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Treatment by authorities of ethnic Nepali's in Bhutan

The July 2009 *Freedom House Freedom in the World* report states:

"Reversing its long-standing tolerance of cultural diversity, the government in the 1980s began imposing restrictions on Nepali speakers, also known as Southern Bhutanese, ostensibly to protect the culture of the ruling Nganglong Drukpa ethnic group. In 1988, the government began stripping thousands of Nepali speakers of their citizenship. The newly formed Bhutanese People's Party (BPP) responded in 1990 with sometimes violent demonstrations, prompting a government crackdown. Tens of thousands of Southern Bhutanese fled or were expelled to Nepal in the early 1990s, with credible accounts suggesting that soldiers raped and beat many villagers and detained thousands as "antinationals."'" (Freedom House (16 July 2009) - *Freedom in the World 2009 – Bhutan*)

The same report continues:

"After a three-year drafting process, the new constitution was officially promulgated in July 2008. It provides for some fundamental rights, but it upholds the primacy of the monarchy, and analysts noted that it does not adequately define and protect the rights of Nepali speakers." (ibid)

Under the heading 'Political Rights and Civil Liberties', this *Freedom House* report adds:

"Political parties, previously illegal, were allowed to begin registering in June 2007. Only two parties – the DPT and PDP, both of which have ties to the royal family – participated in the 2008 National Assembly elections. The parties do not differ significantly in policy goals. The constitution forbids parties based on sex, religion, language, or region, and a 2007 election law forbids individuals without bachelor's degrees from participating in government. In November 2007 the Election Commission denied registration for the Bhutan People's United Party, commenting that the party did not "have the capacity to fulfill ... national aspirations, visions and goals." Nine ethnic Nepali candidates were elected to office in 2008, although the EU monitoring report noted that a rule requiring candidates to obtain a security clearance certificate may have been an obstacle for some Nepalis." (ibid)

Under the same heading, the report states :

Prior to the mass expulsions of Nepali speakers in the early 1990s, the government had stripped thousands of Southern Bhutanese of their citizenship under a 1985 law that required both parents to be Bhutanese

citizens. Individuals also had to prove that they or both of their parents were residing in Bhutan in 1958. While the Office of the UN High Commissioner for Refugees (UNHCR) asserts that the overwhelming majority of refugees have proof of Bhutanese nationality, the government maintains that many left voluntarily or had been illegal immigrants. The roughly 105,000 refugees live in extremely poor conditions in Nepal, and a 2008 fire in one camp left 10,000 homeless. Even if permitted to reenter Bhutan, ethnic Nepalis would face a difficult citizenship process and would not be compensated for lost property. The government has also sought to settle Bhutanese from the north in lands formerly occupied by the refugees. The UNHCR has increasingly called for a third-party solution, and in October 2006 the United States said it would accept up to 60,000 refugees. Resettlement began in 2008, and nearly 8,000 had made the trip by the end of the year. New Zealand has also accepted some refugees.

Conditions for Nepali speakers in Bhutan have improved somewhat, but several major problems remain. According to a 2007 Human Rights Watch report, ethnic Nepalis must obtain certificates verifying that they do not present a threat to the state in order to enter schools, receive health care, take government jobs, or travel within Bhutan or abroad. Schools in the south restrict even Nepali speakers with certificates." (ibid)

The *US Department of State* 2008 Country Report on Human Rights Practices for Bhutan states:

"The transition to a parliamentary democracy helped the human rights situation to improve considerably; however, there were continued difficulties with the regulation of religion, and some discrimination against the ethnic Nepalese minority.

In January and February several bomb blasts hit the country's southern districts prior to the March 24 elections. The government blamed the blasts on Maoists and ethnic Nepalese rebels. A human rights group alleged that the government unlawfully detained 50 suspected Maoists in connection with the blasts, but there was no specific evidence to support this charge. On December 30, United Revolutionary Front of Bhutan (URFB) rebels attacked a group of forest workers, killing four persons." (US Department of State (Bureau of Democracy, Human Rights, and Labor) (25 February 2009) - 2008 Country Reports on Human Rights Practices – Bhutan)

Section 1d of the same report, under the heading 'Arrest and Detention' adds:

"Under the law police may not arrest a person without a warrant, and in practice the police generally respected the law, which requires an immediate statement of the charge and a reasonable effort to inform the person's family. The authorities are required to bring an arrested person before a court within 24 hours, exclusive of travel time from place of arrest. Bail is available depending on the severity of charges, the suspect's past criminal record, likelihood of flight, and potential threat to the public. Unlike previous years, no ethnic-Nepalese or Bhutanese attempted to return to the country through camps in Nepal. There were no attempts to hold demonstrations on the border during the year. ICRC and the Nepal Red Cross Society continued to partially reimburse the travel fare for the families of detainees living in camps

administered by the United Nations High Commissioner for Refugees (UNHCR) in Nepal wishing to visit their relatives detained in Chamgang. ICRC authorities offered families living in neighboring countries assistance to visit relatives held in the country. In addition, the ICRC relayed Red Cross messages between detainees and their families.

Section 1g, under the heading ‘Use of Excessive Force and Other Abuses in Internal Conflicts’, continues:

In January and February a series of five explosions occurred, including one in the capital, Thimphu, which injured 11 persons. The government blamed the attacks on Maoists and ethnic Nepalese rebels, including the BCP-MLM, the Bhutan Tiger Force, and the URFB. Security forces on both sides of the border suggested that the Maoist groups frequently crossed into India to purchase weapons and explosives; consequently, during the year, both countries fortified the 250-mile border.

Ethnic Nepalese political organizations, such as the HUROB, claimed that security forces harassed persons in the southern part of the country.

Section 2b, under the heading ‘Freedom of Assembly’, states:

“The constitution provides for the right to freedom of peaceful assembly and freedom of association, with the caveat that membership to associations that are “harmful to the peace and unity of the country” are excluded. In January 2007, according to SAHRDC, a group of ethnic Nepalese staged a protest in Phuntsholing as part of their continuing effort to pressure the government to resolve the Bhutanese refugee problem in Nepal. Police arrested the demonstrators and handed them to the Jaigaon police of West Bengal in India.” (ibid)

Under the heading ‘Freedom of Association’, section 2b continues as follows:

“The law provided for freedom of association, and the government permitted the registration of some political parties and organizations. However, the government did not permit political parties organized by ethnic Nepalese citizens. According to international NGOs, local civil society organizations attempted to balance criticism of the government to foster a mutually comfortable working relationship.” (ibid)

Section 2d under the heading ‘Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons’, adds:

“The law does not address forced exile. Although the government officially does not use formal exile, there were over 100,000 ethnic Nepalese Bhutanese living in refugee camps in Nepal and India after a government campaign in the 1980s forced them out of the country. While the government has agreed, in principle, to accept many into the country, they have declined requests to visit the refugee camps. In previous years many political dissidents freed under government amnesty stated they were released on the condition that they depart the country. The government denied this assertion. Many of those released subsequently registered at refugee camps in Nepal, while some relocated to India.

The government restricted emigration and prohibited the return of citizens who left the country. The country's citizenship laws state that persons who have left the country of their own accord, without the knowledge or permission of the government, or whose names are not recorded in the citizenship register maintained in the Ministry of Home Affairs (MHA), would not be considered citizens of the country. Some dissidents and human rights groups claimed that the government wrote the law specifically to deny citizenship to ethnic-Nepalese Bhutanese. Human rights groups also alleged that some ethnic Nepalese with relatives in the camps faced insurmountable bureaucratic challenges and were denied identification cards for procedural reasons. As a result, these individuals were unable to participate in the election process." (ibid)

Under the heading 'Stateless Persons', section 2d continues:

"Implementation of a government conducted nationwide census in 1985 resulted in the denationalization of many ethnic-Nepalese Bhutanese. The census was redone in 1988-1989 in the southern districts. At that time persons were required to present land ownership documents from 1958. Those who then lost citizenship under the 1985 law were permitted to re-apply for citizenship provided that certain conditions were met. The government considered those who could not meet the harsher citizenship requirements as illegal immigrants. Beginning in 1988 the government expelled large numbers of ethnic-Nepalese Bhutanese under the 1985 citizenship law.

The law provides for the revocation of the citizenship of any naturalized citizen who "has shown by act or speech to be disloyal in any manner whatsoever to the king, country, and people of Bhutan." The MHA later declared that any nationals leaving the country to assist "antinationals," and the families of such persons, would forfeit their citizenship. The law permits re-application for citizenship after a two-year probationary period. The government re-issued citizenship upon successful completion of the probation period and a finding that the person in question is not responsible for any act against the government.

There were allegations that the government sponsored discrimination targeted at the remaining ethnic-Nepalese Bhutanese living in the country through restrictive citizenship laws. Ethnic-Nepalese Bhutanese must meet very strict criteria to be considered "genuine" Bhutanese and obtain citizenship and security clearances in the form of No Objection Certificates (NOCs). Without citizenship they are stateless and face discrimination with regard to education, employment, and land ownership." (ibid)

Section 5, under the heading 'Children', states:

"The law provides for children's rights, and the government's policies generally supported these provisions. Child abuse was rare. Terrain and settlement patterns prevent all births from being registered. NGOs assert that children of nonregistered ethnic-Nepalese Bhutanese may not have their births registered. The failure of timely birth registration has negative consequences, as children may find it more difficult to obtain citizenship cards.

The government provides 11 years of universal, free education. According to the United Nations Development Program's 2007 report, the primary school net enrollment rate was 82.1 percent. The Ministry of Education reported that enrollment of girls at every level of general education has slowly, but steadily increased since 2002. Girls comprised 49 percent of the enrollment in schools and, in several districts, the average surpassed 50 percent. Approximately 33 percent of university students were female and only 18 percent of the students receiving study abroad scholarships were also female.

There is no law barring ethnic-Nepalese Bhutanese children from attending school. However, the government denied NOCs to children of ethnic-Nepalese Bhutanese whom the government claimed were antinationals, thus denying them higher education. Exile groups claimed that the government discriminated against ethnic-Nepalese Bhutanese secondary-level students in distribution of educational advantages and benefits, particularly if they were related to prominent dissidents or refugees. The government refuted this claim, stating that all scholarships were merit based." (ibid)

An October 2008 *Immigration and Refugee Board of Canada* response reports:

"Many ethnic-Nepalese people obtained Bhutanese citizenship under Bhutan's 1958 nationality law (HRW May 2007, 13; HRCB 25 Nov. 2003, 7). However, according to the Office of the United Nations High Commissioner for Refugees (UNHCR), the government adopted "a series of ethno-nationalist policies" in the 1980s, including setting citizenship requirements that "effectively disenfranchised" many ethnic Nepalese (often known as Lhotshampas) (UN 19 Apr. 2006, Box 5.2). In 1980, the government enacted the Bhutan Marriage Act, which classifies foreign-born spouses of Bhutanese citizens as non-citizens even if they previously held Bhutanese citizenship (CEMARD-Bhutan n.d.). The Bhutan Citizenship Act of 1985 grants children born after 1985 "citizenship by birth" only if both parents are citizens (Bhutan 1985, Art. 2; US Mar. 2001, 35; HRW May 2007, 14), and restricts "citizenship by registration" to those who can prove that they were living in Bhutan on or before 31 December 1958 (Bhutan 1985, Art. 3; US Mar. 2001, 35; HRW May 2007, 14). According to Human Rights Watch (HRW), residents who did not meet the new requirements were classified as "non-nationals, 'returned migrants', or other illegal immigrant categories" (HRW May 2007, 14-15)." (Immigration and Refugee Board of Canada (23 October 2008) - *Bhutan: Whether Bhutanese citizens of Nepalese origin face restrictions in obtaining passports or travelling abroad*)

The July 2008 *Freedom House Freedom in the World* report for Bhutan states:

"Conditions for Nepali speakers in Bhutan have improved somewhat, but several major problems remain. According to a 2007 Human Rights Watch report, ethnic Nepalis must obtain certificates verifying that they do not present a threat to the state in order to enter schools, receive health care, take government jobs, or travel within Bhutan or abroad. Schools in the south restrict even those Nepali speakers with certificates.

Restrictions on dress and cultural practices were imposed in the late 1980s in an attempt to safeguard Bhutan's heritage. A 1989 royal decree requires all citizens, including ethnic minorities, to wear the traditional dress of the ruling Drukpas in public places. A 2004 decree instructed all women to adhere to the custom of wearing a scarf draped over two shoulders instead of one." (Freedom House (02 July 2008) *Freedom in the World 2008 - Bhutan*)

The Executive Summary of a May 2007 *Human Rights Watch* report states:

"Moreover, Bhutan's remaining ethnic Nepali citizens face ongoing threats to their citizenship status. A nationwide census completed in 2005 classifies 13 percent of current Bhutanese permanent residents as "non-nationals." Ethnic Nepalis who reside in Bhutan reported to Human Rights Watch that many of them are being denied citizenship cards. While most ethnic Nepalis in Bhutan do not believe that they are currently at imminent risk of being expelled from Bhutan, they fear that without citizenship cards and without NOCs, life in Bhutan will eventually become so difficult as to leave many of them with little choice but to leave the country. Others fear that resettlement to the United States of many of the Bhutanese refugees in Nepal could encourage the Bhutanese authorities to coerce more ethnic Nepalis to leave." (Human Rights Watch (17 May 2007) - *Last Hope - The Need for Durable Solutions for Bhutanese Refugees in Nepal and India*)

Section V. of the same report under the heading 'Life for Ethnic Nepalis in Bhutan', adds:

"Ethnic Nepalis who were not evicted and who remain inside Bhutan face persistent discrimination and ongoing threats to their citizenship status. A nationwide census completed in 2005 classifies 13 percent of current Bhutanese permanent residents as "non-nationals." While it is not possible to say what groups or individuals have been classified as "non-nationals," they are widely believed to include many ethnic Nepalis. Following the census new ID cards are being distributed to all recognized Bhutanese citizens. In interviews with Human Rights Watch, ethnic Nepalis who reside in Bhutan reported that only those people who have been classified as F1 (genuine Bhutanese citizens) and F4 (non-national women married to Bhutanese men, and their children) are given new citizenship cards. One man said, "Until now, everyone has had a red ID card [the old version of the Bhutanese ID card]. But the new cards are given only to [people who have been classified as] F1 and F4. The others don't get one." (ibid, p.27)

Page 30 of the same report under the heading 'Education', continues:

"In interviews with Human Rights Watch, ethnic Nepalis who still live in Bhutan explained that, 15 years after the mass eviction of their fellow ethnic Nepalis, they continue to suffer discrimination in almost all aspects of their daily lives in Bhutan, including education, employment, and land ownership. After the unrest in southern Bhutan all schools in the southern districts were closed. Recently a number of schools have reopened, but only in places where Drukpas have been resettled on land formerly owned by refugees. Drukpa students are given priority for the limited number of places available in these schools, leaving many ethnic Nepali children to compete for the few remaining places. There is no instruction in the Nepali language, even in

schools in the southern districts: only Dzongkha and English are taught. Ethnic Nepalis are still expected to wear the traditional Drukpa clothes (gho for men, kira for women) in schools and other public places, as stipulated by the king's 1989 decree of driglam namzha." (ibid. p.30)

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This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

Sources Consulted:

Amnesty International
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IRB: Immigration and Refugee Board of Canada
IRIN News
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UK Home Office
UNHCR Refworld
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