

**THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
CINCINNATI DIVISION**

**MOHAN KARKI, MADAN RAI, and
SOM DHIMAL**

Petitioners-Plaintiffs,

v.

RICHARD JONES, Sheriff of Butler County, in his official capacity; **PAMELA BONDI**, Attorney General of the United States, in her official capacity; **KRISTI NOEM**, Secretary of the U.S. Department of Homeland Security, in her official capacity; **TODD LYONS**, Acting Director of U.S. Immigration and Customs Enforcement, in his official capacity; **ROBERT LYNCH**, Director of the Detroit Field Office for U.S. Immigration and Customs Enforcement, in his official capacity.

Respondents-Defendants.

Case No. 25-281

Hon. Matthew W. McFarland
Mag. Stephanie K. Bowman

**SECOND AMENDED PETITION FOR WRIT OF
HABEAS CORPUS AND DECLARATORY AND
INJUNCTIVE RELIEF**

INTRODUCTION

1. On April 7, 2025, the U.S. Ambassador to Nepal received a letter of urgent warning from the President of the International Institute for Human Rights, Environment and Development (INHURED), describing a human rights crisis triggered by recent U.S. deportations to Bhutan. The letter expressed “profound concern” that Nepali-speaking Bhutanese refugees deported by the Department of Homeland Security were being “intimidatingly interrogated and promptly expelled to the Indian border with security escorts and subsequently sent to Nepal on pre-paid taxis arranged by the Bhutanese security personnel.” INHURED urged the United States to pursue “diplomatic solutions” and to hold Bhutan accountable for “the atrocity committed against” these individuals. The letter, accompanied by a contemporaneous field report, represents the first documentation of a previously unknown pattern of forced expulsions and transnational abuse by the Bhutanese government. See International Institute for Human Rights, Environment and Development, Letter (Apr. 7, 2025) and Field Report (Apr. 2–3, 2025) (attached as Exhibit A) (hereinafter “INHURED Letter & Field Report (Ex. A)”).
2. Petitioners in this case are stateless Nepali-speaking Bhutanese refugees, part of the “Lhotshampa”² ethnic minority, who were resettled in the United States more than a decade ago. They now face removal to countries that have historically denied them recognition and protection. None were ordered removed to India, yet current evidence shows that removals nominally to Bhutan are, in reality, removals to India without prior notice, protection screenings, or legal process.

² This term is considered pejorative by many and it is used here with apologies only for lack of a better descriptor.

3. Petitioners are detained by Defendants-Respondents (“Respondents”) at the Butler County Jail in Hamilton, Ohio. Based upon information and belief, their deportation is imminent.
4. In late March 2025, the U.S. government deported a group of resettled Lhotshampa refugees to Bhutan for the first time in over a decade. Within days, compelling evidence emerged that Bhutan refused to admit the deportees, and instead expelled them across multiple borders. The individuals were routed through India—where they lacked any legal status—and then into Nepal, where several were detained and others went missing. These events revealed, for the first time, a *de facto* Bhutanese practice of third-country transfers executed without legal process, diplomatic transparency, or notice to the individuals affected. **Indeed, the cases of four individuals recently expelled from the U.S. are currently before the Supreme Court of Nepal pursuant to a writ of habeas corpus.** *See* Parbat Portel, *Supreme Court Stays Deportation of Four Bhutanese Refugees*, *The Kathmandu Post* (Apr. 17, 2025) (available at: <https://kathmandupost.com/national/2025/04/17/supreme-court-stays-deportation-of-four-bhutanese-refugees-from-nepal>.)
5. This pattern of expulsion across borders, initiated by U.S. removal but completed by foreign governments, exposes Petitioners to persecution and torture in Bhutan, India, and Nepal alike. In **Bhutan**, Petitioners face detention, interrogation, and automatic expulsion on account of their ethnicity. In **India**, they are stateless and undocumented, subject to arbitrary detention, police abuse, and deportation. In **Nepal**, they are treated as foreign nationals and political liabilities. Recent deportees have been jailed by Nepalese immigration authorities and at least some remain in custody today. None of the Petitioners have legal status, citizenship, or family ties in any of these countries.

6. These facts only became publicly known in the past few weeks. Petitioners could not have raised them in earlier motions to reopen. The new evidence, including INHURED’s April 7, 2025 letter and report, reveals a previously undisclosed risk that removals to Bhutan are mere façades for unreviewed, unconsented transfers to third countries—raising both statutory and constitutional concerns. INHURED Letter & Field Report (Ex. A).
7. In light of these recent facts, Petitioners lack actual notice of where they will be removed. Thus, Petitioners’ country of removal is now a disputed factual issue. Without certainty or clear notice on the country of removal, Petitioners are denied their right to raise post-order protection claims. Without intervention, Petitioners will be removed before they can assert their legal rights.
8. Petitioners are stateless. The Sixth Circuit has recognized that “denationalization that results in statelessness is an extreme sanction” and may itself constitute persecution. *Stserba v. Holder*, 646 F.3d 964, 973 (6th Cir. 2011). Moreover, forced expulsion from a country based on ethnicity is “sufficient alone to establish past persecution.” *Ouda v. INS*, 324 F.3d 445, 454 (6th Cir. 2003). Petitioners’ forced deportation to Bhutan—where they are rejected for being Lhotshampa—and subsequent expulsion to India or Nepal—where they have no lawful status—is precisely the kind of harm that the Sixth Circuit has held to be persecutory. Moreover, Petitioners not only risk expulsion, but also persecution in the form of indefinite detention, prosecution, and other harms based on their ethnic group.
9. Petitioners do not seek to relitigate their underlying removal orders before this Court. Instead, given new and extraordinary facts, Petitioners challenge the lawfulness of Defendant’s removal scheme to use Bhutan as a waystation before removal to India or another third country. Petitioners seek habeas corpus relief to prevent removal until they are given clear notice of the country of removal and a right to raise post-order protection claims. Moreover, Petitioners who

raise post-order claims must be provided with adequate time to file a motion to reopen and receive protection from removal during the pendency of the case. That relief is necessary to preserve their statutory rights under 8 U.S.C. § 1229a(c)(7) and their due process rights under the Fifth Amendment.

10. The Supreme Court has recently reaffirmed that habeas jurisdiction remains available to challenge removal where, as here, execution of the order interferes with a person's ability to access legal remedies. In *Trump v. J.G.G.*, 604 U.S. ___ (2025), the Court confirmed that habeas may be used to challenge transfer arrangements and emphasized that "detainees must receive notice ... in such a manner as will allow them to actually seek habeas relief ... before such removal occurs." *Id.*, slip op. at 2–3 (quoting *Peyton v. Rowe*, 391 U.S. 54, 67 (1968)).
11. Petitioners contend that their removal to Bhutan is, in fact, likely a temporary transfer pending automatic expulsion to a third country. *Id.* As such, their claims sound in habeas. The execution of their removal orders—without disclosure of the true country of return and without meaningful process—violates the INA, the Convention Against Torture, and due process protections.
12. Petitioners require notice regarding where they will ultimately be returned in order to meaningfully exercise their statutory right to seek reopening based on changed country conditions. 8 U.S.C. § 1229a(c)(7). Notice is also required to the extent that Defendants intend to remove Petitioners to a country not designated during their underlying removal proceedings—namely, India. *D.V.D. v. Dep't of Homeland Sec.*, No. 1:25-cv-10676 (D. Mass. filed April 18, 2025).
13. Petitioners therefore respectfully request the Court to enjoin Defendants from executing

Petitioners' removal orders (1) to allow for an evidence-based determination on the question of Petitioners' actual country of removal, and whether that country has affirmatively agreed to accept them; and (2) to provide Petitioners with adequate time to raise post-order protection claims.

14. Absent such relief, Petitioners face imminent and potentially irreparable harm, including arbitrary detention, statelessness, persecution, and torture. This Court's intervention is essential to preserve their rights and ensure that removals are executed lawfully and transparently.

JURISDICTION AND VENUE

15. This case arises under the United States Constitution; the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.; the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Dec. 10, 1984, S. Treaty Doc. No. 100-20 (1988), 1465 U.N.T.S. 85; the Foreign Affairs Reform and Restructuring Act of 1998 (FARRA), Pub. L. No. 105-277, div. G, Title XXII, § 2242(a), 112 Stat. 2681, 2681-822 (1998) (codified at 8 U.S.C. § 1231 note); and the regulations implementing the INA and FARRA.
16. This Court has habeas corpus jurisdiction pursuant to 28 U.S.C. § 2241 and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause), because Petitioners are in custody and challenge the unlawful execution of their removal orders in violation of the Constitution and laws of the United States. See *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *INS v. St. Cyr*, 533 U.S. 289, 314 (2001). The claims presented here fall squarely within the core habeas function of challenging unlawful executive detention and removal, particularly where no alternative statutory forum is available.

17. To the extent that *Hamama v. Adducci*, 912 F.3d 869 (6th Cir. 2018), is raised as a bar to jurisdiction, it is inapplicable. The Sixth Circuit in *Hamama* held that federal courts lacked jurisdiction over claims brought by Iraqi nationals who had lived for years under final removal orders and had long known they could be removed to Iraq. See *Hamama*, 912 F.3d at 873 (“They had been living in the United States on borrowed time.”). The court emphasized that petitioners there “had years to file their motions to reopen; they cannot now argue that the system gave them too little time.” *Id.* at 878. In contrast, Petitioners here are stateless—not nationals of Bhutan, Nepal, or India—and face barriers that *Hamama* never addressed, namely, the absence of any country willing to lawfully receive them. Most critically, the facts giving rise to their current claims—including Bhutan’s rejection of deportees and the forced transfer of individuals into India, followed by detention or disappearance in Nepal—only became known in the past several weeks, *after* Petitioners were already in custody. Prior to March and April 2025, Petitioners had no information to support a factual claim that their removal would result in unlawful transfer through third countries, much less persecution across multiple borders. Their claims arise from newly emergent, previously undiscoverable facts that fundamentally alter the legal landscape.

18. Moreover, to the extent *Hamama* held that habeas is unavailable where a petitioner does not request physical release, that conclusion has been expressly superseded. In *Trump v. J.G.G.*, 604 U.S. ___, slip op. at 2–3 (2025) (per curiam), the Supreme Court reaffirmed that challenges to removal—even without a request for release—fall within the core of habeas:

“Regardless of whether the detainees formally request release from confinement, because their claims for relief ‘necessarily imply the

invalidity’ of their confinement and removal under the [AEA], their claims fall within the ‘core’ of the writ of habeas corpus and thus must be brought in habeas. ... And ‘immediate physical release [is not] the only remedy under the federal writ of habeas corpus.’” *Id.* (quoting *Peyton v. Rowe*, 391 U.S. 54, 67 (1968); *Nance v. Ward*, 597 U.S. 159, 167 (2022); *In re Bonner*, 151 U.S. 242, 254, 259 (1894)).

19. Petitioners’ claims fall squarely within that “core.” They do not seek to overturn their removal orders, but to prevent the unlawful execution of those orders in a manner that forecloses statutory and treaty-based protection. *Hamama* involved removal to a known destination following a longstanding pattern; this case involves removal to unknown or unapproved third countries under conditions that implicate persecution and torture that became known only weeks ago.
20. Additionally, although the Supreme Court in *Jama v. Immigration & Customs Enforcement*, 543 U.S. 335 (2005), held that the statutory text of 8 U.S.C. § 1231(b)(2)(E)(i)–(vi) does not require advance acceptance by the destination country, that holding does not authorize ICE to remove Petitioners where the government knows the named country will promptly reject and expel them to third countries not listed in the order of removal. Indeed, post-decision experience with *Jama* himself confirmed that removal without meaningful acceptance can prove unworkable or unlawful in practice. See Jamie Norman, *Accepting the Unacceptable: How Jama v. Immigration and Customs Enforcement Affects Deportation Policies with Non-Accepting Governments*, 26 J. Nat’l Ass’n Admin. L. Judiciary 1, 200–02 (2006) (documenting ICE’s failed effort to deport *Jama* after the Supreme Court’s ruling due to Puntland’s refusal to admit him). These practical consequences reinforce Petitioners’ claim that ICE must not execute removal orders in a manner that masks or circumvents the true country of return.
21. This Court also has jurisdiction under 28 U.S.C. § 1331 (federal question) and 28 U.S.C. §

1361 (mandamus). It retains inherent authority to determine its own jurisdiction. See *United States v. United Mine Workers of Am.*, 330 U.S. 258, 290 (1947); *Deminer v. Kramer*, 386 F. Supp. 2d 905, 906 (E.D. Mich. 2005). This Court may grant declaratory and injunctive relief under 5 U.S.C. §§ 705–706, 28 U.S.C. § 1651 (All Writs Act), and 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act). Sovereign immunity is waived under 5 U.S.C. § 702. This Court also has the power to enjoin federal officials acting unlawfully pursuant to *Ex parte Young*, 209 U.S. 123 (1908). See also *Philadelphia Co. v. Stimson*, 223 U.S. 605, 619–21 (1912); *Goltra v. Weeks*, 271 U.S. 536, 545 (1926).

22. Petitioners do not challenge the removal orders themselves, but rather the method and destination of their execution, including ICE’s apparent knowledge that Petitioners will be expelled from Bhutan and placed in danger in third countries that may not have been designated in the original orders. These claims implicate due process rights to be heard on changed country conditions and statutory rights to seek protection under 8 U.S.C. § 1231(b)(3), the Convention Against Torture, and regulatory provisions. See *Devitri v. Cronen*, 290 F. Supp. 3d 86, 90–91 (D. Mass. 2017); *D.V.D. v. DHS*, No. 1:25-cv-10676, slip op. at 5 (D. Mass. filed April 18, 2025).

23. To the extent that any provision of 8 U.S.C. § 1252 is construed to bar jurisdiction over this Petition, such a construction would raise serious constitutional questions under the Suspension Clause. See *St. Cyr*, 533 U.S. at 314. Petitioners seek individualized relief under 28 U.S.C. § 2241 to prevent imminent removal based on undisclosed transfer arrangements and newly emergent facts that raise serious concerns about persecution and torture which have not been considered in any immigration proceeding. Denying jurisdiction under these circumstances would effectively suspend the writ.

24. Venue is proper in this District under 28 U.S.C. §§ 1391(b), 1391(e)(1), and 2241(a), because Petitioners are detained in the Southern District of Ohio, and a substantial part of the events and omissions giving rise to this claim occurred in this District. Venue is also proper under 28 U.S.C. § 1391(e) because Respondents are agencies of the United States or officers acting in their official capacities, and no real property is involved.

PARTIES

I. Petitioners

A. Petitioner MOHAN KARKI

25. Petitioner MOHAN KARKI was born in a refugee camp in Nepal after his family was expelled from Bhutan. See Affidavit of MOHAN KARKI (Apr. 5, 2025), submitted in support of Motion to Reopen, Board of Immigration Appeals (hereinafter “MOHAN KARKI Aff. (Apr. 5, 2025) (Ex. B)”). He is stateless and is not recognized as a citizen by any country. *Id.*

26. MOHAN KARKI was admitted to the United States as a refugee in 2011 as a teenager. *Id.* As a juvenile, he pleaded guilty to charges of burglary, criminal trespass, and interference with government property, all arising from a single incident. *Id.* He has no other criminal history. *Id.*

27. On August 6, 2014, the Immigration Judge ordered MOHAN KARKI removed to Bhutan or, in the alternative, Nepal.

28. On April 8, 2025, Immigration and Customs Enforcement (“ICE”) arrested MOHAN KARKI during a routine check-in. He is currently detained at the Butler County Correctional Complex in Hamilton, Ohio.

29. MOHAN KARKI is married to a United States citizen. *Id.* His wife is currently expecting their first child, with a due date of  *Id.*

30. MOHAN KARKI previously filed a motion to reopen that did not raise any claims based on changed country conditions, and the Immigration Judge denied that motion. He is currently making diligent efforts to prepare and file a new motion to reopen based on changed country conditions but has not yet been able to do so in large part due to access to counsel issues resulting from his detention.

B. Petitioner MADAN RAI

31. Petitioner MADAN RAI was born in Bhutan. As a young child, he and his family were expelled by the Bhutanese government and forced to relocate to Nepal, where MADAN RAI was raised in a refugee camp. He is stateless and is not recognized as a citizen by any country.

32. In 2014, MADAN RAI was admitted to the United States as a refugee, along with his wife, and his son and daughter—who are now 17 and 12 years old, respectively—all of whom are lawful permanent residents. M.R.’s youngest daughter is a seven-year-old U.S. citizen.

33. MADAN RAI has a history of mental health conditions, including symptoms consistent with adjustment disorder with mixed anxiety and depressed mood, and complex trauma. He was receiving ongoing mental health counseling prior to his recent arrest by ICE and began psychiatric evaluation in March 2025.

34. MADAN RAI has been convicted of assault, vehicular assault, domestic violence, menacing, and driving under suspension. On April 8, 2019, an Immigration Judge determined that MADAN RAI is stateless but nonetheless ordered his removal to Bhutan.

35. On April 22, 2025, ICE arrested MADAN RAI during a routine check-in. He is currently

detained at the Butler County Correctional Complex in Hamilton, Ohio.

36. MADAN RAI is making diligent efforts to prepare and file a motion to reopen based on changed country conditions but has not yet been able to do so due in large part to his inability to access counsel while detained.

C. Petitioner SOM DHIMAL

37. Petitioner SOM DHIMAL was born in Bhutan and, at the age of seven, was expelled with his family to Nepal, where he was raised in a refugee camp. He is stateless and is not recognized as a citizen by any country.

38. SOM DHIMAL was admitted to the United States as a refugee in 2011. His exact criminal history is unclear; however, based on information and belief, it likely includes charges related to marijuana possession and a domestic dispute.

39. On October 16, 2020, an Immigration Judge ordered SOM DHIMAL removed to Bhutan.

40. On April 11, 2025, Immigration and Customs Enforcement (“ICE”) arrested SOM DHIMAL at his home. He is currently detained at the Butler County Correctional Complex in Hamilton, Ohio.

41. Since his arrest, SOM DHIMAL’s family has been unable to communicate with him. On Friday, April 25, 2025, SOM DHIMAL’s family received a letter from SOM DHIMAL indicating that he did not have access to their phone number. The family has since responded to SOM DHIMAL in writing with their contact information and is waiting for a call from him.

42. It is unknown whether SOM DHIMAL is aware of the changed country conditions in Bhutan and Nepal. SOM DHIMAL’s family is actively attempting to contact him to inform him of these developments and to support him in filing a motion to reopen.

II. Respondents

43. Respondent Richard Jones is the Sheriff of Butler County, Ohio, and the official with oversight responsibility for the Butler County Jail. He has immediate physical custody of Petitioners pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioners.
44. Respondent Robert Lynch is sued in his official capacity as the Director of the Detroit Field Office of U.S. Immigration and Customs Enforcement, which has jurisdiction over Ohio. Respondent Lynch is a legal custodian of Petitioner and has authority to release him.
45. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention. Respondent Noem is a legal custodian of Petitioner.
46. Respondent Pam Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

STATEMENT OF FACTS

A. Background: The Ethnic Cleansing of the Lhotshampa and U.S. Resettlement Policy

47. The Nepali-speaking Bhutanese community—commonly referred to as the Lhotshampa—has resided in Bhutan for centuries. Their presence dates back to at least 1620, when Nepalese artisans were invited to build religious monuments and settled in southern

- Bhutan. See Maximillian Mørch, *Bhutan's Dark Secret: The Lhotshampa Expulsion*, *The Diplomat* (Sept. 21, 2016), <https://thediplomat.com/2016/09/bhutans-dark-secret-the-lhotshampa-expulsion/>.
48. By the 1980s, the Lhotshampa had grown to nearly one-third of Bhutan's total population. Their increasing civic and political participation alarmed the Drukpa Buddhist ruling elite, leading to cultural homogenization efforts. See Michael Hutt, *The Bhutanese Refugees: Between Verification, Repatriation and Royal Realpolitik*, 1 *Peace & Democracy in S. Asia* (2005), himalaya.socanth.cam.ac.uk/collections/journals/pdsa/pdf/pdsa_01_01_05.pdf.
49. In 1988, Bhutan implemented a nationwide census requiring proof of residence dating back to 1958. Thousands of Lhotshampa were reclassified as non-nationals and stripped of citizenship. See Mørch, *supra*.
50. Bhutan then adopted the "One Nation, One People" policy, which banned the Nepali language in schools, mandated national dress, and required fluency in Dzongkha to retain or obtain citizenship. See Samaan Lateef, *Why Trump Has Lined Up a Tiny Himalayan Nation for His Travel Ban List*, *The Telegraph* (Mar. 17, 2025), <https://www.telegraph.co.uk/world-news/2025/03/17/trump-tiny-himalayan-nation-bhutan-travel-ban-list/>.
51. In 1990, peaceful Lhotshampa protests were met with mass arrests, destruction of homes, torture, and widespread expulsions. See UNHCR, *The State of the World's Refugees: Human Displacement in the New Millennium*, ch. 5 (2006), <https://www.unhcr.org/us/publications/state-worlds-refugees-2006-human-displacement-new-millennium>.
52. More than 100,000 Lhotshampa were expelled to Nepal. There, they were confined to

refugee camps without citizenship or legal protections. Nepal is not a signatory to the 1951 Refugee Convention or the 1967 Protocol and has no domestic refugee law. See Human Rights Watch, *Last Hope: The Need for Durable Solutions for Bhutanese Refugees in Nepal and India* (May 16, 2007), <https://www.hrw.org/report/2007/05/16/last-hope/need-durable-solutions-bhutanese-refugees-nepal-and-india>.

53. Conditions in the camps were harsh. Refugees were barred from working, lacked basic services, and exhibited high rates of depression and trauma. *Id.*; see also Manisha Salinas & Juan L. Salinas, “We Are from Nowhere,” 5 *Health Equity* 762 (2021).
54. After bilateral repatriation talks failed, the United Nations High Commissioner for Refugees (UNHCR) convened a “core group” of resettlement countries, including the United States. See U.S. Dep’t of State, *Proposed Refugee Admission for Fiscal Year 2007: Report to Congress*, at 53 (2006), <https://www.wrapsnet.org/documents/Report+to+Congress+for+FY+2007+USRAP.pdf>.
55. In 2006, the U.S. State Department designated the Bhutanese refugee population as a Priority 2 group of humanitarian concern. See U.S. Dep’t of State, *Proposed Refugee Admission for Fiscal Year 2008: Report to Congress*, at 20 (2007), <https://2001-2009.state.gov/g/prm/refadm/rls/rpts/2007/92585.htm>.
56. Between 2008 and 2017, the United States resettled more than 85,000 Bhutanese refugees—the largest resettlement of any single refugee group in U.S. history. *Id.*
57. Although many resettled individuals were at some point issued final removal orders, the United States uniformly refrained from removing them, citing humanitarian discretion, statelessness, and non-refoulement principles. This de facto policy—referred to here as the Bhutanese Resettlement Commitment—provided durable protection for an otherwise

stateless population. See *id.*; see also MOHAN KARKI Aff. (Apr. 5, 2025) (Ex. B).

58. Until March 2025, the United States had never deported resettled Bhutanese refugees to Bhutan or Nepal. Bhutan consistently refused to repatriate Lhotshampa, and Nepal declined to recognize them as citizens. See INHURED Letter & Field Report (Ex. A).

B. Changed Country Conditions: Third-Country Expulsions and Stateless Transfers

59. On March 26, 2025, ICE deported ten resettled Bhutanese refugees to Bhutan. Bhutanese authorities refused to recognize them as citizens and expelled them across the border to India, where they were transferred onward to Nepal, leaving them effectively stateless and in immigration detention. See Gaurav Pokharel, *Nepali-Speaking Bhutanese Refugees in Limbo After Deportation from US*, The Guardian (Apr. 21, 2025), <https://www.theguardian.com/world/2025/apr/21/bhutan-nepal-us-immigration>.

60. Indian security forces transported the deportees to the India-Nepal border, where they were instructed to cross into Nepal without documentation. See INHURED Letter & Field Report (Ex. A).

61. Four refugees were arrested by Nepalese immigration authorities and remain incarcerated. Others have gone missing entirely, with no further contact with their families in the United States. See Jordan Wilkie, *Two More Former Refugees Deported to Bhutan to Be Made Stateless*, WTF (Apr. 16, 2025), <https://www.wtf.org/2025/04/16/two-more-former-refugees-deported-to-bhutan-to-be-made-stateless/>.

62. These deportees were denied medical care, interrogated, and expelled within 24 hours of arrival. *Id.*; INHURED Letter & Field Report (Ex. A).

63. Bhutanese authorities executed these expulsions using Indian currency and coordinated with Indian border forces. See INHURED Letter & Field Report (Ex. A).

64. These events exposed for the first time a de facto policy of third-country removal: deportees nominally removed to Bhutan are, in practice, expelled into India and then on to Nepal without process or protection. See INHURED Letter & Field Report (Ex. A).
65. The United States is now on formal notice—via reports by civil society organizations, media documentation, and direct communication from international human rights monitors—that individuals deported to Bhutan face imminent rejection, expulsion, statelessness, and abuse. See INHURED Letter & Field Report (Ex. A); U.N. Human Rights Council, *Working Group on Arbitrary Detention, Opinion No. 60/2024* (adopted Feb 18, 2025), <https://digitallibrary.un.org/record/4079667?ln=en&v=pdf#files>.
66. Bhutan continues to imprison returnees under the *National Security Act of 1992*. Refugees whose citizenship was revoked in the 1990s have been sentenced to life imprisonment for unauthorized entry and for advocating repatriation. See *id.*; Human Rights Council, *Opinion No. 60/2024*, *supra*; Nat'l Sec. Act of Bhutan (1992), <https://oag.gov.bt/wp-content/uploads/2010/05/National-Security-Act-of-Bhutan-1992English.pdf>.
67. The U.N. Working Group on Arbitrary Detention has found that Bhutan's prosecution of returned refugees constitutes discriminatory detention based on political opinion, ethnicity, and statelessness. See U.N. Human Rights Council, *Opinion No. 60/2024*, *supra*.
68. Nepal, for its part, refuses to recognize Bhutanese deportees as citizens. The Nepal Citizenship Act 2063 prohibits citizenship through maternal descent and explicitly excludes Bhutanese men from acquiring citizenship through marriage. See Nepal Citizenship Act 2063 §§ 3–5 (2006); Anil Giri, *Gov't Decides to Allow Bhutanese Refugees to Do Business*, *The Kathmandu Post* (Mar. 6, 2022), <https://kathmandupost.com/national/2022/03/06/government-decides-to-allow-bhutanese->


refugees-to-do-business.

69. Nepal has also detained deportees on immigration charges and denied them access to basic services. See Portel, *Three Arrested*, supra.

70. Despite Bhutan's nominal cooperation, recent deportations appear to have been driven by U.S. diplomatic pressure—including its placement on a draft travel ban list in March 2025. See Charlie Savage & Ken Bensinger, *Draft List for New Travel Ban Proposes Trump Target 43 Countries*, N.Y. Times (Mar. 14, 2025), <https://www.nytimes.com/2025/03/14/us/politics/trump-travel-ban.html>.

71. Bhutan's sudden, superficial willingness to accept deportees—immediately followed by their expulsion—reflects a performative concession intended to avoid diplomatic fallout, not a restoration of citizenship or legal protection. See Human Rights Watch, *The EU Should Press Bhutan to Free Political Prisoners* (Apr. 14, 2025), <https://www.amnesty.org/en/latest/news/2025/04/eu-should-press-bhutan-to-free-political-prisoners/>; Jordan Wilkie, *U.S. Deports 4 Pa. Nepali Bhutanese Refugees to Bhutan*, WESA (Mar. 28, 2025), <https://www.wesa.fm/politics-government/2025-03-28/trump-deporting-nepali-bhutanese-refugees-pennsylvania>.

C. Petitioner MOHAN KARKI

72. MOHAN KARKI was born stateless in a refugee camp in Nepal on , to parents expelled from Bhutan during the Lhotshampa purge. See MOHAN KARKI Aff. (Apr. 5, 2025) (Ex. B).

73. He was admitted to the United States in 2011 as a teenage refugee through the Bhutanese Resettlement Program. *Id.* ¶ 3.

74. In 2014, MOHAN KARKI pled guilty to second-degree burglary, interference with

- government property, and criminal trespass—charges arising from a single incident when he was a juvenile. He was sentenced to two years of probation and no jail time. *Id.* ¶ 6-7.
75. On August 6, 2014, an Immigration Judge ordered MOHAN KARKI removed to Bhutan, with Nepal designated as an alternative. India was not listed as a country of removal.
76. After Bhutan and Nepal refused to issue travel documents, ICE released MOHAN KARKI under an order of supervision. Over the next eleven years, he fully complied with all supervision conditions—reporting as required, remaining employed, and avoiding any further arrests or violations. *Id.* ¶ 10.
77. MOHAN KARKI built his life in the United States. He completed high school, paid taxes, and supported his U.S. citizen wife. *Id.* ¶ 11. His continued presence in the country was enabled by longstanding U.S. policies that treated resettled Bhutanese refugees as effectively non-removable due to their statelessness and vulnerability.
78. On April 7, 2025, MOHAN KARKI, through prior counsel, filed a motion to reopen his removal proceedings based on new eligibility for relief, namely that his U.S. citizen spouse had filed a Form I-130 petition on his behalf. *Id.* ¶ 13.
79. MOHAN KARKI submitted his motion to reopen *before* his detention. At the time of filing, the emerging pattern of third-country expulsions through Bhutan and India had not yet widely known.
80. On April 8, 2025, MOHAN KARKI was arrested during a routine ICE check-in and transferred to the Butler County Jail in Hamilton, Ohio.
81. Although ICE’s website for the Butler County Jail advertises that attorneys may schedule legal calls and visits, the instructions are inaccurate, and counsel has been unable to reach MOHAN KARKI by phone. See U.S. Immigration & Customs Enforcement, *Butler County Sheriff’s Office*

(May 1, 2025) (attached as Exhibit C).

82. MOHAN KARKI remains detained without meaningful access to counsel or case documents. As a result, he has been unable to supplement his motion with evidence of the newly discovered risks facing Bhutanese deportees.

83. ICE has not notified MOHAN KARKI of an intended removal to India or given him an opportunity to apply for protection from persecution or torture in that country, as required under 8 C.F.R.

§§ 1240.10(f), 1240.11(c)(1)(i).

84. MOHAN KARKI is married to a U.S. citizen, and the couple is expecting their first child in June 2025.

See MOHAN KARKI Aff. (Apr. 5, 2025) (Ex. B), ¶ 12.

85. MOHAN KARKI now faces imminent removal under the same policy that resulted in expulsion, imprisonment, and disappearance for other Bhutanese deportees. See INHURED Letter & Field Report (Ex. A).

D. Petitioner MADAN RAI

86. MADAN RAI was born in Bhutan and expelled with his family as a young child. He was raised stateless in a refugee camp in Nepal.

87. In 2014, MADAN RAI resettled in the United States with his wife and children—two of whom are lawful permanent residents, and one of whom is a U.S. citizen.

88. MADAN RAI has been diagnosed with adjustment disorder with anxiety and depressed mood, and with symptoms consistent with complex trauma. He was receiving regular mental health treatment prior to his arrest.

89. MADAN RAI has past convictions for assault, vehicular assault, domestic violence,

menacing, and driving under suspension. On April 8, 2019, an Immigration Judge ordered him removed to Bhutan.

90. Despite the order, MADAN RAI remained in the U.S. under supervision until April 22, 2025, when ICE arrested him during a routine check-in and transferred him to the Butler County Jail in Hamilton, Ohio.

91. He is currently detained and making diligent efforts to prepare a motion to reopen his removal proceedings based on newly emerged country conditions and associated statutory protections.

E. Petitioner SOM DHIMAL

92. SOM DHIMAL was born in Bhutan and expelled with his family at age seven. He spent the remainder of his childhood in a refugee camp in Nepal, where he remained stateless.

93. He was admitted to the United States as a refugee in 2011.

94. SOM DHIMAL has a limited criminal history, which appears to include charges related to marijuana possession and a domestic dispute.

95. On October 16, 2020, an Immigration Judge ordered SOM DHIMAL removed to Bhutan.

96. ICE arrested SOM DHIMAL at his home on April 11, 2025, and transferred him to the Butler County Jail.

97. Since his arrest, SOM DHIMAL's family has not been able to speak with him. On April 25, 2025, they received a letter from him indicating that he did not have access to their phone number or contact information.

98. It is currently unknown whether SOM DHIMAL is aware of the changed country conditions that have come to light in March and April 2025, or whether he has access to legal support or materials needed to file a motion to reopen.

LEGAL BACKGROUND

99. The Immigration and Nationality Act (INA) prohibits the government from removing any noncitizen to a country where their “life or freedom would be threatened” on account of race, religion, nationality, political opinion, or membership in a particular social group. 8 U.S.C. § 1231(b)(3)(A).
100. The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), as implemented by the Foreign Affairs Reform and Restructuring Act of 1998 (FARRA), further prohibits removal to a country where the noncitizen is more likely than not to be tortured. FARRA, Pub. L. No. 105-277, div. G, tit. XXII, § 2242, 112 Stat. 2681, 2681-822 (1998); 8 C.F.R. § 1208.16(c)(2); 8 C.F.R. § 1208.18(a)(1).
101. These statutory and treaty-based protections apply regardless of the noncitizen’s immigration status or prior order of removal, and they are not discretionary. See 8 U.S.C. § 1231(b)(3)(A); *INS v. Stevic*, 467 U.S. 407, 421–22 (1984); 8 C.F.R. §§ 1208.16–18.
102. Petitioners are stateless Nepali-speaking Bhutanese individuals who face a credible threat of persecution or torture in Bhutan, India, and Nepal. See INHURED Letter & Field Report (Ex. A); U.N. Human Rights Council, Opinion No. 60/2024, *supra*.
103. Bhutan has denied deportees reentry as nationals, subjecting them to immediate expulsion into India. See INHURED Letter & Field Report (Ex. A). India has no legal mechanism to regularize their presence, rendering them undocumented and vulnerable to arbitrary detention and abuse.
104. Nepal has likewise refused to confer legal status on such deportees, even those born in refugee camps within its borders. See *Human Rights Watch, Last Hope*, at 3–4, *supra*;

Nepal Citizenship Act 2063, §§ 3–5 (2006).

105. Petitioners may also be eligible for asylum under 8 U.S.C. § 1158. Asylum is a discretionary form of relief available to any noncitizen who establishes a “well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.” 8 U.S.C. § 1101(a)(42)(A). Any noncitizen who is physically present in the United States may apply for asylum “irrespective of such alien’s status.” 8 U.S.C. § 1158(a)(1). The Supreme Court has clarified that the “well-founded fear” standard is satisfied by showing a 10 percent chance of persecution. *INS v. Cardoza-Fonseca*, 480 U.S. 421, 440 (1987).

106. The CAT regulations also distinguish between two forms of protection: withholding of removal and deferral of removal. See 8 C.F.R. §§ 1208.16–17. Withholding of removal is barred to individuals who have been convicted of a particularly serious crime. See 8 C.F.R. § 1208.16(d)(2). However, CAT deferral of removal is available even where an individual is statutorily barred from asylum or withholding. See 8 C.F.R. § 1208.17(a); *Zheng v. Ashcroft*, 332 F.3d 1186, 1194 (9th Cir. 2003).

I. Statelessness and Ethnic Denationalization as Persecution

107. The Sixth Circuit has held that “statelessness is ‘a condition deplored in the international community of democracies.’” *Stserba v. Holder*, 646 F.3d 964, 972 (6th Cir. 2011) (quoting *Trop v. Dulles*, 356 U.S. 86, 102 (1958) (plurality opinion)).

108. The court further explained that “[t]he essence of denationalization is ‘the total destruction of the individual’s status in organized society’ because, ‘[i]n short, the expatriate has lost the right to have rights.’” *Id.* at 972–73 (quoting *Trop*, 356 U.S. at 101–02).

109. On this basis, the Sixth Circuit concluded that “denationalization that results in statelessness is an extreme sanction,” and “may be per se persecution when it occurs on account of a protected status such as ethnicity.” *Id.* at 973.

110. Removal of stateless Petitioners to a country that has denationalized them on ethnic grounds, and that now routinely expels deportees without status to third countries, fits squarely within this framework.

111. In *Ouda v. INS*, the Sixth Circuit held that forced expulsion on the basis of perceived national or political affiliation constitutes persecution, even absent direct physical harm. *Ouda v. INS*, 324 F.3d 445, 454 (6th Cir. 2003).

112. Specifically, the Court found that “[t]he mere fact that the Oudas were ordered by the government to leave Kuwait because they were perceived enemies of their country is sufficient alone to establish past persecution.” *Id.* The Court further emphasized that “there is no case law that requires [petitioner] to show that she was personally detained, interrogated, beaten up or tortured in order to establish a claim of past persecution,” citing with approval *Andriasian v. INS*, 180 F.3d 1033, 1043 (9th Cir. 1999).

113. Petitioners’ removal to Bhutan—where they are expelled because of their ethnicity and historical refugee status—followed by transfer through India and detention in Nepal, satisfies the standard for persecution as articulated by the Sixth Circuit.

II. Procedural Due Process and the Right to Reopen

114. The Due Process Clause of the Fifth Amendment guarantees that noncitizens may not be deprived of life or liberty without notice and a meaningful opportunity to be heard. U.S. Const. amend. V; *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976); *Zadvydas v. Davis*, 533 U.S. 678, 693–94 (2001).

115. The INA provides a statutory right to file one motion to reopen removal proceedings, and further allows such motions to be filed at any time when based on changed country conditions. 8 U.S.C. § 1229a(c)(7); 8 C.F.R. §§ 1003.2(c)(3)(ii), 1003.23(b)(4)(i).

116. The Supreme Court has described the motion to reopen as “an important safeguard intended to ensure a proper and lawful disposition.” *INS v. Abudu*, 485 U.S. 94, 104–05 (1988); see also *Kucana v. Holder*, 558 U.S. 233, 242 (2010).

117. The Sixth Circuit has emphasized that motions to reopen serve to ensure agency compliance with statutory protections, particularly where there are significant new facts. See *Pilica v. Ashcroft*, 388 F.3d 941, 948 (6th Cir. 2004). The Ninth Circuit has similarly stated that “judicial review of a motion to reopen serves as a ‘safety valve’ in the asylum process,” ensuring that new information is considered. *Salim v. Lynch*, 831 F.3d 1133, 1137 (9th Cir. 2016) (citing *Pilica*, 388 F.3d at 948).

118. Petitioners were detained before they could file or supplement such motions. Their claims rely on country conditions—specifically, Bhutan’s cooperation in secret expulsions and third-country persecution—that only became known in March and April 2025.

119. As the Supreme Court recently emphasized, “detainees ... must receive notice ... in such a manner as will allow them to actually seek habeas relief ... before such removal occurs.” *Trump v. J.G.G.*, 604 U.S. ___, slip op. at 2–3 (2025) (quoting *Peyton v. Rowe*, 391 U.S. 54, 67 (1968)).

III. Designation and Notice of Country of Removal

120. Immigration regulations require that an Immigration Judge designate the country of removal on the record and that individuals be given notice of that designation. 8 C.F.R. § 1240.10(f); 8 C.F.R. § 1240.11(c)(1)(i).

121. If the noncitizen expresses fear of persecution or torture in the designated country, the immigration judge must inform them of their right to apply for asylum or withholding. 8 C.F.R. § 1240.11(c)(1)(i).
122. Courts have held that removal to a third country not designated in proceedings, and without notice or opportunity to seek protection, violates due process and the statutory regulatory scheme. See *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999); *Kossov v. INS*, 132 F.3d 405, 408–09 (7th Cir. 1998); *El Himri v. Ashcroft*, 378 F.3d 932, 938 (9th Cir. 2004); *Protsenko v. U.S. Att’y Gen.*, 149 F. App’x 947, 953 (11th Cir. 2005).
123. Notice must be meaningful: it must be given sufficiently in advance, in a language the noncitizen understands, and with adequate time to prepare and present a claim. *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1009 (W.D. Wash. 2019); *Andriasian*, 180 F.3d at 1041.
124. In *Ibarra-Perez v. United States*, the Department of Homeland Security conceded in discovery and 30(b)(6) depositions that it has no written policy requiring such notice or opportunity to seek protection before removal to a third country. See *D.V.D. v. Dep’t of Homeland Sec.*, No. 1:25-cv-10676 (D. Mass. filed April 18, 2025) (citing see *Ibarra-Perez v. United States*, No. 2:22-cv-01100-DWL-CDB (D. Ariz. filed Jun. 29, 2022)).
125. Petitioners have not received such notice and were not afforded any opportunity to present fear-based claims regarding India, a country to which they are likely to be expelled despite not being designated in their final removal orders.

CAUSES OF ACTION

FIRST CLAIM FOR RELIEF
Immigration and Nationality Act – Prohibition on Removal to Country Where
Individual Would Face Persecution or Torture
(INA § 241(b)(3); CAT; FARRA)

126. Petitioners reallege the foregoing paragraphs as if set forth fully herein.
127. The Immigration and Nationality Act provides that “[t]he Attorney General may not remove an alien to a country if the Attorney General decides that the alien’s life or freedom would be threatened” on account of a protected ground. 8 U.S.C. § 1231(b)(3)(A).
128. The Convention Against Torture, as implemented through the Foreign Affairs Reform and Restructuring Act of 1998, likewise prohibits removal to any country where an individual is “more likely than not” to face torture. See FARRA § 2242(a), Pub. L. No. 105–277, div. G, 112 Stat. 2681, 2681–822 (1998); 8 C.F.R. §§ 1208.16(c)(2), 1208.18(a)(1).
129. These protections are mandatory, not discretionary, and apply irrespective of immigration status or final orders of removal. See 8 U.S.C. § 1231(b)(3)(A); *INS v. Stevic*, 467 U.S. 407, 421–22 (1984).
130. Where new, material evidence of changed country conditions arises after a removal order becomes final, noncitizens are entitled to file a motion to reopen. See 8 U.S.C. § 1229a(c)(7); 8 C.F.R. §§ 1003.2(c)(3)(ii), 1003.23(b)(4)(i).
131. Petitioners are facing removal under stale removal orders issued years ago, long before DHS resumed removals to Bhutan and before the emergence of a pattern of third-country expulsions and stateless transfers.
132. Bhutan has recently revealed a practice of summarily expelling Lhotshampa deportees to India, where they are stateless, undocumented, and at risk of abuse and detention. See INHURED Letter & Field Report (Ex. A).
133. These deportees have been subjected to immediate interrogation, confiscation of medications, and removal within 24 hours of arrival. See *id.* at 4–5; Jordan Wilkie, *Two*

More Former Refugees Deported to Bhutan to Be Made Stateless, WITF (Apr. 16, 2025), <https://www.witf.org/2025/04/16/two-more-former-refugees-deported-to-bhutan-to-be-made-stateless/>.

134. The United States has notice of these changed conditions via civil society documentation and media coverage. See INHURED Letter & Field Report (Ex. A). Gaurav Pokharel, *Nepali-Speaking Bhutanese Refugees in Limbo After Deportation from US*, *The Guardian* (Apr. 21, 2025).

135. Removal under these circumstances—without an opportunity to present updated claims for protection—violates 8 U.S.C. § 1231(b)(3), FARRA § 2242, and the implementing regulations at 8 C.F.R. §§ 1208.16(c), 1208.18(a).

SECOND CLAIM FOR RELIEF
Procedural Due Process – Denial of Right to Reopen Removal Orders Based on New Eligibility for Relief

(U.S. Const. amend. V; INA § 240(c)(7))

136. Petitioners reallege the foregoing paragraphs as if set forth fully herein.

137. The Fifth Amendment prohibits the government from depriving any person of liberty without due process of law. U.S. Const. amend. V; *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976); *Zadvydas v. Davis*, 533 U.S. 678, 693–94 (2001).

138. The INA and implementing regulations guarantee all noncitizens the right to file one statutory motion to reopen, and additional motions based on changed country conditions at any time. See 8 U.S.C. § 1229a(c)(7)(C)(ii); 8 C.F.R. §§ 1003.2(c)(3)(ii), 1003.23(b)(4)(i).

139. Motions to reopen are essential to ensuring agency compliance with statutory and treaty obligations. See *INS v. Abudu*, 485 U.S. 94, 104–05 (1988); *Kucana v. Holder*, 558 U.S. 233, 242 (2010).

140. Petitioners were re-detained in 2025 before they could access counsel, collect evidence, or file new motions to reopen based on the expulsion practices documented for the first time in March and April 2025.

141. Without notice of the true country of removal or an opportunity to be heard, Petitioners cannot meaningfully invoke their statutory rights. See *Trump v. J.G.G.*, 604 U.S. ___, slip op. at 2–3 (2025) (per curiam) (emphasizing that detainees “must receive notice ... in such a manner as will allow them to actually seek habeas relief”).

142. Executing removal under these circumstances, without meaningful opportunity to reopen or supplement claims, violates procedural due process. See *Mathews*, 424 U.S. at 333; *Zadvydas*, 533 U.S. at 693–94.

THIRD CLAIM FOR RELIEF
Unlawful Detention Beyond Removal Period Without Justification
(INA § 241(a); U.S. Const. amend. V)

143. Petitioners reallege the foregoing paragraphs as if set forth fully herein.

144. Post-order immigration detention must be reasonably related to a legitimate purpose, such as effectuating removal. See *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001).

145. Detention beyond the statutory 90-day removal period is only permitted where removal is reasonably foreseeable and justified. 8 U.S.C. §§ 1231(a)(2), (a)(6); *Zadvydas*, 533 U.S. at 699.

146. Petitioners were previously released under orders of supervision.

147. DHS has not shown that removal is reasonably foreseeable. To the contrary, ICE is aware that Bhutan refuses to admit Lhotshampa deportees, and that deportees are expelled to third countries not designated in the removal order. See INHURED Letter & Field Report (Ex. A).

148. Detaining Petitioners without a lawful removal plan or individualized danger finding violates both the INA and the Due Process Clause. See *Zadvydas*, 533 U.S. at 699.

FOURTH CLAIM FOR RELIEF
Violation of the Suspension Clause – Denial of Access to Habeas Relief
(U.S. Const. art. I, § 9, cl. 2)

149. Petitioners reallege the foregoing paragraphs as if set forth fully herein.

150. The Constitution provides that “[t]he Privilege of the Writ of Habeas Corpus shall not be suspended.” U.S. Const. art. I, § 9, cl. 2.
151. A statute cannot eliminate habeas jurisdiction without providing an “adequate and effective substitute.” *INS v. St. Cyr*, 533 U.S. 289, 305 (2001).
152. Petitioners are stateless and face imminent removal to countries that were never designated in their final removal orders, without access to counsel, protective screenings, or adequate notice. *See Trump v. J.G.G.*, slip op. at 3.
153. Under these facts, no alternative remedy exists that would be “adequate and effective” to protect Petitioners’ rights. Denial of jurisdiction would suspend the writ in violation of the Constitution. *See St. Cyr*, 533 U.S. at 314.
154. The Supreme Court has confirmed that habeas lies at the “core” of challenges to detention and removal. *See Trump v. J.G.G.*, slip op. at 2; *Nance v. Ward*, 597 U.S. 159, 167 (2022); *Peyton v. Rowe*, 391 U.S. 54, 67 (1968).

FIFTH CLAIM FOR RELIEF
Declaratory Judgment – Enforcement of Statutory and
Constitutional Rights Prior to Removal
(28 U.S.C. § 2201)

155. Petitioners reallege the foregoing paragraphs as if set forth fully herein.
156. A declaratory judgment is appropriate where “a case of actual controversy” exists within the court’s jurisdiction. 28 U.S.C. § 2201(a).
157. Petitioners seek a declaration that removal to Bhutan, India, or Nepal under current conditions—without advance notice or opportunity to present fear-based claims—violates the INA, FARRA, CAT, and the Due Process Clause. *See* 8 U.S.C. §§ 1231(b)(3), 1229a(c)(7); FARRA § 2242(a); 8 C.F.R. §§ 1208.16–18.

158. Petitioners further seek a declaration that re-detention for purposes of removal—when removal is neither imminent nor lawful—violates 8 U.S.C. § 1231 and the Fifth Amendment. See *Zadvydas*, 533 U.S. at 699.

159. A justiciable controversy exists because Respondents have adopted or executed policies that circumvent statutory and constitutional protections. See INHURED Letter & Field Report (Ex. A).

160. Declaratory relief will clarify the rights and obligations of all parties, ensure compliance with due process, and prevent further unlawful detention and removal.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully request that this Court:

1. **Assume jurisdiction** over this Petition pursuant to 28 U.S.C. §§ 2241, 1331, and 1361;
2. **Issue an Order to Show Cause** requiring Respondents to justify why the writ should not be granted within three (3) days, or another timeframe the Court deems just;
3. **Declare** that Respondents' actions—specifically, the attempted removal of Petitioners to Bhutan, India, or Nepal without adequate notice, and their continued detention—violate:
 - the Immigration and Nationality Act, 8 U.S.C. §§ 1231(b)(3), 1229a(c)(7),
 - the Convention Against Torture and implementing regulations, 8 C.F.R. §§ 1208.16–18,
 - the Foreign Affairs Reform and Restructuring Act of 1998 (FARRA) § 2242(a),
 - and
 - the Due Process Clause of the Fifth Amendment to the U.S. Constitution;

4. **Issue a Writ of Habeas Corpus** and enjoin Respondents from executing Petitioners' removal orders unless and until this Court makes an evidence-based determination regarding the country to which each Petitioner will be removed specifically, whether Petitioners' removal will be to India or a country other than Bhutan, the country listed on Petitioners' removal order.

5. **Order Petitioners' immediate release** from ICE custody under appropriate supervision pursuant to 8 U.S.C. § 1231(a)(3); or, in the alternative, require:
 - o an individualized bond hearing before an Immigration Judge within 7 days of this Court's order, where the government bears the burden of justifying continued detention by clear and convincing evidence;

6. **Award attorneys' fees and costs** pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, or other applicable authority;

7. **Grant such further relief** as the Court deems just, necessary, or appropriate to preserve Petitioners' statutory and constitutional rights.

Respectfully submitted,



Brian J. Hoffman, Esq.

OCSILiO

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E-mail: brian@ocsilio.org | Counsel for Petitioners

Dated: June 8, 2025

PETITIONER-PLAINTIFFS' INDEX OF EXHIBITS

- Exhibit (A) International Institute for Human Rights, Environment and Development, *Letter (Apr. 7, 2025), Field Report (Apr. 2–3, 2025)*
- Exhibit (B) Affidavit of M.K. (Apr. 5, 2025), submitted in support of Motion to Reopen, Board of Immigration Appeals.
- Exhibit (C) U.S. Immigration & Customs Enf't, *Butler County Sheriff's Office* (May 1, 2025)

UNPUBLISHED CASES

- Exhibit (D) *Hamama v. Adducci, Order Granting Petitioners' Motion for Temporary Restraining Order*, No. 17-cv-11910, at 4 (E.D. Mich. July 24, 2017)
- Exhibit (E) *Trump v. J.G.G.*, 604 U.S. ___, slip op. (2025) (per curiam)
- Exhibit (F) *D.V.D. v. Dep't of Homeland Sec.*, No. 1:25-cv-10676 (D. Mass. filed April 18, 2025)

Exhibit A



इन्हुरेड इन्टरनेशनल
INHURED INTERNATIONAL
International Institute for Human Rights, Environment and Development
institut international des droits de l'personne, de l'environnement et du developpement

April 7, 2025

His Excellency Dean R. Thompson
Ambassador of the United States of America
Embassy of the United States
Maharajgunj, Kathmandu, Nepal

Re: Expulsion of Deported Bhutanese Citizens by Bhutan

Your Excellency,

On behalf of INHURED International, we take this opportunity to extend our warmest regards to you and the Government of the United States of America.

It is with the utmost respect we wish to bring to your kind attention and express our profound concern regarding the recent expulsion of individuals identified as resettled Bhutanese by the Royal Government of Bhutan (RGOB) who were previously deported to Bhutan by the United States. On March 29, 2025, four such individuals have entered Nepal forcibly and are presently under custody of immigration office located in Kakarbhitta, Jhapa.

The testimonies of the deportees with us last week further revealed that, upon reaching Bhutan on March 28, these individuals were intimidatingly interrogated and promptly expelled to the Indian border with security escorts and subsequently sent to Nepal on pre-paid taxis arranged by the Bhutanese security personnel. Four of those detained took irregular route to enter Nepal which was reportedly facilitated by agents at India-Nepal border. The fate of other individuals deported to Bhutan and expelled along with the four detained individuals in Nepal is unknown after they were brought to Indo-Bhutan border by the security personnel.

This action raises serious concerns about the failure of the RGOB to retain them as its citizens and provide appropriate treatment. Bhutan has deceitfully sent these individuals to Nepal, abdicating its responsibility toward them. These expulsions underscore the need for diplomatic solutions to safeguard the rights of these former refugee individuals by making the RGOB accountable for the atrocity committed against them.

As Your Excellency may recall, the RGOB orchestrated the Bhutanese refugee crisis during the late 1980s and early 1990s, systematically suppressing and expelling over 100,000 citizens. Nepal, guided purely by humanitarian motives, hosted these refugees in camps for nearly two decades and still shelters approximately 7,000 residue population in two camps. As part of durable solution, the United States, alongside other resettlement countries, took generous step for resettling these refugees through a globally celebrated humanitarian initiative. This process adhered to stringent protocols established by the U.S. Department of Homeland Security and other concerned agencies which to our knowledge include Office of the High Commissioner for Refugees (UNHCR) and International Organization for Migration (IOM) in coordination with the Government of Nepal.

Your Excellency,

While we are unaware of specific agreements between the United States and the RGOB concerning these deportations, Nepal obviously cannot be held accountable for accepting or accommodating these individuals within its territory. Therefore, we urge the United States to engage with the RGOB to ensure it upholds its obligations towards its citizens whom we understand, it formally agreed to accept as its citizens during the process of deportation.

Thank you very much for your kind understanding and appropriate action.

Yours sincerely,

Gopal Krishna Siwakoti, PhD
President

Field Monitoring Report (preliminary)

Deportation and Expulsion of Former Bhutanese Refugees

Conducted by INHURED International

April 2-3, 2025

Introduction

Upon receiving alarming reports from US-based Asian Refugees United (ARU) and other refugee diaspora leaders regarding the deportation and expulsion of former Bhutanese refugees who had been resettled from Nepal to the U.S. before being sent back, INHURED International, at the request of ARU, immediately initiated a field monitoring mission to investigate the situation of the deportees. The following is a brief account of the findings, based on direct engagements with authorities, affected individuals, and local stakeholders.

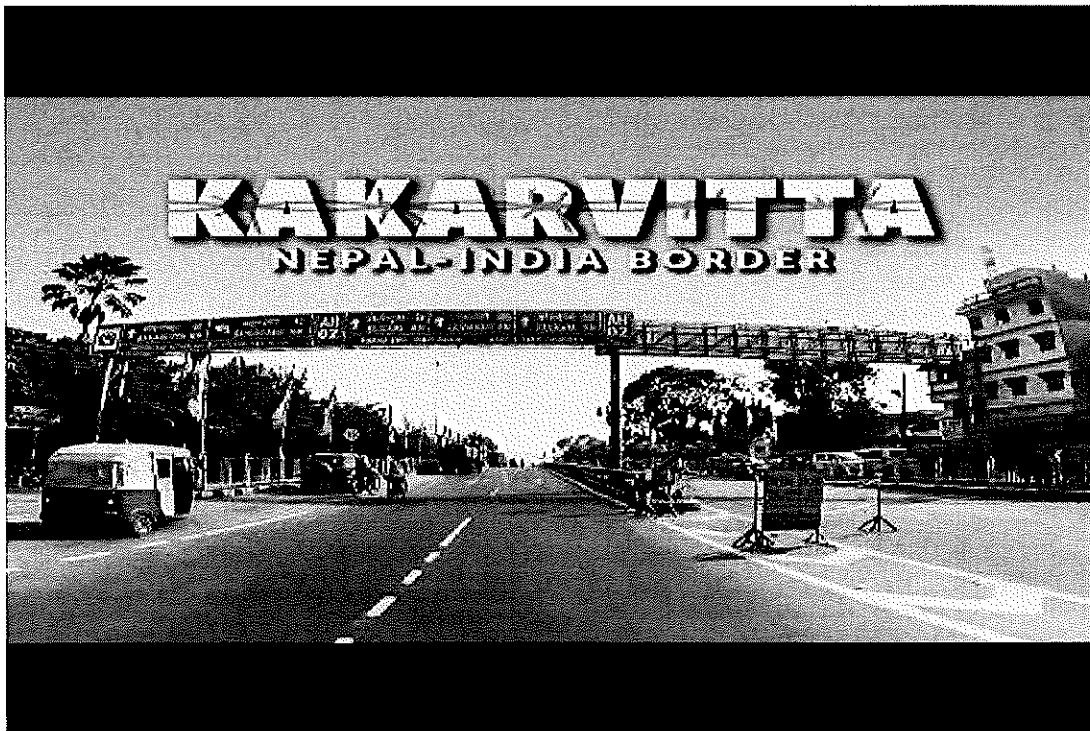
Key Findings

1. Meeting with Authorities in Jhapa

Dr. Gopal Krishna Siwakoti, President of INHURED International, held an intense discussion with Chief District Officer (CDO) of Jhapa, Mr. Gopal Adhikari, in Chandragadhi concerning the arrest and detention of those detainees allegedly expelled by the government of Bhutan.

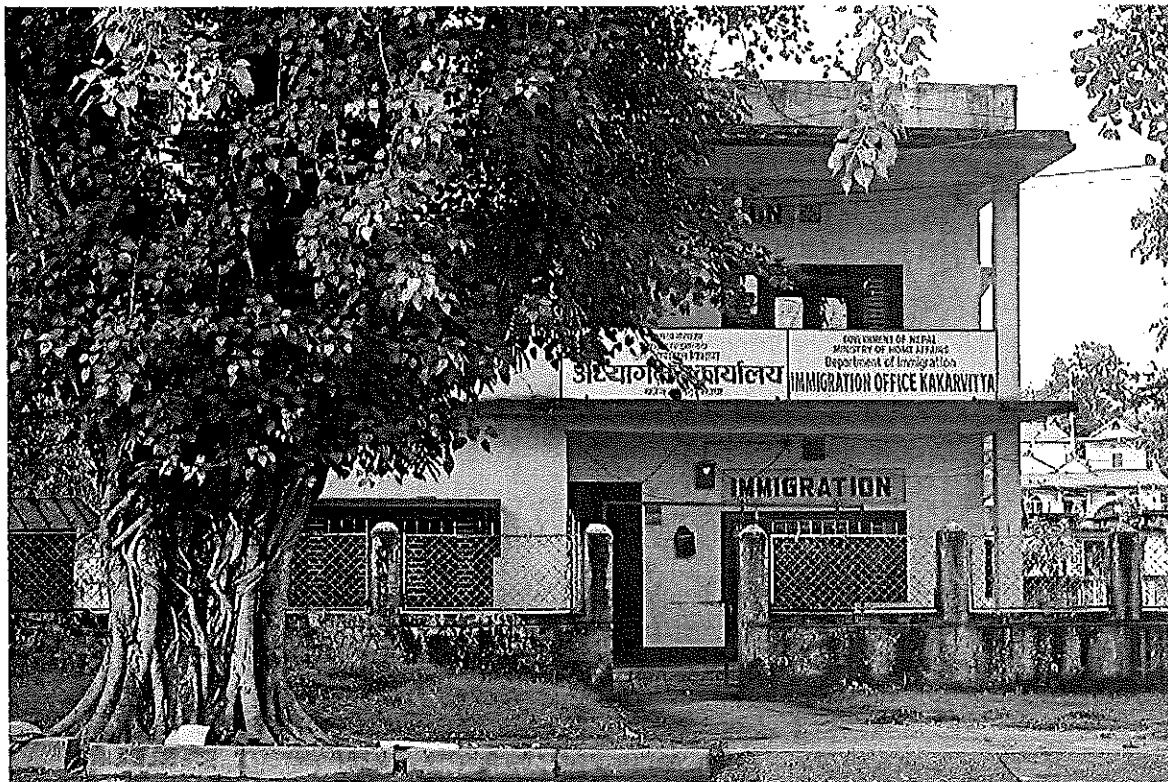


- The team then proceeded to the Kakarbhitta Immigration Office and Kakarbhitta Police Station to meet and interact with the immigration officials and the police personnel.



2. Dialogues with deported and expelled former Refugees

- Joined by refugee leader Mr. Balaram Poudel (a senior refugee leader), two journalists, and the father of one deportee, the delegation met with the affected individuals for over two hours.
- The intense conversation with the deportees was also attended by the immigration official.



Deportations and Expulsions in Brief

- The refugees had been deported from the U.S and transported to Bhutan on 27th of March via New Delhi transit to Paro, Bhutan.
- The deportees were flown on Druk Air, Bhutan's national flag carrier from New Delhi.
- Upon arrival, they were given accommodation in a hotel nearby the airport and were intimidatingly interrogated by Bhutanese immigration officials and were expelled within 24 hours with no options offered.
- Bhutanese officials escorted them to the India-Bhutan border, where they were divided into three groups (3, 3, and 4 persons) and placed in separate taxis at 30-minute intervals.
- Each deportee was given 30,000 Indian Rupees (INR) and instructed to cross into Nepal via the Pani Tanki border, using an unofficial/irregular route (conversationally known as the "donkey route") and ended up in Beldangi settlement. The expelled individuals had to pay NPR 22500 to bribe the illegal border crossing agents.
- The journey of the fourth deportees is different than rest of the three since he was deported separately and was expelled in a similar manner on a different date and mode of travel.
- Two of other deportees who, according to the testimony of the 4th deportee mentioned above, were brought across the Indo-Bhutan border is unknown.



3. Issues of Concern

- Arrests: The next morning, three deportees were arrested by Nepali Police at Beldangi Settlement and taken to Kakarbhitta border where they remain detained in a police station.
- Medical Negligence: One deportee's anti-depression medication was confiscated by Bhutanese officials, exacerbating their health crisis.
- Missing Persons: The whereabouts of the remaining nine (!) deportees remains unknown, raising concerns over their safety.
- Indecisive situation of the detainees about exploring appropriate solutions

4. Visit to Beldangi Refugee Settlement (April 3)

Next day, Dr. Siwakoti also traveled to Beldangi Refugee Settlement to meet with some refugee leaders and refugee families and discussed about their perception and stance concerning the situation.



The deportation of resettled Bhutanese refugees from the U.S. has created significant challenges. Bhutan has refused to accept these individuals, forcefully and without options redirecting them to Nepal, where they face legal uncertainties and statelessness once again.. This situation has

heightened fears among refugees in the settlements both in Beldangi, Jhapa and Patthari-Sanischarey, Morang where concerns about future deportations and lack of support are growing. Refugees often experience insecurity due to crime, resource competition, and limited institutional support particularly after handover of refugee affairs by UNHCR to the Government of Nepal. Addressing these issues requires coordinated efforts to ensure their rights and safety and more importantly the accountability of the Government of Bhutan.



Objective: To Assess the long-term impact of such deportations and expulsions on the refugee community and document information, understanding, position and testimonies for advocacy in exploring amicable solution of the unprecedented crisis.



Conclusion & Recommendations

Effectively addressing the current former Bhutanese refugees' deportation and expulsion crisis requires a multifaceted approach. Diplomacy plays a critical role in resolving this issue, with Nepal, Bhutan, and the U.S. engaging in dialogue to establish legal and just pathways. Such efforts would ensure the protection and safety of the deported refugees, fostering their dignity and rights. The involvement of the United Nations High Commissioner for Refugees (UNHCR) is vital in mediating negotiations and offering humanitarian support. UNHCR's advocacy for non-expulsion, non-refoulement, and legal protections would provide these individuals with essential safeguards during this turbulent period.

Legal protections and humanitarian support for these destitute without destination are paramount, ensuring temporary legal status and granting them access to crucial resources while long-term strategies are developed to secure their futures, ideally either ensuring non-deportation (since they have no country where they are welcomed and settled) or in the event of such act, keeping them in the country of their origin, i.e. Bhutan.

1. Urgent Intervention Needed:

- The Bhutanese governments must clarify the legal basis for these deportations leading to expulsion.
- The UNHCR should take initiation to explore durable solutions of the current and potentially future crisis of similar nature.
- The Nepal Government should immediately explore amicable diplomatic solution for deportation and expulsion row.

2. Immediate Humanitarian Assistance:

- Ensure medical and legal support for the detained deportees.
- Initiate to find the whereabouts of deported and expelled persons.

3. Policy Advocacy:

- Demand transparency on bilateral agreements between the US and Bhutan government leading to such expulsions.
- Demand reasons for unlawful expulsions of its nationals upon receiving them in its territory.

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