

## **THE BHUTANESE REFUGEES: BETWEEN VERIFICATION, REPATRIATION AND ROYAL REALPOLITIK**

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### **ABSTRACT**

This paper brings out the plight of about one hundred thousand Nepali refugees from Bhutan who were forced to flee the country by the monarchical state in late 1980s and early 1990s. These refugees are, by and large, ignored by the world that is otherwise quite supportive of democratic movements like the one the refugees had launched in Bhutan in response to highly constrictive legislations relating to marriage and dress passed by the state since 1980s, including the census of the southern Bhutan with a clear view to de-nationalising the so-called 'Lhotsampas'. The paper further shows how the negotiation between Bhutan and Nepal, the identification of the bonafide nationals of Bhutan in the refugee camps of southern Nepal, the terms and conditions for such identification and repatriation, etc. were all dictated by Bhutan ignoring the UNHCR, acquiesced by Nepal, and tacitly supported by India. Finally, the author examines the circumstances forcing Nepal to kowtow before Bhutan and questions the stand taken by India, the Asian superpower, which supported anti-establishment in Nepal and opposed anti-establishment in Bhutan.

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During the autumn months of 2002, some warmth returned to the troubled relationship between the governments of Bhutan and Nepal. It seemed that the two landlocked (effectively India-locked) Himalayan kingdoms had many interests in common, and that their long-standing disagreement over the fate of the 102,000 people living in Bhutanese refugee camps in southeastern Nepal represented an obstacle to pursuing those interests. Most of these people claimed to have left Bhutan against their will during the early 1990s; approximately one third of them were children born since that exodus took place.

### **BHUTAN AND ITS PEOPLES**

Bhutan is the sub-continent's most thinly populated state, with an official total population of only 680,000 in a country approximately one-third the size of Bangladesh. At least 60% of its surface area is forested, and the capital, Thimphu, has a population of less than 50,000. Despite its small size, the population is ethnically diverse. The four main ethnic categories are the Ngalong in the west, the 'central Bhutanese', the Sharchop in the east, and the Lhotshampa or 'Nepali Bhutanese' in the south. The Ngalong and central Bhutanese are politically dominant. The Ngalongs' language, Dzongkha, has been the national language since 1961, and the Drukpa Kargyü school of Mahayana Buddhism, which is predominant in western Bhutan, has statutory representation in state institutions. The Bhutanese commonly make a distinction between the Buddhist 'Drukpas' of the north and the Nepali-speaking southerners, who are known as Hindu. In the early 1990s, the Dutch linguist George van Driem reported the presence of 160,000 speakers of Dzongkha, 138,000

speakers of Tshangla (the language spoken by the majority of Sharchops) and 156,000 speakers of Nepali, representing 26.5%, 22.9% and 25.9% respectively of a total population of 602,800 (van Driem 1994: 92).<sup>1</sup>

## THE LHOTSHAMPAS

Bhutan's Lhotshampas are the descendants of peasant farmers from Nepal who began to migrate to southern Bhutan after the Anglo-Bhutanese war of 1865. Successive generations cleared the forests and formed agrarian communities that quickly became Bhutan's main producers of food. Their numbers were augmented by later migrants, who continued to be brought in by licensed contractors until about 1930. The Nepali settlers became the kingdom's main source of cash income: unlike the Drukpas of the north, who paid their taxes in kind right up until the late 1950s, British colonial records show that Nepali settlers in south-west Bhutan were paying taxes in cash even before the Bhutanese monarchy was established in 1907 (Hutt 2003: 74-82). Until the 1950s, Bhutan was not a unified polity: different systems of administration were maintained in different parts of the country. In the south, the local contractors and their descendants remained powerful. The revenue raised in certain southern districts was submitted not to the central government but to a local governor based across the Indian border in Kalimpong.<sup>2</sup>

During the early 1950s the whole of Bhutan was brought under a single administrative system, with its capital at Thimphu. King Jigme Dorji Wangchuck and his Prime Minister Jigme Palden Dorje embarked on a programme of political institution-building and infrastructure development. The measures they undertook included a land reform programme, the establishment of an elected National Assembly in 1953, the freeing of serfs, the enactment of the Nationality Law of Bhutan (which granted full citizenship to all Lhotshampas) in 1958, and the establishment of a Royal Advisory Council. Bhutan's first Five-Year Plan was inaugurated in 1961, and the construction of a road linking Thimphu with India was completed in 1963. These reforms had the effect of integrating the economy and administration of the south with those of the rest of Bhutan, and bringing its Lhotshampa population into the national mainstream (see Hutt 2003: 127-44; Rose 1977). Lhotshampas entered government service in increasing numbers and began to play an important role in national life. In the mid-1980s, however, this impetus towards the integration of the southerners began to slow. It would appear that the assimilation process had accelerated too quickly for some powerful members of the elite, who felt that the newly admitted Lhotshampas were bringing with them democratic claims and values. These apprehensions were greatly heightened by the violence of the Gorkhaland movement in the Darjeeling district of West Bengal, especially between 1986 and 1988, and by the success of the democratic movement in Nepal in 1990.

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<sup>1</sup> However, it was not clear whether these figures included or excluded the Nepali-speaking Bhutanese who were living in refugee camps in Nepal at the time of van Driem's survey (Aris 1994a: 14).

<sup>2</sup> For my recent book on the Lhotshampas (Hutt 2003), I derived a great deal of information on conditions in southern Bhutan during the 1930s from a report by Captain C.J. Morris of the 3<sup>rd</sup> Gurkha Rifles, held in the British Library in London. The complete text of this report is reproduced in Sinha (2001: 144-60).

## **CITIZENSHIP LEGISLATION**

New citizenship Acts, introduced in 1977 and 1985, narrowed the terms on which Bhutanese citizenship could be acquired. A Marriage Act promulgated in 1980 made it more difficult for Bhutanese to marry non-Bhutanese, and disqualified those who did so from receiving various state benefits. The wearing of Bhutanese national costume became mandatory for all Bhutanese in an increased number of contexts (Hutt 2003: 160-77; Rose 1994: 191-92; Ura 1994; Zeppa 1999: 140-1, 188-9), and the Nepali language was removed from school curricula (Hutt 2003: 183-90; Thinley 1994: 61; van Driem 1994: 101-2). Until the late 1980s feelings of disquiet were largely restricted to more educated Lhotshampas. But the annual census conducted in southern districts from 1988 onward impinged upon the Lhotshampa population more generally. While the Bhutanese government claims that the exercise was devised to address a growing problem of illegal immigration in southern Bhutan, many Lhotshampas saw it as an initiative designed to reduce the size of the ethnic Nepali population of Bhutan.

During the censuses, each adult member of a household was required to present himself or herself to a census team from the central government when it visited his/her locality. In order to be recorded in the census register, the Lhotshampas had to produce a tax receipt dated 1958, the year of the enactment of Bhutan's first Nationality Law, and prove their membership of the relevant household if the name on the receipt was not their own. The citizenship cards that had been issued to all Bhutanese in the years leading up to 1988 were no longer accepted as proof of Bhutanese citizenship, and in some cases these were confiscated during the census. A Certificate of Origin (C.O.) had to be produced by individuals who had moved to their place of residence after 1958. Typically, married women were required to return in person to their places of birth and acquire a C.O. from the authorities there. Each individual's name was added to one of the seven lists, ranging from 'F1', genuine Bhutanese citizens, to 'F7', non-nationals, with five intermediate categories in between (Amnesty International 1992: 5-6). An individual who could produce a 1958 receipt for tax paid on the land registered in their or an ancestor's name, and could convince officials that both of their parents were Bhutanese nationals, was listed under F1. Women who had come in from outside Bhutan to marry could not produce C.O.s and were therefore liable to be registered as non-nationals (see Hutt 2003: 147-59 and Lee 1998 for discussions of Bhutanese citizenship Acts).

## **LHOTSHAMPA DISSENT AND FLIGHT**

In April 1989, Tek Nath Rizal, a Lhotshampa member of the Royal Advisory Council, attempted to alert the king of growing public unease about the census in the south, but was arrested and detained briefly for his temerity. Once released, he fled to Nepal and became a focal point for Lhotshampa dissident activists. He and two of his associates were seized by Nepalese police in November 1989 and handed over to the Bhutanese authorities. He was tried and found guilty of treason three years after his arrest and remained in prison until December 1999.<sup>3</sup>

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<sup>3</sup> Rizal, who suffered from numerous health problems after his release, spent most of the next four years living a marginal existence in Bhutan and India. He returned to Nepal in October 2003 to assume a more prominent role as a spokesman for the refugees.

In September and October 1990, Lhotshampa activists orchestrated mass public demonstrations, in which demands for civil and cultural rights were presented to district headquarters all across southern Bhutan (Muni 1991; Hutt 2003: 204-10). After the demonstrations, the Bhutanese army and police began the task of identifying participants and supporters, who were later arrested. Many were held for months without trial. Those who were released invariably left Bhutan and joined relatives in the swelling refugee camps in Nepal. Many claimed that they would not have been released if they had not pledged in writing to leave the country, and that they would have been evicted forcibly had they not left immediately. Once the head of a family had left Bhutan, it was alleged that pressure was put on other family members to follow him. After the demonstrations, many new rules and procedures were introduced in the south. Lhotshampas saw these measures as attempts to attack the economic and social bases of their communities. Restrictions were placed on the transportation of essential commodities such as salt. Applicants for scholarships and civil service appointments had to produce a 'No Objection Certificate' (N.O.C.) that they had acquired from the Royal Bhutan Police. This certified that the holder had a clean record, i.e., that they had not taken part in oppositional activity, and were not related to anyone who had. The N.O.C. was also required of children seeking admission to school, with the result that children whose parents had taken part, or were suspected of taking part, in 'anti-national activities' had difficulties gaining access to formal education. Many individuals were prevented from selling their cash crops in the open market and made to hand them over to the local administration, which issued receipts but no payments.

Soon the Bhutanese government reported that its census operations had detected the presence in southern Bhutan of over 100,000 illegal immigrants (RGB 1991: 2-3). The government claimed that since 1958 large numbers of Nepalese migrants had entered southern Bhutan to take advantage of its economic prosperity (RGB 1993: 4). A proposal for a 'Green Belt' across the India-Bhutan border, which would have displaced many thousands of Lhotshampas from their homes, was dropped in 1990 (Sinha 2001: 228-30). But the census operations quickly became a tool not only for the identification and eviction of illegal immigrants but also for the dispossession and banishment of dissidents, the wealthy, the educated, and various other categories of Lhotshampa citizen.

*Kuensel*, the only newspaper published inside Bhutan, recorded a dramatic increase in violent crime, robbery and destruction of development infrastructure in southern Bhutan during the early 1990s, and blamed all such crimes on 'anti-national terrorists'. It often alleged that the 'terrorists' had come from the refugee camps in Nepal, and on at least one occasion this was admitted by a dissident organisation.<sup>4</sup> The stringent measures imposed on southern Bhutan, which included the closure of almost every school, were justified in terms of national security: schools were said to be prime targets for terrorist attacks.

In September 1991 the United Nations High Commissioner for Refugees (UNHCR) assumed responsibility for the coordination of emergency relief

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<sup>4</sup> 'Shame on us' *The Bhutan Review*, 1: 1 (January 1993). This monthly newspaper was published by the Human Rights Organization of Bhutan for several years from Kathmandu.

assistance for Bhutanese refugees in Nepal. Bhutanese refugee camps were established at five different sites: Timai, Goldhap, Beldangi and Khudunabari in Jhapa district, and Sanishchare (Pathri) in Morang, and 2331 survivors of physical torture had been identified in these camps by late 1994 (see Adhikari 1995; Shrestha, *et al*, 1995, 1998).

The Bhutanese government emphasized that the Nepalese government did not screen arrivals until June 1993, when the main influx had all but ceased, and adopted a hostile attitude to UNHCR's operations in Nepal. It maintained consistently for ten years that few, if any, of the people in the camps were genuine refugees from Bhutan, and dismissed the citizenship cards and tax receipts that many of them held as forgeries or stolen documents (see Thinley 1994: 70-1). Meanwhile, Nepalese politicians of every persuasion repeatedly referred to the presence of 'one *lakh*' (100,000) Bhutanese refugees in their country, and declared that they would ensure that all of them would soon return to Bhutan 'with honour and dignity'.

### **NEGOTIATIONS BETWEEN BHUTAN AND NEPAL**

In 1993 the governments of Bhutan and Nepal agreed to establish a Ministerial Joint Committee (MJC) which would work towards a resolution of the refugee problem. At its first meeting, the MJC agreed that it would 'verify' the status of 'the people in the camps' (the term 'refugee' was scrupulously avoided). The Bhutanese proposed, and the Nepalese agreed, that the verification exercise would sort them into four categories:

- (1) Bonafide Bhutanese if they have been evicted forcibly;
- (2) Bhutanese who emigrated;
- (3) Non-Bhutanese people; and
- (4) Bhutanese who have committed criminal acts.

The Nepalese team was strongly criticised by refugee leaders and the Nepalese media for having agreed to these four categories. It was likely that many people would fall into category 2 (unless it could be proved that emigration forms were signed under duress), category 3 (simply for leaving the country and thereby forfeiting their citizenship), or category 4 (for having demonstrated against government policies).

In Bhutan, each annual meeting of the National Assembly called for a ban on the return of 'people who had left the country', and as political instability worsened in Nepal the refugee issue slipped down the domestic agenda. The MJC met at irregular intervals, but made very little progress on any front. The Lhotshampa activists became less audible and their political parties and human rights organisations split and splintered. The camp population therefore had little option but to wait and hope. Meanwhile, concern began to be expressed about the 'underlying potential for violence' among the growing number of young adults in the camps, especially as educational provision declined (cf. John 2000) and Maoist insurgents began to be active in and around the camps.

Those Lhotshampas who remained in Bhutan continued to face discrimination in the fields of employment, education, freedom of movement, and citizenship (HRW 2003: 16-18). In July 1998, 429 relatives of 'anti-nationals' had to

take ‘compulsory retirement’ from Bhutanese government service, in line with a National Assembly resolution carried the previous year.<sup>5</sup> The Bhutanese government’s policy of resettling northern Bhutanese on lands vacated by the departing Lhotshampas (see Habitat International Coalition 2000 for case studies) undermined any prospect of repatriation. The Bhutanese government also faced increasing pressure to expel guerillas who were waging a campaign against the Indian government from camps they had established in Bhutan’s southeastern districts.<sup>6</sup>

### THE JOINT VERIFICATION EXERCISE

At the end of 2000, possibly as a result of a visit to Bhutan and Nepal by two American secretaries of state, it was agreed that a team of Nepalese and Bhutanese officials would commence the process of verification negotiated in 1993. On 26 March 2001, ‘joint verification’ began for the population of Khudunabari, one of the smaller camps, where some 12,500 people were living in 1,964 bamboo huts. During the monsoon rains of 2001, the author watched the buses come and go between Khudunabari and the Joint Verification Team (JVT)’s office in Damak. The JVT comprised five Nepali and five Bhutanese members (all men for most of the period), and between ten and twelve families were delivered to their office each day. Two proforma documents were filled in for each individual of 25 years or over and supporting documents were photocopied. The Khudunabari verification exercise was completed on 14 December 2001, but the outcome remained undisclosed for 17 months. In early 2003, Bhutanese officials reassured international donors at a meeting in Geneva of their commitment to finding a solution to the refugee problem. The JVT subsequently spent many weeks in secret discussions in Thimphu before presenting its report to the fourteenth meeting of the Ministerial Joint Committee (MJC) in Kathmandu in May 2003. The categorization of the Khudunabari refugees was reported as follows:

	Families	Individuals	%
(1) Bonafide Bhutanese	74	293	2.5
(2) Emigrants	2182	8595	70.5
(3) Non-Bhutanese	817	2948	24.2
(4) Criminals	85	347	2.8
<b>Total</b>	<b>3158</b>	<b>12,183</b>	<b>100</b>

According to the MJC’s joint press release of 21 May 2003, the Royal Government of Bhutan would take ‘full responsibility’ for the 293 individuals categorised as ‘bonafide Bhutanese evicted forcibly’: these people would be permitted to return and would be issued with citizenship cards. Those of the 8595 ‘Bhutanese who emigrated’ who wished to return would be given the option of re-applying for Bhutanese citizenship ‘in a liberal interpretation of the Bhutanese Citizenship and Immigration Laws’, while those who did not wish to return would be ‘given the

<sup>5</sup> This figure is drawn from the U.S. Department of State’s country report on human rights practices in Bhutan, dated February 2001. See also ‘RCSC has carried out Assembly resolution’ *Kuensel*, July 25, 1998.

<sup>6</sup> These guerillas reportedly belong to the United Liberation Front of Assam, the National Democratic Front of Bodoland, and the Kamtapur Liberation Organization. In early November 2003, both the king and the Bhutanese prime minister are reported to have visited their camps to negotiate with the leaders (*The Telegraph*, Calcutta, 5 November 2003).

option to apply for Nepalese citizenship in accordance with the laws of the Kingdom of Nepal'. Non-Bhutanese would have to 'return to their respective countries', and 'Bhutanese who have committed criminal acts' would have 'full opportunity to prove their innocence in the court of law in Bhutan.' All of those thus categorised had the right to appeal against their categorisation within 15 days, but their appeal would be considered only upon the 'presentation of new material evidence' or 'determination of clear error in the process'.<sup>7</sup>

The 'emigrants' category caused the greatest concern to the international community. It had long been known that a large number of people in the camps were in danger of falling into this category. It was likely that a particularly high proportion would be found in Khudunabari, because this camp was the last to be established, well after the Bhutanese authorities had thoroughly bureaucratised the eviction process. All of the camps contained many people who were coerced or tricked into signing emigration forms, who signed written commitments to leave the country in order to secure the release of relatives imprisoned for political offences, or who fled from a generalised state of fear and insecurity.<sup>8</sup> Many observers had assumed that the long delay in finalising the verification report was being caused by protracted negotiations over such cases. The true reasons for flight were being clarified and a number of people were being transferred to category 1 once it was proved that their 'emigration' had been far from 'voluntary'. However, it appears that the JVT simply took this category at face value, without delving into the multifarious reasons for flight.

The verification process was strongly criticised in Nepal and abroad. The only people interviewed were male heads of households, and most of the questioning allegedly came from the Bhutanese members of the JVT. Refugee organisations alleged that this included individuals who had been involved in the eviction process a decade earlier. In some cases, individual members of a single family found themselves put into different categories. For instance, certain individuals who had left Bhutan as minors and therefore had no identity papers of their own were categorised as non-Bhutanese even though their parents were put into other categories, while young children belonging to a household whose head was categorised as a 'criminal' also became criminals.

Both governments made a concerted effort to present the verification exercise as a major breakthrough. When the Bhutanese government announced after the 15<sup>th</sup> MJC meeting, held in Thimphu in October 2003, that *all* of the refugees would be able to return except for the non-Bhutanese and the 'criminal cheiftains', this was hailed as a further major concession. Having consistently denied for over a decade that the camps contained any significant number of its own people, it was pointed out, the Bhutanese government had now accepted that around 75% of the population of this first camp either were, or had once been, Bhutanese citizens. Faced with vociferous protests against *any* prospect of repatriation from people's

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<sup>7</sup> In the event, almost every household lodged an appeal within the deadline (see '94 pc refugees appeal against JVT report', *The Kathmandu Post*, 4 July, 2003).

<sup>8</sup> For an account of the eviction of a group of families who were subsequently presented as 'voluntary emigrants' by the Bhutanese authorities, see *Amnesty International* (1994: 15-16), Dixit (1992: 16) and Hutt (2003: 221-7). The paper trail left by one eviction process may be followed on [www.bhootan.org](http://www.bhootan.org) (check 'documents', then 'voluntary emigration').

representatives in Bhutan's National Assembly in July 2003, the Bhutanese foreign minister made the first real admission to that body that some of the 'people in the camps' were indeed 'bonafide Bhutanese who had been evicted forcibly'. The foreign minister explained that some of the people placed in the first category were those who had proved that they were Bhutanese citizens and had shown written eviction notices that they had received. The minister said that, in the early 1990s, some local officials and gups had gone beyond the call of duty and had issued eviction notices.<sup>9</sup>

In reality, the Bhutanese government had made all but 293 of the 12,500 people living in the Khudunabari camp an offer that was very difficult for them to accept. Those categorised as 'emigrants' could apply for Bhutanese citizenship but they would have to travel to Bhutan to submit their applications. No decisions would be reached on these for a minimum period of two years, and during this time the applicants would be issued with special identity cards and provided with employment. Although the categorisation was carried out on a family basis, applications would only be accepted on an individual basis, and applicants would have to remain in Bhutan for the duration of the probation period. They would not engage in nor have any past record of 'anti-national' activity; they would have to be able to speak Dzongkha, and they would need a 'good knowledge' of the culture and history of Bhutan. It was not clear where they would live during the two-year probation period. Most had owned houses and land in southern Bhutan, but many knew that their houses had been demolished after their departure, and many houses were probably now occupied by people who had moved down from the north in government resettlement schemes. In addition, some of the districts from which people had fled over a decade earlier now contained the bases of Assamese and Bodo insurgents. It was not likely that the repatriated refugees would return to their lives as self-sufficient tax-paying farmers, nor was it clear whether they would be granted rights to healthcare, education and so on.

The terms on which the offer was made failed to recognise or address the fact that 'the story of trust betrayed' is 'a touchstone of the refugee experience' (Layoun 1990: 80). In the immediate aftermath of the announcement of the JVT outcome, the present author wrote in *The Nepali Times*,

Why would any sane individual choose to entrust his family's future to a government from which he once fled, when his family's basic needs are being met in an environment that may allow them no prospect of advancement or improvement, but which is essentially benign? Without any guarantees or safeguards, and in the absence of any third party involvement in the repatriation process, the Bhutanese offer begs many questions.<sup>10</sup>

At the time of writing (November 2003), Bhutan continued to refuse to even countenance the presence of any third party on its soil to monitor the repatriation process. The UNHCR appeared to have abandoned any hope of performing such a role. In his opening statement to the Executive Committee of UNHCR on 29 September 2003, the High Commissioner for Refugees noted that UNHCR had not

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<sup>9</sup> 'Assembly members question MJC decisions' (<http://www.kuenselonline.com/assembly03/03mjcjuly18.php>).

<sup>10</sup> 'Still unbecoming citizens', *The Nepali Times*, 30 May-5 June 2003.



been able to participate in the verification exercise, and had not been granted access to areas of potential return within Bhutan. This he described as ‘totally unacceptable’, but then proceeded to announce the ways in which the UNHCR would signal its acceptance. Because the Nepal government had offered to grant citizenship to those who wished to remain in Nepal, the UNHCR would promote self-reliance projects, phase out its involvement in the camps, and support ‘resettlement initiatives for vulnerable cases’. The UNHCR would not promote a return to Bhutan, but would merely ‘assist in verifying that returns from Nepal are voluntary’. Finally, he urged ‘States, and particularly neighbouring India, to assist Bhutan and Nepal to identify just, humane and durable solutions for all of these people’.<sup>11</sup>

## THE DISMANTLING OF NEPALI DEMOCRACY

Recent political developments in Kathmandu certainly contributed to the Nepal government’s *volte face* on this issue—its sudden willingness, that is, to accept a resolution of the issue that fell short of a return of all refugees ‘in honour and dignity’. The Nepali Congress government and its predecessors had all signally failed to resolve or counter the seven-year-old Maoist insurgency which, combined with the state’s violent and often indiscriminate response, was quickly leading the country into a condition of civil war. The palace once again became an active and assertive political force after the murder of King Birendra and his family in June 2001, and quickly marginalised the parliamentary political parties. The House of Representatives was dissolved in May 2002 and the king dismissed the Prime Minister, Sher Bahadur Deuba, on 4 October 2002, on the grounds that he was ‘unable’ to stage general elections. Since then the government of Nepal has consisted of a cabinet of ministers appointed by the king. Until his resignation on 30 May the government was headed by Lokendra Bahadur Chand, a previous Panchayat prime minister and a member of the pro-palace National Democratic Party (*Rastriya Prajatantra Party*). Chand was replaced by Surya Bahadur Thapa, another leader of the same party, who like Chand had also served as prime minister under the Panchayat system. It should be remembered that in 1989 the Panchayat government’s immediate response to early warnings of an impending influx of Bhutanese refugees was to arrest Lhotshampa dissidents active within Nepal and hand them over to the Bhutanese government.

The various governments that came to power in Nepal during the 1990s all adopted a similar policy on the refugee issue: Bhutan should take back its entire people from the refugee camps. However, between 1995 and 1999 unstable coalition governments did little more than pay lip service to this idea. On the one hand, they were distracted by massive domestic problems and, on the other, hamstrung by the commitment given by an earlier government to sort the refugees into categories proposed by the Bhutan government. These governments were apparently willing to allow the problem to fester indefinitely until a solution could be found that was fully consonant with their uncompromising rhetoric on the need for democracy and human rights in Bhutan. This probably contributed in some measure to the palace’s more general impatience with the multi-party democracy established in Nepal in 1990. The Nepali approach to the Bhutanese refugee problem may therefore

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<sup>11</sup> [www.unhcr.ch/cgi-bin/texis/vtx/home](http://www.unhcr.ch/cgi-bin/texis/vtx/home).

be characterised as having moved from one of principled incompetence to an approach dictated by royal *realpolitik*.

## **A BHUTANESE CONSTITUTION**

The political situation inside Bhutan also changed during the late 1990s. In 1998, the king ordained that the governance of the country would henceforth be the responsibility of a cabinet of ministers elected to a five-year term by the National Assembly, and in December 2002 the first draft of a Bhutanese constitution was submitted to him for his consideration. This constitution has set out the principles of state policies, the rights and duties of citizens, the separation of powers of the main state bodies, the terms on which party political activity is to be allowed. It draws upon local custom and the constitutions of other countries, including India. Predictably enough, Bhutan's National Assembly has protested that the people of Bhutan would prefer to continue to be ruled by their benevolent, visionary monarch, while external critics have alleged that the 39-person drafting committee is unlikely to take account of minority, particularly Lhotshampa, perspectives.<sup>12</sup> However, it is conceivable that Bhutan's first written constitution will represent an advance for Bhutan's modernisers and a reversal for its traditionalists. Up to now, Bhutan's state nationalism has had, to borrow the words of Clifford Geertz, 'a peculiar air of being at once hell-bent towards modernity...' (English medium universal education, infrastructure development, wider bilateral relations) '...and morally outraged by its manifestations' (democratisation, multiculturalism, globalisation) (Geertz 1973: 244). Until the text of the constitution is made public, of course, the extent of the changes will remain unknown.

## **THE INDIAN PERSPECTIVE**

Commentaries on the major social and political changes that have taken place in both Bhutan and Nepal since the departure of the British from South Asia have generally failed to take sufficient account of the role that India has played at almost every stage. Much Western scholarship appears to have an Orientalist attachment to a conception of these two countries as driven solely by their own destinies, each with its own internal, sealed-off historical dynamic. Meanwhile, Bhutanese and Nepalese scholars instinctively play down the extent to which New Delhi impinges upon their national politics. Saubhagya Shah argues that India's relationship with Nepal contains a strong thread of 'strategic coercion' and that, although this is widely recognised, neither party is anxious to draw attention to it. 'The coercer may not wish to appear a bully while the coerced may wish to dispel any idea that he is a weakling' (Freedman 1998, cited in Shah (forthcoming)).

The issue of Indian involvement in Nepal's domestic politics has come to the fore in recent years because of New Delhi's ambiguous relationship with the leadership of the Communist Party of Nepal (Maoist). The Maoists' early rhetoric identified India as an expansionist regional superpower whose army they would ultimately have to fight during the later stages of their revolution. During 2001,

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<sup>12</sup> See, for instance, Rakesh Chhetri, 'Bhutan's Constitution and Refugees', *The Kathmandu Post*, 26 December 2002.

however, it emerged that the Maoists' senior leadership was actually operating from bases in India, and the anti-India rhetoric had by this time completely disappeared from their pronouncements. Latterly, with the Maoists declared terrorists, arrests have taken place of middle-ranking Maoist activists in India, and there have been several extraditions to Nepal. None the less, King Gyanendra's palace government cannot necessarily depend on unconditional Indian support in its struggle against the Maoists: Indian policy on Nepal's domestic problems has for some years been characterized by a characteristic lack of focus.

This is not true of India's relations with Bhutan. The refugees and their supporters have repeatedly called upon India to intervene in the negotiations on the fate of the Bhutanese refugees, but India has consistently maintained that the refugee problem is a bilateral issue. However, it has been obliged to abandon this neutral stance temporarily on three occasions. First, when refugees arrived in India from Bhutan: instead of either returning them to Bhutan, or allowing them to remain where they were, Indian security forces forced them to move on to Nepal. The second occasion arose in 1996, when activists in the refugee camps launched a 'peace march' from the camps to Bhutan, in order to present an appeal to the king in person. Most of the marchers were arrested by Indian police soon after they crossed the Nepalese border, and eventually pushed back into Nepal. The third occasion arose in 1997 when the Bhutanese authorities asked New Delhi to arrange for the extradition from India of Rongthong Kuenley Dorji, a leader of a Sharchop-led oppositional party, the Druk National Congress (DNC), established in Nepal in 1994. For some years the DNC had made common cause with the Lhotshampa organisations and also engaged in low-key political agitation inside Bhutan (see Amnesty International 1998). The timely intervention of local human rights organisations prevented the extradition. Kuenley's movements are still restricted to New Delhi and he is required to report regularly to the police authorities.<sup>13</sup> Rabindra Mishra (2003) observed that

India's attitude to Bhutan's anti-establishment groups has remained diametrically opposite to its attitude towards Nepal's anti-establishment groups... Nepal's anti-establishment politics has only been able to succeed with the either covert or overt support of India. In contrast, any sign of political activities on Indian soil that might be harmful to Bhutan, whose foreign and defence policies are guided by Delhi under the 1949 Treaty obligations, have been immediately quashed.

Thus, the regional superpower refuses to become involved. The UNHCR, charged with resolving refugee crises worldwide, claims that it can do nothing more than facilitate resettlement in the country of exile or, failing that, in third countries, because the government responsible for the original exodus will not permit it to play a role. Nepal, already wrecked by an increasingly murderous internal conflict, was clearly destined to acquiring many thousands of new citizens.

If the Bhutanese government has to accept back only a small proportion of the population of the refugee camps, an awkward ethno-political problem will have been defused through selective banishment. This is a solution that

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<sup>13</sup> See the Asian Human Rights Commission report on the case of Rongthong Kuenley Dorji at [www.ahrchk.net/ua/mainfile.php/1997/2/](http://www.ahrchk.net/ua/mainfile.php/1997/2/)

would probably be acceptable to the village nationalists who comprise the majority of Bhutan's National Assembly. However, it would sit uneasily alongside Bhutan's avowed intention to move towards a constitutional system in which, presumably, citizens will have enhanced civil rights. It is possible, that the intervention of the United States of America, which sees the conflict between the CPN (Maoist) and the Royal Nepal Army as one of the remoter fronts of its global 'war on terror', will result in an outcome that is more favourable to the refugees. A heightening of international interest in this issue appears to have prompted several important steps that have been taken in the bilateral process. It would be preferable to alight upon a local solution to the problem, one that takes into account the concerns of India, Bhutan and Nepal and respects the rights of the 'people in the camps,' who have now endured over a decade of exile with extraordinary dignity and patience.

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