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# Bhutan

## Ten years later and still waiting to go home

### The case of the refugees

*I see Bhutan in my dreams. There I am working in the paddy fields and looking after the cows.*

*We were very sad when my father was made to sign the Voluntary Migration Form. The official said we would have to leave Bhutan within fifteen days. We sold our cows, goats and sheep and came to Nepal. All we brought were four boxes, mattresses, clothes, three pots and some other utensils. When we arrived we were given rations and plastic [sheeting] by an agency. My house in Bhutan is now covered by jungle. Nothing in the world can erase my sweet dream to go back to my motherland, Bhutan. I hope one day I will go back to my country.*

Aita Singh Gurung (who describes one of his dreams above), Ganga Adhikari (see below) and tens of thousands of other members of the ethnic Nepali community in southern Bhutan have been living in refugee camps in eastern Nepal for the last ten years.<sup>1</sup> As someone born in Bhutan who left at the age of 12 in 1992, he is at risk of statelessness. Under Article 7 of the United Nations (UN) Convention on the Rights of the Child (CRC), to which Bhutan became a party in 1990, children have the right from birth to acquire a nationality and states have to ensure the implementation of this right "in particular where the child would otherwise be stateless".

This document describes the experiences of Aita Singh Gurung and Ganga Adhikari as illustrations of the problems facing the people in the refugee camps. They are waiting for the governments of Bhutan and Nepal to come to an agreement on their right to return to Bhutan. But ten years after they first arrived at the refugee camps, there is little prospect of an early return.

## 1. Forced exile

The practice of forced exile took place in the context of opposition by the Nepali-speaking population in the south of Bhutan against the government's policy of national integration. This policy was based on the northern Bhutanese traditions and culture, and the application of the 1985 Citizenship Act, which makes provision for the deprivation of nationality in circumstances which Amnesty International considers to be arbitrary. Particularly in the period after demonstrations against the government's new policies in September 1990, the Nepali-speaking community was labelled as Aanti-national<sup>2</sup> and its members were forced to leave the country,

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<sup>1</sup> These people are also often referred to as *Lhotsampas*, literally meaning people from the south.

by various means. These included coercing them into applying for Voluntary migration<sup>2</sup> or by arresting community leaders and releasing them on condition that they and their family left the country.<sup>2</sup> While the government maintains that people left voluntarily, the refugee community insists that people were compelled to leave by physical abuse, coercion, threats, harassment and intimidation. Amnesty International estimates that people who were put under pressure to sign Voluntary Migration Forms<sup>2</sup> (VMFs) form the majority of the people in the refugee camps.

### **Voluntary Migration**

The signing of Voluntary Migration Forms has to be understood in conjunction with relevant provisions in Bhutan's citizenship laws, the 1979 Land Act and a circular issued by the Deputy Home Minister on 17 August 1990.

Clause 6 (c) of the 1985 Citizenship Act states that 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.

Clause 6 (d) of the same Act states that if both parents are Bhutanese and in case the children leave 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.

Under Clause 6(e) of the Act, 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.

Clause 5 (10) of the Land Act, 1979 states that anyone wishing, after selling his/her landed and other property, to leave the country after giving up his/her citizenship is required to inform the government one year in advance. Such person(s) can sell his/her landed property to others only after receiving permission from the government to leave the country. If s/he has to leave the country before s/he can sell his land s/he can surrender such properties to the government and the government will pay the price of the land as it wishes."

A Home Ministry circular to all *dzongdags* (chief district officers) in the southern

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<sup>2</sup> See Amnesty International report: [Bhutan: Forcible exile](#) (AI Index: ASA 14/04/94) of August 1994 for more details on the policy and its implementation.

You are hereby instructed to immediately inform all the... [levels of local administration] and the general public in your *dzongkhag* [districts] that any Bhutanese national leaving the country to assist and help the anti-nationals shall no longer be considered as a Bhutanese citizen. It must also be made very clear that such people's family members living under the same household will also be held fully responsible and forfeit their citizenship.

## 2. The experiences of Aita Singh Gurung and his families

Aita Singh Gurung and his family have been living in Beldangi camp, one of the seven refugee camps in eastern Nepal run by the United Nations High Commissioner for Refugees (UNHCR) together with a total of about 100,000 other people, the large majority of whom arrived in 1992. According to the Bhutanese government most of the people in the refugee camps are not Bhutanese nationals and those who had Bhutanese nationality are deemed to have relinquished it on the basis of provisions in the Bhutanese laws saying that those who leave the country voluntarily lose their right to Bhutanese nationality. However, most families who have left Bhutan claim that they were put under pressure by the authorities to apply for Avoluntary migration.

According to Aita Singh Gurung, the army came to their home at Taklai in Sarbhang district one afternoon, just as the family was returning home from shopping in the nearby town of Geylegphug. They questioned his mother claiming there were weapons and documents criticizing the government hidden in the house. They searched the house and left after some time, having found nothing of interest.

Around the same time, the *Dungpa* (sub-district officer) of Geylegphug, *Dungpa* Chhimi Dorji was killed at Taklai. A former *Dungpa* of Samchi district then took over in Geylegphug sub-district office. Soon after he took office, he reportedly called meetings at village level where he accused the villagers of being involved in the killing of his predecessor. He stated that he would avenge this death. He also reportedly said that all the people in the area had to leave the country and that anyone not complying with his orders would be imprisoned.

After this, the security officials regularly visited all homes in the area, telling the families to go to *Dungpa's* office to apply for Avoluntary migration. Relenting to this pressure, Aita Singh Gurung's father, Bhakta Bahadur Gurung, went to the sub-district office to meet the *Dungpa* on 29 June 1992. He requested to be allowed to stay. But the *Dungpa* ordered him to fill in a VMF immediately and submit it to him. Aita's father felt he had no other alternative but to submit the VMF.

The *Dungpa* instructed him to return to the office the next day to calculate the amount of compensation money owed to the family. However, Aita's father did not do so. Then the *Karbari* (village headman) informed him that the *Dungpa* had sent instructions to bring Bhakta



Aita Singh standing in front of one of his paintings © Rose Class / Photovoice

Bahadur Gurung to the office with all the documents his family possessed. They reported to the *Dungpa* as ordered. Bhakta Bahadur Gurung submitted all the identity cards and most of the land tax receipts except Aita's mother's identity card and a few land tax receipts claiming that those papers had been lost. The officials then calculated that the amount of compensation owed to him for his land and house was Ngultrum 11,000 (approximately \$225). Because Aita's mother's identity card was missing, the *Dungpa* ordered that Ngultrum 1,000 had to be deducted from the compensation money as a fine for losing the identity card. At the time Ngultrum 10,000 compensation money was handed over to the family, a government official reportedly took photographs.

The family left their village on 14 July 1992. They travelled to the nearby town of Geyleghug and stayed there for five days while arranging for transportation to travel to the refugee camps in Nepal. On 19 July 1992 they left Bhutan.

### **3. The experiences of Ganga Adhikari and her family**

Ganga Adhikari, who was seven years old at the time, also left Bhutan in 1992. Her eldest brother, Dilliram Adhikari, was serving as a village representative in Danabari, Sarbhang district. He was reportedly involved in organizing the demonstrations in September 1990.

In late 1991, the army frequently conducted raids in the surrounding villages apparently to pressurize people to leave the country accusing them of being Aanti-nationals@. On 3 November 1991 several dozen army personnel came to the family home and took away Dilliram Adhikari. Similarly several other young people from the area were rounded up. They were taken to the Mau river bank by evening. According to Dilliram Adhikari, the army asked all those rounded up to promise that they would leave the country with all the members of their families. The security officials sought verbal agreement from each person that they would leave the country voluntarily by applying for migration with the local administration. Anyone who declined to give such assurance was severely beaten and a few were taken away to prison. When he initially declined to give such assurance, Dilliram Adhikari was beaten. However like most of the people, he eventually promised and was subsequently allowed to go back home late that evening.

The army then visited the family home regularly asking for Dilliram who often avoided staying at home. The security forces threatened his family members. They told the father to bring Dilliram and get him to apply for voluntary migration or apply himself. The district administration officer of Sarbhang also sent a similar message and promised people they would be offered good compensation for their property. Amid the increasing pressure and harassment by the security forces, Dilliram Adhikari made an application for voluntary migration sometime in June 1992.



On 7 July 1992 Diliram Adhikari and his family moved to nearby Geylegphug town. On 10 July 1992 the *Dungpa* called the head of the family to his office requiring him to bring all the family papers in order to settle the compensation. After he handed over their documents (identity cards and a few land tax receipts), he was told to return the next day to receive the compensation money. But when the family went the following day, they were told

Ganga Adhikari handing over a petition to Mary Robinson during the United Nations General Assembly Special Session on Children in May 2002. © South Asia Regional Program of Habitat International Coalition – Housing and Land Rights Committee.

that as King Jigme Singye Wangchuk was visiting the area soon, they had to wait for his visit to receive the compensation money.

The King visited Geylegphug on 14 July 1992. During a mass meeting, many villagers appealed to him to take action against the local administration and the security people who were forcing them to leave the country. They emphasized that they did not wish to leave. But as soon as the King left the town, the local administration and the security officials intensified their harassment and told all the families to leave the country immediately. The family of Ganga Adhikari and a few other families, despite trying for two days, were denied any compensation apparently because they were suspected of having incited people to oppose the voluntary migration.

Ganga Adhikari and her family left Bhutan on 17 July 1992 and arrived in Goldhap refugee camp on 18 July 1992. After about six months, they were transferred to the refugee camp at Beldangi Extension, where they still live to this day.

Both these children have grown up in the refugee camps. Aita Singh Gurung, now 22 years old, joined the Rose Class project, a photography, arts and writing project set up by Photovoice in 1998.<sup>3</sup> The project aims to provide the young population in the refugee camps with concrete skills and a means of creativity and self-expression. Aita Singh Gurung has proved a talented artist. Ganga Adhikari, who is now 17, joined the Bhutanese Refugee Children=s Forum originally set up in the refugee camps by Save the Children (UK). She was selected to attend the UN General Assembly Special Session on Children in May 2002 in New York. There she met with, among others, the UN High Commissioner for Human Rights and the UN High Commissioner for Refugees. She explained to them that like tens of thousands of other children in the refugee camps in Nepal, unless Bhutan allows her and her family to return, she will be stateless.

#### **4. Bilateral talks between Bhutan and Nepal**

In November 1992, Bhutan and Nepal began negotiations regarding the return of the people in the refugee camps to Bhutan. Since then, eleven ministerial-level meetings, so-called Joint-Ministerial Committee (JMC) meetings, have taken place.

At the first JMC meeting in October 1993, both sides agreed four categories into which the people in the refugee camps would be classified:

- 1) *Bona fide* Bhutanese if they have been forcefully evicted;
- 2) Bhutanese who emigrated;
- 3) Non-Bhutanese;

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<sup>3</sup> See <http://www.photovoice.org> for more information on the project.

#### 4) Bhutanese who have committed criminal acts.

This classification has subsequently represented a major obstacle to the return of those in the refugee camps who, under international law, have the right to return to Bhutan. By making Bhutan's citizenship laws one of the main criteria for classification of the people in the camps, both governments have increased the risk of these people becoming stateless and being denied the right to enter their own country.

In December 2000, when both governments at the 10<sup>th</sup> JMC agreed to proceed with a verification process, the hopes of the refugees were raised high. A team of officials from Nepal and Bhutan (Joint Verification Team, JVT) started verifying the 12,500 people living in Khudunabari camp on 26 March 2001. Under this verification process, each head of family was required to complete a form giving details of the family, thus validating relationships. The verification process proceeded slowly.

In August 2001, the Foreign Ministers of both countries met for the 11th time. They agreed to accelerate the verification process, including by increasing the size of the JVT from six to 12 members and split into two sub-teams in order to increase from 10 to 20 per day the number of families interviewed. In addition, only the head of the family was required to be interviewed and interviews were made more structured. In the following months, each side added one additional member to their delegation. The structure of the interviews was also modified. This increased the average number of families interviewed per day from about ten to sixteen.

On 14 December 2001, the verification process of the 12,500 refugees in Khudunabari camp was finally completed, representing approximately 12.5 per cent of the total refugee population in the refugee camps. Observers saw this as a first step in the direction of an agreement on the categorization of the people in the refugee camps and the ultimate repatriation of those found to have the right to return to Bhutan. However, as time passed, pessimism on the part of the refugees has set in again, as there have been no moves towards repatriation. The Bhutanese members of the JVT returned to Bhutan in December 2001 taking with them the forms filled in by the people of Khudunabari camp and, as at the time of writing, had not returned.

Since then, little or no further progress has been reported. The Foreign Secretaries of both countries met in November 2001 and August 2002 but failed to reach an agreement on the categorization. A proposal by Nepal to reduce the four categories to two (Bhutanese and non-Bhutanese) was reportedly rejected by Bhutan in November 2001.

## **5. Remaining obstacles**

While the start of **verification** in one of the seven refugee camps was a welcome development, a calculation of how long it would require to verify the remaining refugees at the same pace as in Khudunabari camp comes to approximately six years. In addition, there remain many obstacles to the return of the people from southern Bhutan currently living in the refugee camps.

One of the main hurdles is the fact that both governments have not agreed how those who have been verified will be classified into the four categories agreed upon in 1993 and what will happen to the people in each of the categories (a process referred to by both governments as **harmonization**). In addition, the **modalities of repatriation** are also still to be negotiated with the international community.

## 5.1 Categorization

At the 11<sup>th</sup> JMC meeting in August 2001, it was agreed that categorization would be undertaken by the JVT. But there remained a significant difference between the two sides on how to categorize those verified. Nepal would like to see the four categories agreed in 1993 reduced to only two - Bhutanese and non-Bhutanese. This would mean that three of the four categories (those forced to leave Bhutan, those who had migrated, and those who had committed crimes) would return. Only non-Bhutanese would remain. Bhutan however insisted that the four agreed categories should be retained.

Amnesty International is concerned that if the categories agreed upon in October 1993 are used to determine whether a person may return, guarantees provided under international law may not be fulfilled. For instance, in relation to category four (Bhutanese who have committed criminal acts), there is concern because the concept of “criminal acts” has been left undefined and because, if it is intended to exclude people in this category from returning to Bhutan, it clearly contravenes international law.

The two sides had agreed that there would be an appeal available to those who disagreed with their categorization. As yet no mechanism had been established to examine such cases. There is a need for such an appeal procedure to be set up.

## 5.2 Harmonization

A crucial decision is what will happen to those families who can be expected to be classified in Category 2 (Bhutanese who emigrated), such as the families of Aita Singh Gurung and Ganga Adhikari. What will be the definition of *voluntary* used for the purpose of interpreting who left the country of its own free will (and thus lost their right to Bhutanese citizenship, as per the 1985 Citizenship Act). Will a mechanism be instituted to independently verify the circumstances prevailing at the time these families left the country? And, if so, will this

mechanism be given a mandate to refer to current international human rights norms and practices in its deliberations?

### **5.3 Repatriation**

There was no agreement at the 11<sup>th</sup> JMC meeting on the practicalities of repatriation. However the Ministers did reportedly agree that repatriation from Khudunabari would commence immediately following verification and categorization, and before verification began in other camps. However this remains subject to satisfactory resolution of the categorization and harmonization issues.

Nepal has stated that it would not force refugees to return to Bhutan. But little thought has been given to durable solutions for those refugees that do not qualify for repatriation.

It is not clear whether Bhutan is making arrangements to resettle those qualifying for repatriation. In the report of the Minister of Finance to the National Assembly presented in July 2002, no mention was made of any budget allocation for the resettlement of the refugees.

It is vital that Nepal and Bhutan lend their attention immediately to arrangements for those to be repatriated, and for those to remain in Nepal.

## **6. Reintegration**

The sustainability of repatriation in safety and with dignity is inextricably linked to the returnees' access to a wide range of human rights on a non-discriminatory basis, such as the rights to housing, health care, education and work. The people in the refugee camps are particularly concerned about possible difficulties they may face on return on the basis of reports that the remaining ethnic Nepalese in Bhutan are still discriminated against. The latter are often refused a security clearance certificate -- a document required to apply for work, business licenses, travel abroad or access to education -- on the basis that the applicant had contact with or was related to anti-nationals living in the refugee camps in Nepal. They are also concerned about obstacles to repossession of the homes and land they owned before they left Bhutan, particularly in light of the Bhutan government's ongoing policy of resettling landless people from other parts of the country in the south.

During a visit by an Amnesty International delegation to Geylegphug and other areas in southern Bhutan in late 1998, the remaining Nepali-speaking community in the south appeared alienated from the rest of the population. Amnesty International urged the government to open

up a dialogue with the remnant Nepali community to lay the groundwork for return of the refugees and long-term reconciliation and reintegration.

A visit to a Resettlement scheme<sup>4</sup> in progress found a few positive signs of a community trying to rebuild amid the northerners and easterners being resettled there. Amnesty International urged that the resettlement of landless people from other parts of the country be carried out in such a way that it would not further complicate the negotiating process with Nepal, by jeopardizing the return of people currently in the refugee camps to land that they may have legitimate claim to. This concern also arises from Clause 2(4) of the Land Act which provides that if land not registered in anyone's name is registered by someone under a new land deed and this person pays tax on and tills the land for five or more than five years, the latter shall continue to retain the ownership of the said land even if another person acquires a *kasho* (decree) from the King of Bhutan regarding the ownership of the same land.

There appeared in 1998 to be a lot of confusion surrounding land title, partly due to the original pattern of illegal land clearance and partly due to the difficulties of surveying land that has become heavily revegetated. In 2002, resettlement is reported to be continuing, including in Sarbhang and Samchi district.



Team of surveyors measuring up plots of land for resettlement in 1998, Taklai, Bhutan. © AI

Amnesty International has also been concerned at the compulsory retirement of civil servants with alleged links to "anti-nationals" in the refugee camps. These included some doctors, nurses and teachers. The grounds on which the retirement orders were made appeared

to relate solely to the fact that the person had relatives living in the refugee camps; and not to their activities or the sensitivity of the functions they performed. The government assured Amnesty International in 1998 that no further retirements were being considered. Amnesty International urged that people who win their appeal against the decision be reinstated.

At the time of the Amnesty International visit in 1998, there was a lot of confusion about the use of Asecurity clearance certificates@ for entrance to schooling. Different versions were given by teachers, *dzongdhas*, parents and others involved in this process but it was clear that clearance was asked for in some schools and at some levels. In June 2001, the Committee on the Rights of the Child, the body of independent experts monitoring states= compliance with the Convention, examined the initial report of Bhutan under the CRC. In its final conclusions and observations, the Committee *inter alia* expressed concern Aabout the impact on children of reports of discrimination against individuals belonging to the Lhotshampas. In particular, it is concerned about reports that these children face *de facto* discrimination in access to education and other services and on the basis of status, activities, or opinions of their parents, or relatives.

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The Committee recommended that Bhutan

ATake effective measures, including enacting or rescinding legislation where necessary, to prevent and eliminate discrimination, in accordance with article 2 of the Convention, in all fields of civil, economic, political, social and cultural life;

AEstablish accessible, prompt and effective mechanisms to monitor, receive and address complaints of discrimination (e.g. prompt appeal in circumstances of denial of school enrolment); and

ATake all appropriate measures, such as comprehensive public education campaigns, to prevent and combat negative societal attitudes towards different ethnic groups.®

Amnesty International is urging that clear directives be issued to all relevant authorities to ensure an end to discrimination in admission to schools.

It is of paramount importance that the Bhutan government addresses these issues to ensure the reintegration of the returnees into Bhutanese society.

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<sup>4</sup> See UN document: CRC/C/15/ADD.157 for full text of the concluding observations and Comments of the CRC. This document can be accessed via the following website: <http://www.unhchr.ch>.

## 7. Bhutan's obligations under international treaties<sup>5</sup>

Bhutan is party to two international human rights treaties: the CRC and the Convention on the Elimination of All Forms of Discrimination against Women.<sup>6</sup> The CRC in its concluding observations (paragraph 53) recommended that Bhutan makes

A... greater efforts to expedite the verification process and consider the possibility of repatriating individuals within a reasonable time following individual verification.

The CRC also recommended that Bhutan considers acceding to the 1951 Geneva Convention Relating to the Status of Refugees, its 1967 Protocol, and the Convention on Statelessness and in the best interest of the children, consider seeking assistance from UNHCR.

In 1988 the UN Sub-Commission's Special Rapporteur on the right of everyone to leave any country, including his own, and to return to his own country, stated:

In view of Human Rights Law, denationalization should be abolished. It constitutes a breach of international obligations, ... There is also a growing tendency to require the acquisition of another nationality as a precondition for the validity of denationalization. The recognition of the right to nationality as a basic human right, in effect, limits the power and freedom of a State arbitrarily to deprive its citizens of nationality.<sup>7</sup>

## 8. Conclusions and recommendations

Despite the fact that ten years have gone by since they left Bhutan, the plight of the tens of thousands of people in the refugee camps in eastern Nepal remains very uncertain. Major obstacles remain to be solved before those who have the right to return to Bhutan under international law can do so. The key issues of categorization and harmonization and the modalities of repatriation remain to be solved. Unless these are solved soon, many of these

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<sup>5</sup> For more details on applicable international standards, see Amnesty International report: Nationality, Expulsion, Statelessness and the Right to Return (AI Index: ASA 14/01/00) of September 2000.

<sup>6</sup> In addition, Bhutan has signed but not yet ratified the Convention on the Elimination of All Forms of Racial Discrimination. However, their signature is a statement of intent and they should uphold the provision of the treaty prior to ratification.

<sup>7</sup> See UN Document E/CN.4/Sub.2/1988/35, para.107.

people, including thousands of children such as Aita Singh Gurung and Ganga Adhikari, will be *de facto* stateless.

Amnesty International recommends that:

- Nepal and Bhutan should consider acceding to the 1951 Geneva Convention relating to the Status of Refugees, its 1967 Protocol, and the 1961 Convention on the Reduction of Statelessness;
- Bhutan and Nepal should take all necessary measures to find an early and constructive solution to the categorization and harmonization issues;
- Bhutan should draw on the experience of UNHCR in facilitating voluntary repatriation of refugees and their reintegration into Bhutanese society;
- Nepal should draw on the experience of UNHCR in assuring the futures of those remaining in Nepal;
- In order to protect its citizens from arbitrary deprivation of nationality in the future, Bhutan should review its legislation to ensure that it is consistent with fundamental principles of international law, in particular by eliminating the provisions in the existing legislation that permit the renunciation of a nationality without the prior possession or acquisition of another nationality;
- Bhutan should ensure that the resettlement of landless people from other parts of the country is carried out in such a way that it will not jeopardize the return of people currently living in the refugee camps to land that they have legitimate claim to;
- The international community should use its good offices to urge the governments of Nepal and Bhutan to implement the recommendations as set out above.