

# **State, Global Governance and Resettlement: Understanding Bhutanese Refugees Resettlement Process**

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in partial fulfilment of the requirement for award of the degree of**

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Date: 30<sup>th</sup> June 2012

DECLARATION

I declare that the thesis entitled “State, Global Governance and Resettlement: Understanding Bhutanese Refugees Resettlement Process” submitted to Sikkim University for the award of the degree of Master of Philosophy, is my original work. This thesis has not been submitted for any other degree of this University or any other university.



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**CERTIFICATE**

This is to certify that the dissertation entitled “**State, Global Governance and Resettlement: Understanding Bhutanese Refugees Resettlement Process**” submitted to **SIKKIM UNIVERSITY** in partial fulfilment of the requirements for the degree of **Master of Philosophy in International Relations/Politics** embodies the results of *bona fide* research work carried out by **Mr Bijay Thapa** under my guidance and supervision. No part of the dissertation has been submitted for any other degree, diploma, associate-ship, fellowship.

The dissertation has gone through an anti plagiarism test and all assistance and help received during the course of the investigation have been duly acknowledged by him.

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*....For Ama and Baba*

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## Abbreviations

**AANSU - All Assam Nepali Students Union**

**AGS -Assam Gorkha Sammelan**

**ATCR - Annual Tripartite Consultations on Resettlement**

**CBDP – Community Based Development Programme**

**GoB- Government of Bhutan**

**GoI- Government of India**

**GoN- Government of Nepal**

**IGOs- Intergovernmental Organizations**

**IOM- International Organization for Migration**

**LWF- Lutheran World Federation**

**MNC- Multinational Corporation**

**NGOs- Nongovernmental Organization**

**RCU - Refugee Coordination Unit**

**SAARC-South Asian Association for Regional Cooperation**

**SAHRDC- South Asian Human Rights Documentation Center**

**TCR-Third Country Resettlement**

**TNCs- Transnational Companies**

**UNHCR- United Nations High Commission for Refugees**

## Preface

No individual is born a refugee but created. And it is, in almost all cases, the State which creates these refugees. Today, the states in South Asia host the highest number of refugees in the world and it is one of the most prominent non-conventional security threats the region is confronting today. Ironically, none of the states in South Asia is a signatory to either the 1951 Convention Relating to the Status of Refugees or the 1967 Protocol Relating to the Status of Refugees which shows the lackadaisical attitude of these states towards this issue. The problem of refugee has an inter-state dynamic and in many cases, hinders the possibilities of cooperation between states. A casual observation of the refugee problem in the region suggests an alarming proportion of refugees whose cases have not be properly addressed. The problem of Lhotshampa refugees of Bhutan is one of such cases. The trend in which genuine citizens were reduced to refugees through various state policies, the States' response to it, the functioning of actors involved, the process of third county resettlement (in the case of Bhutanese refugees), the indifferent attitude of the regional powers, all become so provocative enough to call for a study on the phenomenon. How refugees are created? What are the policy implications on the part of the state? What if the State remains a silent spectator while at the same time allowing the third countries and other trans-nations actors to involve in this issue? What are the consequences on question of state sovereignty and prospects of regional co-operation? And what role should States play? These are some of the questions the study tries to question and seek answers.



## **CHAPTER I**

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### **Introduction**

# CHAPTER I

## Introduction

Bhutan, a small landlocked kingdom located in the Eastern Himalayas has a distinctive identity, history, tradition and culture. As a political entity Bhutan's existence goes back to 17<sup>th</sup> century when Bhutan was united under the charismatic Nawang Namgyal who took the honorary title of Shabdrung.<sup>1</sup> It was only in 1907 that absolute monarchy was introduced in Bhutan, crowning Bhutan's provincial governor, Sir Ugyen Wangchuk as the Druk Gyalpo, or Dragon King. With the passage of time, by 1999 the King was no longer the Head of the Government, it was headed by the Head of the Cabinet.<sup>2</sup> Finally Bhutan transformed into a democratic state in 2008.

Bhutanese culture is one of the distinctive cultures in the world. As a tiny country with a very small population the need to preserve culture and tradition is emphasized. This unique culture is considered a symbol of sovereignty of the nation.<sup>3</sup> One of the important components of Bhutanese culture is religion i.e. Buddhism. Buddhism has been and is the most significant cultural aspect of Bhutan. It is fundamental to Bhutan's existence as a unique cultural state.

Therefore in order to safeguard its sovereignty, Bhutan had neglected modernization and political development when the neighboring states like India gained independence and took up modernization process. However modernization process started in Bhutan in the last few decades.

Ethnically, Bhutan has three majority groups—Ngalong in the west and central Bhutan, Sharchopa in the east and the Lhotshampa or Nepali Bhutanese in the southern Bhutan. The term “Lhotshampas” means Bhutanese Nepalese, located in the southern regions. Basically the Bhutanese Nepalese had migrated to Bhutan from

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<sup>1</sup> (History of Bhutan, [www.bhutantourism.bt/index.php?option=com\\_content..](http://www.bhutantourism.bt/index.php?option=com_content..))

<sup>2</sup> (Bhutan:History Infoplease.com, [www.infoplease.com/ce6/world/A0856915.html](http://www.infoplease.com/ce6/world/A0856915.html))

<sup>3</sup> (Culture and Tradition | Bhutan 2008 [www.bhutan2008.bt](http://www.bhutan2008.bt) › About Bhutan)

Nepal from the early days. However there are no exact dates as to when the Bhutanese Nepalese had migrated to Bhutan. There are lots of debates among the scholars on the issue of Nepalese migration. This will be further dealt with in detail in the subsequent chapter.

With the massive growing Nepalese population in Southern Bhutan and socio-political development in the neighboring states, the merger of Sikkim with the Union of India in 1975, the success of the democratic movement in Nepal in 1980s, the demand for a separate state of Gorkhaland in Darjeeling region which had turned violent in 1986, Bhutan began to sense immense threat to their internal security and sovereignty. The other significant factor is, in all these movements, the Nepalese were playing a pivotal role and with the growing Lhotshampas population, the Ngalongs saw the Lhotshampas as a threat to the internal security of their Kingdom.

With this critical notion the Government of Bhutan (henceforth GoB) became conscious and apprehensive of the presence of majority Lhotshampas in the southern part. Repressive measures in the form of laws were introduced particularly aiming at the southern region in order to throw the Lhotshampas out of their homeland. The government introduced several acts such as Bhutanese Citizenship Act of 1977, Marriage Act of 1980, Bhutanese Citizenship Act of 1985, National Census of 1988, and *Driglam Namzha* in order to drive out the Lhotshampas from Bhutan.

Accordingly, immense pressures were exerted by the Government on the Lhotshampas and they were asked to leave Bhutan as soon as possible. Harassments in all forms were imposed to the Lhotshampas who tried to hold back in their native place by disobeying the new laws. However by early 1990's large number of Lhotshampas fled from Bhutan and took refuge in Nepal. Following years, the number increased to more than one lakh who took shelter in Nepal. India which acts as a bridge between these two small states merely took the refugees and dropped them on the Nepal border. The United Nations High Commission for Refugee (UNHCR) and several NGO's soon became operational with seven camps in the districts of Jhapa and Morang in Nepal.

Several rounds of unsuccessful bilateral talks between Nepal and Bhutan and negative stand of GoB on the question of repatriation led to suffering for the refugees for decades. However it was only in 2007 with the United States' proposal to resettle a minimum of 60,000 Lhotshampas in states like US, UK, etc that a new hope arose in the deserted camps of Nepal for the Lhotshampas who had already spent decades in their huts.

The process of resettlement started at the end of 2007 and early 2008 with total eight states coming forward to help the Bhutanese refugees who chose to opt for third country resettlement. The process has indeed been the last viable option for the helpless refugees in spite of large contradictions and conflicts within the camps.

### **Literature Review**

There is an extensive available literature on the Bhutanese refugee which discuss about the genesis of the problem, problems of the refugees—psychological, health, educational, food etc, women and children, human rights, crime and so on. The study also focused on the resettlement process with special reference to states involved. Some of the literature which helped me formulate the study are outlined below.

On the Lhotshampa refugees, their origin and historical background etc., the basic books are *Unbecoming Citizens* by Michael Hutt (2003) and *Bhutan A movement in Exile* by D.N.S. Dhakal and Christopher Strawn (1994) which give a detailed and in-depth account of the Lhotshampas, Nepalese migration to Bhutan, their culture, their history and finally their flee to Nepal and India (Adjoining states of West Bengal and Assam). They have introduced several prominent and non-prominent figures, their history and their struggles for justice and rights. They have discussed mainly on how the Lhotshampas had been wrongfully evacuated from their native homelands by various policies (Acts/Laws) created by the Bhutanese Government for the purpose of ethnic cleansing. Michael Hutt beautifully gives a micro detail analysis of the Lhotshampas until the mass evacuation on the other hand Dhakal and Strawn explore the issues beyond the evacuation and highlights some of the core issues related with the refugee crisis.

Broadly, the problems of refugees in South Asia are highlighted by Myron Weiner and Partha Ghosh. Myron Weiner in his article 'Rejected Peoples and Unwanted Migrants in South Asia' (Aug. 21, 1993), discusses a wide range of refugee problems in South Asia. Particularly on the Bhutanese refugees, Weiner argues that the external socio-political developments like the annexation of Sikkim and agitation in Darjeeling and the growing and largest ethnic Nepalese in Southern Bhutan proved a threat to the internal security of Bhutan. He also explains, apart from India's legal commitment of non-interference in the 1949 Friendship Treaty, one reason for India's non-involvement is the concern in New Delhi over a 'Greater Nepal' movement which might attract support from the substantial Nepali population in the adjoining states of Bhutan. Partha S. Ghosh (2001) in *Migrants and Refugees in South Asia* discusses the migration of people in South Asia since the partition of Indian subcontinent in 1947. The book discusses the subject with special reference to politics and security of the region. The author highlights on how the movements in South Asia have caused complications for internal as well as inter-state security and thwarted regional cooperation.

A comprehensive analysis inclusive of every aspects from the genesis of the problem to the search for a durable solution, Mahendra P. Lama's, (2008) 'Bhutanese Refugees in Nepal' in Milner et al, (eds.) *Protracted Refugees: Refugee Situation*, gives a different account of the refugee problem with a new dimension. The chapter discusses the question of nationality, state behavior, open border, economy and democracy in explaining the exodus of the Lhotshampas from 'southern Bhutan. The chapter highlights the issues of camp situations, repatriation negotiations, UNHCR and India's role in the refugee crisis. The chapter also explores the security dimensions and the issue of Third Country Resettlement. Michael Hutt's (2005) article 'The Bhutanese Refugees: Between Verification, Repatriation and Royal Realpolitik', examines how Bhutanese refugees have been deprived of all directions starting with the origin country of flight. The refugees, otherwise supportive of democratic movements, had been ignored by the world at large. Similarly the author also explores on how Bhutan's

firm stand on the question of repatriation had remained unchallenged by the Third Party. Also the article 'Human Rights and Refugee Problem in South Asia: The Case of Bhutanese Refugees' by Krishna P. Khanal (1998) discusses the refugee crisis with a larger background and focuses mainly on the Bhutanese refugees. The author primarily highlights how human rights violation and refugee crisis are intertwined. This nexus is visible in the case of Bhutanese refugees where the state was directly and indirectly involved in such violations. In all these above articles, authors have focused primarily on the issue of democracy and human rights violation in Bhutan.

Similarly, Manfred Ringhofer (2002-03) in the article 'Bhutanese Refugees History and Present Situation with Emphasis on Education' explains how it is an issue of democracy and human rights and not purely an ethnic conflict. He discusses in detail the educational system in the camps, search for a political solution and repatriation movements. He has also dealt with the obstacle proved by the militant groups' presence in Bhutan. Dhurba Rizal (2004) in his article 'The Unknown Refugee Crisis: Expulsion of the Ethnic Lhotshampas from Bhutan' argues how it is purely an ethnic drive, clothed in the slogan of '*One Nation, One People*'. The author discusses the problem of Lhotshampa refugees as characteristics of human rights violations in situations of ethnic strife. Similarly, B.R. Giri in the article 'Bhutan: Ethnic Policies in the Dragon Kingdom' (2004) discusses the domination of Ngalong ethnic group against the Lhotshampas. The author discusses the methods implemented to repress the cultural and political identity of the Lhotshampa people. The author also highlights cultural, linguistic and religious differences asserted between the Ngalongs and other groups as a means of political-economic domination.

Lok Raj Baral, (1998) in his article 'Nepal and the Problem of Refugees' discusses on how Nepal became an asylum state for both the Tibetan and Bhutanese refugees, with special focus on the genesis of Bhutanese refugee problem. Several interesting facts such as major considerations for Bhutanese coercive measures against Lhotshampas are also drawn. The author highlights the identity crisis with special

reference to national strategy. The author also discusses on similar lines on how Nepalese living in India is also haunted by expulsion.

A report by Human Rights Watch titled *Last Hope: The Need for Durable Solutions for Bhutanese Refugees in Nepal and India (2007)*, discusses the wide possible solutions for the refugees who are residing in the refugee camps. The Report discusses solutions like resettlement, local integration and repatriations. With special focus on each of these solutions, the Report also looks at the merits and demerits of such solutions. The Report discusses on the rights and responsibilities of the countries involved and finally finding a durable and lasting solution which entitles citizenship and rights to the Bhutanese refugees. A Report by South Asian Human Rights Documentation Center titled *The Bhutanese Political Crisis and Refugee Problem (1998)*, discusses the Bhutanese refugee crisis in south eastern Nepal. The Report discusses a wide range of issues in the camps—their conditions, various services and assistance provided, bilateral negotiations, geo-political implications and so on. The Report presents a wide range of problems among the refugees in Nepal.

Smruti Pattanaik in her article, 'Nepal-Bhutan Bilateral Talks and Repatriation of Bhutanese Refugees' (1999), discusses the major obstacles in the bilateral talks on the issue of Bhutanese refugees. The author highlights lack of political commitments on the part of both Nepal and Bhutan which has kept the issue alive even after seven bilateral talks. The author also highlights the refugee problem as associated with the state building process in Bhutan. A.C. Sinha "Dialogue between Deaf and Dumb: The Lhotshampa Refugees and Predicament" in Thomas C. Joshua, *Dimensions of Displaced People in North-East India (2002)*, discusses about the refugees problem, stimuli of the ethnic conflict and efforts for resolving the conflict. The author highlights the need for the SAARC countries to develop a consensus on regional ethnic policy and the legal rights and status of the refugees.

Many books on resettlement were also reviewed in the course of writing the dissertation. The *UNHCR Resettlement Handbook (revised edition July 2011)* is a

handbook which guides the resettlement process, provides resettlement management, policy guidance and reference to actors involved. It deals with the contemporary issues and needs and reflects on the changing nature of displacement. The Handbook sets out standardized methodologies for identifying resettlement needs and expediting resettlement process, provides a wide sample of relevant soft law, sets specific needs for vulnerable people and preserves resettlement processes. In a nutshell, it is a guiding tool for UNHCR, countries involved, NGO's, INGO's etc. Troeller Gary in the article 'UNHCR Resettlement: Evolution and Future Direction', (2002) discusses resettlement and its growing significance in the post cold war era. The author highlights the renewed interest in resettlement which has been evident in UNHCR with further development of UNHCR Resettlement Guidelines, expanded partnership member states and a willingness to look at a more concrete use of this durable solution to address refugee situations. The author also highlights the merits and challenges to the expansion of resettlement. Troeller Gary in the article 'UNHCR Resettlement as an Instrument of International protection: Constrains and Obstacles in the Arena of Competition for Scarce Humanitarian Resource, (1991) discusses on resettlement underlining its relationship with international protection. The author highlights on the UNHCR's difficulties in obtaining resettlement places in 1990 as illustrative of the problems which beset the Office in this regard and examines several interdependent factors which pose obstacles in achieving this durable solution.

*In Power and Politics in Resettlement: A Case Study of Bhutanese Refugees in the USA*, Christie Shrestha (May 2011) explores the complexities in the resettlement of Bhutanese refugee. The author explores the power dynamics between the employee of the refugee resettlement organization and the refugees and analyses the intricate webs of power within different institutions, such as local NGOs and healthcare institutions. The author also explores the structural discontinuities (gaps) and the differences in expectations between the refugees and the employees of resettlement organization.

The study also reviewed some of the prominent literature on globalization, global governance and state sovereignty. Antony Giddens in his book *The Third Way*



*and Its Critics* (2000) argues that with the advance of globalization, the state has an important role to play in the establishment and preservation of “even playing field” and an enabling environment for private enterprise, individual creativity and social actions. States can contribute to the establishment and maintenance of social safety nets; promote as well as facilitate social dialogue at the sub-national, national and international levels; establish and maintain mechanisms for mediation for disputes, mitigation of conflicts and reconciliation of rival cultures or interests in the increasingly diversified contemporary societies. Jürgen Habermas, in his work *Between Naturalism and Religion*, (2008) sees the cosmopolitan development on the regional level as positively steering peoples toward a “constitutionalized world society,” though he rightly cautions that nation-states will still have an important role to play in the globalizing world. Paul Q. Hirst and Grahame Thompson, in their book *Globalisation in Question the International Economy and the Possibilities of Governance* (1996) do not accept the process of globalization as containing anything essentially new. They argue that “there is no strong tendency towards a globalized economy and the major advanced nations continue to be dominant”. They argue that globalization will not replace internationalization of the world economy rather the process of internationalization will strengthen the importance of the nation state.

Similarly, Nilufer Karacasuler Goksel in her work ‘Globalization and the State’, also argues that developments in the twentieth century has not reduced the significance of sovereign statehood. The author states that the world is still made up of independent states that are concerned about their territorial and economic integrity and political independence. The author argues that the most significant changes in financial globalization are heavily dependent on state supports. States are the main supporters and beneficiaries of financial globalization who encourage governments for technological innovations. Thus it can be argued that the role of the nation state is increasing rather than diminishing in order to promote national competitiveness. Ian Clark (1998) in his article ‘Beyond the Great Divide: Globalization and the Theory of International Relations’ argues that globalization is more significant for its erosion of the internal/external divide than for its erosion of state capacity. He further discusses

that states are not only the vehicles of globalization but are also themselves reconstituted by it. State is the key element within the processes of globalization rather than something opposed to them. Hence in the globalized era, sovereignty represents the principles of both domestic and international order which are mutually reinforcing and mutually redefining.

Many scholars (Jerrard Ruggie 1993, Cable 1995, Strange 1995, Ansell and Weber, 1999 and others) agree and opine that sovereignty of the state has been undermined in the globalized era and with the emergence of multiple issues, global concerns, multi dimensional governance, power sharing, etc state is seen as incapable and withdrawing from its traditional form of authority and control. These transformations have vehemently reformed and redefined the sovereignty of the state, at the same time many argue that the sovereignty of the state has been eroded in the era of globalization. Theoretically, the classical understanding on sovereignty has been challenged by the post-positivist theories in the study of international politics. Post Modernist thinkers such as Foucault, Jacques Derrida, Richard Ashley, R.B.J. Walker and Cynthia Weber have questioned the traditional understanding of sovereignty and problematized it, giving it a new outlook in the present context. Unlike the traditional understanding of sovereignty as something given and fixed, post modernist understanding of sovereignty according to Weber, is not fixed and like any other political institutions, its functions, competencies and legitimate privileges change over time. Similarly, R.B.J. Walker and Richard Ashley, in their article, 'Reading dissidence/Writing the Discipline: Crisis and the Question of Sovereignty in International Studies' also challenge the status-quo nature of sovereignty. R.B.J. Walker, in his famous book *Inside/Outside: International Relations as Political Theory* (1993), argues 'Sovereignty is not a permanent principle, the appearance of permanence is simply an effect of complex practices wording to affirm continuities and to shift disruptions and dangers to the margin'. Nor can it be said that sovereignty is simply passé as it were here today and gone tomorrow.

Michael Mann in his article 'Has globalization ended the rise and rise of the nation state?', (1997) discusses about the four supposed threats to nation-state, which are global capitalism, environmental danger, identity politics and post-nuclear geopolitics. All four actually impact differently on nation states in different regions, contains both state-weakening and strengthening tendencies as well as transnational networks. According to Ofran Badakhshami, in his article 'Globalization: The End of State Sovereignty?' globalization has undermined one of the three-fold capacities of a sovereign state—(i) the absolute freedom from any external force, which shapes the conduct of the nation states; (ii) the absolute supremacy over internal affairs within its territory; and (iii) Sovereign state is incapable of providing security, law and order, crime control within its territorial boundaries.

Susan Strange (1996) in her article 'The Declining Authority of States' tries to highlight on three core statements about the modern state in the global arena which has undermined the sovereignty of the states: (i) Politics- [The exercise of power] is not confined to politicians or the officials of the state, (ii) Power- is exercised impersonally by market and those who deal in market, and (iii) Authority- in society and over economic transaction is legitimately exercised by agents or institutions other than states. Shirin Rai, 'Globalization, Development and Global Governance' in Rai, (2008) *The Gender Politics of Development: Essays in Hope and Despair*, argues that state is no longer capable of addressing the issue arising from the global reach of capitalism, whether these relate to competition in and regulation of the market, or to maintaining rules within its borders in order to resolve the collective problems of its citizens. Simultaneously the diffusion of trade and finance is also diminishing the erstwhile centralized authority of the state. The inefficiencies and in-capabilities of the states to deal solely with these global problems have enhanced the prominence of global governance and promoted its necessity.

Griffin Keith in 'Globalization and Global Governance: A Reply to the Debate', (2004) argues globalization has indeed eroded the sovereignty and autonomy of territorial states, particularly of small states with low average incomes. US enjoys

more national policy autonomy than most developing countries can ever hope to possess. The way forward is not for small, poor countries to seek an elusive 'national autonomy' but to struggle for global institutions that are democratic and effective in regulating the global economy for the benefit of the majority of humankind. The appeal of these small countries has further strengthened the promotion of global governance rather than the promotion of national interest. Jan Art Scholte in his article 'Global Capitalism and the State', (1997) describes the characteristics of globalization, in which the emerging priority is no longer the nation state but is the realization of a global-space. He describes globalization as supra-territoriality, which means state authority over national economy is limited influenced by global market, production, commodities, business organization etc. Similarly, Kenichi Ohmae in *The End of the Nation State*, (1996) has argued that economic globalization signals supremacy or triumph of the market over the nation state and of economics over politics.

David Held and Anthony G. McGrew in the article 'The End of the Old Order? Globalization and the Prospects of world Order', (1998) are of the view that the process of globalization has not withdrawn the state but it is in fact redefining the role of the state. Firstly, economic globalization does not necessarily mean diminishing the state power. It is transforming the conditions under which state power is exercised. Secondly, examining political globalization, states have a central role in the growth and institutionalization of regional and global governance. Thirdly, considering military globalization, states have a more active role today. Such cases were evident in Bosnia and Kosovo in which the main guarantor of peace and stability in Europe remains the US through NATO.

Similarly, Eric C. Ip in the article 'Globalization and the Future of the Law of the Sovereign State', (2010) argues that globalization is transforming the contemporary international system. The author highlights two major developments which have arisen at the expense of the law of the sovereign state. First, specialized regimes of public international law have proliferated into areas previously monopolized by the state, such as human rights, environmental law, and trade law.

Second, rules enacted by intergovernmental organizations and transnational corporations have become increasingly prominent.

On Nepal, the book *New Nepal The Fault Lines*, by Nishchal Nath Pandey (2010) studies Nepal after the Post-Jan Andolann II stage (after 2006) and highlights major fault lines which need to be urgently addressed in order to achieve peace. The book highlights all the aspects and points out the gaps and faults which are acting as obstacles in achieving peace and democracy in New Nepal. Similarly, on Bhutan, mark Turner *et al.* in the article 'Democratization by Decree: The Case of Bhutan', (2011) discusses the recent transformation in Bhutan. The authors argue that most conventional explanations of democratic transition are unconvincing when applied to the Bhutanese experience. The authors highlight two causal factors which do seem to explain the democratic transition—the strong state and transformational leadership. This is an unusual combination which not only challenges orthodoxy but also extends our understanding of the ways in which democratization can occur.

### **Statement of the Problem**

Resettlement has always been the least used option among the three categories—repatriation, integration within the country of first asylum, and resettlement in a third country (Stein 1986). However Bhutanese refugees had always dreamt of returning to their native place but it became impossible. They were also not allowed to integrate with the locales of Nepal as Nepal was not willing to grant citizenship to these refugees. Thus with the passage of time and after waiting for decades in the camps Third Country Resettlement (TCR) was indeed the only option for these refugees.

The US proposal in 2007 was in fact a fortunate thing for these refugees and soon TCR began to take place with lots of dilemma and conflicts in the beginning. However with the passage of time, more and more refugees have come forward to opt for TCR.

Firstly, TCR is wholly undertaken by the United Nations High Commission for Refugees (UNHCR), International Organization for Migration (IOM) and the

resettling states. They exercise a relatively high degree of autonomy in deciding the prospects of refugees. The autonomous functioning of such institutions and states involved has put a question mark on Nepal's sovereignty as a mere spectator in the resettlement process and a stooge in the hands of the international actors.

Secondly, resettlement conducted by the international actors has many gaps. States do prefer young refugees and if it's so the resettling states will obviously prefer them to be resettled and thereby to grant citizenship. In this context, some major questions arise like what are the criteria for refugees to be resettled, who are resettled by the international actors? Since it is the international actor who is acting independently, there is no check on their approach of working which certainly makes them powerful, hegemonic and non-transparent.

Thirdly, the role of asylum state (Nepal) is indeed very crucial which is apparently missing in the resettlement process. Nepal, in this process has just been a facilitator without intervention. Nepal, hosting the refugees for several decades, can be pro-active and can play a vital role in ensuring the rights of the refugees.

Fourthly, growing dilemma and insecurity among the refugees created by resettlement has certainly added confusion and chaos in the camps thereby making life more miserable. Absence of skilled refugees has also added trouble for the smooth functioning of the UNHCR in the camps.

#### **The Study: Scope and Deliberations**

Since resettlement is complex in itself, confusions among the camp dwellers on several issues especially on the question of resettlement has added difficulties to the refugees and the international actors. The study will focus on the making of the Lhotshampas refugees, Bhutan's state policies and the problems the refugees face in the camps. With the continuing process of resettlement, the level of complexities has been increasing within the camps and also with the functioning of the international actors.

In this light, the study will strive towards understanding the nature of resettlement process undertaken by the UNHCR, IOM, resettling and asylum states. Also, it will study the role of states involved (Nepal, Bhutan, India and Resettling States), and the changing idea of the state vis-à-vis the global governance.

### **Research Questions**

The proposed study will be guided by three major research questions which are as follows:

- What is the nature of resettlement process undertaken by the transnational actors?
- Has the sovereignty of Nepal been challenged or undermined by the autonomous functioning of the international actors in the resettlement process?
- What role can state play in the resettlement process?

### **Methodology of the Study**

The study adopted both qualitative and quantitative methods for the proposed research. Field study was conducted in the camps where data were collected using research tools like non-participant observation and in-depth interviews with the refugees. Similarly qualitative and quantitative data were collected through interviews with authorities of the international organizations, NGO's, INGO's, authorities of states involved—Bhutan, Nepal, India and resettling states. The sample was selected using purposive sampling technique. An effort was made to include different important variables like age, sex, educational background in the selected sample.

The study used both primary and secondary sources. Primary sources include Government documents, press release from Institutions and Organizations, reports of UNHCR, IOM and other agencies, Joint statements and Reports of the Ministry of External Affairs. Secondary sources include books, original articles, journals, research papers, academic papers, online sources, newspaper clippings and news reports.

### **Structure of the Study**

The first chapter provides a general introduction and outline of the structure of the Dissertation. Chapter two titled 'State, Global Governance and Resettlement: A Theoretical Understanding' discusses the theoretical context in which the research is to be situated. This chapter analyses the question of sovereignty of the state vis-à-vis global governance. The changing role of state in the era of globalization will also be reflected with special reference to resettlement process and policy. The third chapter 'Lhotshampas: The Making of Refugees' introduces Bhutan in a holistic manner and the genesis of the refugee problem in particular. The study will figure out the causes, problems and consequences of the refugee problem wherein a general introduction will be given about the resettlement process. The fourth chapter 'The Process of Lhotshampa Resettlement: Reflections from the Field' critically studies the Bhutanese refugee with reference to ongoing Third Country Resettlement. The chapter tries to understand the nature of the resettlement, difficulties faced by the refugees who are trying to opt for resettlement and the problems in the camps. The fifth chapter, 'Resettlement Process: Role of Bhutan, Nepal, India and Resettling States' analyzes the role and responsibilities of the states involved, problems and drawbacks in dealing with the refugee problems. The chapter also analyzes the working of the states involved in the resettlement process with reference to Bhutanese refugees. The study concludes with its major findings and analysis.



## **CHAPTER II**

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### **State, Global Governance and Resettlement: A Theoretical Understanding**

## CHAPTER II

### State, Global Governance and Resettlement: A Theoretical Understanding

The normative aspects in international relations and politics regained prominence in consonance with globalization and global governance. Human security a fundamental concern is inevitably the nucleus amongst all normative principles, promoted by international organizations and institutions, states, INGOs, NGOs and others. Within this larger backdrop refugee resettlement stands at the center of the normative concern as a humanitarian protection.

The principle of Third Country Resettlement (TCR) implies a movement from first-asylum status to that of a secure, welcome immigrant. It formally implies abandoning any real hope of returning to the land of origin. Resettlement in a third country almost always comprehends a commitment on the part of the refugees to seek distant new society, where the government guarantees the immigrant a firm legal status and sometimes more. Therefore TCR converts a refugee into an immigrant with legal rights (Gordenker 1987: 138).

Unlike 1980s<sup>1</sup>, in 1990s United Nations High Commission for Refugees (UNHCR) refocused on resettlement as a durable solution. UNHCR focused on the challenges of mass influx and humanitarian evacuation as well as solutions for protracted refugee situations (Troeller 2002:85-86). The revisit on humanitarianism was promoted by the end of cold war, emergence of global governance and prominence of globalization. Prominence of globalization marked the end of balance of power which enhanced global governance in a new world order. The new world order inclusive of humanitarianism was promoted by the global governance in a globalized era. Such move promoted resettlement which is ingrained within humanitarianism or human emancipation.

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<sup>1</sup> In 1980s resettlement came to be viewed as a less preferred durable solution within UNHCR.

## Understanding Global Governance: Continuity and Change

The end of Cold War in 1991 marked by the fall of USSR<sup>2</sup> historically signified the manifestation of prominently two major developments-globalization and global governance. The end of the bipolar world order meant the demise of 'Balance of Power', which simultaneously symbolized the inauguration of Polycentrism<sup>3</sup>. Global governance, which denotes collective conscience in contrast to the existing national interests, was practiced in 1919 and 1945 with the formation of international organizations i.e. League of nation and United Nations. Unambiguous existence of global governance became visible with the end of Cold War and primarily with the advent of globalization.

Global governance in simple words is complex governance involving both formal and informal arrangements at multiple levels linking multiple actors and institutions. The Commission on Global Governance, 1995 defined governance as

*"The sum of the many ways individuals and institutions, public and private, manage their common affairs. It is a continuing process through which conflicting or diverse interests may be accommodated and cooperative action may be taken. It includes formal... as well as informal arrangements that people and institutions have agreed to or perceived to be in their interest".*

'Governance' in its simplest sense refers to the art of governing, to ensuring that it is morally defensible and efficient (Halliday 2000: 19). In particular, global governance is about managing power in the global context. It is akin to a state, which manages power within its jurisdiction but unlike the state which has a legitimate government, global governance lacks government and institutions. Not like the state which exercises sovereignty, global governance prevails ubiquitously and supervises between international anarchy and independent state. Therefore, global governance is not global government rather it is a combination of both formal and informal governance which in cooperates diverse new concerns present globally.<sup>4</sup>

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<sup>2</sup> United Soviet Socialist Republic also known as United States of Soviet Russia.

<sup>3</sup> The situation of multi-scalar and diffuse governance might be called 'polycentrism' to denote its distinctive feature of emanating from multiple interconnected sites (Scholte 2005: 186-87)

<sup>4</sup> James Rosenau (1992: 4) puts it, Both refers to purposive behavior, to a goal-oriented activities, to systems of rule; but government suggests activities that are backed by formal authority, by police power to insure the implementation of duly constituted policies, whereas governance refers to activities backed by shared goals that may or may not derive from legal and formally prescribed responsibilities and that do not necessarily rely on police power to overcome defiance and attain compliance. Governance in other words is a more encompassing phenomenon than government. It embraces governmental institutions but it also

With the advent of globalization and at the heart of the concept of global governance there is an assumption of a shift in the source or 'spheres of authority' from the state to multiple actors and sites (Rosenau and Czempiel 1992 cited in Rai 2008). The multiple complex issues and problems made the state incapable as the issues were beyond the control of their territorial jurisdiction, which further promoted the development of supra state, transnational organization, regional organizations, sub-states etc. At the same time, global issues and problems became equally important with that of a national interest and security, which marked a fundamental shift from the national security to collective security.

Global governance is diffuse governance consisting numerous actors such as States, IGOs, NGOs, MNCs, TNCs, Global Policy Networks and Experts etc. It is a problem solving arrangements which incorporates decision making processes, dispute settlement mechanisms, development, relief, aid and assistance programmes, peace building and force deployment etc. It formally and informally binds the individual and the states with numerous laws and regulations, also through international regimes and laws such as trade and commerce, weapon proliferations, non-traditional security, netocracy<sup>5</sup>, environment, global warming, terrorism, diseases (e.g. HIV/AIDS), human rights, migration, narcotics, crime etc.

Subsequently with the rise of global governance, global economic regulations and political homogenization were promoted by liberalism and democracy. Global economic regulations primarily extended by the liberal market to every nook and cranny of the world created multiple sites for both production and exchange, which perforce mean that the state is unable to exercise its authority over market processes. Similarly political homogenization promoted by capitalist democracy in the international scenario both within the state and at the global organizations has legitimized the prominence of democratic form of ruling which has further approved the legality of global democratic governance.

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subsumes informal, nongovernmental mechanisms whereby those persons and organizations within its purview move ahead, satisfy their needs, and fulfill their wants. (Rosenau 1993, as cited in Karns and Mingst 2005:4)

<sup>5</sup> Netocracy also known as networked governance, is a governance where regulation occurs through webs of interconnected agencies (cf. Rhodes, 1997; Reinicke, 1999-2000; Stone, 2004, as cited in Scholte 2005: 187)

Fundamental reformation which embraces a gradual shift and adaptation in the system of institutional operation is evident in the present world order. Multiple institutions at various levels-local, national, regional and international, have emerged or developed to face the existing complexities, as the states were unable to cope with the rapid changes brought by the forces of globalization. At the same time the state also acts as a mediator between the institutions and other agencies (political, economical, social, cultural etc) in order to meet the new challenges globally.

Lastly, with the prominence of global governance there is epistemological legality acceleration by hegemonic ideology. Hegemonic ideas are legitimized and given the status of commonsense by epistemic communities, policy makers, experts and analysts and intellectuals established through international policies, conventions, treaties, laws etc. Simultaneously, the epistemological shift also brings transformation ontologically at the global level. The above issues are fundamental to global governance which has promoted and legitimized the prominence of the same globally. Global governance is questioned for its continuity and change in the present decade and the prominence of global governance has been debated in the world politics among the intellectuals.

Polycentrism is a major question at the international politics. Many argue in favor of global governance whose interests are endogenous within its collective conscience. Similarly, small and less powerful states have preferably favored the collectiveness rather than their national sovereignty as they witness their end picture withering with the rapid challenges posed by globalization and global problems. Growing multiple organizations (political, social and economical) at all levels (local, regional and international) have similarly contributed in strengthening global governance. Capitalist democracy<sup>6</sup> and liberal markets have penetrated in most countries in the world which gradually has encouraged global governance. Rising multiple global issues and problems have also proved the incapability and inefficiency of the state which furthered the intensification of global governance. However the continuity has been

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<sup>6</sup> Democracy is at the heart of global governance, to use the terminology of Rousseau, Kant and Woodrow Wilson, among others (Marin 2007: 13)

questioned on its legality of its existence as holding a sovereign global power or on its very necessity of its existence.

Scholars argue for continuity of global governance but the existing rigidity of national interest and security, hegemonic visible negligence and the deadlock in the reforms of the supra state (UN) has proved amply a deescalating flow. With these existing features, formally global governance as a sovereign global power is impractical. On the other hand, informally as evidently clear global governance manifests its efficiency and accountability thereby justifying its very existence.

Marin argues the absence of “geopolitical contract” (in other words, international treaties) between constituent states in the post cold war has posed a problem today, as it means that a crisis, from out of nowhere, could possibly set the world as a whole on fire—a world that everyone agrees is increasingly interdependent and decreasingly organized (Marin 2007: 08). Polycentric continuity is indeed a necessity which has organized the unorganized. However its existence cannot be omnipotent as states cannot be a state without sovereignty. Thus the continuity of global governance is a must which needs utmost care in reshaping its functioning and operation globally.

### **Globalization and Global Governance**

*“Globally, and with well-known exceptions, the State has become a tool at the service of the people and not a tool at the service of the nation – a historical distinction whose consequences are fundamental.”*

-Marin 2007: 12

Globalization without global governance would be anarchic and chaotic, whereas global governance without globalization would be (impossible) systematically difficult and operationally deliberate. Thus it is the mutual coexistence of both the phenomena in the present world politics. Relatively, both these terms have been used, overused and abused in the present era although it is fundamentally not a new concept.

Smith and Naim argue, some see globalization as the mask of Americanization whereas others argue that it describes nothing new: after all countries and cultures have always affected one another, not least by trade and invasion (Smith and Naim 2000: xiii). The present literature (mostly) on globalization have predominantly focused on one

aspect of globalization, i.e. economic globalization, which leaves other fundamental aspects of globalization aside and unanswered (which has a major effect on the present international politics). Robbie Robertson (2004) distinguishes among three waves of globalization, the first associated with the expansion of Europe into Asia and the Atlantic, the second associated with industrialization and rapid technical change, and the third associated with the establishment of a global world order under American hegemony. He argues: (i) that the waves of globalization have been politically highly destabilizing, (ii) that they have ultimately led to a wider sharing of power, and (iii) that the logic of globalization implies an extension of global democracy. (Griffin 2004: 1081)

On the other hand, global governance<sup>7</sup> accelerated to organize the unorganized power disbursed by the forces of globalization in the present world order. With multi faceted complexities and transcendence power of new issues developed with the dominance of globalization which filled the power vacuum created by the demise of bipolar world order, global governance ascended to systematize the chaotic order globally. In the absence of international peace and stability, the anarchic world desperately needed a more transparent and more accountable system, thus paving the way and providing the platform for global governance.

Theoretically, global governance can be traced to a growing dissatisfaction among students of international relations with the realist and liberal-institutionalist theories that dominated the study of international organization in the 1970s and 1980s (Weiss 2000: 796). Similarly, the traditional theories were unable to cope and answer the multi dimensional queries brought by the wave of globalization. The discussion on globalization and global governance would be incomplete without states.<sup>8</sup> States are the major actors in the international politics- they constitute global governance and they are the major actors of globalization. In a globalized world, states are reformed from both ends- they are withdrawn as well as empowered of their traditional supremacy.<sup>9</sup> Smith

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<sup>7</sup> Global governance is the offshoot of Globalization.

<sup>8</sup> The debate particularly on state sovereignty will be dealt subsequent in the next section of this same chapter.

<sup>9</sup> A defining characteristic of the present globalization is that it defeats the attempts of states to manage on their own. No state can deal with multiple complexities alone in the Globalized world (Smith and Naim 2000: xiv). Scholte argues, States under the influence of contemporary globalization have become less consistent in holding a territorial line of defense of their 'inside' against 'outside'. States no longer always clearly promote 'domestic' interests against those of 'foreigners'. Instead, states in a more global world

and Naim argue that the dynamics of this globalization are multifaceted and seemingly contradictory. In some respects they undermine the power of the states,<sup>10</sup> while in other respect, globalization strengthens the state and extends its influence (Smith and Naim 2000: xiii).<sup>11</sup>

Scholte argue, contemporary large scale and accelerated globalization has rendered the statist mode of governance non-viable and encouraged the emergence of polycentric (multi-sited and networked) regulation (Scholte 2005: 185).<sup>12</sup> Emergence of a new state space with decreasing state sovereignty, authority and functions has defined a '*Shift in territoriality*' (Arts *et al.* 2009: 5).<sup>13</sup> Change and failure in the state's political processes has further defined a '*Shift in Governance*' (Pierre 2000; Kersbergen and Waarden 2001).<sup>14</sup>

Global governance of the twenty first century has become polycentric which now involves supra state<sup>15</sup> (regional and transworld) regimes that operate with some autonomy from the state and many sub-state (municipal and provincial) governments who engage directly with spheres beyond their country (Scholte 2005: 186).

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have tended to become arenas of collaboration and competition between a complex array of national and transnational players (Scholte 2005: 193). On the other hand, with the emergence multiple issues and power sharing/distributions states have been empowered to deal with many new issues which were traditionally absent. These provisions of additional authority vested upon the state have boosted the morale of the state.

<sup>10</sup> The power of transnational corporations, the limits imposed on government policies by current markets, the trans-border politics of NGOs, the transfiguring power of global media- all reduced the autonomy of the national governments.

<sup>11</sup> Moreover, governments can shape the effects of globalization on their territories and population: with fiscal policies, labor policies, environment protection etc. (Scholte 2005: 191). Primarily in the international protection of human rights or in the cooperation that states undertake to preserve the oceans, eradicate diseases, subdue the contagion of financial shocks, or stabilize global warming.

<sup>12</sup> Similarly Cerny also argue that the dominant actors of the realist anarchic system, the governments of nation state, are not as dominant as they once were and that the system is evolving in the direction of greater complexity (Hart and Prakash 1999: 310).

<sup>13</sup> Besides the shifts in territoriality, process of economic globalization, political integration and sub-national regionalism have a decentering impact on the state pushing it into 'glocal' form of governance (Brenner 2004; Swyngedouw 2003).

<sup>14</sup> The rise of new forms of coordination and participation, induced by societal pressures for strong public engagement, accountability and performance, has changed the status and role of the state in political and policy processes. Further states failure mainly failure of state induced planning and development programme (Hay *et al.* 2005; Pierre 2000; Scott 1998), has made the state evolved towards a more entrepreneurial, interactive, catalyzing and mobilizing agent, which is also reaching out to other spatial levels through novel forms of global governance (Held 1995; Held and McGrew 1999; Nye and Donahue 2000; Rosenau 2000).

<sup>15</sup> Held analyses during the 1950 and the mid- 1990s, many international organizations became of increasing importance for the member states (Held *et al.* 1999: 54, as cited in Hay 2006: 194). For example, the number of INGOs increased from 832 in 1951 to 5,472 by the mid-1990s (Held *et al.* 1999; Zacher 1992, as cited in Hay 2006: 194).



Deterritorialization has created newer spaces of interaction and exchange-ideological and materialistic, which has exceeded the traditional authority of the state.

On the other hand, globalization strengthens and influences the state to a large extent. With decentralization of power, states have been empowered beyond the traditional domain. Emergence of multiple institutions (both local and global), international laws and international regimes has simultaneously blessed the state with various roles, authority and legitimacy. Globalization and global governance have transformed the present world order into polycentrism, void of anarchic destruction. Cerny argues globalization impacts upon governance by altering the deeper structures which underlies governance processes and mechanisms, altering various conditions or parameters which affect the likely mix of hierarchy, market and network- whether in terms of socio-cultural structures, economic production and consumption, or political processes and institutions (Cerny as cited in Prakash and Hart, 1999: 188).

The changes manifested by these forces and arrangements have subsequently questioned the legality of its own existence. Halliday argues the spread of diseases previously eliminated or contained, the horrendous rise in the number of political refugees (from around two million in the early 1980s to over 20 million in the late 1990s)—the world is going backwards, away from adequate governance, rather than forwards (Halliday 2000: 21). Scholte points the hierarchy of countries, class inequalities, cultural hierarchies, racial discrimination and gender subordination also contribute to the democratic deficit in the global economy (Scholte cited in Griffin 2004: 1082-83).

However, Joseph Nye argues that the democratic legitimacy of multi-level governance can be safeguarded if international institutions are designed in such a way as they 'preserve as much space as possible for domestic political process to operate' (Nye 2001: 3, Cited in Hay 2006: 196). Thus it is the mutual coexistence of both global and domestic governance in the globalized world. Further Smith and Naim (2000), has identified three key issues of the present globalization required for good governance and

they are interest<sup>16</sup>, equity<sup>17</sup> and governance itself<sup>18</sup>. Marin states the primary characteristic of the concept of global governance is to go beyond the idea of power management and grand returning of ethics in political choice, which would ultimately unite humanity globally. (Marin 2007: 12-13)

### Sovereignty and Global Governance

*The first thing to be said about the modern State is that it does not exist and never has existed. What has existed historically is a great number of modern states, with very varied constitutions.*

*Lubasz, 196, Cited in Vincent 1987.*

Sovereignty<sup>19</sup>, the nucleus of the state, in simple term means supreme or highest authority within its territorial jurisdiction. In the study of International Politics, the birth of the modern state [after the end of Thirty Years War compromised by the Treaty of Westphalia (1648)] was legitimized by the fundamental element of sovereignty. Traditionally, sovereignty conferred on the state a monopoly of violence and legitimate domestic authority over a bounded territory (Vayrynen 2001: 228). The state was all in all powerful in every respect.<sup>20</sup> Classical realist asserts that sovereignty either exists or do not exist, it is an absolute condition not a relative quality. Thus it is evidently clear that sovereignty<sup>21</sup> was indeed at the heart of the Westphalian<sup>22</sup> state.

The end of ideological [cold] war and the prominence of globalization and global governance led to the epistemological questioning of the historical supremacy of Westphalian state sovereignty. The instability created by the wave of globalization,

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<sup>16</sup> *Interest* – Globalization does not operate primarily as inevitability, either of nature or of history. Many of the forces of globalization are driven by powerfully motivated interests, both private and public, which any practical attempts at better governance must acknowledge.

<sup>17</sup> *Equity* – For all the opportunities it creates, globalization has also deepened pre-existing inequalities. The interdependence of globalization is dramatically asymmetric: while some prosper by it, others suffer. Better governance means a better distribution of globalization's costs and benefits.

<sup>18</sup> *Governance itself* – Globalization breaks down states, but it can also build them up. It confines autonomy. But for the great purposes of governance – securing the peace, alleviating poverty, creating an equitable social harmony, and protecting the environment – globalization endows states with new capacities and a new legitimacy for action far beyond national borders.

<sup>19</sup> The term sovereignty was first used in Jean Bodin's *Six livres de la republique* of 1576 (DeRose 1996: 33-34).

<sup>20</sup> Forsythe argues before the end of the Second World War, legally speaking, states were "sovereign in an almost absolute sense, exercising supreme authority" (Forsythe, 2006 as cited in Eric 2010:641).

<sup>21</sup> There are two types of sovereignty to exercise power; *De jure* sovereignty means the legal right to exercise power and *De facto* sovereignty deals with how sovereignty works in practice.

<sup>22</sup> According to Falk, Westphalia as an idea, refers to the state centric character of world order premised on full participatory membership being accorded exclusively to territorially based sovereign states (Falk 2002: 312).

concurrently with the end of ideological war generated anomalies, which gained significance and marked a paradigm shift in the power domain. Multiple issues of global concern which threatened the individuals and the nation states by penetrating beyond the existing hard borders, made the nation states handicapped and incapable which lead to the questioning of the states sovereignty.

In the study of International Politics, the debate on the decline of the state and the demise of sovereignty among the scholars is in motion in the contemporary period. Many scholars around the world aligned on the judgment that sovereignty of the state has been fundamentally challenged and weakened in the globalized world, whereas others disagree. Lake states that the academic study of sovereignty is undergoing a mini-renaissance (Lake 2003: 305). However, in principle the end of Westphalian state sovereignty did not mark the end of state power.

The question of sovereignty is at the heart of the study of world politics, thus it is necessary to discuss the same in a brief manner. Alexander Wendt explains sovereignty is not only “a property of individual states” but also “an institution shared by many states” and characterized by a common expectation that “states will not try to take away each other’s life and liberty” (Wendt 1999: 648). Andrew Hurrell points out, “sovereignty can only be meaningful if it is recognized by others.”( Hurrell, *supra* note 48, at 49 as cited in Eric 2010: 648). He emphasized on the importance of binary opposite which is fundamental to post positivists and post structuralism.

The wide spread transformation carried by the wave of globalization, accompanied by global issues and concerns, the call for collective concerns beyond the territorial jurisdiction, existence of polycentrism etc in the post Westphalian era have challenged the existence of sovereign[ty] state.<sup>23</sup> Some scholars argue that even with rapid transformation and power sharing states still stands as an independent actor and as a sovereign entity within its territorial jurisdiction and at the same time the prominence of globalization has strengthened and entitled additional power to the nation states, thereby making the states more powerful in the international spheres.

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<sup>23</sup> The sovereign state has been an ontological starting point for the study of world politics in every respect.

The realists emphasize the continued centrality of the state by asserting 'the absence of a legitimate authority to which states are subordinate and give allegiance' (Gilpin 2002: 237 cited in Rai 2008: 122). Hirst (2000) argue, state is still the main political power container ever, irrespective of globalization, decentralization, privatization processes, and the like. Similarly, Robert Cox argues, what we are witnessing is not the demise of the nation-state but its 'internationalization'; not its destruction but its transformation (Cox with Timothy 1996 cited in Rai 2008: 123).<sup>24</sup> Held and McGrew (1998), Antony Giddens (2000), Jurgen Habermas (2008) recognizes the significances of states which has been redefined and reshaped in the era of globalization. Hobson (1998) and Hirst and Thompson (1996) states that globalization will not replace internationalization of the world economy rather the process of internationalization will strengthen the importance of the nation state. Similarly, Goksel and Clark (1998) recognize state as the key element within the process of globalization. Hugo Grotius, considered to be the father of modern concept of sovereignty wrote, "Sovereignty is a unity, in itself indivisible" (Grotius cited in Lake 2003: 305).

On the other hand, many scholars agree and opine that sovereignty of the state has been undermined in the globalized era and with the emergence of multiple issues, global concerns, multi dimensional governance, power sharing, etc state is seen as incapable and withdrawing from its traditional form of authority and control. Theoretically, the classical understanding on sovereignty has been challenged by the post-positivist theories in the study of international politics. Post Modernist thinkers such as Foucault, Jacques Derrida, Richard Ashley, R.B.J. Walker and Cynthia Weber has questioned the traditional understanding of sovereignty and problematized it, giving a new outlook in the present context. Unlike the traditional understanding of sovereignty as something given and fixed, post modernist understanding of sovereignty according to Weber, is not fixed and like any other political institutions its functions, competencies and legitimate privileges change over time (Devetak 2001: 183). John Jerrard Ruggie (1993) argues that sovereignty is no longer a necessary prerogative of the state.

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<sup>24</sup> Further Cox argues that from being bulwark against the global intrusions into national economies, today's states are becoming mediators, adapters and negotiators with the global political economy. The state's role, therefore, becomes one of helping to adjust the domestic economy to the requirements of the world economy (Cox with Timothy 1996).

Writers such as Alain Minc, Kenichi Ohmae, Susan Strange, Michael Mann (1997), Ofran Badakhshami, Jan Art Scholte (1997), Shirin M Rai (2008), Griffin (2004) have discussed on numerous factors which have undermined the sovereignty of the state in the globalized era. They opine the triumph of globalization over the state and highlight the significance of interconnected global order.<sup>25</sup> The alignment on the debate has been apparent although it has not been a closed chapter with conducive outcome.

Scholte argues that 'global governance need not be in competition with the state' (Scholte 2004: 1049) and advocates what he calls a 'multi-scalar' system of governance (ibid. 1051-2). While the continuation of the territorial state is not in doubt, and the existence of a strong state is desirable, he believes that globalization has weakened the territorial state and that this has increased the need for democratic institutions of global governance. (Griffin 2004: 1082) John Galtung (2004) also agrees with Scholte and supports the need for democratic global governance.

Stephen Krasner and John Agnew have turned attention to a condition in which states are increasingly willing to share authority (Agnew, 2005: 441). Krasner, for instance, argues that the definition of sovereignty implies not only the right to self-control but also the right to enter into international agreements with other governments and international actors (Krasner, 1995-6: 119 as cited in Shadian 2010: 491).

Global governance is indeed a necessity of the hour, which is supported by the states and other local, national, regional, transnational and international organizations and institutions to deal with global problems. Global governance is not a force which acts against the nation state but it is the mutual existence of both the state and global governance in the era of globalization. Global governance does not promote the end of national governance rather the national government or states are the facilitator of global governance.

Therefore, the state has *not* retreated but *adapted* its coordination, steering and power strategies and techniques in the globalized network society, which is termed as

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<sup>25</sup> David Held pointed out that "Virtually all nation-states became part of the larger pattern of global transformation and global flow. Goods, people, capital, knowledge, communications and weapons, as well as crime, pollutants, fashion and beliefs, rapidly move across territorial boundaries. It has become fully interconnected global order" (Held 1998: 221).

'Shifts in Governmentality' (Arts *et al.* 2009: 6). The ability of state bureaucracies to exercise substantial control over their citizens through the practices of policing, judging and administering remains largely intact, even in the era of "global governance". Hence it is not the demise or retreat of the state (Albrow 1996; Ohmae 1996; Strange 1996) sovereignty with the prominence of global governance, rather it is mutual coexistence of both the phenomena in the globalized world exercising its authority within its defined spheres.

### **Humanitarianism and Global Governance: New Trends and Actors in Humanitarianism**

*I'm not interested in the bloody system! Why has he no food? Why is he starving to death?*<sup>26</sup> (Geldof 1985).

Humanitarianism, although not a new concept, has gained renewed international consideration with the rise of multiple global concerns and problems, engendered by the wave of globalization. Genesis of new complexities in nontraditional [human] security revived the local and global concerns which promoted healthier consideration on individual [s rights and freedom] along with the state. The penetrating character of globalization and the rise of global governance empowered and discriminated the individual in a new fashion which signified its importance at the global scenario.

Humanitarianism has acquired different meanings in different incidents and situations, prescribed by various states, global organizations and institutions, local governing bodies etc. It is described by the actors as per their interest and security, in order to justify and legitimize their actions in the international politics. However the definition of humanitarianism has not been defined in international law,<sup>27</sup> that is to say, 'delineated with the precision accorded such concepts as "human rights" or "refugee"' (Minear and Weiss 1993: 7). Minear and Weiss argue that the word 'humanitarian' is omnifarious and lacks rigid conceptual boundaries.

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<sup>26</sup> Media celebrity Bob Geldof raised public awareness for the humanitarian concern – Ethiopia famine of 1984, through popular songs and international music events, the Band Aid Trust raised euro 174 million for famine relief in Africa before its closure in 1987.

<sup>27</sup> However important elements being part of humanitarian assistance are contained in the four Geneva Conventions of 12 August, 1949 on international humanitarian law and its two Additional Protocols of 12 December, 1977; and in the Convention on the Statute of Refugees of 28 July, 1951 and in the Protocol on the Statute of Refugees of 16 December, 1966.

Chimni argues humanitarianism is the ideology of hegemonic states in the era of globalization marked by the end of the Cold War and a growing North-South divide (Chimni 2000: 243). He argues:

*'The ideology of humanitarianism mobilizes a range of meanings and practices to establish and sustain global relations of domination. In particular, it manipulates the language of human rights to legitimize a range of dubious practices, including its selective defence. It has a dual essence: the justification of the use of force, in particular interventions and wars, and the amelioration of painful local conditions engendered by globalization through a neo-liberal political and economic package whose objective is to restore and extend the reign of transnational capital'* (Chimni 2000: 244).

The unity the ideology of humanitarianism constructs, in particular through the modern language of rights, is the most global and incontrovertible unity: the unity of humankind. This unity is today lent credence by the material reality of intensified interactions between peoples and states at the economic, political and cultural levels. Thus, it is no longer abstract thought but manifest reality which draws the world together as never before (*Human Development Report 1999*, Cited in Chimni 2000: 245). Antonio Gramsci (1891-1937) states the ruling class maintains itself in power, or secures and sustains its hegemony, not simply through a direct expression of its economic authority but by actively exercising its intellectual, moral and ideological influences in the realm of civil society and therefore seeks to articulate and renew the prevailing 'Common Sense' mentally in society as a whole (Gramsci cited in Brooker 2003: 119-120). Therefore humanitarianism is a construct of the hegemon who invented uncontroversial unity in the name of humanity, a platform for justifying its intervention in order to fulfill its interests.

Further, Jovan Patnogić states,

*"The term humanitarian assistance is used very broadly and there is no generally acceptable definition. It certainly includes the provision of goods essential for the preservation of life and the health of those persons who would become victims if they did not receive timely and adequate humanitarian assistance. The term covers essential foodstuffs, water, clothing and minimum shelter, including heating in cold weather. It also covers certain basic medical supplies and medical equipment. In addition, the preservation of the lives of the victims necessarily includes certain basic services such as medical and social services, civil defence, tracing of close relatives and the provision of spiritual comfort, among possibly other services"*<sup>28</sup>.

In a holistic manner, humanitarian action involves humanitarian intervention and humanitarian assistance. Humanitarian intervention is a course of action undertaken by

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<sup>28</sup> J. Patnogić, *New Issues for International Humanitarian Law regarding Humanitarian Assistance*, International Institute of Humanitarian Law, Milan, 2000.

a state or a group of states which fundamentally includes coercion [rather than consent], who enter the physical territory of another state with the objective of aiding that State's inhabitants when their fundamental human rights have been affected by an internal conflict or by the actions of their government. Humanitarian assistance in turn, is relatively a new concept in international law whose objective is to help all the victims, without distinction or discrimination and without resorting to the use of armed force against any section of the population, although there is a possibility of employing military elements in order to provide logistic support (Carreño as cited in Baldini and Ravasi 2001: 25-26).

The post-Cold War era marked by the prominence of globalization engendered new issues and added complexities to the existing humanitarianism. Thus to encompass all the complexities towards the end of the 1990's, a new or political humanitarianism emerged. Unlike the traditional humanitarian assistance<sup>29</sup> as a universal right and a good thing in itself, the new humanitarianism is based on a consequentialist ethical framework. The new humanitarianism reinforces earlier policy commitments to linking relief and development, conflict resolution and societal reconstruction. The new humanitarianism reflects a willingness to include the actions and presence of aid agencies within the analytical framework of causal and consequential relations. Further, the new humanitarianism, politics is confined to the policy choice of aid agencies. In other words, politics is conflated with policy (Duffield 2001: 75).

In spite of all odds, the discourse on humanitarianism is incomplete without the contemporary debate on sovereignty. Any humanitarian action although unilaterally or collectively has to transgress the territorial boundaries of another state, thereby making the debate consistent in the era of globalization. Different scholars have opined on this issue opposingly from both sides of the fence. However the issue of humanitarianism can be tackled by following a mid path, which means humanitarian action which can be taken up with the consent of the affected state there by respecting its territorial

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<sup>29</sup> Humanitarian assistance has always been a highly political activity. It has always influenced the political economy of recipient countries, and has always been influenced by the political considerations of donor governments (Devon 2001: 03). Assistance is conditional on assumptions regarding future outcomes: especially, it should do no harm, nor should it entrench violence while attempting to ameliorate its effects (Duffield 2001: 75).



jurisdiction and sovereignty at large.<sup>30</sup> Carreño opine's state, by refusing to receive humanitarian aid, is violating an international obligation of respect for the fundamental rights of its inhabitants, both during an armed conflict and during an emergency. (Carreño as cited in Baldini and Ravasi 2001: 28). The former Secretary-General of the United Nations, Javier Pérez de Cuéllar, indicated in his 1991 Annual Report to the General Assembly that the principle of non-intervention could not be used as a protective barrier which would allow massive or systematic violations of human rights to be perpetrated with impunity. He stated, on that occasion:

*"It is now increasingly felt that the principles of non-interference with the essential domestic jurisdiction of States cannot be regarded as a prospective barrier behind which human rights could be massively or systematically violated with impunity. The fact that, in diverse situations, the United Nations has not been able to prevent atrocities cannot be cited as an argument, legal or moral, against the necessary corrective action, especially where peace is also threatened... We need not impale ourselves on the horns of a dilemma between respect for sovereignty and the protection of human rights... What is involved is not the right of intervention but the collective obligation of States to bring relief and redress in human rights emergencies"*

(Carreño as cited in Baldini and Ravasi 2001: 25).

However in praxis, things are unambiguously different and visibly understandable in dusty deserted path. Humanitarian operations in Iraq and Somalia have signified the failure of an ideal middle path in reality, by violating the international norm of non-intervention and consent before action. DeRose argues humanitarian operations since the end of the Cold War have been collective, not unilateral and post-Cold War operations have consisted of military personnel contributed by more than one country and have tended to be justified under the auspices of the UN (DeRose 1996: 24-30). Further, the justification under the auspices of UN, international community's legitimacy over the collective intervention and the perceive threat of intra-state conflicts to the international community's common security have boosted the morale and increased interventionism of the UN since 1990 (ibid).

The real politics lies here at the heart of the hegemony that manipulates and generalizes its interests of securing dominance through ideas and institutions which is manifested as real and generalizing it as a commonsense. Therefore humanitarianism in a purest form is a hegemonic ideology in the era of globalization, which legitimizes its

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<sup>30</sup> Akehurst argues "Any humanitarian intervention, however limited, constitutes a temporary violation of the target state's political independence and territorial integrity if it is carried out against that state's wishes (Akehurst, "Humanitarian Intervention," 105 as cited in DeRose 1996: 21).

ideology through the international organizations and institutions, maintained by global governance. Therefore global governance prominently manifests the hegemonic ideas vis-a-vis humanitarianism, rather than the ideas of the system of states.

The idea of humanitarianism is supported by the 'polycentrism' [as defined by Scholte], which has empowered both the state and non-state actors in a new fashion by transgressing the traditional domain or jurisdiction. The wave of globalization, prominence of global governance, genesis of global problems and issues where the traditional sovereign state is seen as incapable in managing these issues have subsequently led to redefining of sovereignty in the twenty first century. Thus global governance is not global government rather global governance means governance at all levels which has introduced many non-state actors and empowered them although they do not hold sovereignty like the state. However the non-state actors possess authority and freedom to exercise its mandates within its jurisdiction.

In the domain of humanitarianism, states are indeed inevitable actors, whose authority has been redefined and shaped with the rise of non-state actors. New actors have emerged to meet the growing demands and to manage power generated by the evolution of multi dimensional problems and concerns. In the field of humanitarianism, actors such as United Nations, INGOs, NGOs, international agencies, donor governments, civil societies, local bodies, voluntary and activists, etc. have come to play a pivotal role. These actors exercise authority within its mandates and jurisdiction thereby entitling themselves as autonomous. However in real politics they manifest the hegemonic ideology concealed in the sleeves of humanity.

As such the new trends evident in humanitarianism and the explosive growth of non-state actors with autonomy have subsequently favored global governance in the era of globalization. Therefore humanitarianism is an aspect of the change which helps to build global governance and its efficiencies, to safeguard the individual and his/her rights and freedom which further manifests the ideology of the hegemony and secures its domination.

## **Humanitarianism, State and the Case of Bhutanese Refugees**

As briefly discussed in chapter one, the case of Bhutanese refugees, the recent developments in the camps accentuated by the process of TCR accompanied by plethora of problems and puzzles among the refugees, the autonomous functioning of the transnational actors, the continuous political deadlock and instability in Nepal, neglecting attitude of Bhutan and the silence of neighboring India have led to questioning of wide range of issues. Bhutanese TCR portrayed as completely humanitarian action needs a revisiting of the process.

Primarily, the TCR is itself questionable. Is it really a humanitarian issue when majority of the people are opting out of compulsion and frustration? Why were the international actors, regional organization, neighboring states, and other great powers turning a deaf ear to the cry of Lhotshampas when they were forcefully evacuated from their native lands? Why did the US propose TCR for a hand full of refugees when their issues could have been resolved if it did act as a mediator? What is the concealed reason behind the US motive for Bhutanese TCR-Is it humanitarian or political?

Consequently, as discussed above the sovereignty of states has been redefined and reformed in the era of globalization, however is it applicable in a state which has been facing a political turmoil (*Jan Andolaan*<sup>31</sup> I and II), beginning the rise of globalization until now. On the other hand the autonomous functioning of the transnational actors within the territory of Nepal, where the government is visibly seen as a mere spectator with no political interference and authority have led to the revisiting of question of sovereignty. Thus in the case of Nepal the question of sovereignty needs a rethinking on whether sovereignty is eroded or redefined. The case of Bhutanese refugees TCR is problematic and questionable in every realm. Further the case of Bhutanese TCR will be dealt largely in the fourth chapter.

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<sup>31</sup> *Jan Andolaan* is a term used by Nishchal Nath Pandey in his book 'New Nepal The Fault Line's which means Peoples movement. The 1990 Jan Andolaan -I was the first of the successful movements in Nepal that brought an end to absolute monarchy and the beginning of constitutional democracy. The 2006 Jan Andolan II was yet another multi-party movement aimed at overthrowing the Monarchy and establishing democracy.

## **CHAPTER III**

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### **The Lhotshampas: The Making of Refugees**

## Chapter III

### The Lhotshampas: The Making of Refugees

Bhutan, a beautiful eastern Himalayan kingdom is known for its rich and unique tradition, and cultural heritage. Bhutan is fascinating, as it followed the policy of isolationism until the early 1960s. Little was known about the Kingdom by the world as it remained closed.

The Kingdom of Bhutan is the creation of Tibetan immigration. Shabdrung Ngawang Namgyal (1594-1651), laid the foundation of the unique polity in the first half of 17th century<sup>1</sup> (Thomas 2002: 116). With the help of British and with the consensus of the Southern Nepali feudal chiefs Bhutan became a monarchy with Ugyen Wangchuk as the first Wangchuk hereditary ruler of Bhutan at Punakha on 17<sup>th</sup> December 1907 (Collister, P. 1987: 137-135; Hutt 2003:20).

After decades of monarchical rule, Bhutan in 2008 transformed from absolute monarchy to multi-party democracy.<sup>2</sup> However, the history of modern Bhutan can be traced to the 1700 AD when its first contact with the British was established.<sup>3</sup>

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<sup>1</sup> Some of the significant aspects of this polity may be identified with theocratic legitimacy based on incarnation, ubiquitous oligarchic conflict, duality of authority, and an extremely fragile and limited economic base (Sinha, A.C.: 1998).

<sup>2</sup> The Kingdom of Bhutan's first democratic elections were held on 31 December 2007 for the National Council, Bhutan's upper house. This was followed by elections for the National Assembly, Bhutan's lower house, on 24 March 2008, to determine the nation's government (*Bhutan country brief* [www.dfat.gov.au/geo/bhutan/bhutan\\_country\\_brief.html](http://www.dfat.gov.au/geo/bhutan/bhutan_country_brief.html), accessed on 31/3/2012).

<sup>3</sup> British policy towards Bhutan was shaped by its desire to consolidate a trade route to Tibet and China. By the Treaty of Suaguli of 1815, British presence in the Himalayan kingdom of Nepal were recognized and concession to British trade and access towards Tibet was established. With the Treaty of Titalia of 1817, Himalayan kingdom of Sikkim and surrounding areas of Darjeeling directly came under the British influence. In 1865 by the Treaty of Sinchula, the British not only annexed its territory but also controlled Bhutan's foreign policy. The advent of British in the Himalayas from 1815 onwards not only consolidated its presence but also changed the political economic landscape of the region. The development of tea industry, recruitment of armies and soldiers brought about a shift in population and migration of Nepalese towards the Darjeeling area, Sikkim and Southern Bhutan. In Southern Bhutan, this new wave of migrants from across the border further added to the already existing Nepalese communities who had migrated to this area in search of farmland much before the coming of the British.

The Kingdom of Bhutan is home to more than 14 different ethnic groups, and approximately one-third of the populations of 600,000 are of ethnic Nepali origin.<sup>4</sup> The three major ethnic groups are: Ngalong (West and Central Bhutanese), Sharchopa (East), and the Lhotshampa (South). It is believed that the first group who settled in Bhutan is the Sharchopa.<sup>5</sup> Following them are the Ngalongs, who at present form the royal clan of Bhutan.<sup>6</sup> (Ringhofer 2002: 43-72). Nepalese are the last sect among the three migrant groups who have migrated during the course of history.

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>7</sup>

#### **Nepalese Migration to Bhutan: An Overview**

Migration as a phenomenon is a natural and a historical course. The Westphalian (Treaty of Westphalia 1648) concept of a nation state turned the natural course into a political legality which in turn gave birth to a new identity, recognition and security. As a consequence of this treaty migration as a natural practice got captivated within its territories. With the development of state, migration as a natural practice was discouraged which turned the natural course into an artificial bonding.

Migration is a continuous process and with the paradigm shift in the process it has never the less continued both within and outside the boundaries of state. Migration is a natural and global phenomenon which has been exercised by all. Migration in the Himalayan region was not an exception and among many groups, the Nepalese migration

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<sup>4</sup> US Department of State, Country Reports on Human Rights Practices for 1996 p.1429, Cited in SAHRDC Report 1998.

<sup>5</sup> Sharchopas are a Mongoloid Tibet-Burmese ethnic group who speaks Sharchopa language and follow Tibetan Buddhism, mainly of the Nyingma-pa-sect.

<sup>6</sup> Ngalongs were driven out of Tibet in the 8th century, who came down to Bhutan and settled. The Ngalong speak Dzongkha, a Tibetan dialect and follow the Drukpa Kagyupa-sect of Tibetan Buddhism.

<sup>7</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 1994: 14, Cited in Hutt 2005: 44-45).

to different parts of Eastern Himalaya has been a known practice. The migration of Nepalese to Sikkim and Darjeeling Hills,<sup>8</sup> North East India (Assam,<sup>9</sup> Meghalaya, Manipur, Mizoram,<sup>10</sup> Nagaland, Arunachal Pradesh and Tripura), Himachal Pradesh, Bhutan and other parts of India was encouraged by many factors: such as problems in Nepal (Poverty, caste system, epidemics famine etc), to meet the labor demands encouraged by the British (as tenants to till the barren lands, labor for tea plantation and road constructions etc), better employment opportunities (outside Nepal) as soldiers etc.

The Nepalese migration to Bhutan is indisputable however, what is disputable is the exact period as to when this migration occurred. British reports<sup>11</sup> indicate the prevalence of Nepalese in until the Duar War in 1864<sup>12</sup> but facts have proved the existence of Nepalese settlement even before the Duar War. The state archives West Bengal Calcutta has some information to prove an existence of Nepalese settlement in South-West Bhutan even before the Duar Wars<sup>13</sup> (Dhakal and Strawn 1994: 113-115).

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<sup>8</sup> Sikkim and Darjeeling Hills had Nepalese ethnic groups for centuries. Dhakal and Strawn writes 'In the seventeenth century Limbus were considered an "indigenous" group of Sikkim and were "one family" with the Lepchas and Bhutias, the other inhabitants of the country (Nembang 1992: 33)'. Later the Nepalese migration to Sikkim and the Darjeeling Hills were encouraged by the British's especially to meet the labor demands mainly for tea plantation and road constructions.

<sup>9</sup> Dakal and Strawn writes 'The Nepalese settlement in Assam started in the 1820s as a combination of people leaving Nepal for greater pastures and British pull'.

<sup>10</sup> Timsina points to the Gorkha regiments, all dating back to the middle of late 1800's as the main factor in establishing Nepali communities in areas such as Meghalaya, Manipur and Mizoram.

<sup>11</sup> British reports are the key informants in this region in general. The region lacked documentations because of local's lack of knowledge and primitiveness.

<sup>12</sup> The Duars War (Portion of North Bengal territory) was a war fought between British India and Bhutan in 1864 –1865. A confrontation over who would control the Duars. After Bhutan lost the war, the Treaty of Sinchula was signed between British India and Bhutan. The Duars War (1864 – 1865) lasted only five months and, despite some convincing victories by Bhutanese forces, resulted in Bhutan's defeat, loss of part of its sovereign territory and forced cession of formerly occupied territories. Under the terms of the Treaty of Sinchula, signed on November 11, 1865, Bhutan ceded territories in the Assam Dooars and Bengal Dooars, as well as the eighty – three –square – kilometer territory of Dewangiri in southeastern Bhutan, in return for an annual subsidy of 50,000 rupees. (Heat Flexi Holidays>Dooars - HEAT Travels & Tours (INDIA) [www.httpl.com/www/heat-flexi-holidays/.../dooars/dooars2.html](http://www.heat-flexi-holidays.com/dooars/dooars2.html), accessed on 31/3/2012).

<sup>13</sup> This information is not recorded in the published reports of the four major political missions undertaken by the British officials into Bhutan between the period of 1770s and 1860s. The official who made two journeys via Buxa Duar, one via Dewangiri and one slightly touching the Sibsoo area could have failed to observe any Nepalese settlements in the South because that time the Bhutanese authorities did not trust the British, hence forcing the expedition team to follow the pre-set paths. Besides the archives report talks about the Nepalese settlement in South-West Bhutan, for which Sibsoo located at the Western most point cannot be a representative area to draw any conclusion on the earlier Nepali immigration in Bhutan (Dhakal and Strawn 1994: 115).

There are debates among the scholars on the issue of Nepalese migration. “Some scholars opine that ethnic Nepali immigration to Bhutan dates back to the seventh century AD when the 33rd king of Tibet, Tshongtshen Gampo brought a team of Nepali/Newari artisans from the Kathmandu valley for the construction of 108 monasteries in the Himalayan region including the Paro Kichu and Bumthang Jamphel Lhakhang of Bhutan. Others argue that Nepali settlement in Bhutan started in the ninth century at the earliest, when Padmasambhava came to Bhutan with an entourage of Nepalese from Nepal. However, historical records suggests 1624 AD, as the beginning era of Nepali migration to Bhutan when the spiritual ruler, Shabdrung Nawang Namgyel of Bhutan signed a formal document with king Ram Shah of Nepal to recruit 50 families of skilled Nepalese artisans to construct ‘Dzongs’<sup>14</sup> and monasteries in Bhutan. British records trace the presence of Nepali people in Ha district back to before 1890. According to British records, by 1930 much of the south was under cultivation by a population of Nepali origin that amounted to some 60,000 people.”<sup>15</sup>

Simultaneously, many have authenticated the existence of Nepalese settlement against their counter claims. Bhutanese Foreign Minister Dawa Tshering states: “The Nepalese have been settling down in our Southern plains from the seventh century. We welcomed them because they were hard working people. But they cannot be permitted to swamp us” (*The Statesman*, 12 February 1991). J. C. White notes that the Nepali population was by 1905 substantial and well distributed.<sup>16</sup> In a report earlier in 1904 Charles Bell quantifies the Nepalese population<sup>17</sup> but his estimate reports only two districts i.e. Samchi and Chirang. Therefore, Bell’s estimate is considered to be lesser than the actual population (Dhakal and Strawn 1994: 117). South Asian Human Rights Documentation Center (SAHRDC) Report 1998 writes: “The immigration of ethnic

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<sup>14</sup> Dzongs are distinctive type of fortress architecture found in the former and present Buddhist kingdoms of the Himalayas, most notably Bhutan ([www.websters-online-dictionary.org/definitions/Dzong](http://www.websters-online-dictionary.org/definitions/Dzong)).

<sup>15</sup> (Settlement of Southern Bhutanese (Lhotshampas), [http://ahurabht.tripod.com/draft2\\_2.html](http://ahurabht.tripod.com/draft2_2.html)).

<sup>16</sup> J. C. White writes “The Remaining inhabitants [of Bhutan] are Paharias [Nepalese], the same as those in Sikkim, who are creeping along the foothills and now form a considerable community extending the whole length of Bhutan where the outer hills join the plains of India” (White J C 1909: 13-4).

<sup>17</sup> “He found Sipchu and Tsang-be Kazis Nandlal Chhetri, Garjaman Gurung and Lalsingh Gurung as *thickadars* (contractual landlords) controlling 2,730 houses and about 15,000 people. Out of the above figure 14,000 were reported to be Nepalese” (Sinha 1991:37-8).



Nepalese to Bhutan has taken place since the 17<sup>th</sup> century and ethnic Nepalese and ruling Drukpas have shared cordial relations.”(SAHRDC1998: 14). Sinha, gives an overall analysis of how Nepalese were brought into Bhutan according to the British sources:

*[The signing of the Sinchula Treaty in 1865] led to the establishment of peace on the Indo-Bhutanese frontiers. A side effect of this development was the large scale immigration of the Nepalese, first to Darjeeling, than to Sikkim and Duars. The Nepalese expansion to Bhutanese southern foot hills could not wait long since these were the regions inhabited by a few Mech tribesmen with a distant Bhutanese control. This was the time, when Ugyen Kazi emerged as a significant person in the Bhutanese power structure, Indo-Bhutanese relationship and in the authority system of Western and southern-western Bhutan. Ugyen's father, the Kazi of Jungtse, was an influential figure in the western Bhutan and the Bhutanese court in the 1860s. It appears that his services were frequently commissioned by the Bhutanese Durbar to settle matters of importance relating to the south-western borders... ..In 1898, He [Ugyen Kazi] was appointed Ha Thrunpka, chief of Ha, with rights over the whole of southern Bhutan and rights vested in him to settle immigrants Nepalese in his territories. He was also made Bhutanese Agent in Kalimpong besides being the official interpreter of the Deputy Commissioner of Darjeeling. Sir Charles A. Bell had cultivated the Agent of the Bhutanese Government and used him to carry the Viceroy's letter to the Dalai Lama in 1903. Kazi Ugyen Dorji provided valuable services to the British during the Young Husband Expedition to Lhasa 1903-4. As a recognition to his services rendered to the British, the title of Raja was conferred upon Him (1991: 36-7 cited in Dhakal and Strawn 1994: 119-20).*

Besides, refugees in the camps possess documents (dated 1887) such as a *Kasho* (Royal Decree) which originally granted them the right to settle in Bhutan (Dhakal and Strawn 1994: 121). Thus with the above facts, it can be concluded that the Nepalese migration to Bhutan is indeed not a recent phenomenon. As discussed above, historically people's migration to Bhutan has remained undocumented,<sup>18</sup> which in a way has questioned and transformed the genuine citizens into refugees.

### **Genesis of Lhotshampas Problems**

State policies are shaped by both internal and external factors i.e. change at the domestic, regional and global level. A state frames/determines its policies as per these changes at all levels. Bhutan as a sovereign state (officially) exercised its internal policy though its external policies have been guided by its neighboring country India.<sup>19</sup> Since 1970's, with the changes and disturbances in the external domain and the internal increasing role of

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<sup>18</sup> British are the key informants who actually documented Bhutan. However larger part remained [and remains] undocumented even today this is partially because Bhutan had remained closed for a very long time and research in the region has been scarce.

<sup>19</sup> Article 2 of the Indo-Bhutan Treaty 1949 states: "The Government of India undertakes to exercise no interference in the internal administration of Bhutan. On its part the Government of Bhutan agrees to guide by the advice of the Government of India in regard to its external relations."

Bhutanese of Nepalese origin both in supporting the economy and in playing a pivotal role in the national arena, the ruling ethnic Ngalong started to perceive a threat from its own citizens based in southern part of Bhutan (Lhotshampas). The perceived threat was based on the relationship of similarities between Nepali speaking people both within and outside the state.

Bhutan had large number of Bhutanese of Nepalese origin, who initially migrated to Bhutan and settled mostly in southern Bhutan. With the modern concept of citizenship, these Nepalese were officially recognized as genuine Bhutanese citizens<sup>20</sup> through the establishment of Bhutanese Nationality Law of 1958.<sup>21</sup> As these ethnic groups were economically, socially, culturally and politically conscious, they began to dominate over the ruling groups i.e. the Ngalong. In fact such escalating move was viewed from a negative prism which projected such moves as a threat to internal sovereignty of the state.

The political reforms and disturbances in India and Nepal, which border Bhutan were the external causes [or instigator] responsible for the political upheavals in southern Bhutan. In all these movements the Nepalese were playing a pivotal role in the dynamic political shift, which in fact were the reasons for the perceived threat. The merger of Sikkim to the Indian Union in 1975<sup>22</sup> was one significant contributor for the Bhutanese elite rethinking over its southern population. Consequently the demand for a separate state “Gorkhaland” in the Darjeeling Hills (District of West Bengal) led by the political supremo Subhas Ghising, turned violent in 1986. In 1990 People’s Movement (Jan Andolaan) in Nepal brought about a political shift from panchayati autocracy to multi

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<sup>20</sup> Prior to 1950’s Bhutan had discriminatory policies against the Nepali-speaking people. Political initiative were taken by the Bhutan State Congress (BSC) set up in Assam in India to bring a democratic system to Bhutan in the wake of India’s independence in 1947. The visit of Indian Prime Minister Pandit Nehru to Bhutan in 1958 and pressure from the BSC largely prompted the Bhutanese authorities to enact the 1958 citizenship Act that decided to grant citizenship to all ethnic Nepalese domiciled in the country before 1958 (Lama 2008: 278).

<sup>21</sup> According to Bhutanese Nationality Law of 1958, all the Lhotshampa enjoyed citizenship and are allowed to hold government jobs among other. Simultaneously, Resolution No.8 of the 11th Session of the National Assembly of Bhutan stated that the Nepalese inhabitants enjoy equal rights as Bhutanese citizens in society and in National Assembly (Ringhofer 2002: 43-72).

<sup>22</sup> The erstwhile Himalayan Kingdom Sikkim became the twenty second state of India by the Thirty eighth Amendment Act of the Indian Constitution ([www.sikkimipr.org/statehood.aspx](http://www.sikkimipr.org/statehood.aspx)).

party system (parliamentary monarchy).<sup>23</sup> Lastly, the success of regional movements in the border state of Assam by the All Assam Students Union also marked a political shift.<sup>24</sup>

The combination of the internal and external changes among which the merger of Sikkim to the democratic Indian Union from a protectorate state to a member provincial state of the Indian Union made the Bhutanese elites rethink about its security in the context of India's state building process, which rather made them insecure.<sup>25</sup> Consequently, the discriminatory policy against the southern Bhutanese also started to take root in 1975, though it was not politicized. The Lhotshampa were required to get identity permit for movement within Bhutan. However by law there is no restriction on any community to establish business and own land in any part of the country but it is difficult for non-Buddhist Bhutanese (except governmental official) to buy property in Buddhist areas (Pattanaik 1999: 1609).

Simultaneously in 1979, the violent anti-foreigners agitation led by the All Assam Students Union in neighboring Assam in India against illegal Bangladeshi immigrants raised "immigration consciousness" across the Himalayan range and sub-Himalayan foothills (SAHRDC 1998: 14). This political consciousness rather was an important ingredient for the Bhutanese elites to maintain and promote cultural homogeneity in order to safeguard the Drukpa Kingdom and eliminate any kind of barrier to this cultural homogeneity.

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<sup>23</sup> In the Parliamentary Monarchy the King would serve as the head of the state and the Prime Minister as the head of the government.

<sup>24</sup> The regional Movement in Assam popularly known as "Assam Movement" was a movement led by All Assam Students Union and All Assam Gana Sangram Parishad from 1979 to 1985. The movement compelled the government to identify and expel the illegal immigrants (from Bangladesh and Nepal) from Assam. The Movement ended with the Assam Accord signed between the Government of India and the agitation leaders.

<sup>25</sup> Both Bhutan and Sikkim had a similar socio economic structure where the ethnic Nepalese were playing a significant role. Like the Treaty with Sikkim of 1950, India had a Friendship Treaty of 1949 with Bhutan according to which the external affairs of the state were guided by India.

### **Bhutan's State Policies: A Gradual Eliminating Stratagem**

With a pessimistic construct against its own citizens, a response of the ruling elites legally against the perceived threat was a gradual elimination stratagem. The elimination stratagem was gradual mainly for the fact that the Lhotshampas had already been recognized "genuine citizens" by the Nationality Law of 1958. The gradual elimination campaign included state discriminatory policies targeted mainly against the Lhotshampas in the form of citizenship acts, cultural policies, educational policies and others. At the same time, the ruling elites promoted cultural discipline in order to safeguard the "Last Shangri-la"<sup>26</sup>. This unique culture and tradition in the Himalayan belt was one feature of the agenda of the Bhutanese elites, which would ultimately eliminate the Lhotshampas in the name of preserving the unique culture and tradition (on the basis of perceived threats).

A clear reaction to Sikkim's inclusion in the Indian Union in 1975 was the formulation of Bhutan Citizenship Act of 1977 by the Bhutanese authorities. Although the Lhotshampas were genuine citizens by 1958, their identity were reviewed and questioned in 1970s which was part of the gradual stratagem.<sup>27</sup> The Act of 1977 simply

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<sup>26</sup> The land of the thunder dragon, the dragon king and happiness for all are too amusing syllables to the outside world. The Himalayan kingdom is considered as some fairy tale land in the 21st century where perfect bliss and contentment exist. This notion has reached further heights with the introduction of the concept of Gross National Happiness (GNH) as the development philosophy. People live in peace and harmony, governed by the principle of moderation and isolated from the corruptions of civilization. In its entire history, Bhutan opened her doors for the first time to the outside world in the early 1960s. Until then, Bhutan was a country enshrouded in mystery, untainted by foreign influence or international trade. When the world was at wars, Bhutan was unheard of to the world outside. This is because the strategic location of the country in the heart of the lofty Himalayas made it unfeasible for foreigners to tread into the country. Moreover, the Bhutanese people were always suspicious of foreign influence ([www.drukpa.bt/bhutan/967/bhutan-the-last-shangri-la/](http://www.drukpa.bt/bhutan/967/bhutan-the-last-shangri-la/)).

<sup>27</sup> Though there was no actual census record to indicate the high decadal growth of Nepalese population in Southern Bhutan, the Monarchy felt that the Lhotshampa' populations of southern Bhutan were increasing and this was the start of anti- Lhotshampa policy.

made the eligibility criteria for acquiring citizenship more intricate.<sup>28</sup> Further the Act, in KHA 1 affirms:

*The power to grant or reject an application for citizenship rests solely with the Royal Government. Hence, all applicants who fulfill the above conditions are not necessarily eligible for grant of citizenship" (Bhutan Citizenship Act, 1977).*

Subsequently, the GoB to promote cultural purity implemented Bhutan Marriage Act in 1980. The Act addresses the issue of "Marriage with a Non-Bhutanese" which was designed to limit and curtail the freedom enjoyed by these citizens. The Act made several restrictions for those who had practiced marriage with a Non-Bhutanese.<sup>29</sup> This Act was particularly a warning to the Lhotshampas in southern Bhutan, for whom seeking a spouse from across the border in India and further beyond in Nepal had become an established practice (Lama 2008: 280).

The gradual elimination stratagem eventually introduced and implemented another Act called "Bhutan Citizenship Act, 1985". The Act was a direct sequel of the three-year census carried out by district officials and village headmen following which 'formal' citizenship identity card began to be distributed.<sup>30</sup> The 1985 Act conferred citizenship by birth, by registration and naturalization.

By birth citizenship were granted if his/her parents are both citizens of Bhutan. By registration citizenship were granted if he/she domiciled in Bhutan on or before 31<sup>st</sup>

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<sup>28</sup> The Bhutan Citizenship Act of 1977 inscribes the conditions required for the Grant of Citizens:

- KA
1. In the case of government servants an applicant should have completed 15 years of service without any adverse record.
  2. In the case of those not employed in the Royal Government, an applicant should have resided in Bhutan for a minimum period of 20 years.
  3. In addition, an applicant should have some knowledge of the Bhutanese language both spoken and written and the history of Bhutan. Only those applicants who fulfill the above requirements may apply for grant of citizenship to the Ministry of Home Affairs, which will ascertain the relevant factors and submit the application to the Royal Government for further action. (Bhutan Citizenship Act of 1977).

<sup>29</sup> Some of these restrictions are: withholding promotion, prohibiting employment in the national defence department or in the Ministry of Foreign Affairs, curtailing facilities enjoyed, restricted to education and training abroad etc (Bhutan Marriage Act, 1980).

<sup>30</sup> This census was criticized for its unscientific approach and methods,<sup>30</sup> which at the same time supposed to have figured by the Bhutanese authorities about the presence of "illegal immigrants" particularly in Southern Bhutan (Lama 2008: 280-81).

December 1958 and whose name is registered in the census register maintained by the Ministry of Home Affairs. Paradoxically, the Ministry itself did not exist until 1986 and the records were generally held by the village headmen, although they were not comprehensive and accurate.<sup>31</sup> At the same time, showing of 30 year old land tax receipts were mandatory (to prove that he/she domiciled in Bhutan on or before 31<sup>st</sup> December 1958), but interestingly the cash tax payment system was only introduced in 1964.<sup>32</sup> By Naturalization citizenship were granted on the premise that he/she had to fulfill the set conditions<sup>33</sup> some of which were discriminatory. Further the GoB reserved the right to reject any application for naturalization without assigning any reason. In a nutshell, the Act was aimed to promote cultural homogeneity and eliminate Lhotshampas who were rapidly escalating the economic and political ladder.

Following this Act of 1985, the GoB immediately conducted census exclusively in five districts<sup>34</sup> of southern Bhutan in 1988. The census was based on the preset seven categories: Genuine citizens, returned migrants, people absent during census, non-national women married to Bhutanese men, non-national men married to Bhutanese women, adoption cases and non-nationals.<sup>35</sup> A planned operation of the Bhutanese authorities which included prejudice tries to do injustice in a just manner. The census

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<sup>31</sup> International Institute for Human Rights, Environment and Development, *Bhutan: An Iron Path to Democracy*, Kathmandu: INHURED, 1992. (cited in Lama 2008: 281)

<sup>32</sup> National Assembly Resolution, 20<sup>th</sup> Session, autumn, 1964 Cited in Lama 2008: 281.

<sup>33</sup> The conditions are:

- a. The person must have attained the age of 21 years, and 15 years in the case of a person either of whose parents is a citizen of Bhutan;
- b. “ must be mentally sound;
- c. “ must have resided in Bhutan for 15 years in the case of Government employees and also in the case of applicants, either of whose parents is a citizen of Bhutan, and 20 years in all other cases, and this period of residence must be registered in the records of the Department of Immigration and Census;
- d. “ must be able to speak, read and write Dzongkha proficiently;
- e. “ must have good knowledge of the culture, customs, traditions and history of Bhutan;
- f. “ must have good moral character and should not have any record of imprisonment for criminal offences in Bhutan or elsewhere;
- g. “ must have no record of having spoken or acted against the King, Country and People of Bhutan in any manner whatsoever, and

The person must be prepared to take a solemn Oath of Allegiance to the King, Country and People of Bhutan according to the prescribed Form KHA (Bhutan Citizenship Act, 1985 ).

<sup>34</sup> The five districts of southern Bhutan are Chirang, Sarbhang, Chukha, Dagana and Samdrup Jongkhar.

<sup>35</sup> The seven categories were framed in a manner which would ultimately render a Lhotshampa land in categories other than the first category. This preset division was also a part of the fixture designed to eliminate the Lhotshampas from their native home land.

officers demanded papers (Tax receipts prior to 1958) which they knew that these people (mostly uneducated farmers) would not possess i.e. after 30 years. A Certificate of Origin (C.O.) had to be produced by individuals who had moved to their place of residence after 1958 (Hutt 2005: 46). Any citizenship cards that had been issued earlier to all Bhutanese after 1958 and up to 1988 were no longer accepted as proof of Bhutanese citizenship. The outcome of 1988 census was horrifying as the census declared one sixth of its population as “illegal immigrants”.<sup>36</sup>

The gradual elimination stratagem embraced the cultural dimensions, as the subject began to gain momentum. Parallel to the census, the GoB implemented the Policy of Assimilation known as “*Driglam Namzha*”<sup>37</sup> (Feudal court etiquettes) with the theme of “*one nation, one people.*” The Bhutanization policy was intended to unite the country on the basis of cultural homogeneity. This uniformity was encouraged through language, dress, culture and religion (generalizing Ngalongs culture). The Government prohibited the use of Nepali language<sup>38</sup> and nationalized Dzongkha language. Citizens were ordered to wear Gho and Kira<sup>39</sup> compulsorily in spite of all odds.<sup>40</sup> Few years earlier they had also forbidden the preaching of Christianity<sup>41</sup> and banned anything other than Buddhism and Hinduism.<sup>42</sup> The Government was also emphasizing on “*Tsa-Wa-Sum*”<sup>43</sup> i.e. King,

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<sup>36</sup> The Bhutanese government reported that its census operations had detected the presence in southern Bhutan of over 100,000 illegal immigrants (GoB 1991: 2-3) and claimed that since 1958 large numbers of Nepalese migrants had entered southern Bhutan to take advantage of its economic prosperity (GoB 1993: 4). However 85% of Bhutanese refugees in the refugee camps in Southern Nepal had citizenship cards, additional 10% had only land tax receipts, 3% had school certificates or other official documents and only 2% had no certificates, because in most cases their documents had been confiscated by the authorities before leaving Bhutan. This survey had been conducted by the Home Ministry of Nepal in February 1995 (AHURA Bhutan, “Bhutanese Refugees Victims of forced Eviction”, Nepal, 1999, p.24, cited in Ringhofer 2002: 46).

<sup>37</sup> *Driglam Namzha* is an ancient code of social custom of the western Bhutanese, Ngalongs which states how to behave in the daily activities and before the authorities (Ringhofer 2002: 43-72).

<sup>38</sup> Nepali language was removed from the education system, which was encouraged until the policy’s implementation.

<sup>39</sup> Gho and Kira are Traditional dress worn by the Ngalong ethnic group which constitutes the ruling group.

<sup>40</sup> Gho and Kira are suitable for cold places whereas it is not suitable for a Lhotshampa to wear in southern Bhutan as southern Bhutan is relatively warm. Further for a poor farmer it was difficult to get one as he could not afford to buy.

<sup>41</sup> 51<sup>st</sup> National Assembly Session, Resolution 16 (1979) (Bhutan) Cited in SAHRDC 1998.

<sup>42</sup> 56<sup>th</sup> National Assembly Session, Resolution 25 (1982) (Bhutan) Cited in SAHRDC 1998.

<sup>43</sup> The most pernicious of all Bhutan laws is the “*Thrimshung Chenpo, Tsa-Wa-Sum,*” which prohibits any opposition to the king, the country and the government. Those who oppose any of the three are branded as

Country and Government and accentuating mass support. Generally the Government plan was to paralyze the Lhotshampa culture and nationalize the Ngalong culture.

Additionally, the Government adopted "Green Belt Policy" which was officially designed and implemented for environmental protection but in reality it was designed to eliminate the southerners in a very innovative strategic manner. Green Belt Policy was aimed to impede the alien intrusion on its southern frontier adjoining India since 1980's although it was officially stated for environmental protection. It was intended to create a forest belt in all areas falling within one kilometer from the southern borders. The policy was implemented in 1990 although it was originally planned in 1984. The policy had two options for the southerners i.e. integration in the interior Bhutan without compensation or compensation with a promise to leave the country. Further for those who were persistent in staying back the Government promised that it would do nothing for such people. The policy compelled the southerners to adopt the second option and leave the country as the first option was redundant (Sinha 2004: 228-230).<sup>44</sup>

### **Lhotshampas: From Citizens to Refugees**

After the census and the Policy of Assimilation, the Lhotshampas were unhappy with the government's policies. Their grievances were reflected in the form of demonstration in a tiny town of southern Bhutan on September 24 and October 4, 1990. Before the demonstration, a petition was submitted to the king by two councilors of Royal Advisory Council, Mr. Tek Nath Rizal and B.P. Bhandari on April 9, 1988 (Pattanaik 1999:1609). However the consequence was miserable as both of them were arrested and removed from their post.

Beginning 1990, mass demonstrations [an outcome of the grievances of the people] were held in southern Bhutan against the government policies. People started to raise their voice for rights and justice agitating against the state policies. However these

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"traitors" (NGOLOPS) or "anti-national terrorists". They can be awarded the severest of punishment including death sentence ([ahurabht.tripod.com/draft2\\_4.html](http://ahurabht.tripod.com/draft2_4.html)).

<sup>44</sup> See Sinha, A.C. (2004) *Himalayan Kingdom Bhutan: Tradition, Transition and Transformation* (New Delhi: Indus Publishing Company).



demonstrations provided a platform for the Bhutanese elite authorities to eliminate the Bhutanese Nepalese from southern Bhutan. The government responses to these demonstrations were discriminatory, as they declared the protestors as 'Anti-Nationals' and 'Terrorists'. The government used all types of repressive methods to eliminate the anti nationals from their homelands, yet it was showcased to be legal on the fact that these people were forced to sign the 'voluntary migration form' before leaving their homes.

The effect of the repressive methods was mass evacuation of mainly Lhotshampas and few other ethnic group like Sharchopa. It is estimated that more than one lakh people were excluded from southern Bhutan beginning 1990. The elimination of other ethnic group proves that these people were also propagating for democracy and human rights which is against *Tsa-Wa-Sum*. In reality the southern people became homeless and stateless, which at the same time changed their identity from "Citizens" to "Refugees".

### **Deconstruction and Reconstruction of Identity, Place and Space**

The rapid evacuation from southern Bhutan made the people flee and take refuge in the neighboring state of India mainly Assam and West Bengal. As people entered India and took refuge there was a shift in their identity i.e. from genuine citizens to refugees. This marked the beginning of their identity crisis. An elderly refugee in the camp states: 'The term "refugee" is demeaning and discriminating therefore the refugees change their identity according to time, place and situations' (Although it is temporary). He further states: 'we are discriminated and humiliated once we say we are from *sivir*<sup>45</sup> therefore we say either we are from Darjeeling, Sikkim or from other parts of Nepal'. The identity crisis is definitely a huge problem for the Bhutanese refugees which always haunt them. Lack of an identity means statelessness and nationality which indeed has a direct correlation and is significant. Further lack of identity and nationality has also encouraged the Third Country Resettlement Process.

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<sup>45</sup> *Sivir* is a local term indicating the seven refugee camps in Nepal.

A political space for refugee was indeed the need of the hour and at the same time the refugee needed a place to camp. As they entered the neighboring state Assam in India, locals, All Assam Nepali Students Union (AANSU) and Assam Gorkha Sammelan (AGS) helped the refugees initially. A senior refugee in the camp states: 'The refugees had set up a temporary camp at Mali Vitta in Assam however the police came and arrested all of us and took us at Runi Khata police station. From there the Assam Police handed us to Sri Rampur police station in West Bengal. Then the Bengal Police put us in trucks and dropped us at Nepal Border and pushed us to Nepal.' He added 'The police were telling us to run and go away'. At the same period, Garganda, adjacent to Bhutan border in West Bengal at one time housed and fed around 3,000 refugees (Dhakal and Strawn 1994: 267). India as the first state of asylum for the refugees failed to provide security and at the same time played the role of a transferring state. By doing so India seriously violated the Policy of Non-Refoulement<sup>46</sup> which is a part of customary international law (Lama 2008).

The refugees entered Nepal,<sup>47</sup> and with the help of some supporters, they were able to set up camps at Maidar.<sup>48</sup> From then on, acute shortage of basic need because of over-crowdedness with scorching heat made things worse. Simultaneously food habits (dry green pea and *jaar/chang*<sup>49</sup>) were another problem as the refugees failed to adapt to the changing weather. Problems like dysentery, malnutrition, pneumonia, etc ruined the camps which reduced the camp population to almost half the size. A refugee explains 'cremation had become a normal routine and sometimes it was difficult for a refugee to find a place for cremation'. He added '26 deaths in a day was the highest death record at Maidhar'. However after much appeal and protests at Kathmandu for the international

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<sup>46</sup> The principle of Non- Refoulement was unanimously adopted by the UN General Assembly in the 1967 Declaration on Territorial Asylum. Article 3 of the Declaration states: "No person.....shall be subjected to measures such as rejection at the frontier or, if he has already entered the territory in which he seeks asylum, expulsion or compulsory return to any state where he may be subjected to persecution" (Declaration on Territorial Asylum, (1967)" in United Nations Center for Human Rights, 1998: 320-321).

<sup>47</sup> Initially the government of Nepal expressed unwillingness to permit entry of Bhutanese citizens as asylum seekers into Nepal. After repeated appeals made by the Bhutanese dissidents activists to the Nepali Prime Minister Krishna Prasad Bhattarai, the gate at the Kakarvitta border was opened for Bhutanese refugees from 1991 onwards (Dhakal and Strawn 1994: 273-274).

<sup>48</sup> A temporary camp was set up in the sides of river Mahi, which is located in Jhapa district, Nepal.

<sup>49</sup> *jaar/chang* is a fermented beer made out of rice and millet. It is mainly taken by the people leaving in the eastern Himalayan belt.

recognition and support, the UNHCR agreed to assist the Bhutanese refugees. The UNHCR along with the Refugee Coordination Unit (RCU) became functional from mid 1992 to assist the refugees.<sup>50</sup> Seven camps<sup>51</sup> were set up at Jhapa and Morang Districts of Nepal and with the UNHCR's assistance more than one lakh refugees were taken care.<sup>52</sup> Beyond the camps, many refugees are living in India plus many registered and non-registered refugees are also living in Nepal.

Recognition from the international community plus the willingness of the Nepal Government fulfilled the criteria of a political space and place though it was temporary. The refugee hosting was indeed a great success for both the UNHCR and the Nepal Government, in spite of instability and political disturbances in Nepal. The temporary ease was not the end as the refugees wanted a permanent space and a place. The search for a permanent solution led to sixteen bilateral talks between Nepal and Bhutan although the outcome was fruitless. Moreover, the issue was raised several times in South Asian Association for Regional Cooperation (SAARC) but it bore no fruits altogether. The deadlock in the matter added frustration among the refugees as they had already spent more than two decades in the huts searching for a permanent solution and for an identity and nationality. The alternative of TCR in 2007 gave a new hope for a better future which would also grant citizenship and a new identity for the refugees. The process has already reached mid-way where half the refugees have already left for Third Country and many are under process. As per the present status the refugees will gain a new identity and nationality however the status remains doubtful and questionable.

### **An Alternative to Camps: Lhotshampas and Issues of Resettlement**

The fruitless sixteen Bilateral Talks between Nepal and Bhutan for a viable solution for the refugees, Bhutan's firm stand on the question of repatriation, Nepal's political instability, India's indifferent attitude, UNHCR's fluctuating support, absence of support

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<sup>50</sup> For detail account/information refer Dhakal and Strawn, "Bhutan: A Movement in Exile" Nirala Publication, Jaipur, 1994.

<sup>51</sup> The seven camps are Timai, Goldhap, Beldangi I, II, III (extension) and Khudunabari in Jhapa district, and Sanishchare (Pathri) in Morang. At present, Timai and Goldhap are closed and Khudunabari will be closing soon. This closer of the camps is because of resettlement which is taking place.

<sup>52</sup> The current camp population is half the actual size because of the Third Country Resettlement Process which is continuing at the moment.

from a third party for repatriation, social and political lapse, monotonous camp life etc made the refugee's lives miserable. After thorough observation and analysis, the UNHCR proposed the solution of TCR for the Bhutanese Refugees. In the Annual Tripartite Consultations on Resettlement (ATCR) meeting, TCR for the Bhutanese Refugees was discussed with the donor countries and subsequently in 2007 USA came forward to settle 60,000 refugees followed by other eight states.<sup>53</sup>

Initially, the alternative of TCR divided the camps into mainly two parties i.e. one favoring TCR and other opposing the TCR. The issue of TCR generated huge insecurity and confusions among the refugees. However after much negotiations and deliberations, today the process is in full swing which has resulted in resettlement of half of the total population of refugees in eight resettling states. At present in the camps, many are applying for TCR, many cases are under process, many are under medical observation, many are waiting for their final hearing and interview etc. Approximately 90% of the camps have already applied for TCR but approximately 10% of the refugees have not yet applied for TCR. They either want repatriation or local integration as per my field study. The issue of resettlement is questionable though it is normally viewed as a success. There are many fault lines in the process although it is still in mid way. (See Chapter IV for detail analysis).

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<sup>53</sup> The eight Resettling State are United States of America, Canada, Australia, New Zealand, Denmark, Norway, Netherlands and United Kingdom.

## **CHAPTER IV**

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### **The Process of Lhotshampa Resettlement: Reflections from the Field**

## CHAPTER IV

### The Process of Lhotshampa Resettlement: Reflections from the Field

*"Indeed resettlement is not the best solution but of course a good solution"*

*The voices of the refugees in the camps*

A novel optimism and a novel dilemma –Resettlement<sup>1</sup> has overshadowed the refugee camps, penetrated through the seeping bamboo huts, relieved the desperate and frustrated refugees, opened new paths for better future and assured a new identity, provided new horizons for great and creative minds, endowed a sense of belonging, at the same time divided the refugees, created chaos and anxiety among them, disintegrated families, frustrated the refugees more, increased insecurity, decreased quality management in the camps, created confusions and dilemmas and at the end however the seven camps have been reduced to mere three camps.

The common chit chat in the camps marked a fundamental shift from the everyday talks on Bhutan, Nepal and India to a new horizon of hope and opportunity in the third country—US, UK, Australia, New Zealand etc. The International Organization for Migration's (IOM) routine bus service in the camps [who takes the refugees for interviews and for resettlement in the third country], United Nations High Commission for Refugees (UNHCR) counseling on resettlement, marked by the neighbor's disappearance and an introduction of a new family from the other camps have deeply affected the firmest refugee and questioned his principle of firmness. The once overcrowded camps have now transformed into a chaotic situation puzzling many and

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<sup>1</sup> Resettlement involves the selection and transfer of refugees from a State in which they have sought protection to a third State which has agreed to admit them – as refugees – with permanent residence status. The status provided ensures protection against *refoulement* and provides a resettled refugee and his/her family or dependants with access to rights similar to those enjoyed by nationals. Resettlement also carries with it the opportunity to eventually become a naturalized citizen of the resettlement country (UNHCR Resettlement Handbook, 2011: 3).

frustrating other whose cases are pending for a long time, simultaneously reducing the camp population to a large extent. However in a nutshell the ongoing process of resettlement has generated turmoil in the camps in the present era.

After more than a decade and half in the camps, deadlocks in the bilateral talks, political instability in the country of asylum (Nepal), negligence of the origin state (Bhutan) and neighbor (India) state, etc propelled the UNHCR to opt for the last durable solution-Resettlement for the Bhutanese refugees in the third country. In the hierarchy of solutions for the refugees, resettlement stands after repatriation and integration, out of which both these options were seen as non viable in the case of Lhotshampas. The issue of resettlement for the Bhutanese refugees was raised by UNHCR and discussed in the Annual Tripartite Consultations on Resettlement (ATCR) meeting with the Core Group of resettlement countries, resulting to which the US proposed to resettle 60, 000 refugees in the year 2007, accompanied by other core countries to resettle more refugees subsequently.<sup>2</sup>

Initially the question of resettlement introduced in the camps created anarchic situation –violence, insecurity, and divide among the refugees, however with the passage of time and with the process of resettlement- departures that began in March 2008, the camps are not as chaotic as before, rather refugees are continuously flown from the camps to the third country. Today the situation in camps are different, out of the total population more than half the refugees have already been resettled in the third country and from those who are left behind, maximum have shown their desire for resettlement. However only a handful of refugees have remained firm to stay back or be repatriated with honor, dignity and justice.

As per the latest data, UNHCR Factsheet for the month of April, 2012 and the official website of UNHCR, [www.unhcr.org](http://www.unhcr.org), the Bhutanese refugee resettlement process in progress states the developments as follows:

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<sup>2</sup> As stated by Ms. Nini Gurung, Asst. External Relations Officer, UNHCR, Kathmandu in an interview on 28<sup>th</sup> February 2012.

**Table 1.1: Resettled Refugees Country Wise as on Mid-April, 2012**

Country	Refugees
United States of America	52,908
Canada	4,426
Australia	3,428
New Zealand	630
Denmark	617
Norway	490
Netherlands	324
United Kingdom	224

Source: UNHCR Factsheet for the month of April, 2012

**Table 1.2: Current Refugee Statistics in the Camps**

Resettled refugee as of 23 <sup>rd</sup> April, 2012	63,047
Refugees remaining in the camps (Eastern Nepal)	50,696
Refugees who have expressed their interest for resettlement	49,000

Source: UNHCR Factsheet for the month of April, 2012 and [www.unhcr.org](http://www.unhcr.org), accessed on 6/5/2012.

As evident in the table, almost all the refugees have opted for resettlement, more than half the total population of refugees has already been resettled in the third country and only a few have decided to hold back and stand firm in their decisions. The decreasing camp populations have further led to the process of camp integration-administrative consolidation of the three Beldangi camps and the closure of Goldhap and Timai in 2011, leaving only three remaining out of the original seven camps.<sup>3</sup> The

<sup>3</sup> See UNHCR Factsheet for the month of April, 2012.



process of resettlement is in full swing but there are several loopholes and gaps which have remained unanswered by the state and the actors involved.

### **Issues Involved vis-à-vis the Process of Resettlement**

As the process of resettlement is in progress there are numerous issues involved which will be highlighted in this section and subsequently discussed in the latter half of this chapter. As resettlement has achieved partial success, with more than half already resettled and maximum population showing their interest to be resettled in the coming days, the basic query begins with the genuineness of freedom for opting resettlement—is it voluntary or involuntary? If at all voluntary, there are issues concealed with their voluntariness as one would always favor returning to one's native land rather than going to a country which is entirely alien in every respect. If it is involuntary, then the case is different as it is against the rights of the refugees.

The other fundamental issue involved vis-a-vis the process of resettlement is the question of identity. Refugees are group of people who lack an identity, an identity of the state i.e. nationality. 'Refugee is an identity which is in itself discriminating and humiliating' expresses a refugee in Beldangi-II camp. He further said, 'we have to change our identity as per the situations and requirement. Thus we identify ourselves differently in different environments'. With the process of resettlement the quest for a new identity- an identity of the state is scheduled to be granted as per the resettlement policy but on the other hand there are multiple identities which exist simultaneously, the identity of a refugee and the identity of Lhotshampa, which is questionable as to whether these identities will still remain or vanish after resettlement.

In the whole process of resettlement, the transnational actors have functioned with full autonomy where the state is seen as a mere spectator with little or no authority exerted in any sense. The autonomous functioning of transnational actors has questioned the sovereignty of Nepal simultaneously with the larger debate in International Relations/Politics on states sovereignty. However as discussed in the earlier chapter, the sovereignty of the state has been redefined and reformed in the era of globalization but

the political instability in Nepal during the last two decades has resulted in the rethinking of sovereignty of Nepal.

Further, the involvement of the host state in the whole process of resettlement is questionable as Shrestha argued 'if a state is not capable of fully supporting refugees due to meager funding, then, why does the state continue to resettle more refugees only to shift the burden of support onto local NGOs who are already stretched thin? Further she highlighted the intricate web of politics and power in humanitarianism revealing that a state's inadequate support to local humanitarian organization made resettlement a 'calculated kindness', and a project of managing displacement rather than helping refugees rebuild their lives. In sum, then, the politics of humanitarianism continue to negatively impact the refugees even after resettlement (Shrestha 2011: 25-26). As the issue of humanitarianism is itself politicized along with the hegemon's interest the idea of resettlement is to gain political humanitarian recognition in the world politics rather than to purely help the refugees in gaining freedom from their confinement. Thus in the case of Bhutanese resettlement undertaken by the host states in the name of humanitarianism is to gain international recognition and to gain cheap labors from the camps, which means a continuous suffering for the refugees.

The above issues involved vis-à-vis the process of resettlement as highlighted above are some of the fundamental areas of this research though there are other equally significant issues involved which need to be raised and at the same time demand smooth management accompanied by utmost care and concern while the process is still in progress. These issues will also be highlighted subsequently in this chapter.

### **Major Stakeholders and Target Groups: A Brief Overview**

Resettlement is a collective and a collaborative humanitarian effort undertaken by various partners (international organization, resettlement and asylum states, non-governmental organizations and most importantly the refugees), to rebuild a new life of refugees in the third country. As resettlement is an interconnected and interrelated joint effort, the major stakeholders have an important role to play. The major stakeholders in the case of

Bhutanese refugee Third Country resettlement are UNHCR, IOM, Government of Nepal (GoN), the Core Group of resettlement countries—Australia, Canada, Denmark, the Netherlands, New Zealand, Norway, United Kingdom and United States and the refugees themselves. ([www.unhcr.org](http://www.unhcr.org), accessed on 6<sup>th</sup> may, 2012).

The UNHCR along with the GoN, resettling states and the international community assists the Bhutanese refugees for resettlement and has gained substantial success in the present context. Fundamentally it is the UNHCR who identifies refugees in need of resettlement as part of its mandate, but it is the states that offer permanent places of residence in their countries. NGOs and international organizations can also play a key role throughout the identification, pre-departure, and the post-resettlement integration processes (UNHCR Resettlement Handbook, 2011:4-5).

In the process of Bhutanese refugee resettlement, the two major international organizations that play a pivotal role are the UNHCR and the IOM. UN refugee agency is responsible for interviewing refugees and referring their files to resettlement countries, while the International Organization for Migration conducts health assessments, organizes cultural orientation courses and transports the refugees from Nepal to their countries of resettlement.<sup>4</sup>

The resettling states are other chief stakeholders as these states have come forward voluntarily for burden sharing and as a part of the core group of resettlement countries, the states have established regular resettlement programmes and committed themselves to an annual quota that has grown steadily (UNHCR Resettlement Handbook, 2011: 4-5). The resettling country provides the refugee with legal and physical protection, including access to civil, political, economic, social and cultural rights similar to those enjoyed by nationals. It should allow for refugees to become naturalized citizens.<sup>5</sup> Their contributions become very significant in this case.

The Government of Nepal is the other significant stakeholder, who granted asylum for the refugees for more than two decades and continues to do so. In the process of resettlement, the

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<sup>4</sup> See [www.unhcr.org](http://www.unhcr.org), Accessed on 6/5/2012.

<sup>5</sup> *ibid*

GoN has the final authority as it is within its soil/territory. However the continuous political deadlock in the country has made the state a mere spectator granting the international organization full autonomy in this process of resettlement. A refugee in the camp (Beldangi-II) states, 'the Government has become like a pendulum, it is driven by the international organization. At the same time the Government which provides security in the camps has been ineffective thereby making the camps insecure'. However Nepal's political deadlock creates negative impact in the process of resettlement thereby empowering the actors involved with no checks and balance, but this does not signify the end or complete erosion of Nepal's sovereignty. The state's (GoN) active involvement would have shaped and enhanced the smoothing of resettlement with little drawbacks.

In this process, Government of Bhutan-the refugee origin country has no involvement and has kept itself aloof. Bhutan is persistent in avoiding the refugee's case as it had done in all the bilateral talks. However UNHCR expects cooperation from Bhutan for refugees who do not opt for resettlement and integration. Repatriation with honor, dignity and justice is still doubtful as Bhutan has been determined in maintaining the cultural homogeneity of the state.

And finally the refugees themselves constitute major stakeholders as their decisions and consensus determines the process of resettlement. The above discussed stakeholders have played a significant role in determining the future of these refugees though there are several loopholes in this process.

### **Research Schedule Sample: Nature and Type**

The study undertook field survey in one important camp-Beldangi-II in Jhapa district, Nepal during 15<sup>th</sup> to 22<sup>nd</sup> February, 2012 followed by a visit to Kathmandu from 23<sup>rd</sup> February to 1<sup>st</sup> March, 2012. Qualitative data were collected using research tools like non participant observation and in-depth interviews with the refugees. Similarly qualitative and quantitative data were collected through interviews, conducted with the refugees, authorities/members of the international organizations, NGO's, INGO's, authorities of asylum states and other related informants such as local people, researcher, member of the Druk National Congress (DNC) and Tek Nath Rizal-Royal Advisory Councilor (1984-88).

Interviews were carried out with the help of semi-structured and un-structured schedule for both the refugees and other respondents. Samples were selected using purposive sampling technique. Extensive care was taken include different important variables like age, sex, educational background in the selected sample.

The field study conducted in a short period collected samples from the refugees, at the same time responses were collected for various other sources as discussed above. The study tried to cover at best almost all the target groups and stakeholders and beyond these other relevant sources supplemented with a general observation in and around the camp. A general observation was also dedicated to camps besides Beldangi-II, i.e. Beldangi-I and II Extension.

### **Third Country Resettlement<sup>6</sup>—Contextual Overview of the Bhutanese Refugees**

*“We are like fallen leafs, we keep on flying according to the wind”.*

*“We are like orphans, we were adopted by Nepal but now the US wants to adopt us and keep us in the US”.*

*-An old refugee in Beldangi II camp expresses.*

As per the latest UNHCR figure (See table 1.2) successful refugee resettled have amount to 63,047, i.e. more than half the total population, which is supported by 49,000 refugees who have expressed their interest for resettlement out of the remaining camp population 50, 696. According to this data, it is apparent that the Bhutanese TCR is a success, but a visit to the field supported by a general observation and interviews brings forth different stories which are unusual and painful. The world has heard yet another successful humanitarian story about the Bhutanese resettlement but the refugees have a different story untold. A refugee knows exactly how it feels to be recognized as refugee in reality. Therefore the analysis highlights the perceptions of refugees in the present context about the ongoing resettlement.

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<sup>6</sup>.This analysis is based on the contemporary refugee situations in the camps. Views of the refugees who have already resettled in the third country are not included within this larger analysis. The opinions and views analyzed here are those of the refugees who are presently residing in the camps which include both the refugees, those who have opted and refused resettlement.

According to this research and findings, many have success stories but generally the camps have a number of stories untold, many have painful stories, many puzzled, many frustrated and so on. Majority has opted for resettlement and few haven't. However within this there are hardly few who are opting resettlement by choice, rather most of the refugees have opted for resettlement by compulsion or fear supplemented by various reasons. Some of the common grounds for opting resettlement are to seek a better future although many refugees are certain that they will gain nothing but they believe that their coming generations will have prosperous lives in the third country. Most of the refugees opted for resettlement as they see no hope in the camps, their hope have been shattered by various factors such as fruitless bilateral talks, India's negligence, political instability of Nepal, deteriorating and lack of facilities in the camps, unemployment<sup>7</sup>, several restrictions imposed by the UNHCR and the GoN, dependence on the International Organization etc. As the talks on repatriation have been subjugated by resettlement, supported by lack of an effective leadership in the camps and the absence of educated and active people, the refugee's hope of being repatriated with dignity, honor and justice has been declining to a large extent. A young refugee who teaches inside the camps in Caritas Nepal conveys 'there are no people who encourage repatriation, those who encourage are either sidelined or looked down in the camps'.

Young refugees have expressed that lack of higher education in the camps have propelled them to opt for resettlement. Attaining higher education within the camps is impossible therefore they are forced to go outside if they wish to attain it. As per the UNHCR policy, refugee students are entitled to avail partial scholarship though the other half has to be fulfilled by the refugee students or their parents. But the lack of

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<sup>7</sup> Damayanti Bhatta, a research assistant, states "Before refugees were allowed to work outside the camps and earn their livelihood but such liberties were curtailed owing to the fact that they were willing to work in lower wages which in turn hampered the earning of the already existing labor class of the host state that invited resentment hence resistance from the latter which ultimately led to the abolition of such right on the part of the refugees. However, today the scenarios are different again as refugees do come out to earn in the host communities." Further refugees in the camps argue "We are not even allowed to rare anything inside the camps and there is a frequent visit in the camps by the officials to cheek such measures." Hence finding new ways to enhance and upgrade the present status is not possible in the camps. Therefore lack of employment has further boosted the TCR processes.

employment both within and outside the camps has curtailed their dreams of pursuing higher studies furthermore.

Similarly many refugees in the camps stated that lack of identity have further enhanced resettlement. As per the definition of resettlement, refugees are entitled to acquire citizenship after a certain period of time. The assurance of getting an identity (nationality) in the third country has further increased the resettling number. This issue of identity will be highlighted more in a detail manner subsequently.

On the contrary, there are refugees who haven't applied for TCR, and they have sufficient reasons to justify their unwillingness. While interviewing the refugees, many have stated different reasons to justify their refusal. An elderly refugee member of Bhutanese Refugee Senior Citizens Repatriation Committee in Beldangi-II expressed how they were attached with their motherland in all ways. He stated 'we have our history in Bhutan, we have our ancestral lands. Therefore we want repatriation with dignity and justice and resettlement is against the rights of refugees for repatriation'. Some of the refugees stated that illiteracy was one factor for their refusal while other expressed that going to an alien land was not possible as they feared that life would be difficult in an alien land. Some of the refugees refused to opt for resettlement as they love their motherland-Bhutan and their asylum state- Nepal, therefore, many refugees expressed that they refused to be resettled as they favored repatriation.

According to the study, majority of the refugees view resettlement as a partial solution but not an end to their problems. Most of the refugees expressed that resettlement would give them a sense of identity, space, employment and a platform for higher education but not emancipation. Therefore resettlement is not an ultimate solution rather a solution opted out of compulsion and frustration.

### **The Question of Identity**

As a part of the cosmopolitan society well transformed by the wave of globalization, the issue of identity affirms fundamental position in recognizing the individual at all levels-

local, national and global. An identity of the state is still significant even in the era of globalization and lack of identity means statelessness. Refugees are a group of people who lack political identity after they have fled or have been expelled from their native lands. Similarly, Bhutanese refugees have been lacking this political identity for the last two decades.

As per the study in Beldangi-II camp, many refugees expressed that their quench for an identity have driven the refugees for resettlement. According to the resettlement policy, refugees resettled in the third country are entitled to avail citizenship after a certain period of time, thereby giving the refugees a new political identity. However while interacting and interviewing with the refugees, majority of the refugees opine that their present identity of a refugee would not get better even after gaining a new political identity.

In parallel, majority of the refugees believe that their identity as Lhotshampa would not vanish even after resettlement, while a few contradict with their fellow refugees as they ascertain that their identity as Lhotshampas would be withered in the future. For example a refugee explains how the Burmese refugees have lost their identity in a new context. Simultaneously some opine that their identity as refugees would be eroded but their identity as Nepalese would never vanish. Therefore the issue of identity is always problematic and it becomes difficult to come to a conclusion with such limited observation. However with little general observation it can be assumed that the identity of a refugee may wither to some extent but may not fully get eroded even after a growth of a new generation. On the other hand the identity of Lhotshampa may get some transformation but not necessarily wither away in the coming decades. But the issue still remains tricky.

### **Assessing UNHCR, IOM, Nepal and Resettling States: General Reflections**

Resettlement which has already gained partial success and its favorable continuity has indeed necessitated a reflection- a reflection on the working of the actors involved.



Reflections from the field, discovering from a micro level and understanding the grassroots perceptions on the working of these actors will augment the research and help in understanding the ongoing resettlement process in a very unambiguous manner. Beyond all barriers these actors have in no doubt had and have the greatest hands in enhancing the process of resettlement. The process of resettlement started and continues to operate with the support of these actors.

While interacting and interviewing the refugees on the question of working of the transnational actors, many have expressed views about the loopholes of these organizations while many opine that they are readily approachable, informative and transparent. Refugees agree with the fact that they have been provided with ample information on the issue of resettlement and when any refugee is willing to go, he/she is readily helped in opting for resettlement. Negating this fact many have expressed their views as to how these organizations have been non-transparent, negligent, assertive and autonomous without any check from the asylum Government. Refugees expressed discomforts on the issue of the resettlement process as to how their process has been delayed by the UNHCR for an extensive period. They argued 'whenever we go for enquiry they state different reasons every time. They are at large non-transparent and take the views of the third person which is spoiling the whole process.' They further argued, when a case is put in the security files it takes a long time to proceed further which frustrates the refugees more. Sometimes the officials are negligent about them when they approach the authority but for some refugees within no time their cases are preceded and have been resettled.

While discussing with the refugees on the issue of assertiveness and indirect pressure put by the transnational organization, which we can term it as 'an invisible hand' many opined that they do pressurize indirectly sometimes to opt for resettlement. Refugees argued that UNHCR encourages especially the young ones for resettlement by luring them with western credo through the means of various techniques. The young ones gets effortlessly attracted to these fascinating magnetism leading to which there generates a plan to opt for resettlement. The tricky part is, as the young decides to go for

resettlement they encourages their parents as well to come with them so that they can have a better life in the third country. The dark side of this invisible hand is the creation of divide in the family as one can readily observe in the camps.<sup>8</sup> Similarly, an elderly refugee member of Bhutanese Refugee Senior Citizens Repatriation Committee in Beldangi-II argued ‘It is the UNHCR Mobile Group that puts such kinds of pressures and threatens the illiterate refugees who are already in a state of dilemma. He argues there are several cases of fights in the camps with the older refugees and the UNHCR Mobile Group with regard to resettlement.’ Thus, the analysis from the grassroots apparently justifies that TCR is totally not just voluntary rather it is involuntary in many cases which are definitely against the rights of the refugees.

Further, a section of the refugees affirmed that there are cases of inducement exercised by UNHCR and IOM. These organizations have indirectly replaced the refugees with individuals from the asylum state in the process of resettlement by exercising bribery. It is observed that such organizations are not punished for their errors. Misconducts by the organizations in the process of resettlement have further added fuel to the fire, creating more dilemma and uncertainty to the refugees who have already diverted their minds to be resettled.

Nepal a state in constant turmoil which has already witnessed two great consecutive Peoples War I in 1990 and II in 2006, the abolition of 239 years old Monarchy in 2008 and the birth of Democratic Republic, ongoing political deadlocks, unstable Government etc has been in a state of anarchy and chaos. As Nepal hosted the Bhutanese refugees since 1990s their political instability has a direct impact on the contemporary resettlement processes. Nepal’s political turmoil has two impacts—it favors resettlement and at the same time acts as a barrier to the process of resettlement.

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<sup>8</sup> Divide implies disintegration in the family on the issue of resettlement, huge divorce cases, fragmentation of the family members after resettlement, disunion of one family after resettlement with few family members still in the camps, etc.

Political uncertainty and frequent changes in government have resulted in significant delays in the Constitutional drafting process and have also affected UNHCR's operations in Nepal, particularly with regard to refugee registration.<sup>9</sup> Contrarily, unstable government have also encouraged the process of resettlement as UNHCR stands as the sole responsible undertaker in the whole process exercising absolute autonomy without any checks and balances.

Similarly, the National Unit for Co-ordination of Refugee Affairs (NUCRA) of the Ministry of Home Affairs, GoN, which is responsible for overall protection and assistance is seen as inefficient and ineffective in all matters. A refugee explains that the continuous political instability in the country has created a continuous change in their altitude towards the process of resettlement. Security is one area which lacks efficiency, which is provided by the Nepal army. The Nepalese army in the camps are said to be driven by capital that provides no security and justice in the camps. Further, particularly with regard to the sovereignty of Nepal, it is seen that Nepal has been challenged by the functioning of the global governance with regard to humanitarianism, but in its own political turmoil it cannot be said that the sovereignty of Nepal has been eroded or withered with the autonomous functioning of the international organization, rather it has been redefined and reformed with the coming of globalization. At the same time refugees in the camps explain that if the GoN had been more stable and vocal about the process of resettlement than it would act as a check at the same time enhance the process in a more legitimate manner. Similarly, a stable Nepal means lots of hope for repatriation by adding pressure on Bhutan and other parties responsible for their cause.

Finally, the resettling states have although played a pivotal role in this process, also needs an analysis of their operation. As Shrestha (2011) remarks if the local NGO's are already burdened why do states resettle more just to overburden the NGO's? In such a point it must be noted that resettlement does not necessarily mean to extend the suffering rather it rebuild their (refugees) lives in a new homeland. However if the NGO's are overburdened and incapable then the refugees are the victims of resettlement. Therefore

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<sup>9</sup> See [www.unhcr.org](http://www.unhcr.org) Accessed on 6/5/2012.

resettlement should not mean achieving political eminence in the international politics in the name of humanitarian assistance rather it should entail emancipation and reformation in a true sense.

While discussing and interviewing the refugees in the camps, one interesting aspect was discovered with regard to the work culture in the third country. More enquiry and research indicated that many resettled refugees did not mention about their work [even to their parents] in the third country, while others mentioned few works which the refugees were currently doing. Some of the common jobs were cutting and selling chickens, packing, road cleaning, housekeeping, carrying goods at the airport etc. All these kinds of works indicate that the refugees are being exploited for cheap labors as the Bhutanese refugees are hardworking, sincere, faithful, brave, non-violent, accommodative etc. A refugee in the camp explains ‘resettlement is a human business, they are selling us and will exploit us in the third country.’ He further argues ‘If it had been other refugees for e.g. Afghan refugees, they would not have taken almost all the entire refugees.’ Moreover with such dilemmas, it can be argued that resettlement does not and has not meant the end of sufferings, rather a reformed suffering in an alien land. Therefore if suffering is constant than why resettle more just to gain political prominence in world politics.

Similarly, many argue that refugees who are done with their final interviews (Department of Homeland Security [DHS]) are demoralized as they are told not to say few things in the camps. Here one should remember, political gifts are never one way, it is a barter system. Such kind of puzzles accommodated by concealment also raises questions about the authenticity of the process and the purpose behind their assistance. Initially, the refugees are given a choice to choose a country but the final verdict comes from the UNHCR itself<sup>10</sup>, which has undermined the freedom and rights of the refugees. It can be argued here that, if it was compulsory than the issue would be different but the freedom to determine a country should be given without hesitation.

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<sup>10</sup> As stated by Ms. Nini Gurung, Asst. External Relations Officer, UNHCR, Kathmandu in an interview on 28<sup>th</sup> February 2012.

With such complexities where multiple actors are involved in the process of resettlement, a more cautious effort is the need of the hour as the subject is getting more sensitive and flimsy. The present context is different as compared to the past; those already resettled were more voluntary (although many were helpless and frustrated) whereas today majority of the refugees are opting out of compulsion and fear rather than by choice. A soft hand with utmost care is needed in the present refugee camps where camp managements are also in a rapid withdrawal partly because of the lack of skilled refugees.

### **Third Country Resettlement and Its Effects: A Critical Overview**

Resettlement is itself a conglomeration of social, political, economical and cultural entities. It is a multi-dimensional phenomenon which includes various actors and encompasses all issues within its manifold. Therefore as the process of resettlement commences it has both positive and negative impacts on the refugees and the camps. The success of the Bhutanese refugee resettlement is evidently unambiguous (which will not be the focus here) however the study will highlight mainly on the negatives inflicted upon the refugees presently at the camps by the process of third country resettlement processes. Some of the broad grave concerns caused by resettlement are on education, psychological problems, camp environment, management and integration, substance abuse etc.

Effects of the TCR Process in the camps manifest a sense of anarchic situation where resettlement has become a cloud over the dusty huts. As the effects are grave, therefore more concerns with utmost care is needed at this hour in order to reduce the impacts caused upon the refugees. Education is one field which has been observed a substantial decline since the process of resettlement began. While interviewing and interacting with L.N. Pokhrel, Education Coordinator, Caritas Nepal, principal and teachers, it was evidently clear that the field of education has observed substantial decline since the process began in 2007. Pokhrel states 'Brain drain takes faster than any other issues. As a result, highlights of the society-educated teachers, activists, frustrated refugees, refugees who faced ups and downs were the ones who first went to the third

country.’ The effects of resettlement mainly in the field of education are change in the attitude of the students, overall declining performance, lack of educated and experienced teachers etc. Pokhrel remarks that resettlement has led to change in the attitude of the students. These changes are mainly seen after their process begins for resettlement. As the process begins they develop an attitude of considering camp education as insignificant and irrelevant. Likewise, resettlement has also resulted in the lack of concentration in their studies, which is partially contributed by new inexperienced teachers.<sup>11</sup> Substantial attitude change is also observed because of their colleague’s resettlement and differences in education system (Camps and third countries) is also demoralizing the students in the camps as their educational standard does not gain equal status in the third country.

Generally looking at the performance at the School Leaving Certificate (SLC) before and after resettlement it is evidently clear that there is a substantial decline in the field of education. The table illustrates such decline:

**Table 1.3: SLC examination pass percentage before and after resettlement**

	Year	Pass Percentage
Before resettlement		89%
After resettlement	2007	72%
	2008	64%
	2009	62%
	2010	52%
	2011	48%

Source: Interview with L.N. Pokhrel on 1<sup>st</sup> march 2012, Education Coordinator, Caritas Nepal.

However there is no drastic difference in the dropout rate before and after resettlement. The dropout rate before resettlement was just about 2-3%, however after resettlement there is just slight (few points) increase in the dropout rate.<sup>12</sup> These statistics indicate that there is a need to take adequate care in order to maintain quality education

<sup>11</sup> As the experienced teachers have already been resettled, new teachers have taken over their posts that are rather inexperienced which is also contributing to the decline in education standards in the camps.

<sup>12</sup> According to an interview with L.N. Pokhrel, Education Coordinator, Caritas Nepal on 1<sup>st</sup> march 2012.

and promote education standards as the entire population is not opting for resettlement. Students, though they might leave for third country, it would not mean an end as they can continue their education in the third country. Orientation programme would enhance overall education in the camps.

Another grave concern which demands considerable attention at this junction is on the psychological aspects of the refugees.<sup>13</sup> Psychological problems are not new phenomena to refugees, nonetheless the current process of resettlement has generated plethora of psychological problems evidently prevalent in the camps. Some of these problems are divorce, remarriage, suicide, drug abuse, family conflict, relationship problems, family disintegration, loneliness, anxiety etc. In the camps the Transcultural Psychosocial Organization Nepal (TPO-Nepal), UNHCR's partner organization and mental health provider is responsible for providing adequate psychological care and support to the Bhutanese refugees. While interviewing the refugees and the representatives and members of the NGOs many confirmed the increased psychological associated problems prevalent in the camps more effectively after the resettlement process.

Simultaneously while visiting the camp it was very peculiar that divorce and remarriage was directly proportional to resettlement. Rapid increases in divorce cases are evident in the camps, so is remarriage. One factor which contributed to divorce was the issue of 'inside' and 'outside'. A refugee states "Marriage between the insider (camps) and outsider (locals) were strictly against the norms of the agreements. Accordingly if any one conducted such practices he/she would be denied from gaining certain benefits such as free ration." But this was not a huge problem until the process of resettlement commenced its operation. According to the resettlement policy such refugees were disbanded from opting for resettlement and if the refugee had to opt for resettlement than ultimately he/she had to have a divorce. Such policies resulted in increasing cases of divorce in the camps.

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<sup>13</sup> On the issue of psychological aspects, most of the views are expressed by Sir Nepali, TPO- Nepal, Liana Chase (US Fulbright Scholar, TPO-Nepal) Jhapa, Nepal 2011-2012, and refugees.

The other factor for divorce was on the issue of disagreement on the subject of resettlement between husbands and wives. Disagreements between the spouses on the issue of resettlement sometimes were severe enough which compelled them to accept divorce. Thus divorce cases are evidently unambiguous in the camps which need utmost attention. However lack of appropriate attention on such issues would further deteriorate the relationship within family members.

The contiguous impact of divorce is the 'remarriage'. In the present context, maximum remarriage are primarily based on interest i.e. the interest of resettlement. As the camps are overshadowed by the process of resettlement, divorced people who are in distress because of separation and resettlement, try to find a mate in order to opt for resettlement. Remarriage has provided no solutions rather have broken down several families and led to the genesis of newer problems. Similar to divorce and remarriage, is the problem of family divide and disintegration after the process of resettlement. Refugees in the camps argue 'families are divided and disintegrated more because of the ongoing process of resettlement.' Difference in opinion on the issue of resettlement has divided the family and has sharpened domestic violence and conflicts. Similarly, resettlement has also disintegrated the families as their members are scattered all over the world. Cases of divide and disintegration have further promoted distress and discomforts among the refugees.

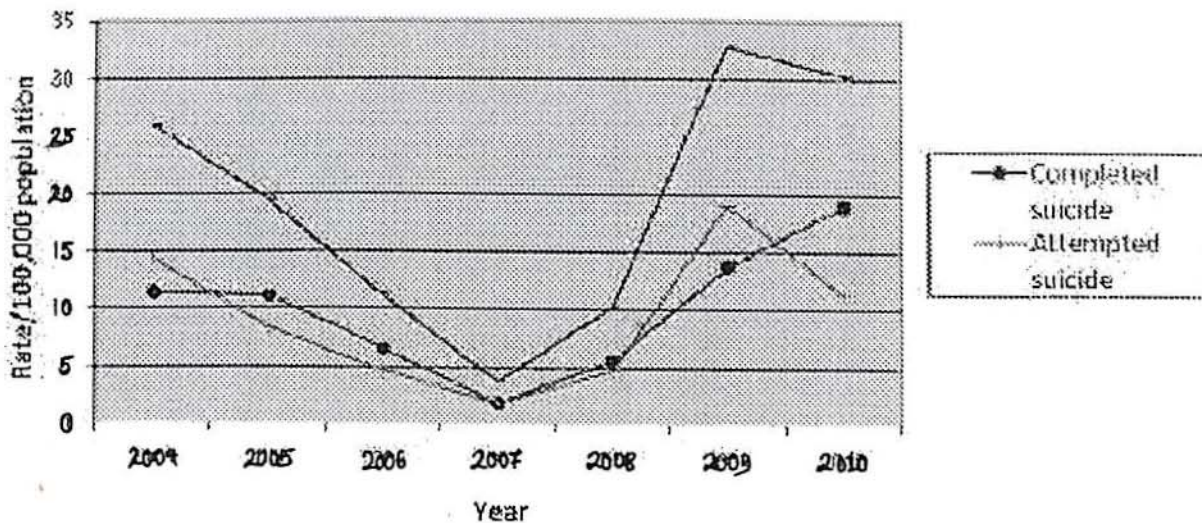
Subsequent outcome of distress, discomforts, anxiety etc have further led to increase in suicide attempts and suicide cases in the camps. The table (1.4) below highlights such growth:<sup>14</sup>

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<sup>14</sup> Trends of both suicide and attempts from 2004 onward show a progressive reduction in number of cases from 2004 to 2007, the minimum frequency in 2007 and a progressive, unprecedented increase from 2008 to 2010. 2007 was the year when resettlement became an option for Bhutanese refugees (Schininà *et al* 2010:8).



Figure 1. Trend of suicide among Bhutanese refugees aged above 11 years, 2004-2010  
4: 2010  
refugee camps, Nepal



Source: Schininà *et al* 2010:8.

From the above data it is apparent that cases of suicide are in escalation where in resettlement becomes one of the major contributor. Such cases demand serious attention and delaying would engender the problem and deteriorate the same in the future.

The other problem significantly observable in the camps is the rise of social diseases. One of the prominent diseases presently engendered in the camps is the rise of substance abuse. Most of the younger generations have fallen prey to this social disease which has at the sidelines created other related problems like robbery, crime, trafficking, prostitutions, etc. Such problems have threatened the security within the camps where people are already fearful about their future. One of the causes for the rise of substance abuse is financial misuse which is being promoted by resettlement. The resettled refugees send money to their family members in the camps as a support but as refugees are not familiarized with such amount, many tend to misuse the money especially the younger generations. The other factors is lack of money to satisfy their dependence on drugs have propelled these young refugees to adopt other menace. Today the bizarre camps witnessing turmoil because of the ongoing resettlement, have further observed increasing

number of robbery cases, crime, trafficking, prostitutions etc. Proper law and order to strengthen security in the camps and adequate bodies to minimize such troubles has been lacking in the camps.<sup>15</sup>

The rising TCR and declining camp population have led to the merging or reduction of previous camps and the need for Community Based Development Programme (CBDP) to aid and strengthen refugee and host communities. With large scale resettlement departures that began in March 2008, UNHCR has realized the need for camp consolidation<sup>16</sup> as well as for the provision of development assistance to host communities, which require a comprehensive inter-agency approach with an aim of phasing down short-term humanitarian assistance and transitioning to longer-term development in support of refugees and the local host communities. UNHCR with the support of GoN and NGO partners started the implementation of camp consolidation initiative in 2011. The administrative consolidation of three Beldangi camps and the closure of Goldhap and Timai were completed in 2011, leaving only three remaining out of the original seven camps. The Khudunabari camp is planned to be closed by the first half of 2012.<sup>17</sup> The camp consolidation process is expected to be completed by the end of 2012 and only two camps (Beldangi in Jhapa and Sanischara in Morang district) will remain open by the end of 2012.<sup>18</sup> However such consolidation has indeed added substantial confusions and fear to the refugees who have not opted for resettlements.

UNHCR is working with the Government of Nepal and the UN Country Team to support refugees from Bhutan and the affected host communities during a transition period. In the refugee hosting districts of Jhapa and Morang, UNHCR has recognized the need for a comprehensive strategy, involving humanitarian as well as development actors, to address the protection needs and continued assistance of refugees from Bhutan

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<sup>15</sup> There are several NGO's working to fight such menace (For e.g. Happy Nepal, a local NGO) but there is a need to strengthen the amount of care and dedication which these organization have already put forward. Adequate measures with effective care demands the present camps and lack of which would further deteriorate the camps.

<sup>16</sup> At the end of 2010, the Government of Nepal endorsed UNHCR's proposal for the gradual consolidation of refugee camps ([www.unhcr.org](http://www.unhcr.org) accessed on 6/5/2012).

<sup>17</sup> See UNHCR Factsheet for the month of April, 2012.

<sup>18</sup> See [www.unhcr.org](http://www.unhcr.org) Accessed on 6/5/2012.

and the local host population. Activities to be implemented in the identified refugee impacted and hosting areas under the envisaged 5 year CBDP will focus on protection, education, health, livelihood development, environmental protection and infrastructure rehabilitation. Participating partners include Government Ministries and local government structures, international and local NGOs, donors, bilateral partners and UN agencies.<sup>19</sup> Such measures would definitely enhance the refugees and the host communities but delay in the implementation of such programme has severely hampered refugees and the host communities. Adequate care and support is regarded as secondary as resettlement has become the primary goal and objective for the actors involved. However both these factors remain equally significant as refugees are vulnerable group who are always in a state of fear and persecution.

One of the central issues related with camps is the issue of camp management. Because of the process of resettlement which has resettled most of the literate and active refugees in the third country, the camps have observed substantial decline in camp management. The decline in management has further worsened the camp situation by adding frustration and problems to the already frustrated refugees, especially for those who are not willing to opt for resettlement. At the same time, the camps are absent of good leaders which in a way contribute to the decline in camp management. An elder refugee in Beldangi II camp argues 'People who were conscious, educated, politically active (political leaders), socially active and who saw no hopes in the camps were the one who initially opted for resettlement. Leaders such as S.K. Pradhan, Bhim Subba, and R.B. Basnet who favored and hoped for repatriation left the camps and are currently resettled in the third country.' He further argued 'they (all leaders) are to be blamed and they are the ones who scattered our dreams of going back to Bhutan. They were selfish and they forgot the community dream of repatriating. The leaders are betrayers.'<sup>20</sup> The other obvious reason for the decline in camp management is the lack of focus from the actors involved (mainly UNHCR). UNHCR today focuses primarily on resettlement whereas

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<sup>19</sup> See UNHCR Factsheet for the month of April, 2012.

<sup>20</sup> A member of the Druk National Congress (DNC), an exiled party in Nepal, in an interview on Kathmandu on 24<sup>th</sup> February 2012, confirms that most of the politically active people had left for TCR who gave up their political goals and forget their community dreams of repatriating with dignity, honor and justice. However he also mentioned that members from their party had not left as they hoped that they will one day be repatriated with dignity in the coming days.

adequate steps are not taken to maintain the standard benchmark in camp management. Such haphazardness in the camps has further added fear to the already bewildered refugees.

### **Conclusion**

With variant clusters of problems and confusions developed at all levels while equating with the humanitarian resettlement it is evident that the TCR Process has been very supportive whereas the presence of several loopholes affirms that logically it is nevertheless not a success story at the end. The lack of focus on the secondary issues (mainly in the camps) affirms the weakness of the actors involved, which has undermined its success.

Resettlement is a process which needs utmost care and attention as refugees are vulnerable group of people. In the process of resettlement more focus should be laid both on the liberty and freedom of choosing resettlement and at the same time, promote attention to solve the new problems developed out of frustration, anxiety, stress and dilemmas. Such adequate measures have been lacking in the case of Bhutanese TCR.

One significant drawback of this resettlement is on the selection of refugees. The UNHCR along with other actors involved is resettling only those who fit under their preset criteria. However such criteria have rejected many refugees who are willing to opt for resettlement. The selection of refugees by the transnational actors has severely undermined the basic freedom of refugee. At the same time the implementation of such criteria based resettlement has approved only those who are favorable according to their standardization but those who hold crime records, marriage form outside, polygamy and other notorious cases are left out in the camps. Such choosy policies definitely hamper the repatriation and prospect of integration programme.

Resettlement has indeed been a boon for many refugees (mainly younger generation) but especially for older generations such programme has not proved favorable. While interviewing older refugees they expressed discomforts over the issue of resettlement. Many opined that resettlement in an alien land is not possible rather

integration or repatriation were favorable as both these states fall under the Himalayan shadow. Many expressed discomforts as to how older people were resettling because of the pressures from their children and the uncertainties in the camps. However adequate measures have been lacking to tackle such problems mainly with regards to the older people.

Generally it is assumed that the resettlement legitimizes the gross Bhutanese human right violation in the late 1980's and early 1990's. Tek Nath Rizal, Royal Advisory Councilor (1984-88) in an interview on 29<sup>th</sup> February 2012 at Kathmandu, expressed that the Bhutanese refugee would not be vanished as he explained on how he has been hearing developments about the Bhutanese refugees support for a political party in the US to raise the issue about Bhutanese refugees. Majority opine that resettlement does ignore the Bhutanese human rights violation. A refugee expresses 'Bhutan's recent political transformation to democracy does not guarantee the safe repatriation of the refugees'. He adds, 'it is a crime which the King has done in the international scenario and will continue even after the political change.'

There exists difference on opinion on the issue of resettlement, many favor resettlement, many criticize and many are against resettlement. On the other hand there are people who follow their end picture, an ultimate goal of returning to Bhutan with dignity, honor and justice. They perceive resettlement as a state of learning and as a temporary solution. But the ultimate solution lies in repatriation in all respect. Rizal expresses 'TCR will broaden the refugee's mental horizon and make them broad minded. Such initiatives will make them think about Bhutan and fight for rights in Bhutan.' He also argues 'People must get their property back and political prisoners should be released immediately.' Such motives have increased the horizons of resettlement at the same time keeping the ultimate goal of repatriation active in all respect.

## **CHAPTER V**

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# **Resettlement Process: Role of Bhutan, Nepal, India and Resettling States**

## CHAPTER V

### Resettlement Process: Role of Bhutan, Nepal, India and Resettling States

Responsibility for humanitarianism, national interest, cultural dynamics, ethnicity, hard borders, statelessness, identity revolves around the Bhutanese refugee discussion. With TCR process beginning in 2008, several difficulties have appeared which lack proper attention. Chaotic camp environment, acute divorce cases, remarriages, increase in substance abuse and crime, high suicide rate, decreasing camp managements and integrations, family disintegration and conflicts, generation gap on the issue of resettlement, anxiety, wild animal attacks are some of the common difficulties well-known in the camps at present. The international agencies and other NGOs have been battling in bringing in a durable solution, providing security and basic needs, and largely answering some newly emerged difficulties faced by the refugees since the beginning. On the other hand the states involved in this case are occupied in a “Blame Game” for the last two decades, which continues even at present.

State stands as the basic unit/ major player in world politics. States determine their policies (both internal and external) on the basis of national interests and national security. This kind of state behavior evidently prevalent in the international scenario prolonged the protracted refugee situation of the Lhotshampas stationed in Nepal. Bhutan ethnically discriminated and forcefully evacuated the Nepalese simply on the interest of safeguarding the Ngalong hegemony in Bhutan. The first country of asylum, India having an absolute economic and strategic political interests, added by the ethnic majority presence and disturbances at that period, (1980-90) drove the Lhotshampas coercively from the states of Assam and West Bengal to Indo-Nepal border (Panitanki–Kakarvitta border connected by river Mechi). Nepal a country of Lhotshampas origin initially began to receive refugees since 1989 but the number drastically rose in the year 1991-92. Nepal was at the initial stage of multi-party democracy introduced in 1990 after the Peoples

Movement. It was still unclear and unable to decide the case of Bhutanese refugees as they were ethnically akin and had roots in Nepal. Therefore Nepal hosted the refugees at the state of dilemma.

In Nepal, after several appeals made by concerned groups and refugees, the UNHCR operated and assisted the refugees beginning 1992. The refugee situation was indeed a problem for all the actors' involved-Nepal, Bhutan, India, UNHCR, NGOs, INGOs, Donor states and international community and it continues even at the moment.

A continuous game of blaming each other [mainly among Bhutan, Nepal and India] has intensified the protracted refugee situation in Nepal. The stubborn behavior of Bhutan where it [in several occasions] declared the refugees not as genuine Bhutanese, fruitless efforts in sixteen bilateral talks between Bhutan and Nepal, restriction imposed on the international organizations and agencies to operate in Bhutan have further prolonged the repatriation process and denied rights, liberties and justice. Simultaneously, India's blatant violation of international norm including the fundamental principle of non-*refoulement* and parochialism by the ruling elites in West Bengal (Lama 2008: 292), removal of her hands off the issue by declaring it as a bilateral issue, utter silence in the international scenario on the issue of Bhutanese refugees, number of coercion measures to banish the protestors to cross the Indian borders, detention of R.K. Dorji, Chairperson of the United Front for Democracy in Bhutan and Druk National Congress in Delhi (Ibid) have also contributed in prolonging the refugee situations in Nepal. On the other hand, Nepal's continuous political instability with continuous government change, lack of initiatives and less vocal in the bilateral issues between Bhutan and Nepal, less forthcoming of the political leaders in the international meetings, poor governance and security have similarly prolonged the refugee situations.

The above discussed state behavior compelled the international agencies to find a durable solution for the protracted refugee's situations in Nepal. As repatriation and local integration became a non-viable option, the only option left was resettlement. The UNHCR took up the issue of resettlement at the ATCR meeting with the Core Group of resettlement countries, resulting to which the US proposed to resettle 60, 000 refugees in



2007, accompanied by other core countries to resettle more refugees subsequently.<sup>1</sup> The process of resettlement is in progress since 2008 as discussed in chapter IV. The refugees express that 'it is not an enduring solution yet a temporary solution for many frustrated who saw no hope in the camps'.<sup>2</sup>

Lack of initiatives from the origin state, asylum state, neighboring India and interference from the third states have compelled the refugees to ultimately choose resettlement as the only possible solution present at the moment. Nevertheless each of these actors has a pessimistic reflection as a result of protracted refugee situations although the present status may indicate some positive changes. Bhutan now formally a democratic country advocating Gross National Happiness is always hit hard when refugee crisis is in question. Similarly India, the largest democracy in the world, a state between these two nations-Bhutan and Nepal has violated the international norms-including the Principle of non-*refoulement*. Nepal, a newly transformed democratic state although the refugee hosting state is viewed as ineffective and incapable with political instability and unstable government. Lastly lack of a genuine interest from a third party has also indicated that national interest stands beyond humanitarianism and emancipation. On the other hand humanitarianism is determined by national interest rather than humanity itself.

Lack of positive initiatives and deadlocks among the actors involved supported by contemporary multiple difficulties in the camps have led to the questioning of the individual actors and their drawbacks on the issue of Bhutanese refugee crisis. This chapter highlight some of the fundamental issues and problems for such fruitless efforts and deadlocks on the issue of refugee crisis.

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<sup>1</sup> As stated by Ms. Nini Gurung, Asst. External Relations Officer, UNHCR, Kathmandu in an interview on 28<sup>th</sup> February 2012.

<sup>2</sup> Most of the refugees in Beldangi II expressed such views while interacting and interviewing them. Many are of the view that resettlement would give them an identity –an identity of the state, endow them sense of belonging and grant them many opportunities, which is of course better than living in the camps.

## Role of Bhutan: An Obstinate Nation

*"We're not a democracy yet. We're an emerging democracy."*

*-Bhutan's first-democratically elected Prime Minister, Jigme Thinley<sup>3</sup>*

Bhutan a proclaimed "nation" is a state with multiple ethnic groups where the hegemonic Ngalong continues to exercise absolute power. The world observed a peaceful transition in Bhutan from Monarchy to Parliamentary Democracy in 2008.<sup>4</sup> Simultaneously in the international arena it is a state that promotes Gross National Happiness beyond the paradigm of Gross Domestic Product. However little is known about Bhutanese state atrocities against the southerners in the late 1980s and 1990s which led to the expulsion of more than one lakh genuine citizens and made them stateless.

Since its beginning, the refugee problem has manifested negativity and imprinted appalling blemish to Bhutan. Such negativity persists even after two decades as the refugees continue to live in bamboo huts although resettlement has considerably reduced the camp population at present. At the same time, Bhutan is obstinate about the Bhutanese refugee repatriation process and it fails to cooperate with the GoN in finding a durable solution.

The first programme initiated by the GoB after the expulsion was the programme of settling down other communities in the land vacated by Lhotshampas. The programme was motivated with the intention to expel the Lhotshampa majority permanently and create no grounds for their safe return and re-establishment which would ultimately force them to settle down in Nepal. The GoB offered cash and other incentives for all the groups to settle down in the land vacated by the Lhotshampas. The GoB invited the Ngalongs, northerners, 60,000 Bangladeshi Buddhist Chakma refugees [residing in India], and Sharchopa community to occupy the vacated lands. However most of the groups refused to settle in southern Bhutan, following which the government encouraged

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<sup>3</sup> Terry McCoy, Bhutan's road to happiness, Two very defined commitments in Bhutan — one to democracy, the other to cultural preservation — seem about to collide, September 21, 2011, Bhutan News.

<sup>4</sup> Bhutan witnessed reformation in the present decade by becoming one of the youngest democracies in the world. The 50 years old monarchy withdrew from its absolute system to parliamentary democracy after King Jigme Singye Wangchuk declared in December 2005 that he would abdicate the throne and would step down in favor of his son fifth king Jigme Khesar Namgyel Wangchuk. The first democratic elections began in 2007 and were held in 2008, which significantly marked the end of monarchy and the birth of democracy in Bhutan ([www.bhutanvisitors.com/index.php?option=com\\_content...](http://www.bhutanvisitors.com/index.php?option=com_content...)).

high-level government officials to settle down provided with all the necessary facilities at their service (Giri 2004:360-61).<sup>5</sup> These steps further made the hope of repatriation a distant possibility.

Bhutan's obstinate decision in sixteen bilateral talks [between Bhutan and Nepal] in which it continuously argued that the refugees are migrants and have no right to live in Bhutan has further protracted the refugee situation in Nepal. However Bhutan has continuously altered its position according to its political agenda and benefits. According to German Christian Democrat Peter Mombaur, Member of the European Parliament, in 2003<sup>6</sup> reports 'The King described the majority of the refugee camp-dwellers as fake refugees with no prior links to Bhutan, and that the refugees were not expelled from Bhutan but were driven out by militant pressure from fellow ethnic Nepalese' (Mombaur, cited in Quigley 2004:195). Conversely, it was only after more than a decade for the first time in the 14th Ministerial Joint Committee meeting held at Kathmandu in 2003 that Bhutan accepted that there are Bhutanese citizens living in camps in Nepal and that these refugees have the right to return home (Quigley 2004:190).

At the same time Bhutan has argued from different angles, problematized and justified its atrocities against the Bhutanese Refugees. Bhutan maintained its position and status by putting restrictions on UNHCR's access to Bhutan and its involvement in the

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<sup>5</sup> Initially the Government offered cash or other incentives to the Ngalung to settle on land vacated by the Lhotshampa. In 1992 the Ngalung-dominated National Assembly presented 16 proposals for the resettlement of northerners in the land of the Lhotshampa. The authorities had previously invited 60,000 Bangladeshi Buddhist Chakma refugees residing in India to settle down in the south of Bhutan. When these refused, however, they turned to the Sarchhop community, trying to create a rift between the Lhotshampa and the Sarchhop. The Government distributed land abandoned by the Lhotshampa in Chirang, Dagana and Sharbhang districts in December 1997. Then they started allotting ten acres of land belonging to the Lhotshampa refugees to each household (Giri, 2003, p. 25 cited in Giri 2004:360-61). As the highlander Sarchhop were reluctant to settle in the tropical south, the authorities paid 10,000 Nu (€289) to each selected household as an incentive to resettle (Hazarika, 2001, p. 251 cited in Giri 2004:360-61). Those who refused Government offers of resettlement were intimidated or even threatened with expulsion too. Now the authorities have encouraged high-level Government officials to settle in the south by building roads and improving transportation to these areas. They also provide schools, jobs and public services, having established Dzongkha as the standard language to favour the Ngalung settlers. They have even built military installations to protect their officials (McGarry, 1998 cited in Giri 2004:360-61).

<sup>6</sup> A four-man delegation led by German Christian Democrat Peter Mombaur Member of the EP (MEP) on behalf of the European Parliament (EP) Delegation for Relations with the Countries of South Asia and the South Asian Association for Regional Cooperation (SAARC) went to Bhutan in November 2003 who had access at the highest level, meeting with King Jigme Singye Wangchuck, Prime Minister Thinley and the Speaker of the National Assembly Dasho Ugen Dorje, among others (Quigley 2004:195). The subsequent report expresses the Kings view on the issue of Bhutanese refugees.

Joint Verification Team. By denying the UNHCR access to the country, Bhutan has ensured that the UN will not advocate refugee returns (Quigley 2004:194). Further nationalized restrictions were maintained and rationalized on the basis of maintaining its cultural identity and homogeneity.<sup>7</sup> Bhutan adopted the strategy of delay and obfuscation which has delivered clearly discernible results, enabling Thimphu to completely determine the course of the Ministerial Joint Committee meetings (Quigley 2004:197). The issue of Maoist infiltration has also been problematized by Bhutanese Foreign Minister Lyonpo Khandu Wangchuk. In response to the demand of the members of the National Assembly on an update on the refugee question, reported on 8 June 2005 he argued that Maoists had infiltrated the refugee camps in Nepal which had become "breeding ground" for various radical political parties and terrorist groups (Chandrasekharan 2005). Such claims have further contributed to the justification of Bhutan's atrocities.

Bhutan's rigid and firm stand against repatriation and non-acceptance of Lhotshampas as its citizens has compelled the UNHCR to begin TCR programme since 2008. Nevertheless there is nothing flexible even after the resettlement programme as Bhutan has been changing its position according to its interests and situations. According to the news report on March 6<sup>th</sup> 2012, Bhutan News and The Refugee Herald No. 1 Vol. 2 March 14- April 14, 2012, Bhutan Prime Minister Jigmi Y. Thinley assured that the government was positive about solving the long running problems of "people in camps in Nepal" that has persisted over two decades. The Prime Minister expressed the government's concerns over the people in the camps being one of the biggest problems, which continue to threaten the peace and stability of the country. Prime Minister Jigmi Y Thinley one more time declared that "genuine citizens" would be repatriated, but based on the criteria set by the Joint Verification Team (JVT).

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<sup>7</sup> King, Jigme Singye, rationalized the nationalist restrictions by telling visiting journalists, diplomats and scholars 'that Bhutan was a small nation between giant neighbours, that all it had to define itself was its cultural identity, and that it was too small to enjoy the luxury of cultural pluralism' (Gil Loescher & James Milner 2005: 62).

Opposing the earlier positive reaction few days back made by the PM himself, Thinley promoting his country's Gross National Happiness concept at the UN on March 29 when asked about the Bhutanese refugees at a conference by the Inner City Press on April 2, 2012, argued that the Lhotshampa were or are not Bhutanese, that they came as "hordes" of economic refugees but Bhutan was unable to afford them. He told Inner City Press, "Bhutan became an attractive destination to people driven from their homes by ecological issues, economic and political instability, mostly coming from one particular country, Nepal" (Lee, March 31, 2012, Bhutan News).

The 'Chameleon Effect'<sup>8</sup> of the Bhutan Government on the issue of refugee has further detached the hope of repatriation even in a new order of democratic system. Bhutan seems to remain unaffected by the issues of refugee problems as it stands firm and determined by its own decision. Thus the role of Bhutan has been obstinate with regards to refugee problems. However as the process of resettlement has been rapid with decreasing camp population where majority have shown interest on resettlement, Bhutan has been confident enough to adopt initial changes inside Bhutan such as embracing exchange with the state of Assam from the southern borders<sup>9</sup> and providing equality and freedom to the existing Lhotshampa minority inside Bhutan. These moves certainly connote the fact that Bhutan is least interested on the issue of Bhutanese refugees as it has always been in the past. However such injustice would certainly encourage and set a legacy to widen violence and expulsion both within Bhutan and in the region, in the pretext of safeguarding cultural identity and homogeneity.

### **Role of Nepal: An Asylum and Transit State**

Nepal buffers between two Asian giants-China and India, abolished the 239 year old monarchy in May 2008 and formally declared as a 'Democratic Republic' (Pandey 2010,

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<sup>8</sup> 'Chameleon Effect' means the strategy of adapting ones color or policies depending on certain situations and circumstances her/she may face.

<sup>9</sup> According to the news report on March 13, 2012 Banarjee reports, Almost 10 years after joint operations along the Indo-Bhutanese border to flush out militant groups from the northeast taking shelter in the Himalayan kingdom, Bhutan is feeling confident enough again to increase its exchanges with Assam in education, health and business, Bhutan government sources said on Monday. With the improvement in the security scenario in Assam, "the confidence level has gone up," they added.

IX). Since 1990 Nepal has faced two major problems: the problem of Bhutanese refugees and political instability. The problem of refugees has not relieved the GoN even after more than two decades which deteriorated Nepal-Bhutan relations since its beginning. On the other hand, two major 'Peoples movement' in 1990 and 2006 and political instability marked by rapid changes in the government has destroyed Nepal peaceful existence. Since 1990 almost every year there is a real head change in Nepal.

A state in turmoil, Nepal, is a home for many refugees-fundamentally Tibetans and Bhutanese refugees. For the Bhutanese refugees, it is both a state of asylum as well as a transit state. Nepal hosted the Bhutanese refugees for more than two decades and continues to host them, at the same time Nepal acts as a transit state for these refugees as resettlement is already in progress. One similarity of the Bhutanese refugees with the local majority is on the ground of ethnic resemblance, who basically holds their roots in Nepal.

On the subject of Bhutanese refugee crisis, Nepal has played a pivotal role. Nepal hosted the refugees in spite of its political instability, provided asylum, security, invoked bilateral talks with Bhutan, appealed to the international community and India for their cause etc. However it has not been able to resolve the refugee crisis because of its own drawback. Refugees in the camps argue 'We expected a lot from the Nepal Government to speak for our cause, but Nepal was incapable and ineffective at all levels'. Without neglecting Nepal's positive attitude towards the Bhutanese refugees, generally Nepal has not been profound enough to advocate refugee repatriation for the last two decades.

Amongst many shortcomings, one of the significant weaknesses is 'political instability' in Nepal. As highlighted above, instability in government marked with political turmoil in the state has prolonged the bilateral talks with fruitless outcomes, at the same time increased problems in the refugee camps. Rapid changes in the government since 1990 have further elongated the protracted refugee situation. Political uncertainty and frequent changes in government have resulted in significant delays in the Constitutional drafting process and have also affected the UNHCR's operations in Nepal,

particularly with regard to refugee registration.<sup>10</sup> At the same time lack of potential leaders to advocate refugees' cause in the bilateral, regional and international level have proved a negative setback causing further protraction and frustration. One example of such a failure is Nepal Foreign Minister Bhekh Bahadur Thapa's utter failure in the international forum in 2003.<sup>11</sup>

As a result of these instability and upheavals, the prospect of local integration has also remained closed. Similarly, Nepal an underdeveloped state already infested with multiple problems such as poverty, unemployment, illiteracy, low standard of living etc cannot retain the refugees and grant them citizens. A refugee in Beldangi- II explains, 'Local integration is not possible because of the population factor. Nepal already has a huge population therefore adding another one lakh citizens would definitely increase problems rather than enhancing prosperity'. On the other hand, Nepal is not a signatory to either the 1951 Refugee Convention or the 1967 Protocol. Refugees are considered foreigners with no political rights and are not allowed to engage in economic activities or own any kind of property. This policy of non-integration minimizes self-reliance opportunities for the refugees and officially forbids local employment outside the camp (UNHCR/WFP, Joint Assessment Mission Report, 2008: 7). Such caging of the refugees where refugees are fed by the international agencies in the name of humanitarianism has further spread social diseases in the camps.

As refugees are confined within the soils of Nepal, Nepal has a significant role and responsibilities in dealing with the refugee problems. It functions with the international agencies and organizations to assist the refugees both within and outside the refugee camps. Within the camps the government is seen as paralyzed as it hardly has any

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<sup>10</sup> See [www.unhcr](http://www.unhcr), accessed on 6<sup>th</sup> may, 2012

<sup>11</sup> Nepal Foreign Minister Bhekh Bahadur Thapa did raise the Bhutanese refugee issue in his address to the UN General Assembly meeting in late September 2003. He called on Bhutan to show more flexibility in the bilateral negotiations in order to reach an 'early and just settlement' for refugees who have been waiting for over a decade 'to return home in safety and dignity'. Seven months later and after the failure of repatriation to begin, Thapa had an excellent opportunity at the 60th session of the UN Commission on Human Rights to focus the international community's mind on the problem. However, in a speech laden with references to the promotion of human rights, Thapa was less forthcoming, failing to highlight the Bhutanese refugee crisis. This is despite him indicating before his departure from Kathmandu that the refugee issue would be on his agenda (Quigley 2004:194).

effective roles. Refugee registration, birth and death registration, marriage registration (new and mixed), refugee security are some of the responsibilities exercised by the GoN. In all its jurisdictions, Nepal has not been able to exercise its own freedom and authority as it is politically handicapped and internationally subjugated. Contrarily, most of the major role and responsibilities lies with the international actors. While on the subject of security, Nepal has been ineffective in providing adequate security to the refugees. Refugees in the camps argue 'The Nepalese army dance with money, they are totally driven by capital. Therefore justice here is impossible to gain'.

However as the process of resettlement is already in the process, the GoN is similarly associated with refugee registration and documentation. Nepal is officially entrusted with the final verdict when it comes to registration, however it is similarly paralyzed as the international agencies continue to dominate the whole process. Nepal has also not been able to observe [of late], the negative impacts caused upon the local communities after the resettlement. However recently the Community Based Development Programme, an inter-agency strategy involving humanitarian as well as development actors has been endorsed by the GoN, and will start being implemented in 2012.<sup>12</sup> Such comprehensive strategy to foster the peaceful co-existence of the refugees from Bhutan with the host population has not been realized by the GoN and the international agency until now.

The UNHCR continues to advocate with the Government for a complementary registration exercise for the relatively small number of pending, non-registered cases among refugees from Bhutan.<sup>13</sup> It is estimated that some 3,000 individuals including around 1,200 Nepalese or Indian women married to Bhutanese refugees have been deprived of official status in the Bhutanese refugee camps.<sup>14</sup> Delay in such cases by the GoN and the UNHCR has also attracted enough criticisms on the effectiveness of its working culture.

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<sup>12</sup> See [www.unhcr.org](http://www.unhcr.org), Accessed on 6<sup>th</sup> may, 2012

<sup>13</sup> *ibid*

<sup>14</sup> The Refugee Herald No. 1 Vol. 2 March 14- April 14, 2012



In a nutshell, it is evident that the role of Nepal has been limited and subjugated by the international actors and at the same time it is itself paralyzed in terms of its responsibilities.

#### **Role of India: Silence and Indifference**

A viaduct state between Bhutan and Nepal, separated hardly by 80 Km of Indian territory and populated by Indians of Nepali origin, India connects Nepal and Bhutan through its geographical proximity.<sup>15</sup> Being the connector between these Himalayan states India enjoys special relations with these states, bonded by Indo-Bhutan Friendship Treaty, 1949 and Indo-Nepal Peace and Friendship Treaty, 1950. Since the beginning India had cordial relations with these Himalayan countries, specifically for political, strategic, economical and ideological reasons. The peaceful relation which India enjoyed with these nations started deteriorating with the Bhutanese refugee crisis.

The Bhutanese refugee crisis was a setback for India's cordial relation with Bhutan and Nepal, as India stood between them. India, the first asylum state, in order to avoid entanglement with this crisis denied refuge to these stateless and helpless refugees and transferred them to Indo-Nepal border. Similarly, the GoI did not recognize the Bhutanese as refugees and hence provided no assistance to them. However in contrast under the 1949 Indo-Bhutan Friendship Treaty, they are allowed to stay in India and can engage themselves in employment activities and other facilities (Dhavan 2005: 131). To justify its denial of providing refuge, India declared the issue as a "bilateral problem" and tried to wash its hands off the refugee crisis. However as evidently clear India by transferring the refugees to Indo-Nepal border, India seriously violated the International norms- including the Principle of Non-Refoulement (Lama 2008: 291-92).

As India maintains a dominant position with Bhutan, its committed efforts and involvement in this crisis would have solved the Bhutanese refugee crisis long ago but its interest dominated the refugee crisis. Similarly, Indian media adopted a prod-and-pawn

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<sup>15</sup> See [www.southasiaanalysis.org/%5Cnotes%5Cnote4.html](http://www.southasiaanalysis.org/%5Cnotes%5Cnote4.html).

strategy with regard to Bhutanese democratic movement and GOI favored the regime<sup>16</sup> in contrast to the refugee problem (Dhakal and Strawn 1994: 519). Such immoral actions were determined by several factors such as India's long term economic, political, strategic interest in Bhutan, India's internal turmoil in Nepali dominated areas of West Bengal (Darjeeling), Sikkim, Assam and the other North Eastern states bordering both southern Bhutan and continuous political instability in Nepal. The Indian Government decision to deny refuge to the Bhutanese refugees was dictated by the cordial relations between India and Bhutan and New Delhi's reluctance to get entangled in a matter which is considered purely bilateral (Pattanaik 1999: 1611).

India while maintaining its close relations with the Druk state chose national interest rather than humanitarianism. Since the recognition of Bhutan as a sovereign state, India maintained close relation with Bhutan primarily for strategic reasons-the fear of China, a regional expansionist hegemon. As per the Indo-Bhutan Friendship Treaty 1949, Article 2 of the Treaty states: 'The Government of India undertakes to exercise no interference in the internal administration of Bhutan. On its part the Government of Bhutan agrees to be guided by the advice of the Government of India in regard to its external relations'. Similarly in order to strengthen the national bonding India provides substantial economic assistance to Bhutan; funding Five Year Plan, development projects and subsidies (SAHRDC Report 1998: 109).<sup>17</sup>

India's fundamental reason behind safeguarding monarchy, rather than supporting the dissident group was purely based on economical and strategic interest. India's strategic interest in Bhutan, which serves as a buffer between China and India, is a

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<sup>16</sup> The government of India's position has always been in favor of the regime. Muchkund Dubey, Indian Foreign Secretary in 1990, assured the royal government that "the Government of India will not allow Indian soil to be used for activities against Bhutan" (*Kuensel*, 27 October 1990). His successor, J.N. Dixit, also assured the Bhutan government two years later that "India would use its influence to stabilize the situation in its southern districts by not only increasing policing its border with Bhutan to check illegal Nepali immigration but to advise Kathmandu against "doing anything to destabilize the situation in the region" (*The Economic Times*, 10 June 1992 as cited in Dhakal and Strawn 1994: 519).

<sup>17</sup> In fact, as a percentage of GDP, Indian aid has been as high as 59.3% (1983/84) and aid plays a large part in financing Bhutan's 5-Year Plan. In 1961, India fully funded Bhutan's first Five- Year Plan and almost fully funded the next two. Towards Bhutan's Eighth 5 Year Plan (1998-2003), the Government of India contributed almost one third out of a total outlay of Nu 30 billion (1 Nu equals 1 Indian Rupee). India also committed an additional Nu 4 billion in development subsidies (SAHRDC Report 1998: 109).

paramount consideration. Bhutan falls within India's 'security umbrella'. India has a solid stake in the hydro-electric power resources of Bhutan, which has served as one of the cheapest and most reliable sources of power supply in recent decades (Lama 2008: 291-92). Additionally, India has huge presence in all these projects providing labor, planning, supervision which integrates Bhutan fully into the Indian economy (Dhakal and Strawn 1994: 523). At the same time India feared that the Bhutanese Nepalese would further add fuel to the already troubled regions of Darjeeling, Sikkim, Assam, and other North Eastern states.

With such ambivalence, India's apathy and aloofness towards the Bhutanese refugees crisis were evident in several occasions-the complete absence of India's relief participation in refugee camps; the arrest and imprisonment of refugees going back to Thimphu via India under the banners of the Appeal Movement Coordinating Council in 1996, the Bhutan National Democratic Party in 2005, and finally the Bhutanese Movement Steering Committee in 2007; and the arrest and detention of Rongthong Kuenley Dorji, Chairperson of the United Front for Democracy in Bhutan and Druk National Congress in Delhi in April 1997 (Lama 2008: 291-92). India in many occasions used coercive measures to protect the Bhutanese regime and punish those dissidents who tried to cross the Indian borders.

India's utter silence and apathy for the refugee situation was noted in two resolutions of the European Parliament on 14<sup>th</sup> March 1996 and 6<sup>th</sup> September 2000, respectively. The second of these resolutions criticized the inaction of the Indian authorities in the following terms:

*The European Parliament.....Recognizes the tremendous good will of Nepal in accepting the refugee who are the victims of arbitrary deprivation of nationality and forcible eviction and who came to Nepal through India, which consistently refuses to help in resolving the repatriation issue by pretending that it is a bilateral issue of concern only to Bhutan and Nepal... ..*

*Considers that the Indian authorities should take full account of the humanitarian situation of the Bhutanese refugees in Nepal and should take Political initiatives in order to support the solution of the problem, while noting that there are 25000 Bhutanese refugees in India... ..*

(Dhavan 2005: 131).

Strategically, India for the first time called the Bhutanese refugee problem an “international problem” rather than a ‘bilateral problem’ in a meeting held between the Foreign Minister of India and the Chief Minister of West Bengal in the aftermath of the latest attempt to cross the border by the refugees in June 2007 (Lama 2008: 297). This recognition came only after the US offered for resettlement in October 2006.<sup>18</sup> India’s policies are determined by her interest and security at the same time India has been astute in dealing with the Bhutanese refugee problem. Dhakal and Strawn (1994: 531) argue that India could use the Bhutanese refugees to further extract concessions from Bhutan- such as increasing the role of the Indian army or incorporating Bhutan more into India economically or politically at the same time decreasing the threat of a Greater Nepal.

Refugees in the camps argue ‘India must help us to go for repatriation. Its hands are very significant in helping the Bhutanese refugees’. They further state that, India has been negligent with their cause but once India raises her voice than they will have their rights, freedom and justice. The ongoing resettlement has overshadowed repatriation- an ultimate solution, however many refugees expect a great deal of support for the GoI, although GoI has not been keen in resolving this crisis as of now. India’s silence and indifferent attitude towards the Bhutanese refugee problem has indeed protracted the refugee situation in Nepal and ultimately pushing refugees for resettlement. If there is a possibility of cooperation and mutual understanding between Bhutan and Nepal, India’s absence would have no payoff. Thus India has a greater hand in resolving the Bhutanese refugee problem.

### **Role of Resettling States: An Overview**

The ‘Blame Game’ among Bhutan, Nepal and India, failure of regional organization and protracted refugee situation in Nepal paved the way for the entry of third countries. At the grassroot level, Bhutan blames Nepal for its political instability which hindered the process of finding a durable solution; on the other hand, Nepal blames Bhutan for being obstinate in resolving the Bhutanese refugee problems. However India’s silence has been well known as it has a bigger share in Bhutan which undermines humanitarianism. On the

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<sup>18</sup> See <http://www.hrw.org/news/2007/05/16/Nepal-us-offer-resettle-bhutanese-refugees-sparks-tensions>

other hand, India is negligent about refugees crisis with Nepal as it has other related advantages such as maintaining economical ties, ideology and a source of recruitment in the Indian army.

At the regional level, the Bhutanese refugees have gained no support as SAARC has itself been an utter failure. An elderly refugee, member of the Bhutanese Refugee Senior Citizens Repatriation Committee argues 'We write to all the SAARC members in frequent intervals regarding our cause but we haven't received any positive note from them. We also write to the Bhutan Government but we don't know whether it reaches or not. We put our voice in Peoples SAARC but we don't know what is happening exactly. However SAARC hasn't done anything for the Bhutanese refugees. It is just a tea talk. SAARC countries cannot put pressure on Bhutan.' Certainly SAARC talks have been dominated by the Indo-Pak debate wherein no other issues are certainly of any concern.

Lastly, at the global level, the Bhutanese refugees have gained no attention as it is an unknown story for many other countries. The Bhutanese refugee crisis reflects the utter failure of global governance in a true sense. They have been denied justice at all levels. All these above factors and the protracted refugee situation in Nepal paved the way for the entry of the third states. The third states took the responsibility of resettling the refugees in the name of humanitarianism. However there lie certain gaps in this humanitarian assistance.

Humanitarianism is not humanitarian if it is politically driven. Resettlement is not a 'take and leave' policy rather it demands responsibility, attention and security. The Bhutanese TCR has certainly reflected success in terms of acceptance but it has many gaps unanswered. Some of the prevailing problems in the camps were discussed in Chapter IV. On the other hand there are many problems in the third country faced by the Bhutanese refugees. Some of the common problems are family disintegration, work pressure, dissimilar culture and religious practices, problems especially with older people, cultural difference in terms of lifestyle, food habits, language and so on. At the same time in many situations refugees have faced insecurity in the third country.

Increasing crime and suicide cases have also accelerated insecurity among the refugee community in the third country.

Therefore the role of the resettling states needs an assessment in order to strengthen and smoothen resettlement. It is certainly not only the refugees that should be imparted with cultural orientation prior to resettlement, rather the host community should also be imparted with refugees' cultural, social, political, economical, historical backgrounds in order to enhance smooth integration with the host community. Resettlement is not a quick process therefore it demands adaptability and support from the host community in order to strengthen resettlement. In several cases refugees would take a longer time to adapt and integrate in the western developed world, such cases should be dealt with care and support. Similarly refugees must be assured security and protection in the third country as they are vulnerable group of people. The third communities should impart in them a sense of belonging and a feeling of nationalism, as these people were in search of a national identity. Therefore assuring them an identity would boost their morale and help them integrate without feeling rejected even in the third country.

### **Conclusion**

States create refugees therefore refugees can be obliterated with state's initiatives and actions. International organizations and agencies can help in negotiating, mediating, arbitrating, assisting, integrating and resettling the refugees but only with the cooperation of the states. Therefore states are the key elements in resolving the refugee crisis which is applicable in the Bhutanese refugee problem.

The current Bhutanese refugee status in Nepal [as discussed in chapter VI], manifests chaotic scenario, wherein half the refugee population have already resettled in the third country and half the population are in the camps [although majority cases are already in process]. With substantial decrease in the refugee camp population after resettlement, states involved have shown apathy and are pretending to be unaware of the recent changes in the camps. This attitude reflects the complete negligence from the Gol

and GoB, although the GoN is still unstable and hardly involved in the resettlement process.

Towards resolving the refugee crisis, [although temporary, assumed] states' active involvement would serve towards finding a permanent solution to the protracted refugee problem. As the refugees crisis is virtually withering with the process of resettlement there are problems which are not reflected and focused. However at this peculiar junction, cooperation among GoN, GoB and GoI is essentially significant which could release other opportunities such as repatriation and local integration, as certain sections of refugees desperately want repatriation and not resettlement. India has a greater role as it stands between them and at the same time it has now accepted the crisis to be an 'international problem' rather than a 'bilateral problem'. Hence collaboration among these states by opening new gates of hope would resolve the refugee crisis in a more positive note and ending.

Contrarily an obnoxious continuous rejection would definitely prolong the refugee crisis, which would certainly mask a dark pustule on these states in the international arena and subsequently hinder regional cooperation and bilateral understanding. At the same time Bill Frelick writes in Global Post, "Should none of these refugees be allowed to return to Bhutan, it would send a terrible message: that a government can get away with a mass expulsion of its population on ethnic lines with no consequences at all."<sup>19</sup> Similarly with growing large number of ethnic problems in South Asia a spillover effect would never be too far if the Bhutanese refugee problem is being justified on such lines.

Therefore immediate cooperation among the Government of Nepal, Bhutan and India would serve towards bringing an end to the refugee problem and also strengthen cooperation and regional harmony to boost interdependence in the era of globalization.

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<sup>19</sup> See [www.hrw.org/news/2011/.../bhutan-s-refugees-there-s-no-place-hom...](http://www.hrw.org/news/2011/.../bhutan-s-refugees-there-s-no-place-hom...) Accessed on 24/5/2012.

## **CHAPTER VI**

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### **Conclusion**



## CHAPTER VI

### Conclusion

State both provides citizenship and denies citizenship. It makes and also unmakes its citizens. Bhutan's case precisely illustrates the role of the state in the making of the Lhotshampas refugee by denying their citizenship and thus depriving of their identity and security. Based on the perceived threats as a consequence of political turmoil in the neighboring states, gradual improvement of Lhotshampas both in political and economic spheres, significant economic growth and water resource of southern Bhutan etc ultimately led to rejection of citizenship of its own citizens (Lhotshampas) following an improvised citizenship laws, acts and census by the GoI beginning late 1980's. Citizenship therefore is contextual and dynamic as pointed out by post-positivist theorists. Since the concept of 'citizenship' is a human construct, it is molded by interests and ideas.

Refugees are vulnerable people and denial of justice and rights at all levels turn citizens into refugees. The Bhutanese refugee's crisis is a classical case of injustice. Bhutanese refugees were denied justice by the Government of Bhutan at local level, by the Government of India at regional level, by regional organization (SAARC) and ultimately by the third states and global community, institutions and organizations. Negligence from these stakeholders compelled the refugees to opt for resettlement which was in-fact the only option left for the refugees even after two decades in the camps.

Poststructuralists like Shapiro, David Campbell, and Jenny Edkins argue that humanitarian assistance carried out by the state stifle human emancipation which at the same time gives more power to states and organizations supported by states. The humanitarian assistance through aid delivered causes the people in camps to have their political voices ignored and their human dignity stripped away. They are treated as means rather than ends; each refugee is a full moral agent and these programs do not

treat them as such (Chernoff 2007: 165-66). The Bhutanese refugee resettlement programme has been a model of such subjugations and dominance.

Within the camps in Nepal, refugees are subjugated and stripped off their liberty by the dominance of international agencies and the third states. They are resettled in the name of humanitarianism at the same time denied emancipation and justice. Bhutanese refugee resettlement had been a much easier process for the actors involved except initially when there was a divide among the refugee on the issue of resettlement. However in general the Bhutanese resettlement has been successful as they were kept inside a cage and fed by the international agencies. As aid was the sole dictator in the huts, the refugees were obliged to follow the instructions delivered by the international agencies thereby stripping their political voices off the mainstream. The refugees resettled in the third states not because of their choice rather their obligations to international agencies and a hope for a better future compelled them to follow resettlement. At the same time lack of political leaders and disunity among the political parties also contributed to the smoothening of resettlement process as opposed to repatriation.

One significant drawback of the Bhutanese refugee resettlement is on the criteria/selection of refugees by the agencies and the third states. According to the preset criteria, refugees who hold crime records, radical political activist, practiced polygamy and other unlawful activities are denied resettlement. This choosy act of resettlement has left out number of refugees who are and were involved in such unlawful acts. Since these record holders are being left out in the camps at the end, repatriation and local integration for this section of refugees seems impracticable as hoped by the international actors.

Similarly, as marriage between 'camp in' and 'camp out' had been problematic and forbidden, resettlement criteria has denied resettlement for those who infringed upon such restrictions. However if a refugee is determined to be resettled than divorce serves as the final solution after which he/she is able to opt for resettlement. Such

tricky family disintegration has further created chaotic situation as the local members are facing problem of registration in their own state-Nepal. A state mechanism to deal with such problems would definitely reduce the anarchic situation and at the same time resolve the problems of those left out by their spouse.

The ongoing resettlement process has also accelerated the process of camp closure and integration in recent times. The closure of camps in recent times has signified a negative fallback on the local community and areas. An immediate community development programme has been framed by the actors involved but the delay in implementation has further accelerated a negative impact on the host community and the areas. Immediate implementation of such programme would reduce the negative impact on the local community and local areas.

A hope for better future, higher studies, children's future, identity, better opportunities etc have driven the refugees for resettlement. While for older refugees resettlement is not a choice rather a coercive measure or step, persuaded by their children and grand children. Older refugees therefore are fighting a losing battle against their children at their qualified stage. Steps to encourage repatriation and integration especially for this older section of refugees and at the same time for those favoring repatriation and integration should be made available subsequently.

Resettlement has signified pessimistic impact on the Bhutanese regime in the international arena for its failure to repatriate the refugees however repatriation of few refugees at this stage would portray the positive attitude of the Bhutanese government. At the same time, positive repatriation process would also enable the refugees to begin a new life for those favoring repatriation as opposed to resettlement. Similarly, the Government of India's involvement would also contribute to the demise of Bhutanese refugee problem in Nepal as India stands and play a vital role between Bhutan and Nepal.

The process of resettlement undertaken by the autonomous international agencies and organization has been steadily hasty which at the same time has garnered enough gaps on its workings. As the process is itself very tender and vulnerable, enough care and support is indeed the need of an hour which is missing in this whole process. The major stakeholders are occupied with the resettlement process wherein lesser attention is being paid on the camp environment and management. Similarly organizations like UNHCR and IOM are functioning in a closed manner which lack transparency and feasibility. Adequate organizational mechanisms in the form of new organization and up gradation of existing organization to deal with new problems would at the same time respond effectively to the existing problems in the camps. Therefore an amalgamation of various positive measures at this hour would prove favorable both for the refugees as well as for the actors involved.

A significant premise of successful resettlement would involve Nepal's political stability, although it is very much hypothetical. Nepal has since the beginning of Bhutanese refugee problem been in turmoil with severe political disturbances and instability. However Nepal's political stability would add to its success and at the same time help in the process of integration for those who are willing to integrate into the local community as opposed to resettlement and repatriation.

Lastly, the Bhutanese refugee crisis illustrates how traditional issues and concerns are embedded within the state, at the same time, states determine their objectives not global governance. Global governance therefore is not significant without States, rather it functions with the consent of the States. Globalization definitely has an impact on the states; however traditional issues and concerns are rooted within the framework of states. As discussed in chapter II, states are reformed and redefined with the prominence of globalization and global governance but redefined states are still the key players in world politics. It signifies the power of state who can act according to its interest even in the era of globalization and global governance.

Poststructuralists argue [unlike the rational traditional theorists], states does not have essence and states change overtime. States are dynamic and not status-quo. Like the poststructuralists claim states have changed overtime evidently in the era of globalization and global governance although their fundamental issues are inherent within their framework.

Analyzing the Bhutanese refugees' third county resettlement process from an objective approach and prism, the TCR eventually has not undermined the 'sovereignty' of Nepal. As discussed earlier, there are several modifications in the traditional working of the state with the prominence of globalization and global governance. Similarly as subjugation and dominance continues with the refugee population in the third state supplemented with messy camps situations, resettlement as a humanitarian assistance can be exemplified as a political gimmick for the states involved although there are few successful stories behind this resettlement. Further refugee's continuous struggle and hardship for better lives in the third state and continuous and rapid refugee acceptance by the third states in spite of overburden has also signified a kind of political gimmick for the third states. And finally, the issue of Lhotshampas identity cannot be analyzed as the issue of identity is highly controversial and contextual. However with the process of resettlement, Lhotshampa identity has been challenged although it may be difficult to conclude by assuming a complete decay of Lhotshampa within this ongoing process.

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## **Appendices**

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# APPENDICES

## APPENDIX I

### CITIZENSHIP ACT 1958

#### Nationality Law of Bhutan, 1958

Having found it necessary to amend this law relating to the acquisition and deprivation of citizenship which has been in force till this date, His Majesty the Druk Gyalpo, in accordance with the suggestions put up by the Royal Advisors, People and the Monastic Body, is pleased to incorporate the following changes:

1 This law may be called the Nationality Law of Bhutan, 1958 and it shall be effective throughout the Kingdom of Bhutan.

2 This law shall be in force throughout the Kingdom of Bhutan from the day of its enactment.

3 Any person can become a Bhutanese National.

- [a] If his/her father is a Bhutanese National and is a resident of the kingdom of Bhutan; Or
- [b] If any person is born within or outside Bhutan after the commencement of this law provided the previous father is a Bhutanese National at the time of his/her birth.

4

- [1] If any foreigner who has reached the age of majority and is otherwise eligible, presents a petition to an official appointed by His Majesty the Druk Gyalpo and takes an oath of loyalty according to the rules laid down by the official, he may be enrolled as a Bhutanese National provided that:-



- [a] The person is a resident of the Kingdom of Bhutan for more than ten years; And
  - [b] Owns agricultural land within the Kingdom.
- [2] If a woman, married to a Bhutanese National, submits a petition -and takes the oath of loyalty as stated above to the satisfaction of the concerned official, and provided that she has reached the age of majority and is otherwise eligible, her name may be enrolled as a Bhutanese National.
- [3] If any person has been deprived of his Bhutanese Nationality or has renounced his Bhutanese Nationality or forfeited his Bhutanese Nationality, the person cannot become a Bhutanese National again unless His Majesty the Druk Gyalpo grants a approval to do so.

5

- [1] If any foreigner submits a petition to His Majesty the Druk Gyalpo according to the rules described in the above sections, and provided the person has reached the age of majority and is otherwise eligible, and has served satisfactorily in Government service for at least five years and has been residing in the Kingdom of Bhutan for at least 10 years, he may receive a Bhutanese Nationality Certificate. Once the certificate is received, such a person has to take the oath of loyalty according to rules laid down by the Government and from that day onwards, his name will be enrolled as a Bhutanese National.
- [2] Any foreigner who has reached the age of majority and is otherwise eligible, can receive a Nationality Certificate provided that in the opinion of His Majesty the Druk Gyalpo his conduct and his service as a Government servant is satisfactory.

6

Any person who:

- [a] becomes a National of a foreign country and resides in that country;
- Or

- [b] has renounced Bhutanese nationality and settled in a foreign country;
- Or
- [c] claims to be a citizen of a foreign country or pledges an oath of loyalty to that country;
- or
- [d] is registered as a Bhutanese National but has left his agricultural land or has stopped residing in the Kingdom;
- Or
- [e] being a bonafide national has stopped residing in the country or fails to observe the laws of the Kingdom:

shall forfeit his Bhutanese nationality.

7

- [1] If a Nationality Certificate has been obtained on presentation of false information or wrong facts or omission of facts, the Government may order the Certificate to be cancelled.
- [2]
  - [a] If any citizen or national, engages in activities against His Majesty the Druk Gyalpo or speaks against His Majesty, or the people of Bhutan;

Or

- [b] When Bhutan and India is engaged in a war with some other country if any citizen or national of Bhutan is found indulging in business, correspondence or helping the enemies;

Or

- [c] If any person within a period of five years from the day when he was enlisted as a Bhutanese National, if imprisoned in any country for more than one year, the person is liable to be deprived of his Bhutanese nationality without prior notice.

8. To implement this law, His Majesty the Druk Gyalpo may incorporate additional rules if necessary.

9. This law supersedes all laws, rules and regulations, ordinances relating to the acquisition and forfeiture of nationality from the day of its commencement

## APPENDIX II

### **The Bhutan Citizenship Act, 1977**

#### **Conditions Required for the Grant of Citizenship:**

- KA
1. In the case of government servants an applicant should have completed 15 years of service without any adverse record.
  2. In the case of those not employed in the Royal Government, an applicant should have resided in Bhutan for a minimum period of 20 years.
  3. In addition, an applicant should have some knowledge of the Bhutanese language both spoken and written and the history of Bhutan. Only those applicants who fulfill the above requirements may apply for grant of citizenship to the Ministry of Home Affairs, which will ascertain the relevant factors and submit the application to the Royal Government for further action.

#### **Eligibility and Power to Grant Citizenship:**

- KHA
1. The power to grant or reject an application for citizenship rests solely with the Royal Government. Hence, all applicants who fulfill the above conditions are not necessarily eligible for grant of citizenship.
  2. Any applicant holding the citizenship of another country or with criminal records in other countries or those who are related to any person involved in activities against the people, the country and the King shall not be granted citizenship even if all the other conditions are fulfilled.
  3. A person granted citizenship by the Royal Government is required to register his/her name in the record of the Royal Government from the date of the grant of the citizenship.
  4. All those granted citizenship are required to take the following oath to be administered by the Home Minister.
    - o Henceforth, I owe allegiance only to His Majesty the Druk Gyalpo of

Bhutan.

- o I shall abide by observe and the laws and regulations of the Royal Government with unswerving reverence.
- o I shall observe all the customs and traditions of the people of Bhutan.
- o I shall not commit any act against the TSA-WAS-SUM of Bhutan (the country, the people and the King).
- o As a citizen of Bhutan, I hereby take this oath in the name of Yeshey Goempo and undertake to serve the country to the best of my ability.

### **Special Grant of Citizenship**

- GA 1. A foreigner in possession of special or extraordinary qualifications will be granted citizenship without consideration of the required conditions except for the administration of the oath of allegiance.

### **Renouncement & Re-application of Citizenship:**

- NGA 1. In the case of a Bhutanese citizen, who having left the country returns and applies for citizenship, the Royal Government shall keep the applicant on probation for a period of at least two years. On successful completion of the probation period, the applicant will be granted citizenship provided the person in question is not responsible for any activities against the Royal Government.
2. A foreigner who has been granted Bhutanese citizenship may apply to the Royal Government for permission to emigrate with his/her family. Permission will be granted after an investigation of the circumstances relating to such a request. After grant of permission to emigrate, the same person may not re-apply for Bhutanese citizenship. In the event of adult family members of any person permitted to leave the country, who do not wish to leave and makes an application to that effect, the Home Minister will investigate the matter and will permit such persons to remain in the country

after ascertaining that the country's interest is not harmed.

3. If anyone, whether a real Bhutanese or a foreigner granted citizenship, applies for permission to emigrate during times of crises such as war, the application shall be kept pending until normalcy returns.

#### **Procedure for Acquisition of Citizenship:**

- CHA
1. When a Bhutanese woman is married to a foreigner, only she is a citizen, her husband and their children will not be considered as Bhutanese citizens. If they desire Bhutanese citizenship, such cases will be considered in conformity with the procedure laid down in this Act applicable to foreigners applying for citizenship.
  2. When a Bhutanese man is married to foreign woman their children will be considered Bhutanese. The wife will have to fulfil the requirements of this Citizenship Act as applicable to foreigners applying for citizenship.
  3. In the case of Bhutanese citizens residing in other countries, the Citizenship Law subhead KA-12 No. 2 which is reproduced below, shall be applicable.

#### **Reproduction of Thrimyic KA 12-2:**

- KA-12(2)
1. With the exception of a genuine Bhutanese whose family is domiciled in Bhutan but he himself has to stay away in another country in connection with the works of the Royal Government, private business or religious practices, all others who live in foreign countries and serve the government and people of such countries or have settled in a foreign country or are holding official posts in a foreign government are considered non-nationals.

#### **Registration Procedure:**

- CHHA
1. All children born of a father who is a Bhutanese citizen should be

registered in the official record within one year of their birth whether the children are born inside or outside the country

2. All children born within the country are required to be listed with the Dzongkhag or the Dungkhag of their birth. Children of Bhutanese parentage born in other countries should be recorded with the Royal Bhutanese Embassies. Where they are no Embassies nearby the information should be conveyed to the Home Ministry through correspondence.
3. If a child is more than one year old and still not registered in the official record, registration is not permitted but may be applied for to the Home Ministry by the concerned local authority. The Home Ministry will then investigate the matter before granting permission for the registration.

#### **Validity of Census Record:**

- JA 1. All census records must bear the seal of Royal Government and the signature of an officer not lower in rank than a Dzongdag. Other records will not be acceptable.

#### **Enquiry of Kashos:**

- NYA 1. All Kashos with the people which were not granted by His Majesty the King will be investigated by the Home Minister and reported to the Royal Government.

#### **Penalty of Violation of Rules:**

- THA 1. Anyone having acquired Bhutanese citizenship if involved in acts against the King or speaks against the Royal Government or associates with people involved in activities against the Royal Government shall be deprived of his/her Bhutanese citizenship.

2. In the case of any person knowingly presenting false information at the time of applying for citizenship, the Kasho granting him/her citizenship will be withdrawn after due verification of the false information presented.

**Status of the Provision:**

1. In case of conflict between the provisions of this Act and the Provisions of any previous laws, rules and regulations, the provisions of this Act shall prevail.



## APPENDIX III

### **Bhutan Marriage Act, 1980**

#### **Marriage with a Non-Bhutanese**

KHA 2-1: If a Bhutanese citizen wants to obtain a marriage certificate from a court of law to enter into matrimony with a non-Bhutanese spouse whether residing in the kingdom or outside, he/she will be required to produce two persons as guarantors before the court. One of them must be a reliable Bhutanese citizen in the knowledge of the court and both of them must possess thorough knowledge about the bride and the groom. Thereafter, the matter shall be processed in accordance with the article KHA 1-5 as mentioned above (Ref-Thrimshung 1957, article KHA 2-2).

*A non-Bhutanese married to a Bhutanese citizen must abide by the traditional customs and the citizenship act.*

KHA 2-2: The question whether a non-Bhutanese spouse shall acquire Bhutanese citizenship or not whether he/she shall be allowed to live in the kingdom or not shall depend on the citizenship act, traditional and cultural requirements and the government directives issued from time to time.

*Rules and regulations to be followed by a non-Bhutanese married to a Bhutanese citizen.*

KHA 2-3: A non-Bhutanese married to a Bhutanese spouse must abide by the following rules and regulations irrespective of whether he/she acquires citizenship.

*Promotions shall not be granted to a Bhutanese citizen married to a non-Bhutanese.*

KHA 2-4: Any Bhutanese citizen working under the Government of Bhutan shall not be granted promotion with effect from June 11, 1977, if married to a non-Bhutanese or such a person will never get promotion beyond the post

he/she held at the time of marriage with the non-Bhutanese. Such a person shall not be promoted beyond the post of a sub-divisional officer.

*Promotions shall not be granted to a Bhutanese citizen married to a non-Bhutanese.*

**KHA 2-5:** Whichever post a Bhutanese citizen held prior to marriage with a non-Bhutanese or prior to June 11, 1977, such a person shall not be granted promotion beyond the post he held from the date of marriage with the non-Bhutanese or after June 11, 1977.

*A Bhutanese citizen married to a non-Bhutanese shall not be employed in the national defence department or in the Ministry of Foreign Affairs.*

**KHA 2-6:** Any Bhutanese citizen employed in the national defence department or in the Ministry of Foreign Affairs shall be removed from such services if he/she is married to a non-Bhutanese. No Bhutanese shall be employed in these two departments if married to a non-Bhutanese.

*A Bhutanese citizen married to a non-Bhutanese shall not get facilities enjoyed by other citizens.*

**KHA 2-7:** A Bhutanese citizen whatever status he/she may enjoy shall be entitled to other facilities and welfare of the government including the following assistance upon marriage with a non-Bhutanese.

- a. Distribution of land
- b. Cash loans
- c. Seeds for cultivation and oxen for ploughing fields
- d. Livestock and income generating livestock schemes of the department of Animal Husbandry
- e. Treatment abroad and
- f. Grant of capital for factory, industry or trade.

*A Bhutanese married to a non-Bhutanese shall not be entitled to education and training abroad.*

KHA 2-8: A Bhutanese citizen receiving education and training under the government funding shall not be entitled to the following facilities and welfare upon marriage with a non-Bhutanese:

- a. No assistance shall be provided by the government to undertake education or training either inside Bhutan or outside.
- b. Government assistance being rendered for education or training shall be discontinued from the day of marriage.
- c. The expenses incurred by the government on education or training until the day of marriage will be required to be refunded to the government.
- d. A Bhutanese citizen undergoing education or training abroad under a foreign scholarship shall lose it immediately upon marriage with a non-Bhutanese. In such a case the government of Bhutan shall request the concerned foreign government to stop the funding.

*Religion of non-Bhutanese married to a Bhutanese citizen.*

KHA 2-9: If a non-Bhutanese married to a Bhutanese citizen is allowed to live in the kingdom, then, he/she shall not be permitted to preach other religion or start a new religion except the religion of the kingdom of Bhutan.

*A non-Bhutanese married to a Bhutanese citizen shall be required to follow the culture of the kingdom and the government orders.*

KHA 2-10: A non-Bhutanese married to a Bhutanese citizen, if allowed to live in the kingdom irrespective of whether he/she acquires the Bhutanese citizenship shall be required to follow the traditional customs, government orders and laws in force in the kingdom.

*A non-Bhutanese married to a Bhutanese citizen shall be required to comply with the Marriage Act.*

KHA 2-11: A non-Bhutanese married to a Bhutanese citizen irrespective of whether he/she acquires Bhutanese citizenship or not shall be required to abide by the rules included in the provisions of this Marriage Act on all matters of Marriage.

## APPENDIX IV

### **The Bhutan Citizenship Act, 1985**

1. This Act may be called the Bhutan Citizenship Act, 1985. It shall come into force from the twenty third day of the fourth month of Wood Bull year of the Bhutanese calendar corresponding to 10<sup>th</sup> June, 1985. In case of conflict between the previous laws, rules and regulations relating to citizenship, the provisions of this Act shall prevail.

2. **Citizenship by Birth:**

A person whose parents are both citizens of Bhutan shall be deemed to be a citizen of Bhutan by birth.

3. **Citizenship by Registration:**

A person permanently domiciled in Bhutan on or before 31<sup>st</sup> December 1958, and, whose name is registered in the census register maintained by the Ministry of Home Affairs shall be deemed to be a citizen of Bhutan by registration.

4. **Citizenship by Naturalization:**

A person desiring to apply for Bhutanese citizenship to the Ministry of Home Affairs in Forms KA-1 and KA-2 must fulfill all the following conditions to be eligible for naturalization:

- a. The person must have attained the age of 21 years, and 15 years in the case of a person either of whose parents is a citizen of Bhutan;
- b. The person must be mentally sound;
- c. The person must have resided in Bhutan for 15 years in the case of Government employees and also in the case of applicants, either of whose parents is a citizen of Bhutan, and 20 years in all other cases, and this period of residence must be registered in the records of the Department of Immigration and Census;

- d. The person must be able to speak, read and write Dzongkha proficiently;
- e. The person must have good knowledge of the culture, customs, traditions and history of Bhutan;
- f. The person must have good moral character and should not have any record of imprisonment for criminal offences in Bhutan or elsewhere;
- g. The person must have no record of having spoken or acted against the King, Country and People of Bhutan in any manner whatsoever, and
- h. The person must be prepared to take a solemn Oath of Allegiance to the King, Country and People of Bhutan according to the prescribed Form KHA.

On receipt of the application Form KA-1 for naturalization, the Ministry of Home Affairs will take necessary steps to check all the particulars contained in the application. The Ministry of Home Affairs will also conduct written and oral tests to assess proficiency in Dzongkha and knowledge of the culture, customs, traditions and history of Bhutan. The decision of the Ministry of Home Affairs on the question of eligibility for naturalization shall be final and binding. The Royal Government of Bhutan also reserves the right to reject any application for naturalization without assigning any reason.

#### **6. Grant of Citizenship:**

- a. A person, whose application for naturalization has been favourable considered by the Ministry of Home Affairs, shall take the Oath of Allegiance according to Form KHA of this Act.
- b. A person shall then be deemed to be a citizen of Bhutan upon receiving a Kasho from His Majesty the King of Bhutan according to Form GA of this Act.

#### **7. Termination of Citizenship:**

- a. Any citizen of Bhutan who acquired the citizenship of another country shall cease to be a citizen of Bhutan. The wife/husband and children shall

have the right to remain as citizens of Bhutan provided they are permanently domiciled in Bhutan and are registered annually in the Citizenship Register maintained by the Ministry of Home Affairs.

- b. Any citizen of Bhutan who has acquired citizenship by naturalization may be deprived of citizenship at any time if it found that naturalization had been obtained by means of fraud, false representation or the concealment of any material fact.
- c. Any citizen of Bhutan who has acquired citizenship by naturalization may be deprived of citizenship at any time if that person has shown by act or speech to be disloyal in any manner whatsoever to the King, Country and People of Bhutan.
- d. If both the parents are Bhutanese and in case of the children leaving the country of their own accord, without the knowledge of the Royal Government of Bhutan and their names are also not recorded in the Citizenship Register maintained in the Ministry of Home Affairs, then they will not be considered as citizens of Bhutan. (Resolution No. 16(2) adopted by the National Assembly of Bhutan in its 62<sup>nd</sup> Session).
- e. Any citizen of Bhutan who has been deprived of Bhutanese citizenship must dispose of all immovable property in Bhutan within one year, failing which, the immovable property shall be confiscated by the Ministry of Home Affairs on payment of fair and reasonable compensation.

## APPENDIX V

### TREATY BETWEEN INDIA AND BHUTAN, 1949

The Government of India on the one part and His Highness the Druk Gyalpo's Government on the other part, equally animated by the desire to regulate in a friendly manner and upon a solid and durable basis the state of affairs caused by the termination of the British Government's authority in India, and to promote the foster the relations of friendship and neighbourliness so necessary for the well-being of their peoples, have resolved to concluded the following Treat, and have for this purpose, named their representatives, that is to say Sri Harishwar Dayal representing the Government of India, who has full powers to agree to the said Treat on behalf of the Government of India, and Deb Zimpon Sonam Tobgye Dorji, Yang-Lop Sonam, Chho-Zim Thondup, Rin-Zim Tandin and Ha Drung Jigmie Palden Dorji, representing the Government of His Highness the Druk Gyalpo, Maharaja of Bhutan, who have full powers to agree to the same on behalf of the Government of Bhutan.

Article 1: There shall be perpetual peace and friendship between the Government of India and the Government of Bhutan.

Article 2: The Government of India undertakes to exercise no interference in the internal administration of Bhutan. On its part the Government of Bhutan agrees to guide by the advice of the Government of India in regard to its external relations.

Article 3: In place of the compensation granted to the Government of Bhutan under Article 4 of the Treaty of Sinchula and enhanced by the Treaty of the eight day of January 1910 and the temporary subsidy of Rupees one lakh per annum granted in 1942, the Government of India agrees to make an annual payment of Rupees five lakhs to the Government of Bhutan. And it is further hereby agreed that the said annual payment shall be made on the tenth day of January every year, the first payment being made on the



tenth of January, 1950. This payment shall continue so long as this Treaty remains in force and its terms are duly observed.

Article 4: Further to mark the friendship existing and continuing between the said Governments, the Government of India shall, within one year from the date of signature of this Treaty return to the Government of Bhutan about thirty-two square miles of territory in the area known as Dewangiri. The Government of India shall appoint a competent officer or officers to mark out the area so returned to the Government of Bhutan.

Article 5: There shall, as therefore, be free trade and commerce between the territories of the Government of India and of the Government of Bhutan; and the Govt. of India agrees to grant the Government of Bhutan every facility for the carriage, by land and water, of its produce throughout the territory of the Government of India, including the right to use such forest roads as may be specified by mutual agreement from time to time.

Article 6: The Government of India agrees that the Government of Bhutan shall be free to import with the assistance and approval of the Government of India, from or through Indian into Bhutan, whatever arms, ammunition, machinery, warlike material or stores may be required or desired for the strength and welfare of Bhutan and that this arrangement shall hold good for all time as long as the Government of India is satisfied that the intentions of the Government of Bhutan re friendly and that there is no danger to India from such importations. The Government of Bhutan, on the other hand, agrees that there shall be no export of such arms, ammunition, etc., across the frontier of Bhutan either by the Government of Bhutan or by private individuals.

Article 7: The Government of India and the Government of Bhutan agree that Bhutanese subjects residing in Indian territories shall have equal justice with Indian subjects, and that subjects residing in Bhutan shall have equal justice with the subjects of the Government of Bhutan.

Article 8 (1): The Government of India shall, on demand being duly made in writing by the Government of Bhutan, take proceedings in accordance with their provisions of the Indian Extradition Act 1903 (of which a copy shall be furnished to the Government of Bhutan), for the surrender of all Bhutanese subjects accused of any of the crimes specified in the first schedule of the said Act who may take refuge in India territory.

(2): The Government of Bhutan shall, on requisition being duly made by the Government of India, or by any officer authorized by the Government of India in this behalf, surrender any Indian subjects, or subjects of a foreign Power, whose extradition may be required in pursuance of any agreement or arrangements made by the Government of India with the said Power, accused of any of the crimes, specified in the first schedule of Act XV of 1903, who may take refuge in the territory under the jurisdiction of the Government of Bhutan, and also any Bhutanese subjects who, after committing any of the crimes referred to in Indian territory, shall flee into Bhutan, on such evidence of their guilt being produced as shall satisfy the local court of the district in which the offence may have been committed.

Article 9: Any differences and disputes arising in the application or interpretation of this Treaty shall in first instance be settle by negotiation. If within three months of the start of negotiations no settlement is arrive at, then the matter shall be referred to the Arbitration of three arbitrators, who shall be nationals of either India or Bhutan, chosen in the following manner:

- (1) One person nominated by the Government of India;
- (2) One person nominated by the Government of Bhutan;
- (3) A Judge of the Federal Court, or of a High Court in India, to be chosen by the Government of Bhutan, who shall be Chairman.

The judgment of this Tribunal shall be final and executed without delay by either party.

Article 10: This treaty shall continue in force in perpetuity unless terminated or modified by mutual consents.

Article 8 (1): The Government of India shall, on demand being duly made in writing by the Government of Bhutan, take proceedings in accordance with their provisions of the Indian Extradition Act 1903 (of which a copy shall be furnished to the Government of Bhutan), for the surrender of all Bhutanese subjects accused of any of the crimes specified in the first schedule of the said Act who may take refuge in India territory.

(2): The Government of Bhutan shall, on requisition being duly made by the Government of India, or by any officer authorized by the Government of India in this behalf, surrender any Indian subjects, or subjects of a foreign Power, whose extradition may be required in pursuance of any agreement or arrangements made by the Government of India with the said Power, accused of any of the crimes, specified in the first schedule of Act XV of 1903, who may take refuge in the territory under the jurisdiction of the Government of Bhutan, and also any Bhutanese subjects who, after committing any of the crimes referred to in Indian territory, shall flee into Bhutan, on such evidence of their guilt being produced as shall satisfy the local court of the district in which the offence may have been committed.

Article 9: Any differences and disputes arising in the application or interpretation of this Treaty shall in first instance be settled by negotiation. If within three months of the start of negotiations no settlement is arrived at, then the matter shall be referred to the Arbitration of three arbitrators, who shall be nationals of either India or Bhutan, chosen in the following manner:

- (1) One person nominated by the Government of India;
- (2) One person nominated by the Government of Bhutan;
- (3) A Judge of the Federal Court, or of a High Court in India, to be chosen by the Government of Bhutan, who shall be Chairman.

The judgment of this Tribunal shall be final and executed without delay by either party.

Article 10: This treaty shall continue in force in perpetuity unless terminated or modified by mutual consent.

Done in duplicate at Darjeeling this eighth day of August, one thousand nine hundred and forty-nine, corresponding with the Bhutanese date the fifteenth day of the sixth month of the Earth-Bull Year.

Harishwar Dayal

Political Officer in Sikkim

Deb Zimpon Sonam Tobgay Dorji

Yang-Lop Sonam Chho-Zim Thondup

BHUTAN

Rin-Zim Tandin Ha Drung Jigmie Palden Dorji

#### **INSTRUMENTS OF RATIFICATION**

Whereas a Treaty relating to the promotion of, and fostering the relations of friendship and neighbourliness was signed at Darjeeling on the 8<sup>th</sup> day of August 1949 by representative of the Government of India and of the Government of His Highness the Druk Gyalpo, Maharaja of Bhutan, which Treaty is, word for, as follows:

\* \* \*

The Government of India, having considered the Treaty aforesaid hereby confirms and rectify the same and undertake faithfully to perform and carry out all the stipulations therein contained. In witness whereof this instrument of ratification is signed and sealed by the Governor-General of India.

Done at New Delhi, The 22<sup>nd</sup> day of Septemebr, 1949.

C. Rajagopalachari,

Governor-General of India

Whereas a Treaty relating to the promotion of, and fostering, relations of friendship and neighbourliness was signed at Darjeeling on the eighth day of August, 1949 by representatives f my Government and of the Government of India which Treaty is, word, a s follows:

\* \* \*

My Government having considered the Treaty aforesaid, hereby confirm and ratify the same and undertake faithfully to perform and carry out all the stipulation herein contained. In witness is hereof I have signed this instrument of ratification and affixed hereto my seal. Done at Tongsa, the fifteenth day of September, 1949.

J. Wangchuk, Druk Gyalpo

## APPENDIX VI

### **Treaty of "Peace and Friendship" between the Government of India and the Government of Nepal, 1950**

The Government of India and the Government of Nepal recognizing the ancient ties which have happily existed between the two countries for centuries; Desiring still further to strengthen and develop these ties and to perpetuate peace between the two countries;

Have resolved therefore to enter into a Treaty of Peace and Friendship with each other, and have, for this purpose, appointed as their plenipotentiaries the following persons, namely, THE GOVERNMENT OF INDIA, HIS EXCELLENCY SHRI CHANDRESHWAR PRASAD NARAIN SINGH, Ambassador of India in Nepal; THE GOVERNMENT OF NEPAL, MOHAN SHAMSHER JANGBAHADUR RANA, Maharaja, Prime Minister and Supreme-Commander-in-Chief of Nepal, who having examined each other's credentials and found them good and in due form have agreed as follows:

#### **ARTICLE - 1**

There shall be everlasting peace and friendship between the Government of India and the Government of Nepal. The two Governments agree mutually to acknowledge and respect the complete sovereignty, territorial integrity and independence of each other.

#### **ARTICLE- 2**

The two Governments hereby undertake to inform each other of any serious friction or misunderstanding with any neighboring State likely to cause any breach in the friendly relations subsisting between the two Governments.

#### **ARTICLE- 3**

In order to establish and maintain the relations referred to in Article 1 the two Governments agree to continue diplomatic relations with each other by means of representatives with such staff as is necessary for the due performance of their functions.

The representatives and such of their staff as many be agreed upon shall enjoy such diplomatic privileges and immunities as are customarily granted by international law on a reciprocal basis:

Provided that in no case shall these be less than those granted to persons of a similar status of any other State having diplomatic relations with either Government.

#### **ARTICLE- 4**

The two Governments agree to appoint Consuls-General, Consuls; Vice-Consuls and other consular agents, who shall reside in towns, ports, and other places in each other's territory as may be agreed to. Consuls-General, Consuls, Vice-Consuls and consular agents shall be provided with exequaturs or other valid authorization of their appointment. Such exequatur or authorization is liable to be withdrawn by the country which issued it, if considered necessary. The reasons for the withdrawal shall be indicated wherever possible.

The persons mentioned above shall enjoy on a reciprocal basis all the rights, privileges, exemptions and immunities that are accorded to persons of corresponding status of any other State.

#### **ARTICLE -5**

The Government of Nepal shall be free to import, from the territory of India, arms, ammunition or warlike material and equipment necessary for the security of Nepal. The procedure for giving effect to this arrangement shall be worked out by the two Governments acting in consultation.

#### **ARTICLE- 6**

Each Government undertakes, in token of the neighborly friendship between India and Nepal, to give to the nationals of the other, in its territory, national treatment with regard to participation in industrial and economic development of such territory and to the grant of concessions and contracts relating to such development.

**ARTICLE- 7**

The Governments of India and Nepal agree to grant, on a reciprocal basis, to the nationals of one country in the territories of the other the same privilege in the matter of residence, ownership of property, participation in trade and commerce, movement and privileges of a similar nature.

**ARTICLE- 8**

So far as matters dealt with here in are concerned, this Treaty cancels all previous treaties, agreements, and engagements entered into on behalf of India between the British Government and the Government of Nepal.

**ARTICLE - 9**

This Treaty shall come into force from the date of signature by both Governments.

**ARTICLE - 10**

The Treaty shall remain in force until it is terminated by either party by giving one year's notice. Done in duplicate at Katmandu this 31st day of July, 1950.

(Sd.) CHANDRESSWAR PRASAD (Sd.) MOHAN-SHAMSHER  
NARAIN SINGH JANG BAHADUR RANA

For the Government of India For the Government of Nepal

**Protocol (Annexed) to the Nepal-India Peace Treaty of 1950**

**(Letter of Exchange with the 1950 Treaty)**

Kathmandu

Dated the 31st. July 1950

**EXCELLENCY**

In the course of our discussion of the Treaties of Peace and Friendship and of Trade and Commerce which have been happily concluded between the Government of India and the Government of Nepal, we agreed that certain matters of details be regulated by and exchange of letters. In pursuance of this understanding, it is hereby agreed between the two Governments:



1. Neither Government shall tolerate any threat to the security of the other by a foreign aggressor. To deal with any such threat, the two Governments shall consult with each other and devise effective counter-measures.

2. Any arms, ammunition of warlike material and equipment necessary for the security of Nepal that the Government of Nepal may import through the territory of India shall be so imported with the assistance and agreement of the Government of India. The Government of India will take steps for the smooth and expeditious transport of such arms and ammunition through India.

3. In regard to Article 6 of the Treaty of Peace and Friendship which provides for national treatment, the Government of India recognize that it may be necessary for some time to come to afford the Nepalese nationals in Nepal protection from unrestricted competition. The nature and extent to this protection will be determined as and when required by mutual agreement between the two Governments.

4. If the Government of Nepal should decide to seek foreign assistance in regard to the development of the natural resources of, or of any industrial project in Nepal, the Government of Nepal shall give first preference to the Government or the nationals of India, as the case may be, provided that the terms offered by the Government of India or Indian nationals, as the case may be, are not less favorable to Nepal than the terms offered by any other Foreign Government or by other foreign nationals. Nothing in the foregoing provision shall apply to assistance that the Government of Nepal may seek from the United Nations Organization or any of its specialized agencies.

5. Both Governments agree not to employ any foreigners whose activity may be prejudicial to the security of the other. Either Government may make representation to the other in this behalf, as and when occasion requires.

Please accept Excellency, the assurances of my highest consideration.

(Sd.) MOHAN SHAMSHER)ANG

HAHADUR RAN~

*Maharaja, Prime Minister and Supreme  
Commander-in-Chief of Nepal*

To

His Excellency

Shri Chandreshwar Prasad Narain Singh,

Ambassador Extraordinary and Plenipotentiary of India at the Court of Nepal, Indian  
Embassy, Kathmandu.

## APPENDIX VII

### STRUCTURED INTERVIEW FOR REFUGEES

#### Questionnaire

#### Basic information

- I. Name:
- II. Age:
- III. Sex : [m] / [f]
- IV. Occupation:           Self employed  
                                  Business  
                                  Employed in \_\_\_\_\_  
                                  Student  
                                  Farm  
                                  Government services (if any)  
                                  Unemployed
- V. Annual income: \_\_\_\_\_
- VI. Religion:           Hindu  
                                  Buddhist  
                                  Christian  
                                  Islam  
                                  Others

VII. Marital status:

- Married
- Unmarried
- Divorced

VIII. Number of children:

**Related to refugee**

1. Date of exclusion from Bhutan:
2. Documents possessed (if any):
3. Date of reaching Nepal
4. Date of reaching camp
5. Choose Nepal or forcefully evacuated by India?
6. Facilities in the camps
  - Educations
  - Health
  - Food
  - Other
7. Response from the international organization

**Third country resettlement**

1. What do you know about Third Country Resettlement (TCR)?
2. Are you for/against TCR?
3. Have you opted for Third Country Resettlement (TCR)?
4. Which country?
5. Why did you opt for TCR?
6. Why didn't you opt for TCR?
7. Do you think TCR would ease your problems?

8. Do you think TCR would finally eradicate your identity as a refugee and give you a new identity?
9. Will resettlement finally eradicate the Lhotshampa identity?
10. Is resettlement a success?
11. Is TCR a good solution for the Bhutanese refugees?
12. What are the drawbacks of TCR undertaken by Transnational Actors?
13. What are the criteria needed to opt for TCR?
14. Who are resettled already?
15. What are the problems faced by the refugees when one applies for TRC?
16. Is there sufficient information regarding the TCR?
17. Who provides the information regarding the TCR?
18. What are the centers which provide such facilities?
19. Is TCR by choice or by compulsion/force?
20. What is the role played by Nepal in the TCR?
21. Does the state (Nepal) support/encourage TCR?
22. What is the level of intervention by Nepal in this whole process?
23. How are countries determined for the refugees?
24. What are the functions of resettlement states in the camps?
25. Are they transparent in their working?
26. Do you think the sovereignty of Nepal has been challenged by the functioning of Global Actors in Nepal's territory?
27. What is the level of generation gap?
28. Is repatriation possible? Why?
29. How do you feel about this whole TCR process?