

20th October 2011

*The Honorable Ban Ki-Moon
Secretary General
760 United Nations Plaza
United Nations
New York, NY 10017
UNITED STATES
Your Excellency,
NEPAL: Serious concern about Tibetan Refugees*

I am William Nicholas Gomes, a Human Rights Activist and Journalist. I have observed that you have meet with recently elected Prime Minister of Nepal, Mr. Baburam Bhattarai, during the 66th session of the General Assembly.

The newly elected prime minister of Nepal The international community, through the United Nations in particular, has invested significantly in Nepal since the end of the country's conflict in 2006, to ensure stability, peace, disarmament, and the prevention of further violence and human rights abuses. The OHCHR's office in Nepal has played a key role in monitoring and upholding human rights in the country, in many cases assisting in preventing grave abuses.

On 17th October 2011, Nepal police has arrested two senior leaders of the Tibetan community Thinley Lama, the current volunteer coordinator for welfare activities for Tibetan refugees in Nepal , along with his predecessor, Thinley Gyatso, from the Tibetan Refugee Welfare Office ahead of protest rallies in New Delhi to draw international attention on the growing self immolation protests in Tibet., according local and international media reports

The two leaders were arrested ahead of the first public protests to be organised in New Delhi from Tuesday by the new Tibetan government in exile, now renamed the Central Tibetan Administration. This is the second time that Thinley Lama has been arrested in three months. He was detained and intimidated in August.

The crackdown in Kathmandu came after speculation that members of the community from Nepal would also be taking part in the demonstrations in India. In a remarkable coincidence, the new Chinese ambassador to Nepal, Yang Houlan, took part in a media interaction in the capital on Sunday in which he said the anti-China protests in Nepal were fomented by "international forces" in a bid to obstruct China's development, according to local media

The arbitrary arrest of the two Tibetan leaders comes less than a month after Nepal's immigration authorities dawdled over the fate of 23 Tibetan refugees caught fleeing from Tibet amidst allegations that they were being pressured by the Chinese authorities to deport the group to China, where the fugitives faced jail and possible torture. However, after protests by western countries and human rights organisations in Nepal, the refugees were handed over to the UN refugee agency, according to local media

I am gravely concerned for the physical and psychological integrity of Mr. Thinley Lama and Mr.

Thinley Gyatso.

This is not an isolated incident, Tibetan refugees who manage to enter Nepal are facing dual pressure of being forcibly repatriated by Nepal Police and action at the hands of Chinese border forces inside Nepal. Over the past two years since Chinese clampdown in Tibet began, the Nepal government under pressure from Chinese authorities has adopted a tougher approach towards Tibetan refugees. There is “disturbing inconsistency” in the Nepal government’s role in fulfilling a ‘gentleman’s agreement’ with UN to provide safe transit to Tibetan refugees escaping from Tibet through the Himalayan nation.

Nepal respects Beijing’s One China Policy—which regards Tibet as an integral part of China and any Tibetan refugee found entering Nepal without a permit would be dealt according to existing laws.

However, Nepal’s political parties have failed to do their part to live up to the international community’s trust, and, even more crucially, that of the people of Nepal, who have mandated these officials with the task of forming a new, democratic Nepal, based on human rights, security and the rule of law. It is therefore vital that Prime Minister Bhattarai place the issue of human rights and accountability at the heart of his government’s priorities, and we sincerely hope that you will raise this pressing need with him in person.

Prime Minister Bhattarai was elected on promises to bring the peace process to its conclusion and to ensure the adoption of a new constitution. Both tasks are commendable but both must be based on internationally accepted human rights law and standards. While impunity prevails, it will be impossible to ensure lasting peace and the effective implementation of a constitution that enshrines the people’s rights and freedoms.

I have serious concerns about the new government’s intentions concerning human rights and accountability, especially in human situations of Tibetan refugees in Nepal. Tibetan Women’s Association (TWA), the largest women’s organization in exile submitted a report on the treatment of Tibetan women in Nepal on 49th session of the United Nations Convention for the Elimination of Discrimination Against Women (CEDAW) in New York.

“The report deals extensively with the rights of female refugees in Nepal, particularly the treatment of Tibetan women in Nepal by Nepali police during arrest”, TWA said in the release while reprimanding Nepal for infringing the stipulations of the Convention which guarantee basic human rights, fundamental freedoms, and equality between men and women.

In its report, TWA issued four recommendations to the Government of Nepal, voicing its strong opposition to the deportation of Tibetans and urging for an end to arbitrary and preventive arrests.

I want to remind you that numerous human rights organizations both national and international have raised serious concerns about the human rights abuses on Tibetans refugees in Nepal and repeated attempts of the government to provide blanket amnesty to the perpetrators of gross human rights violations.

This is inconsistent with Nepal’s human rights obligations under the International Covenant on Civil and Political Rights and denies victims their fundamental right to legal redress. The unfair ,

undemocratic attitude of the Nepal government towards the Tibetan refugees in Nepal signifies the institutionalization of impunity and undermine the future prospects for the establishment of a democratic, stable Nepal based on human rights.

History has shown that peace is fragile and ephemeral where justice and human rights are sacrificed for immediate political gain. As you have yourself written, Your Excellency, peace without dignity, justice or hope for a better future is a false peace, a truce at gunpoint.

I urge you please take urgent initiative to ensure the respect of human rights and fundamental freedoms throughout Nepal in accordance with national laws and international human rights standards. Specifically to ensure the effective legal redress for the two Tibetan leaders Mr. Thinley Lama and Mr. Thinley Gyatso in line with international standards. I urges you to specifically demand guarantees that all the allegations of human rights violations against the Tibetan refugees in Nepal, would be thoroughly investigated, that the perpetrators will be prosecuted and that all court orders will be duly implemented as promptly as possible.

Yours sincerely,

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- 1. Representative of the Office of the High Commissioner for Human Rights in Nepal, NEPAL*
- 2. President of the United Nations General Assembly*
- 2. United Nations Special Rapporteur on the independence of judges and lawyers, SWITZERLAND*
- 3. UN Resident and Humanitarian Coordinator for Nepal, NEPAL*