played the roles for restrictions of identity card for Tibetan refugees living in Nepal.

5.2 Problems of Not-Having Tibetan Refugee Card

There are various obstacles due to not-having identity card for Tibetan Refugees around Bouddha. Even the cardholder has limited facilities like travel abroad, documentations, and local business. Even the cardholder does not have higher education facilities. This table shows the obstacles they had to face due to the lacks of refugee identity card:

Table No. 5.2 Problems of not having identity cards

S.N.	Description	Number of Respondents	Percentage
1.	To have Occupation	32	53.33
2.	To children education	40	66.66
3.	Lacks of Identity and documentation	22	36.33
4.	To Travel outside Nepal	18	30
5.	Above all	52	86.66
<i>Respondents have answered on more than one options</i>			

Source: Field Survey, 2020

The majority of the respondents 52 (86.66%) have focused on all obstacles including lack of occupational opportunities, children's education, documentation, and traveling abroad from Nepal due to the lack of proper refugee identity cards. 40 (66.66%) regards major hamper on children's education. 32 (53.33%) regard major obstacles to get occupations. 18 (30%) face problems to travel abroad. (*Note: Respondents have answered on more options.*) It reflects that there are various problems to the refugee who do not have an identity card.

5.3 Threats Faced by Refugee by Nepalese Public Officials

There are various obstacles due to being stateless or lack of nationality for Tibetan Refugees. These refugees sometimes even face threats of challenges from the Nepalese administration and public officials. Among the total 60 respondents, 28 (46.66%) have revealed that they have faced threats and harassment by public officials, and the rest 32(54.44%) told that they have not faced any threats or harassment yet. Among the total 28 respondents who have faced threats, only 8 have faced regularly and the other 20 have faced harassment occasionally during special events. Especially these Tibetan refugees face harassment during the event of their nationalist movement including Free Tibet issues, and issues related to Nepal China relationship.

Among the Tibetians interviewed some of the interviewees had at some point been arrested for participating in a peaceful demonstration, carrying a Tibetan flag or flyer, chanting slogans against Chinese rule in Tibet, etc. The interviewees informed that they were promptly arrested by officials if they stage a demonstration/protest or attempt to do so. Interestingly, Tibetians who are arrested during participation in restriction activities are released on the same day without any charges. However, in some cases, there has been a legal charge against some refugees under Some Public. Tibetan refugees also highlighted that restrictions imposed on their activities were gradually increasing. Interviewees presented instances where police interrupted their religious and cultural activities accusing them of being political. Tibetians are warned by local authorities to refrain from participating in any political activities at all times within the territory of Nepal. During interviews, Tibetians also indicated that police uses excessive force to disperse and the

One of the interviewees stated, “*Government of Nepal wants us to be silent. They don't want us to speak things they don't want to hear*”. Relying on the interview and readings relating to Tibetan refugees in Nepal, it is apparent that, the restriction imposed by the government of Nepal is a very general restriction on freedom of expression, which is executed based on administrative discretion. It is entirely up to enforcement authorities to determine if the activities fall under restricted activities or not.

Nepalese nationals were under restriction to participate in any activities that would be deemed as anti-Chinese activity by the government. This information makes the scope of the restriction imposed by the government much larger, as very often the issue is not seen in the isolation of Tibetan refugees living in Nepal.

In contrary to information obtained from government officials, a report of OHCHR-Nepal states, “The police, under clear direction from the Ministry of Home Affairs” restricts the “rights to freedom of movement, assembly and association” of Tibetan refugees, “on key ceremonial occasions, including religious festivals and the birthday of the Dalai Lama” through “arbitrary arrest and other inappropriate methods”. (UN Human Rights Council, 2011b)

Based on findings from the interviews in Kathmandu (Bouddha Area) and existing reports of the situation of human rights of Tibetians in Nepal it can be concluded that there is a blanket restriction on political activities of Tibetians in Nepal. The findings also showed that restrictions were not limited to political expression, as the religious and cultural expression was under scrutiny too.

5.4 Lack of Freedom of Speech among the Respondents

While these respondents were asked that they are free or not to talk about Tibetan issues, the majority 48 (80%) revealed that they are not free, and the rest 12 (20%) told that they are free to talk. And the majority 42 (70%) think that it affects Nepal China relationship. So, they are not allowed to talk about Tibetan issues.

Thus, it is clear that there is not proper freedom of speech to the Tibetan refugees who have been living in Nepal. The constitution of Nepal 2072 recognizes freedom of expression as a fundamental right. However, the right is limited to its citizens. Concerning restriction on freedom of expression, it is provided that:

“through law...reasonable restriction may be imposed on any act which may undermine the sovereignty and integrity of Nepal, or which may jeopardize the harmonious relations subsisting among the peoples of various castes, tribes, religion or communities, or on any act of defamation, contempt of court or

incitement to an offense; or on any act which may be contrary to decent public behavior or morality”. (The Constitution of Nepal, Article 12(3))

This clause prescribes that the restriction on freedom of expression should be imposed through law. The provision does not expressly restrict acts that are deemed to be contrary to the foreign policy of Nepal. Although the Constitution of Nepal does not expressly entitle freedom of expression to refugees, it is under obligation enshrined in ICCPR relating to freedom of expression since Nepal ratified ICCPR without any reservation on 14th August 1991. The obligation of Nepal with Article 19 of ICCPR is also reaffirmed by Nepal Treaty Act 1990, Section 9, which provides provisions of treaties ratified by Nepal to be applicable as domestic law despite domestication. (UNGA, 1966; Nepal Treaty Act 1990, Section 9) The same provision also provides that in case of a conflict arising between treaties and domestic laws, provisions of treaties would prevail. So it can be argued that Article 19 of ICCPR has full implications for Nepal. Furthermore, as a State party to ICCPR, Nepal has undertaken obligation:

“...to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, color, sex, language, religion, political or other opinions, national or social origin, property, birth or another status.” (UNGA, 1966: Article 2)

Tibetan refugees in Nepal have not legally recognized as refugees i.e. *de jure* recognition of Tibetians refugees is absent. As per the legal arrangement, Tibetians in Nepal are classified as aliens. However, the non-recognition of *de jure* refugee status of Tibetians in Nepal does not affect the implications of an obligation of Nepal under the ICCPR. Since the freedom of expression under Article 19 of ICCPR is guaranteed to ‘everyone’. Tibetan refugees living in Nepal are entitled to the same protection vis-a-vis freedom of expression as Nepalese citizens are, despite the silence of Nepalese domestic law in the matter. Thus, it is due to the proper refugee identity Tibetan refugees have been banished from the basic rights of freedom of speech.

In contrary to the obligation to respect and ensure freedom of expression of Tibetan refugees living in Nepal, the government is imposing restrictions on the freedom of expression of Tibetans. Such restrictions have been reported as a violation of freedom of expression of Tibetans by various human rights organizations including OHCHR-Nepal (UN Human Rights Council, 2015b), The government of Nepal does not refute the existence of such restriction but claims that restrictions are limited to anti-Chinese activities and is justifiable under international law.

The interviews with Tibetans living in Kathmandu also revealed that there is a restriction on their freedom of expression. Further, respondents revealed that any form of expression relating to the issue of Tibet including human rights violations in Tibet, expressions relating to China, or Chinese activities in Tibet were under severe scrutiny and were restricted. The interviews with Tibetans living in Kathmandu also revealed that there is a restriction on their freedom of expression. The respondents revealed that any form of expression relating to the issue of Tibet or China indiscriminately was under severe scrutiny and subject to restriction. For instance, there have been instances of Tibetans being arrested for carrying a Tibetan flag peaceful protest against human rights violation in Tibet, staging a hunger strike, use of sporting headbands and t-shirts reading 'Free Tibet' (ICT, 2011), carrying banner demanding justice in Tibet, claiming autonomy in Tibet, etc. Further, respondents informed that the restriction on expression is not limited to political expression or expression relating to autonomy in Tibet as they are facing restriction on cultural and religious expression as well (HRW, 2008) Any activities by Tibetan refugees living in Nepal if construed as anti- Chinese or harmful to Nepal-China foreign relations by the government authorities were indiscriminately subjected to restriction.

5.5 Refugees Affiliation with various Movement

Likewise, the majority 36 (60%) told that they are somehow connected with their nationalist moment and the rest 24(40%) are not affiliated with any moment. All these above-mentioned 36 (60%) respondents who have some sort of connection with the movement think that they have an identity crisis without a nation. They are deprived of

basic human rights so they are affiliated with the moment. There are various reasons behind their affiliation with the Tibetan movement. This table shows various reasons:

Table No. 5.5 Reasons behind involvement on movement (36 Respondents)

S.N	Description	Number of Respondents	Percentage
1.	For Free and Independent Tibet	32	100
2.	To Return Back to Tibet	24	80
3.	For reestablishing western democracy	6	18.75
4.	To get refugee card	8	25
5.	Above all	2	6.25
<i>Respondents have answered on more than one options.</i>			

Source: Field Survey, 2020

All the respondents 32 (100%) who have some sort of affiliation with various moments have motif for free and independent Tibet. 24 (80%) of them have strong determination to return back to Tibet. Among them 8 (25%) wants to get refugee cards and 6 (18.75%) are in movement to reestablish western model of democracy in Tibet. 2 (6.25%) have all the motives mentioned above. (*Note: Respondents have answered on more options.*) It reflects that there are various reasons behind their affiliations in moments.

During the protests, some of the respondents have been arrested by Nepalese police officials. Among these 36 respondents, 4 (12.5%) have been to custody, and the rest are not arrested by police. However, according to a police official, there are not major free Tibetan activities. He told, "*There are very few Tibetians in protest. There is neither any threatful protests nor we treat them badly. Very few are arrested but we release them within few hours or days*" (*Case Study, 2020*).

The government of Nepal has stood by its argument that it will not allow protests and demonstrations against any friendly nation (HRW, 2012:53). This position of Nepal has been broadly incorporated in the 1960 Nepal-China friendship Treaty, prescribed in its foreign policy, and has been reaffirmed by the executive head of the state in numerous instances. The authority of Nepal has shown full compliance with this commitment in the case of Tibetan refugees in Nepal. The findings relating to freedom of expression of

Tibetian refugees in Nepal indicate existing restrictions particularly in China-related protests and demonstrations, dissemination of pamphlets, political discourse, dress, etc.

It is evident from the earlier discussion that Nepal is under obligation to protect and promote the freedom of Tibetan refugees living in Nepal. However, analysis of Article 19 of ICCPR indicates that there might be a lawful restriction on freedom of expression i.e. Restriction on freedom of expression may not *ipso facto* amount to a violation of the right to freedom of expression and some restrictions may be justified as lawful restrictions (UNGA, 1966). Hence to determine the lawfulness of restriction of freedom of expression of Tibetan Refugees, this study would rely on a ‘three-part test’ of the restriction.

Before moving to a ‘three-part test’ we must keep in mind that there are certain expressions that the state is under obligation to restrict. For instance, Article 20 of ICCPR requires State parties to prohibit any propaganda for war and advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence. (UNGA, 1965: Article 3).

The findings of the study indicate that the restriction on Tibetan refugees does not fall under the positive requirements to restrict expression under international law. The contention of the positive obligation to restrict certain expression particularly is argued by government officials in Nepal too. However, in the case of Tibetan refugees, the notion of the positive obligation to restrict expression is not applicable, if *et al* such obligation exists even in that context the imposed restriction must be justifiable under Article 19(3) of ICCPR. (UNHRC, 2011)

5.6 Tibetan Refugees and Existing Nepal-China Factors

The earlier discussion has established that the restriction imposed by the government of Nepal in a matter concerning the freedom of expression of Tibetan refugees in Nepal is unlawful under the existing international and domestic legal framework. This chapter will seek to analyze the influence of China over the government of Nepal in a matter concerning the freedom of expression of Tibetan refugees in Nepal. On account of

allegations regarding Chinese influence in the matter, the geopolitical positioning of Nepal, the existing Nepal-China relationship, and Nepal's commitment towards 'one-China policy' it is indispensable to analyze the Chinese influence in a matter concerning Tibetan refugees in Nepal.

The issue of the influence of China on the freedom of expression for Tibetan refugees is not a new discourse. International human rights organizations including HRW (2008) and AI (2012) have explicitly affirmed the influence of Chinese authority in a matter concerning Tibetan refugees in Nepal. These findings are congruent with the findings in the study report of TJC (2002) and ICT (2011), both of which are international organizations working on the Tibetan issue.

An allegation of Chinese influence over Nepal in the matter of Tibetan refugees is not limited to findings of human rights organizations. The influence of the Chinese government in the matter of Tibetians in Nepal has been surfacing time and again. (Wong, 2013; Sindner, 2012; Mandhana, 2012; Krakauer, 2011) For instance, former president of the United States, Jimmy Carter upon his recent visit to Nepal on April 1, 2013, commented that "China is putting pressure on Nepal to interrupt the flow of Tibetan refugees into the Himalayan nation" (Sharma, 2013). Similarly, Brad Adams, Asia director at Human Rights Watch spelled out Chinese influence in the matter of Tibetan refugees in Nepal when he said, "The Chinese government has in the past put strong pressure on Nepal not to allow Tibetians to protest." (HRW, 2011) These instances indicate surfacing concern and allegations of Chinese influence in Tibetan matter in Nepal.

During interviews conducted in Kathmandu, Tibetan activists also alleged that China is luring Nepal to restrict the freedom of expression of Tibetians refugees in Nepal. They argued that the increasing restriction on freedom of Tibetians in recent years is an outcome of China's increasing influence over Nepal in Tibetan matter (interview 02.02. 2013) In an interview, a high-level official from MoLJPA denied the existence of influence/pressure from Chinese counterpart, although he acknowledged that 'it was obvious for China to have a keen interest in Tibetan refugees in Nepal'. Similarly,

officials from the Home Ministry acknowledged that there is an apparent concern from the Chinese counterpart in matters concerning Tibetan refugees (interview 11.02.2013).

In similar lines with the findings from the interview of Tibetan activists in Kathmandu, the HRW report entitled, *Appeasing China Restricting the Rights of Tibetans in Nepal* has discussed the role of Chinese authority in restricting the freedom of Tibetans in Nepal. The report even alleges that the Chinese officials are intervening in the Nepalese judicial system. The report states, “the impact of the pressure from the Chinese government on the government of Nepal can be directly and indirectly seen in Nepal’s justice system, in policing and concerning freedom of movement within Nepal” (HRW, 2008: 55). Similarly, a report by the ICT entitled, *Dangerous Crossing: Conditions Impacting the Flight of Tibetan Refugees* (2011) has inferred to Chinese influence over issue of Tibetans in Nepal.” (ICT, 2011: 103). Besides the allegations made by Tibetan during the interview and its corroboration with the human rights organizations reports, several particular factual events highlight existing Chinese influence in Tibetan issues in Nepal.

5.7 Deportation and Attempted Deportation of Tibetan Refugees

As a state party to CAT, Nepal is under an obligation not to deport anyone to a country where they may face torture. Similarly, the principle of *non-refoulement* which has been crystallized as customary international law also prohibits Nepal to deport refugees to place where they might face the threat of persecution. There is reasonable ground to believe that Tibetan refugees deported back to China might get subjected to torture or be persecuted. The report of the United Nations

Special Rapporteur on Torture, Manfred Nowak, states, that, “the practice of torture, though on the decline – particularly in urban areas – remains widespread in China” (UN Human Rights Council, 2009b). At the present instance, there is substantive ground to believe that Tibetans who fled Tibet are at high risk to be subjected to torture. (Randeep 2007, Central Tibetan Administration 2008) Hence, it is unlawful for Nepal to deport Tibetans refugees back to China as refugees may potentially face persecution or may be subjected to torture. Furthermore, Nepal also has an obligation under the Gentlemen's

Agreement of 1990 to allow safe passage to India, for those Tibetan refugees who are apprehended in Nepalese territory.

Despite the obligations, there have been instances where Nepal has deported Tibetan refugees upon request from China. On 31st May 2003, Nepal deported 18 Tibetan refugees to the Chinese authority (UNHCR, 31 May 2003). Furthermore, the government of Nepal attempted to deport 23 refugees back to China in September 2011 which was halted by an order from the Supreme Court of Nepal (Times of India, 23 September 2011; ICT, 23 September 2011). These reported instances of deportation indicate that upon request from the Chinese government, Nepal will not hesitate to deport Tibetan refugees despite such deportation being unlawful under international law.

5.8 Chinese Concern over Tibetians in Nepal

The Chinese authority has always been alarmed by anti-Chinese activity being carried out in Nepal. The HRW in its report cites Chinese Ambassadors' dissatisfaction over the 'anti-China' protest being carried out in Nepal and urged the government to adopt strict measures to pacify such activities. (HRW, 2008) Similarly, upon request from the Chinese government, Nepal restricted movement around areas Mount Everest to avoid potential Tibetan protest during an ascent of the Olympic torch to the peak. (BBC News, 14 March 2008)

Tibet and Nepal have a long history of cultural and religious exchange, intermarriage and trade across the Himalayas. Some of Nepali citizens also practice Tibetan Buddhism. Nepal's communities along the northern boarder share with many other Himalayan people a spritual devotion to the Dalai Lama. But where Tibetan refugees in Nepal were once safe from China's reach, the Chinese government's new, more complex engagement with Nepal renders Tibetan refugees increasingly vulnerable. In the recent joint statement by Nepal and China, the issue of "border security" was prominent.

China demands a commitment from Nepal to a "one-China policy," and it sees any assertion by Tibetians of their unique identity as a threat to its sovereignty and territorial claims. The joint statement from China and Nepal said: "The Nepali side reiterated its

firm commitment to One-China policy, acknowledging that Taiwan is an inalienable part of the Chinese territory and Tibet affairs are China's internal affairs, and the determination on not allowing any anti China activities on its soil. But what constitutes "anti-China" activity has never been defined - by either China or Nepal - leaving the team dangerously open to interpretation.

It clarifies that the government of China very frequently expresses concern over Tibetan activities in Nepal and Nepal has always been vocal about its one-China policy and commitment to not allow any anti-Chinese activity on its soil. The Chinese authorities have applauded Nepal's action that weakens the Office of the Representative of His Holiness the Dalai Lama. (People's Daily Online, Feb 2, 2005, as cited in HRW, 2008) The HRW claims that there are shreds of evidence of direct attempts by Chinese officials to intervene in the Nepalese justice system, pressure from the Chinese embassy to charge Tibetians under the Offences against the State and Punishment Act, 1989. (HRW, 2008)

These instances indicate that China has a keen eye on Tibetan activities in Nepal and wants Nepal to stick to the one-China policy and continue curbing 'anti-Chinese' activities in its territory. (Mandhana, 2012; Krakauer, 2011) China's expectation from Nepal concerning its commitments is acknowledged by high ranking government officials.

5.9 Increasing Restriction on Tibetians in Nepal

During interviews with Tibetan refugees in Kathmandu, interviewees informed that the restriction imposed on them is gradually accelerating in recent years (interview 17.01.2013). In recent years there has been a significant increase in economic assistance from China to Nepal, as China has moved up to the top five development partners of Nepal. So, increased restriction on Tibetians living in Nepal is often seen as *quid pro quo* from Nepal towards its northern neighbor. The restrictions on religious freedom and cultural activities of Tibetians by authorities in Nepal have also been reported in recent years (UNHRC, 2010; HRW, 2008; ICT, 2011).

The increase in restrictions in the matter concerning protest, assembly, and carrying out religious ceremonies freely has been marked since 2008. The protest of Tibetan refugees in Nepal significantly increased in 2008 in the response to the Olympic torch relay and Beijing Olympics. Following increased protests, Nepal gradually imposed stricter restrictions on the movement of Tibetan refugees in Tibet border areas, and in March 2009, it declared the areas surrounding the Chinese Consulate in Kathmandu as a restricted zone for Tibetan protest. Since 2008, Nepal Police has been carrying out preemptive arrests of Tibetans whenever they suspect that Tibetans might protest. (ICT, 2011) Such arrests were made for instance during the birthday of Dalai Lama, uprising day, visits of Chinese envoy in Nepal, etc (HRW, 2011, Aljazeera, 2013, Ifex, 2013).

5.10 Nepal's Foreign Policy Commitment towards China

As argued by a 'realist' perspective the States are motivated by national interests, thus restrictions on Tibetan refugees in Nepal are grounded on the firm belief that is in Nepal's national interest to do so. Nepal has benefited in various sectors of development with cooperation from China and hopes for its continuity (Saferworld, 2012; ICT, 2011). Nepal seeks to maintain a friendly relationship with its northern neighbor China and as allegiance towards Chinese concern in Nepal rights of Tibetan refugees is restricted as China does not want Tibetans to be politically active in Nepal (BBC News, January 27, 2010). Hence, Nepal's imposition of restriction on freedom of expression of Tibetan refugees living in Nepal is rooted in its underlying interest to please China.

The previous discussion has shown that Nepal has been influenced by China in matters concerning Tibetan refugees. Nepal is constantly undermining its human rights obligations by imposing restrictions on freedom of expression on Tibetan refugees living in its territory. The underlying intent of Nepal in the matter can be understood upon closer analysis of the Nepalese perspective of the Nepal-China relationship. As stated before, the underlying belief of Nepalese foreign policy has been balancing its national interest without offending its neighboring countries (Pradhan 2003). Nepal's former Ambassador and foreign policy analyst Mohan Lohani (2011) argues that Nepal is located in a crucial geostrategic region and should remain sensitive to the national

interests of both India and China in politics, economy, and security without in any way compromising Nepal's sovereign political space.

In the light of a foreign policy perspective of Nepal, it is not hard to understand why Nepal has opted to restrict the expression of Tibetians under the generic ban on 'anti-Chinese Activity'. This discussion indicates that Nepal has both 'expectations of benefits' and 'fear of disadvantage' from the northern neighbor China. Hence, Nepal undermining its obligation arising from human rights has inclined towards its foreign policy prescription.

The unlawful restriction on freedom of expression of Tibetan refugees reflects a typical case where the State has sidelined its human rights obligation to uphold its foreign policy commitments. There are other instances where States have resorted to the curtailment of rights of refugees based on their political gain and preferences (Mandal, 2003). For instance, in India Tibetan refugees are only allowed on the condition that they abstain from political protests against China.

States are entitled to restrict freedom of expression under certain circumstances but the state practice indicates that States are imposing blanket restrictions on the expression of refugees. As argued by Mandel (2003) often the aim of such restriction appears to be the preservation of good relations with the country of origin of refugees. Hathaway (2005) also argues that states' response to political activities including political expression depends on the host states' inclination and political preferences. Similarly, restriction of freedom of expression in refugees Convention under OAU signifies the emphasis given to relations between states than to basic rights guaranteed under human rights law.

The State practice of restricting the rights of refugees in different countries illustrates that States to promote their national interest are involved in unlawfully restricting the rights of refugees. The study focuses on the restriction on freedom of Tibetan refugees in Nepal; however, the treatment of refugees by host states in line with its national interest can be relevant in a broader context. Despite this being in conflict with human rights, obligations States practice unlawful restriction on rights of refugees as it suits them.

5.11 Respondents Having Bank Account

Most of the respondents do not have a bank account. Among the total 60 respondents, only 12 (20%) have bank accounts. These 12 respondents have refugees' identity cards. Other 48 (80%) respondents do not have identity cards. Due to the lack of Tibetan refugee identity cards, they have been deprived of their bank accounts.

5.4 Respondents Having Bank Accounts

Sn.	Description	Number of Respondents	Percentage
1.	Yes	12	20
2.	No	48	80
	Total	60	100

Source: Field Survey, 2020

Thus, the majority of Tibetan refugees who have been living in the Bouddha area are deprived of their bank account due to the lack of identity card. One of the respondents (age 45) says, *“If we had a simple refugees identity card we would have at bank accounts and facilities of children’s education. The card would even help us to run small business”* (Case Study, 2020).

5.12 Respondents having Business and property in Nepal

The respondents have been in Bouddha for a long and most of them have their small business and property here. Among the total 60 respondents, only 24 (40%) have their own business and property too. Rest other 36 (60%) respondents do not have their own business or property.

5.5 Respondents having Business and Property in Nepal

S.N.	Description	Number of Respondents	Percentage
1.	Yes	24	40
2.	No	36	60
	Total	60	100

Source: Field Survey, 2020

Thus, the majority of Tibetan refugees who have been living in Bouddha have not their own business or property here. Respondents having identity cards have some sort of property or business here. Other respondents who do not have refugee cards but have some sort of business and property. But their business and property are not in their registration. For this, they have taken help from other friends and relatives. Revealing this matter own refugees (age 47) who has married with Nepal told, says, *“I have a small business and even home too. But they are not in my name. Legally they belong to my wife because I have no property rights here”* (Case Study, 2020).

Likewise, through the observation, it is revealed that most of the refugees who have not identity cards do small and personal business like *Bhatti* shop. They even feel insecure from the government officials since it belongs to be illegal to handle small shops without registration. Some of the refugees even have a large business like construction and others. However, they have been dependent upon their Nepali partner for their legal procedures and official issues.

5.13 Respondents’ Problems related to employment

Most of the respondents have been facing problems with employment. Among the total 60 respondents, 48 (80%) have faced problems related to employment since they lack identity. Only 12 (20%) revealed they do not have problems.

5.6 Respondents having problems with employment

S.N.	Description	Number of Respondents	Percentage
1.	Yes	24	40
2.	No	36	60
	Total	60	100

Source: Field Survey, 2020

Thus, the majority of Tibetan refugees who have been living in Bouddha have problems getting jobs. Some of the respondents with extraordinary skills only have a chance for employment but it is not regarded as legal. Revealing this condition one of the respondents who work as a graphic designer told, *“I have been working as graphic*

designers. I have got the work due to my skill. But I lack the facilities that other employees get because I do not have an identity” (Case Study, 2020). It is revealed that most of the refugees who have worked or have jobs have been involved with illegal status. The majority of the respondents revealed that it is due to the lack of identity they face difficulties to find a job.

5.14 Respondents’ Problems related to Child Education

Most of the respondents have been facing problems with their children’s education. Among the total 60 respondents, 48 (80%) who have not no refugee identity have faced problems with their children’s formal education. Since the school needs the identity and registration of birth. Lacks of legal documentation have been hampering them to admit theirs at school. Only 12 (20%) revealed they do not have problems with children's education. But, even for them, it is hard to get higher education.

5.7 Respondents problems related to Child Education

Sn.	Description	Number of Respondents	Percentage
1.	Yes	48	80
2.	No	12	20
	Total	60	100

Source: Field Survey, 2020

Thus, the majority of Tibetan refugees who have been living in Bouddha have problems getting a child admitted at school. One of the respondents revealed, “*We cannot enroll our children at school because they do not have birth certificates. Due to the lack of proper documentation and other identities like refugee cards our children lack the identity though they are born here” (Case Study, 2020).* It is revealed that most of the refugees due to the lack of proper documents and registration do not have a birth certificate of their children and it has been depriving them of school enrollment.

5.15 Treatments of Locals towards the Refugee

There are various obstacles for the refugees including that they even sometimes are not well treated by the locals. Being the outsiders they are regarded as the social, cultural, and political threat to local people. Some other locals even behave them kindly. Tibetan refugees of Bouddha too have been going through good/bad treatments from locals. This table presents their experiences that how they have been feeling from locals:

Table No. 5.8 Treatment of Local towards refugees

S. N	Description	Number of Respondents	Percentage
1.	Friendly	10	16.66
2.	Supportive	10	16.66
3.	Unfriendly	20	33.34
4.	Uncoardial	20	33.34
	Total	60	100

Source: Field Survey, 2020

The majority of respondents 20 (33.34%) regards locals as unfriendly and the other 20 (33.34%) regard them as uncordial. Only 10 (16.66%) and the other 10 (16.66%) have felt local friendly and supportive respectively. Thus, it is clear that Tibetan refugees have been facing negative as well as positive behaviors by the locals where they have been same social space together.

“How hard is it to make friends in Nepal ?” The question was asked among the respondents. 20 (33.34%) responded that it was easy to make Nepalese friends. The Bouddha area itself is shaped by the mixed community of Tibetan migrants and Nepali community. That is why it is not hard to make Nepalese friends. One of the respondents (age 57) says, *“It is not hard to make Nepalese friends. We easily are friends with the Buddhists Nepalese. Our religion and culture help us to be friends”* (Case Study 2020). Thus, it is cultural and religious factors behind the close attachment between Nepalese Buddhists and Tibetan Buddhists. Those who have found Nepalese as friendly and cooperative, it is based on religious and cultural factors.

5.16 Some Impacts of Tibetan Refugees among locals

However, in the issues of business and work, Nepalese traders are not happy with migrant refugees because they regard that Tibetan refugees have been impacting their business. A non-Buddhist Nepalese trader says, *“They have been working here illegally. They have shops and hotels. Majorities of tourists here are Buddhists who too want to go take services from Tibetians. It has been hampering our business”* (Case Study, 2020). Some locals even argue that Tibetan refugees have been involving in other illegal activities like smuggling and others.

What are the impacts of refuge in Nepal? The question was asked with some of the local Nepalese traders. Few told that there are positive impacts. One said, *“Flow of refugees has increased our business and it has also led us to cross-cultural experiences”* (Case study, 2020). And some regarded that there are both positive and negative impacts. However, the majority of locals viewed that there are negative impacts due to the Tibetan refugees. According to them, the flow of Tibetan refugees has affected local culture, lifestyle, foods, and local language, etc. It has also a threat to social security. Some of them accused that it has increased alcoholism, robbery, and prostitution, etc. Similarly, *“What are the economic impacts of Tibetan refugees?”* The question was asked to the local vendors. Majorities think that Tibetan refugees have threats on the occupation of local people. It makes scarce on resources such as land, water, housing, and other resources. It decreases the wage rate of local people as a refugee can work in low wage to fulfill their basic needs. However, one trader views, *“Flow of refugees increases local business due to the presence of refugee as they have to buy their necessities daily”* (Case Study, 2020).

Likewise, locals are even aware of the political impacts of Tibetan refugees. *“What are the political impacts of Tibetan refugees?”* The majority think that it challenges security. Others viewed that threats to local people due to their protest activities. Even the mobilization of police in refugee residence areas may cause a problem to local people. However, some have different views. They say, *“It increases in social security because*

the host country must provide security to the refugee too” (Case Study, 2020). However, all think that Tibetan refugees do not influence Nepalese Politics.

Similarly, the majority of local people regard that Tibetan refugees affect the social life of the local people, they affect the education system and labor market. Some regards that they affect on local culture, language, living style. Due to this perspective of local Tibetan refugees have not completely assimilated with local people, culture, and society. However, they are in process of assimilation with local people's culture and society though they seem as if in social exclusion. Even locals too slowly accepting the coexistence with Tibetan refugees. *“Do you allow your children to play with Tibetan refugees?”* The question was asked with locals. The majority of locals frequently let their children play with refugee children. Very few do not like it.

“Since it's been long they have been residing here, do you feel themselves as a part of society?” The question was asked to locals. One of the locals said, *“Yes they are a part of our society. Now we cannot imagine this society without them”* (Case Study, 2020). Very few people do not regard refugees as part of their society. But the majority have noticed that a lot of changes have occurred at Bouddha due to the arrival of Tibetan refugees. The majority think that they need not go back to their country because they are chased away from there. For them, Nepal should consider them as a citizen. It marks that gradually local people of Bouddha too are being habitual with Tibetan refugees. Not only locals people but the majority of refugee respondents too also want to stay in Nepal. The number of them is presented in the table below:

Table No. 5.9 Respondents' Choice of Country to Stay

Occupation	No of Respondent	Percentage
To return Tibet	18	30
To fly aboard countries	10	16.66
To stay here in Nepal	32	53.33
Total	60	100

Source: Field Survey, 2020

The majority of respondents 32 (53.33%) want to stay here in Nepal, the rest 18 (30%) want to go back to Tibet and only 10 (16.66%) have chosen abroad countries. It shows that Tibetan refugees gradually assimilating with the Nepalese community. “*Why you want to be here?*” The question was asked to the respondents. According to the majority of them have a marital relationship and business partnership with Nepalese here. So, they somehow want to adjust here. The majority of old-aged respondents want to return to Tibet because they want to die there in their home country and few youths want to go to abroad for a better future.

In nutshell, the Tibetan refugees who have been living in the Bouddha area have been gradually assimilating with Nepalese people, culture, and society. Though their lives are full of hardships due to the lack of identity and non-belonging-ness, they are habitual to survive as refugees who have very few expectations like refugees identity cards that would help them to survive.

CHAPTER - SIX

SUMMARY AND CONCLUSIONS

6.1 Summary

This research, entitled “Constraints and Impacts of Tibetan Refugees: A Case Study of Bouddha Area,” basically depicts the current situation of Tibetan refugees and their adjustment problems in the new location. For this purpose, this research has included a total of 60 respondents and among them, 36 (60%) family lived in Nuclear and rest of 24 (40%) family lived in Join family and the majority of the respondents (60%) are from the age group of 41-60 years and other 20% are from the age group of 21-40 and rest 20% are above 61 years. 48 (80%) respondents are males and the rest 12 (20%) are females, 44 (74.43%) had their small hotels, 10 (16.66%) had a regular job and other 6 (10%) had construction work. Majority of the respondents 24 (60%) have been living in Nepal from 11 to 15 years. Only 6 (10%) have been here more than 20 years, other 20% have been living from 6-10 years and rest 16.66% form 16 to 20 years. However 24 (40%) have been living in Nepal for 11 to 15 years and only 4 (6.66%) have been here more than 20 years and the other 20% have been living from 6-10 years. However, only 12 (20%) have refugee identity cards and the majority 80% do not have. The majority of the respondents (41.66%) think that they lack the identity card due to China's influence over Nepal. This influence makes difficult to obtain refugee identity in Nepal for Tibetan refugee. Other 22 (36.66%) think it is due to Nepal's unclear policy regarding refugees. 6 (10%) regards Nepal's political instability behind it. Only 2 (3.33%) have blamed Nepal's poor economical conditions. And rest other 5 (8.33%) assumes all these four different reasons have played the roles for restrictions of identity card for Tibetan refugees living in Nepal.

The majority of the respondents (86.66%) have focused on all obstacles including lack of occupational opportunities, children's education, documentation, and traveling abroad from Nepal due to the lack of proper refugee identity cards. 40 (66.66%) regards major hamper on children's education. 32 (53.33%) regard major obstacles to get occupations. 18 (30%) face problems to travel abroad.

These refugees even face threats of challenges from the Nepalese administration and public officials. Among the total 60 respondents, 28 (46.66%) have revealed that they have faced threats and harassment by public officials, and the rest 32(54.44%) told that they have not faced any threats or harassment. Among the total 28 respondents who have faced threats, only 8 have faced regularly and the other 20 have faced harassment occasionally during special events. Tibetan refugees face harassment during the event of their nationalist movement including Free Tibet issues, and issues related to Nepal China relationship.

The majority (80%) revealed that they are not free and the rest 12 (20%) told that they are free to talk. And the majority (70%) think that it affects Nepal China relationship. So, they are not allowed to talk about Tibetan issues. The majority (60%) told that they are somehow connected with their nationalist moment and the rest 24 (40%) are not affiliated with any moment. 36 (60%) respondents who have some sort of connection with the movement think that they have an identity crisis without the nation. They are deprived of basic human rights so they are affiliated with the moment.

All the respondents 36 (100%) who have some sort of affiliation with various moments have a motif for free and independent Tibet. 24 (80%) of them have a strong determination to return to Tibet. Among them, 8 (25%) want to get refugee cards and 6 (20%) are in movement to reestablish the western model of democracy in Tibet. 2 (6.25%) have all the motives mentioned above. During the protests, some of the respondents have been arrested by Nepalese police officials. Among these 36 respondents, 4 (12.5%) have been to custody, and the rest are not arrested by police. However, according to a police official, there are not major free Tibetan activities.

Most of the respondents do not have a bank account. Only 12 (20%) have bank accounts. These 12 respondents have refugees' identity cards. Other 48 (80%) respondents do not have identity cards. Due to the lack of Tibetan refugee identity cards, they have been deprived of their bank accounts. Similarly, most of the respondents do not have their own business. Only 24 (40%) have their own business and property too. Rest other 36 (60%) respondents do not have their own business or property. Among the total 60 respondents,

48 (80%) have faced problems related to employment since they lack identity. Only 12 (20%) revealed they do not have problems. The majority of Tibetan refugees who have been living in Bouddha have problems getting jobs. Some of the respondents with extraordinary skills only have the chance for employment but it is not regarded as legal.

Most of the respondents have been facing problems with their children's education. 48 (80%) who have not refugee identity have faced problems with their children's formal education. Since the school needs the identity and registration of birth. Lacks of legal documentation have been hampering them to admit theirs at school. Few revealed that they do not have problems with children's education. But, even for them, it is hard to get higher education.

The majority of respondents 20 (33.33%) regards locals as unfriendly and the other 20 (33.33%) regard them as uncordial. Only 10 (16.66%) and the other 10 (16.66%) have felt local friendly and supportive respectively. Thus, it is clear that Tibetan refugees have been facing negative as well as positive behaviors by the locals where they have been same social space together.

Likewise, In the issues of business and work, Nepalese traders are not happy with migrant refugees because they regard that Tibetan refugees have been impacting their business. Some locals even argue that Tibetan refugees have been involving in other illegal activities like smuggling and others. Similarly, the majority of respondents (53.33%) want to stay here in Nepal, the rest 18 (30%) want to go back to Tibet and only 10 (16.66%) have chosen abroad countries. It shows that Tibetan refugees gradually assimilating with the Nepalese community though they have been facing a lot of challenges here.

6.2 Conclusion

There are remarkable numbers of Tibetan refugees living in the Bouddha area. They are from different age groups, different occupations and different time-period of their arrival. However, the majority of them have not refugee card which somehow hampered them for their better livelihoods including occupation, health, and education services. They even

have been going through identity crisis since they belong to nowhere; neither in Tibet nor in Nepal. Thus, they have been facing a lot of problems here. This chapter focuses on their problems based on the field survey and responses to questionnaires.

In the previous chapter, it is revealed that among the total 60 respondents, only 12 have authorized refugees' identity cards. It is clear that for those who have identity card of refugee have more opportunity than other who have not to get this. The refugee who had entered Nepal earlier had more chances to have identity cards. But those who have entered later years have little chance to have it. Why now it is hard to get refugee cards?

There are various obstacles due to not-having identity card for Tibetan Refugees around Bouddha. Even the cardholder has limited facilities like travel abroad, documentations, and local business. Even the cardholder does not have higher education facilities. Likewise, there is not proper freedom of speech to the Tibetan refugees who have been living in Nepal. The constitution of Nepal 2072 recognizes freedom of expression as a fundamental right. Thus, the right is limited to its citizens. However, Tibetan refugees have been participating in various activities.

The majority of Tibetan refugees who have been living in the Bouddha area are deprived of their bank account due to the lack of identity card. They do not have their own business or property here. Respondents having identity cards have some sort of property or business here. Other respondents who do not have refugee cards but have some sort of business and property. But their business and property are not in their own registration. For this, they have taken help from other friends and relatives.

It is revealed that most of the refugees due to the lack of proper documents and registration do not have the birth certificate of their children and it has been depriving them of enrollment in school.

There are various obstacles for the refugees including that they even sometimes are not well treated by the locals. Being the outsiders they are regarded as the social, cultural, and political threat to local people. Some other locals even behave them kindly. Tibetan refugees of Bouddha too have been going through good/bad treatments from locals.

The majority of locals viewed that there are negative impacts due to the Tibetan refugees. According to them, the flow of Tibetan refugees has affected local culture, lifestyle, foods, and local language, etc. It has also threats to social security. Some of them accused that it has increased alcoholism, robbery, and prostitution, etc.

Similarly, the majority of local people regard that Tibetan refugees affect the social life of the local people, they affect the education system and labor market. Some regards that they affect on local culture, language, living style. Due to this perspective of local Tibetan refugees have not completely assimilated with local people, culture, and society. However, they are in process of assimilation with local people's culture and society though they seem as if in social exclusion. Tibetan refugees who have been living in the Bouddha area have been gradually assimilating with Nepalese people, culture, and society. Though their lives are full of hardships due to the lack of identity and non-belonging-ness, they are habitual to survive as refugees who have very few expectations like refugees identity cards that would help them to survive.

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APPENDIX

Interview Schedule

Researcher's Details

Name : Age :
 Gender : Address :
 Contact no : Email :

(This research is for the purpose of completing master's thesis. Be sure that I'll maintain your privacy.)

Respondents information

Name: Age:
 Gender: Education:
 Marital Status: Number of Children:
 Occupation: Original address:
 Current address:

Constraints of refugees

1) How long have you been living in Nepal?

- For 5 years
- For 6-10 years
- For 11-15 years
- For 16-20 years
- For more than 20 Years

2) Did you get your refugee cards?

- Yes
- No

3) If you do not get your refugee identification card, what are its reasons?

- Because of Nepal's uncleared policy regarding refugee
- Because of China's influence over Nepal
- Due to the economic condition of Nepal
- Due to the political instability of Nepal

All of above

If there are other reasons, please mention :

- a.
- b.

4) Do you face threats from Nepalese public officials ? if yes is it regularly or during some events?

Yes

No

Regularly

During some special events

Please mention what type of threats do you get :

- a.
- b.

5) Are you free to talk about the Tibetan issues? To express your ideas regarding Nepali/Chinese politics? What do you think?

Yes, i am free.

No, i am not.

What may be the reasons that you are not free to talk on such issues :

- a.
- b.

6) Have you been a part of any protest regarding Tibet or against Chinese government?

Yes i've been a part of those issues.

No, till now haven't been a part of such protest.

If you didn't participate then what are your reasons for not participating ?

- a.
- b.

7) What were you protesting/ advocating for?

For free & independent Tibet

For returning back to Tibet

For re-establishing in western developed nations

To get you rufugee cards.

If there are other reasons, please mention.

a.

b.

8) Were you arrested while protesting in Nepal? How many times were you arrested ?

Yes

No

If yes, Do you know the reasons?

a.

b.

9) Do you have bank account?

Yes

No

If you don't, then what are the reasons:

a.

b.

10) Do you have any property/ business in Nepal?

Yes

No

If yes, what type of business do you own?

a.

b.

11) Do you face problems related to employment?

Yes

No

If yes what are the major problems you face ?

a.

b.

12) Do you face any problem regarding higher education/ your children's education?

Yes

No

If yes, what types of problems do you face regarding them ?

a.

b.

13) How did locals here in Bouddha Area treat you after they knew you are a Tibetan Refugee ?

Friendly

Supportive

Unfriendly

Uncoordial

Mention if you feel other ?

a.

b.

14) Did you ever felt any kind of harrashment ?

Yes

No

If yes what types of harrashment did you felt ?

a.

b.

15) Why don't you get a refugee identification card till now? What are the problems you have to face here being an unidentified refugee?

16) Have you ever faced any kinds of restrictions ? Is restriction general in nature or imposed during particular day or during some event ?

17) Were you subjected to arrest upon your protest ? What are the reasons for your arrest if you were provided any ? When did they release you and what did they said while releasing you ?

18) Can you provide some information about nature of protest, approx. number of participants and treatment towards protestor ?

19) Why do you think, Nepal denied giving Refugee Cards for those who arrived here after 1989 ?

20) How hard is it to make friends in Nepal ?

- 21) Are you happy with you current situation and householding ? Would you like to stay here or move elsewhere ? Why ?
- 22) How are people's migration aspirations shaped by information coming from their migrants in their network ?
- 23) Do you feel yourself as a part of society ? Why ?
- 24) Is anything holding you back/helping you move forward ?
- 25) How hard is it to live life as a refugee ? Do you ever feel like being a refugee is different that being a citizen ?
- 26) How might your lives be improved here ? Are you hopeful about your future here in Nepal ?
- 27) What would you most like to change about your life in here ?
- 28) Do you have anything else to say ?

Impacts of refugees

- 1) What are the impacts of refuge in Nepal?
 - Positive impacts
 - Negative Impacts
 - Positive & Negative impacts both
- 2) What are the social impacts of Tibetan refugees?
 - Impacts on local culture, lifestyle, foods etc
 - Impacts on local language
 - Impacts on Culture
 - Threats on social security
 - Alcoholism, theft, prostitution etc
 - Over crowd

If others please mention.

 - a.
 - b.
- 3) What are the economic impacts of tibetian refugee?
 - Threats on the occupation of local people
 - Scarce on resources such as land, water, housing and other resources

Decrease in wage rate of local people as refugee can work in low wage to fulfill their basic needs

Increase in local business due to the presence of refugee as they have to buy their necessities on a daily basis

All of above

4) What are the political impacts of tibetian refugees?

Security challenges

Threats to local people due to their protest activities

Mobilization of police in refugee residence area which may cause problem to local people

Increase in social security because the host country have duty to provide security to the refugee too.

All

5) Do they influence the Nepalese Politics?

Yes

No

If yes what type of influence they do have on Nepalese Politics ?

a.

b.

6) Do they affect the social life of the local people?

Yes

No

If Yes how do they affect the social life of Local People ?

a.

b.

7) Do they affect the education system?

Yes

No

If Yes, how do you think they affect education system ?

a.

b.

8) Do they affect the labour market?

Yes

No

If yes, how do you think they affect the market ?

a.

b.

9) Is the local culture, language, living style etc are affected by the presence of refugees?

Yes

No

If yes how is it affected by the presence of Refugees ?

a.

b.

10) What are the positive & negative impacts of the presence of tibetian refugees?

11) Do the presence of Tibetan refugee in Nepal, their protest against People's republic of China affects the relationship of Nepal & china?

12) Is there any possibility to cause political disturbance/ threats due to the presence of Tibetan refugee in Nepal?

13) What does integration mean to you ? What barriers do you face in respect of integration ?

14) How do the refugees treat you ? Are they friendly or afraid on your presence ?

15) Do you allow your childrens to play with them ? Why ?

16) Since its been long they have been residing here, do you feel themself as a part of society?

17) Did you ever faced problems due to refugee residing in you area ? What types of problems did you faced?

18) What types of changes do you find in your society after Refugee arrived here ?

19) What do you feel for them? Do they need to go back to their country or Nepal should consider them as a citizen ?

20) Do you have anything else to say ?

Interview Schedule for Legal Professionals/Governmental Officials

1. What are the underlying laws relating to Refugees in Nepal?
2. Does government of Nepal have any particular policy or guidelines relating to treatment of any particular group of Refugees?
3. Is there any particular difference in context of restriction of Freedom of expression in citizen of Nepal and a refugee within jurisdiction of Nepal?
4. Are such restrictions general in nature or particular to some circumstances or situation?
5. What are the rationales of such restriction?
6. Is there any restriction on freedom of expression of Tibetan refugees in Nepal?
7. What is the nature of such restriction?
8. What is the rational of such restriction?
9. Is there any influence from Chinese counterpart in the issue relating to Tibetan

THE END