



Unending Limbo:

Warehousing Bhutanese Refugees in Nepal

by Hiram A. Ruiz and Michelle Berg

Unwanted by their home country, grudgingly tolerated by their Nepalese hosts, and of little interest to the international community, over 103,000 Bhutanese refugees have been warehoused for more than a decade—out of sight and out of mind.

The UN High Commissioner for Refugees (UNHCR) has provided for the refugees' basic needs and non-governmental organizations (NGOs) have assisted, particularly with their education. The refugees have also done a great deal to help themselves and have managed to survive reasonably well. They have become highly organized, administering almost all aspects of camp life themselves, and their youth are better educated than they might have been in their homeland. Nevertheless, prolonged exile and restrictions on their mobility and economic lives has had serious consequences for the refugees' mental and emotional well-being. As a UNHCR commissioned study found, "despite the high standards of assistance, services and community participation found in the Nepali camps, it is none the less a long-term internment situation."

The day-to-day monotony of camp life has exacerbated dejection and depression, substance abuse, domestic and sexual violence, teenage pregnancies, crime, and, in some cases, political extremism. According to a September 2003 Human Rights Watch (HRW) report on Bhutanese refugee women in Nepal:

UNHCR and health care workers have identified an increasing incidence of mental health problems like depression and anxiety, particularly among women. Twenty-four

refugees have committed suicide since June 2001, and another six have attempted suicide. Based on comparisons with reported suicides in surrounding areas, the incidence of suicide in the refugee camps is approximately four times that of the incidence in the local Nepalese population.

A report on mental health among these refugees by Suraj Bahadur Thapa added, "Worrying and anxiety especially about their future, staying alone quietly, and restlessness were...ways of presentation of mental illness."

In 2003, a joint team of Bhutanese and Nepalese officials, who had conducted verification of the some 12,200 refugees, finally announced the results, with only two percent being allowed Bhutanese citizenship. Bhutanese officials would allow another 70 percent to repatriate with no guarantees of citizenship or compensation for loss of land. Bhutan forbade UNHCR from monitoring any returns, making many refugees reluctant to return. Meanwhile, no other durable solutions (i.e., local integration in Nepal or resettlement elsewhere) are yet available. The refugees remain as they have for the past decade—warehoused.

Background

The isolated Himalayan kingdom of Bhutan is home to several ethnic and religious minorities, but is ruled by ethnic Drukpas who are Buddhist and speak Dzongkha. The largest non-Drukpa ethnic group is the Lhotsampa—ethnic Nepalese Hindus who speak Nepalese—who, according to government statistics, comprise 28 percent of the population, but more likely represent 45 to 50 percent.

In the 1950s, Lhotsampa in Bhutan enjoyed government representation, citizenship, and education in the

Photo: Bhutanese refugees, Goldhap camp, Jhapa District, Nepal, 1992. Credit: UNHCR/A. Hollmann

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Nepalese language. The government also allowed them their festivals, customs, and traditions. However beginning in the late 1970s, Bhutan's government worried that the growing Lhotsampa population threatened the Drukpas' unique culture and identity. It also feared that one of its large neighbors might one day seek to annex the kingdom, as China did Tibet and India, Sikkim. To forestall that, the Bhutanese government embarked on an aggressive campaign aimed at strengthening Drukpa control and suppressing the Lhotsampa.

The Citizenship Acts of 1977 and 1985 restricted eligibility for citizenship and retroactively excluded many Lhotsampa. The 1977 Act required 15 years of government service or 20 years residency in Bhutan, as well as some knowledge of Dzongkha and Bhutan's history, to be a citizen. The 1985 Act, like previous acts, allowed the government to revoke citizenship of persons who had shown any form of "disloyalty to the King, the country, or people of Bhutan." In addition, the 1985 Act required citizens to speak, read, and write Dzongkha proficiently, have an in-depth knowledge of the culture and history of Bhutan, and possess "good moral character." It also prohibited granting citizenship to persons who had been imprisoned for criminal offences in Bhutan or elsewhere and retroactively limited citizenship to those who could prove residence in Bhutan before December 31, 1958. In contrast, the 1958 citizenship law had allowed persons to obtain Bhutanese citizenship if they had been a resident of Bhutan for more than ten years and owned farmland.

In 1988 the government conducted a census in the southern districts of Bhutan, the area largely populated by the Lhotsampa requiring documentation that did not exist as proof of citizenship. Documents showing land taxes paid were only available starting in 1977 and the census teams demanded proof of earlier payment. In some cases, census teams refused documentation issued before 1958; in others, officials categorized as illegal immigrants some Lhotsampa who had citizenship cards issued by district officials under the 1958 law, unless they could document residence and land ownership prior to 1958. Authorities rejected some because of small spelling errors on their documents, or because their middle name was spelled out on one document and not on others. As a result, Bhutanese officials excluded or revoked the citizenship of large numbers of Lhotsampa who had or were entitled to citizenship.

In the late 1980s the government introduced a "One Nation, One People" program aimed at the Bhutanization of the population.

The program required the Lhotsampa to wear Bhutanese dress, under threat of fine or imprisonment, and removed the Nepalese language from school curriculums.

In 1990 Lhotsampa dissidents and other political activists organized pro-democracy demonstrations. The government imposed martial law and detained a number of Lhotsampa. The military carried out a campaign against the Lhotsampa, including rape, torture, and ill-treatment of prominent Lhotsampa; forcible eviction; and closing schools and suspending health services in southern Bhutan to drive the Lhotsampa from the country. Many fled and upon their departure the government forced many to sign "voluntary migration forms"—written in Dzongkha which



Bhutanese refugees in Nepal, July 2003. Nearly a quarter of Bhutanese refugees in Nepal are children born in the camps.

Photo: USCR/Hiram A. Ruiz



most Lhotsampa could not read—under threats of fines or imprisonment. These forms stated that the signatory had sold his or her land and left the country of his or her own free will, causing the Lhotsampa to lose their citizenship if the government had not already stripped them of it.

Between 1991 and 1992, some 90,000 refugees fled, initially to West Bengal and Assam in India. There the Indian police harassed them, forcing them to move on to Nepal. UNHCR gave the Bhutanese *prima facie* recognition as refugees in Nepal and provided them emergency assistance. Nepal, not a party to the UN Refugee Convention or Protocol and lacking any domestic refugee legislation, granted them “humanitarian asylum,” protecting them against *refoulement*.

By 1995 the initially poor conditions in the camps, particularly education, had improved considerably. To ease tensions between the refugees and locals, who complained that the refugees lived better than they did, UNHCR funded building or upgrading local schools, roads, and health facilities.

Refugees' Current Situation

As of 2004, there were over 103,000 refugees registered in the seven camps in eastern Nepal. Nearly a quarter were children born in the camps who have never been to Bhutan, but Nepalese law does not allow them citizenship. An estimated 10,000 other unregistered Bhutanese refugees were living outside the camps.

Since the mid-1990s, refugees have been responsible for most aspects of day-to-day camp management and maintenance. They run most of the health and education services, have elected leaders in each camp, and have committees responsible for attending to the needs of women and children. The refugees have also formed a number of human rights organizations and political groups that advocate on the refugees' behalf, particularly for repatriation to Bhutan.

Aid to the Refugees

UNHCR funds most of the assistance and services provided in the camps, while the World Food Programme (WFP) provides food aid. The refugees themselves or international NGOs working in the camps deliver the assistance and social services. The Nepalese authorities are responsible for camp security. The malnutrition rate for refugee children under five is 3.5 percent; the rate for such children in Nepal as a whole is 30 percent. Some 370 trained health care workers and 1,700 community health volunteers, all refugees, staff an extensive curative and preventive health care system, including HIV education, family planning, and maternal and child health care programs. Treatment in local hospitals is available when needed.

Nearly 100 percent of Bhutanese refugee children are enrolled in camp schools where more than 1,200 refugees teach. The literacy rate among the refugees is 70 percent compared to 42 percent in Nepal and a similar rate in Bhutan. More than 1,000 refugees have completed UNHCR and NGO-sponsored vocational training programs. However, in mid-2003 the relief agency Caritas announced that due to funding shortfalls it would no longer provide free high school education to all refugee students.

According to Robert Muggah, with the help of UNHCR and the NGOs, Bhutanese refugees have achieved “startling results.” He said, “The refugee population's development indices exceed those of virtually every other population group in South Asia. Considering the circumstances, this is an admirable achievement.”

Protection Gaps: Violence and Trafficking

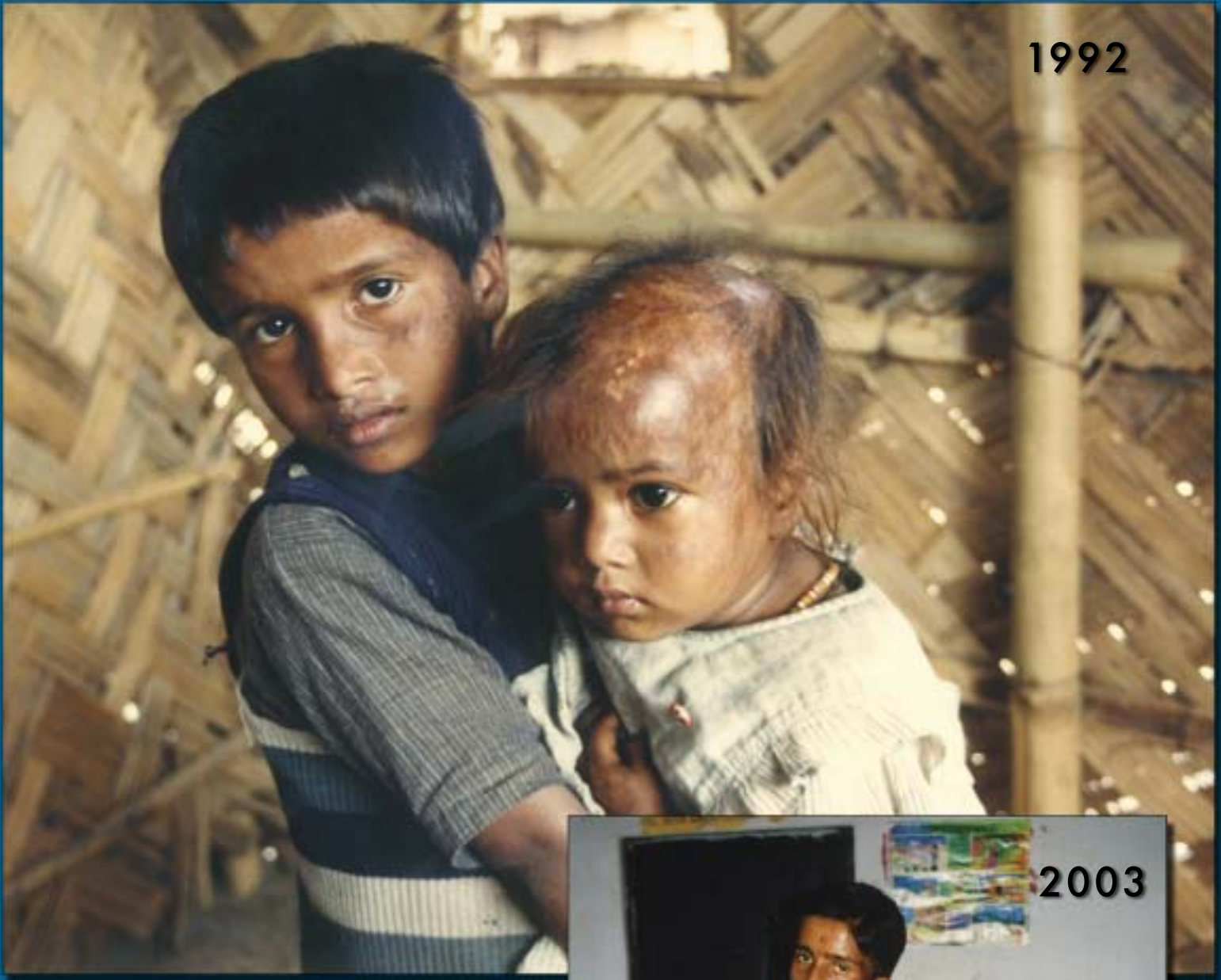
HRW found widespread and longstanding gender-based violence in the camps. While the women's husbands or other refugees perpetrated most of it, aid workers also sexually exploited refugees. According to UNHCR, rape, attempted rape, sexual assault, harassment, polygamy, and child marriage of girls occurred in some camps. Often such incidents were considered internal affairs and settled within the refugee community. As a result, camp leaders only awarded young girls a nominal compensation (RS 10=13 U.S. cents) for serious crimes.

In 2002 UNHCR investigated and added additional staff in response. UNHCR improved the follow up and monitoring of each case and survivor, installed a radio system to allow victims access to help at all times, and conducted awareness raising and training on domestic and sexual violence. Victims of domestic abuse and rape, however, still lack adequate protection or redress. Nepalese law does not have provisions to prosecute domestic violence, and the courts set a 35-day limit on the prosecution of rape or attempted rape. Nepalese rape laws do not protect men and boys. Legislators introduced a bill to punish domestic violence to the Nepalese parliament, but with the internal turmoil in Nepal it is unlikely the body will pass it in 2004. Police were stationed at the camps, but withdrew after Maoist rebels attacked them. Victims must now report crimes to a local police station, which delays the process. The Nepalese police, although improving, do not always handle victims appropriately or take their complaints seriously.

Dependency in the camps serves to exacerbate the vulnerable position of women. It is difficult for victims, mostly women, to separate from their husbands. Generally there is one ration card per family held by the man of the household. Women can only have their own if they obtain a divorce, which would endanger both their custody and property rights in Bhutan.

In 2003, UNHCR reported that 41 women and girls

1992



In 1992, shortly after tens of thousands of Bhutanese refugees first fled to Nepal, USCR visited the camps there and met Devi, then seven, and his sister, then two. Devi told USCR how Bhutanese soldiers had set fire to the family's home. Devi heard his sister screaming and entered the burning hut to save her. Both were badly burned as they ran out of the house.

USCR re-visited the camps in 2003 and found Devi and his sister, at ages 18 and 13. Devi speaks excellent English, hopes to attend a local technical college but, like many other young Bhutanese refugees, despairs about his future. He said, "Bhutan won't allow us to return because we can't prove our citizenship [their papers were destroyed in the fire], and Nepal won't let us work.

What will be my future?"

Photos: USCR/Hiram A. Ruiz

2003





were missing from the camps, some of whom may have been trafficked to other countries. Refugees also reported that local men, often drunk, sometimes come into the camps and sexually harass women, and beat and taunt refugees.

A small number of refugees sympathize with Nepal's Maoist guerrillas, who in recent years have escalated their antigovernment campaign. In 2002, some 50 young refugees started a Maoist student organization in the camps, reportedly forcing other youths to join. Several young refugees told the U.S. Committee for Refugees (USCR) they were willing to take up arms against Bhutan if the Bhutanese government does not permit the refugees to return. One refugee said, "We don't want local settlement or resettlement. Bhutan is our country; our identities, our names and families are associated with it, so we must go back. If Bhutan makes it impossible for us to return we may have to fight against Bhutan. Many of the young generation are talking about that."

Convention Rights Denied Refugees in Nepal

Nepal is not a party to the UN Refugee Convention or Protocol and has no domestic legislation for refugee protection.



Bhutanese refugees in Nepal, July 2003. Most Bhutanese refugees long to return home, particularly the older generation.

Photo: USCR/Hiram A. Ruiz

Freedom of Movement and the Right to Work or Earn a Livelihood Nepal does not permit the refugees to live or work outside the camps. Nevertheless, many do so illegally, either as day laborers in areas near the camps, or holding jobs illegally in other areas of the country. Others have opened small shops in the camps. The Nepalese authori-

ties appear to do little to prevent this. However, legal restrictions—including the requirement in the Nepalese Immigration Act that foreigners have a visa to be in Nepal—prevent the refugees from practicing professions, taking skilled jobs, obtaining licenses, owning capital assets, and managing businesses. Moreover, because even their day labor is illegal, they are vulnerable to extortion and discrimination, and generally have weakened bargaining power.

Access to Courts Article 14 of the Nepalese Constitution grants all persons, regardless of whether they are aliens or Nepalese, the right to criminal justice. In practice, refugees find it difficult to obtain such access because of strict deadlines for rape prosecution and other crimes, and lack of knowledge of the law. UNHCR and the Nepal Bar Association, Jhapa Unit, signed a sub-agreement in February 2003 for the latter to provide legal representation for refugees who are survivors of serious crimes.

Living Conditions According to HRW,

Though they receive basic food rations and huts, the type of assistance that is sufficient for short-term emergencies is inadequate for long-term living. Refugees live in overcrowded conditions where up to eight people share one hut. They...have to seek low-paying informal work so that they can supplement their diet, buy extra clothes, or pursue higher education.

UNHCR funding for assistance to Bhutanese refugees has also dropped over time.

Being stuck for a dozen years in refugee camps with little hope for any solution has taken its toll. The refugees' high level of disappointment and anger over being unable to return home, the monotony of day-to-day life in overcrowded camps, their inability to work, and the frustration of young people unable to put their education to use have resulted in depression, anxiety, alcoholism, substance abuse, and a high suicide rate. One young adult described how many refugees feel, saying, "I am landless, and without citizenship; if I have nothing, then I hope for nothing."

The high degree of education should open many doors, but at present it contributes to frustration. "When the refugees arrived, many were farmers. Now they are a very educated population, with aspirations for much more out of life than their parents had," reported one UN offi-

cial. Being unable to work or pursue higher education is a constant disappointment.

Thousands of Bhutanese refugees have left the camps to work illegally in Nepal or migrate to India, which presently allows them to work and live freely because of a friendship treaty between Bhutan and India. Many of those working in Nepal are young adults who graduated from high schools in the camps and are teaching illegally in private Nepalese schools. According to a UN official, Bhutanese refugees “teach in almost all of these private boarding schools throughout Nepal. They speak good English and are reliable workers and therefore are sought after.” Other refugees who live outside the camps run small businesses. Some maintain one foot in the camp and another outside the camp, while others are completely settled in Nepal—though without legal status. There are no reliable estimates of the number of Bhutanese refugees who are registered in the camps while not actually living there, but USCR estimates at least 10,000.

A refugee living in Khudunabari camp told USCR,

People who have got training and are very educated aren't living in the camp. If they live here in the camp, they do not get a high amount of money. Here they get paid only in the form of an “incentive,” not a salary. That will help them buy some soap and oil, but that is all. If you go outside somewhere, in Nepal itself, it is a little bit easier. They get paid quite a high amount of money as a salary. They look for a chance, and when they get a chance, they will leave the camp secretly and they will go. Their families are here and they are outside.

Current Developments: The Verification Exercise

In 1993 the Bhutanese and Nepalese governments established a Joint Ministerial Committee (JMC) to negotiate a solution to the displacement. After years of negotiations and debate, in 2001, joint verification teams (JVT) of Bhutanese and Nepalese officials began to determine the citizenship of the Bhutanese refugees to decide who would be allowed to repatriate to Bhutan.

In March 2001, the JVT interviewed the refugees in one camp. The authorities divided the nearly 12,200 refugees verified into four categories and in June 2003 released the results: Category 1—Bhutanese citizens eligible to return (2.5 percent); Category 2—Bhutanese who “voluntarily emigrated” who have to reapply for citizenship (70 percent); Category 3—non-Bhutanese (24 percent); and Category 4—Bhutanese who had committed crimes whom the government would try upon return (3 percent).

Human rights groups said that the process lacked transparency and failed to provide sufficient time and due process for appeals. Refugees were given only 15 days to appeal the decisions to the same persons who made the



Although almost 100 percent of refugee children attend school, they have few options when they graduate.
Photo: USCR/Hiram A. Ruiz

original decision, were not provided with reasons for the decision, and had to introduce new evidence on appeal. The governments of Nepal and Bhutan excluded UNHCR from the process, and the criteria to determine which persons belonged to which categories were unknown. According to the Nepalese government's National Unit for Coordination of Refugee Affairs, in 1992, some 85 percent of the refugees had proof of citizenship, some 10.5 percent had proof of land ownership, and almost 3 percent had school certificates or other official documents showing residence in Bhutan. USCR interviewed a number of Bhutanese refugees in 1992 and saw their documents.

In many instances, the JVT interviewed only the male head of households and not women. According to the South Asian Human Rights Forum, the chief interviewer



from Bhutan, Dr. Sonam Tenzing, currently the director of the Bhutanese Home Ministry, was involved in the forced evictions from Bhutan. In some instances family members with similar circumstances were placed in different categories and children were branded as criminals.

Those in Category 2 will have to wait for 2 years to be eligible to apply for citizenship. It is questionable whether they will be able to obtain it, given the 20-year residency and other requirements in the 1985 Citizenship Act, including being proficient in Dzongkha. Officials will try those in Category 4, for political crimes such as forming opposition parties or protesting government actions. A conviction in such a trial, which will be unmonitored by the international community, will result in the denial of citizenship and render them stateless. In addition, it is unlikely that the Bhutanese government will compensate those in Categories 2 and 4 for losses, return their land, or provide other land to them.

In December 2003, members of the Bhutanese verification team visited Nepal. Dr. Sonam Tenzing advised the refugees that those in Category 1 would not receive their original homes and land. Those in Category 2 would have to stay in transit camps and prove their "loyalty to Bhutan's history, culture, and monarchy," and the Bhutanese government would permit only one member from family in Category 2 to work, and then only in a menial job. He also announced that there would be no review of those placed in Category 3. In response, some refugees threw stones at the team. The team left Nepal, and the Bhutanese Foreign Minister reportedly told his Nepalese counterpart that repatriation would not start until the incident was somehow "resolved" by an inquiry. In early 2004, Nepal was urging Bhutan to allow repatriations and continue verifying the remaining refugees.

Bhutan requires citizens to obtain a No-Objection Certificate (NOC), a critical document for higher education, government jobs, crossing the many checkpoints throughout Bhutan, and trade licenses. According to HRW, employers often do not hire those without NOCs in non-government jobs. The refugees, human rights groups, and many in the international community demand that Bhutan permit all the refugees to return as citizens, compensate them for their losses, and permit UNHCR to monitor their return.

One commentator, Robert Muggah, argued that the advances the refugees have made in education and self-governance during their years in exile may have made Bhutan even more resistant to their return.

The programs and interventions by the UNHCR and its implementing partners, which have sought to promote the rights of refugees to demo-

cratic decision-making, education, and gender equality, have also strengthened the resistance of the Bhutanese regime to repatriation. For Bhutan, permanently settling a radicalized, pro-democratic, and rights-literate population is an unwelcome prospect in a country that denies its own people the right to vote.

Nepal's Position on the Refugees

In 2003, with the verification process finally under way, Nepal said it would reverse its longstanding policy forbidding the Bhutanese refugees to remain in Nepal. However, more recent reports have cast doubt on Nepal's willingness to offer the refugees permanent residence. When Bhutan



Bhutanese refugees in Nepal, July 2003. Solutions are needed to end the warehousing of the Bhutanese in Nepal.
Photo: USCR/Hiram A. Ruiz

and Nepal announced the results of the first round of categorization, Nepal indicated that Category 2 refugees—the Bhutanese who “emigrated” and must reapply for Bhutanese citizenship—could apply for Nepalese citizenship. According to refugee advocates, the Bhutanese government insisted on this provision to discourage repatriation, while Nepal agreed so that Bhutan would accept at least some of the refugees. In 2003, Nepal had so far rebuffed UNHCR’s efforts to promote local integration as a durable solution. UNHCR’s representative in Nepal said,

We want to see a comprehensive solution... UNHCR wants to start thinking of helping in a program of local settlement for those for whom it is clear they can't go back. We'd like to shift from care and maintenance to some more tangible programs to help them become more independent.

But the Nepalese government says, “Let’s not talk about comprehensive solutions at this stage. Let’s wait until after the repatriations.”

Why Are They Warehoused?

The Bhutanese are from a tiny, remote country that is politically and economically unimportant to most of the world. The refugees are located in a remote area in another small, impoverished, politically unstable country. Their fate matters little to anyone save the refugees themselves. Finding durable solutions for the Bhutanese would require effort that no one is willing to expend. It is easier to leave them as they are.

Most of the refugees wish to repatriate. The international community should ensure that Bhutanese refugees who wish to repatriate are able to do so in conditions of safety and dignity. For the rest, the international community must help achieve either local integration in Nepal or third country resettlement. Some argue these solutions should not be considered until repatriation is completed. They maintain it is important to keep as much pressure as possible on Bhutan to readmit the refugees and not permit Bhutan’s discriminatory ethnic policies to succeed.

USCR, however, argues that the international community should offer resettlement sooner rather than later to those refugees who want it and would qualify. Bhutan continues to prohibit large-scale repatriation by refusing to provide the basic rights. The refugees should have the option to choose other solutions if they are uncertain whether repatriation is safe. Neither resettlement nor integration precludes return when conditions permit. Bhutan should also cease its program of resettling ethnic Drukpas onto land left by fleeing refugees until an impartial process can resolve competing claims. Until this happens, however, other solutions are needed to end the warehousing of the Bhutanese.

India could have role in ending the current stalemate. Although India has maintained that the issue is a bilateral one between Nepal and Bhutan, the 1949 Treaty of Friendship between India and Bhutan states, “The Government of Bhutan agrees to be guided by the advice of the Government of India in regards to its external relations.” India has contributed up to 59 percent of the Bhutanese budget in past years, and has considerable influence. Furthermore, India was the first country of asylum for the refugees and India should have ensured the refugees’ rights were

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protected instead of forcing them further into exile in Nepal. Several thousand Bhutanese refugees live there. As India was part of the problem, it needs to be part of the solution by offering to take more refugees and allowing them to work and live freely until a durable solution is found. This does not preclude eventual repatriation, but takes the refugees out of limbo and makes them productive and contributing members of India’s economy.

While awaiting durable solutions, Nepal should allow all Bhutanese refugees to enjoy UN Refugee Convention rights, including freedom of movement and the right to earn a livelihood. Nepalese officials do not offer solid reasons for denying these rights but simply indicate that they are not party to the Convention and claim the refugees will take away jobs from citizens. Meanwhile, refugees who could contribute to the economy by running businesses, working, teaching English, and furthering their education until they can return home instead sit idly: growing disillusioned, frustrated, depressed, and—in a few cases—militant.

South Asian states, with the help of the international community, have the opportunity to be leaders in the world, extending 1951 Refugee Convention rights to the refugees, ending warehousing, and sharing responsibility in the region. USCR urges them be leaders in ending warehousing and promoting refugee rights while durable solutions are sought.