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Bhutan-Nepal Talks: Deadlocked

Amid varying expectations, the fifth round of Bhutan-Nepal Joint Ministerial Committee meeting was held in Kathmandu from February 27 to March 2, 1995. The talks, held after a lapse of eight months since the fourth round in Thimphu at the end of June 1994, saw a complete change in the negotiating team on the Nepalese side. Speculations about the possibility of the talks being held at the Foreign Minister-level remained mere rumours as the two sides were once again led by their respective Home Ministers. Consequent to a change in government, the Nepalese delegation was led by Home Minister K.P.Sharma Oli, and included Royal Nepalese Ambassador to India Harsha Dhaubhadel and Joint Secretary in the Ministry of Foreign Affairs Govinda Dev Pant.

After three days of "extensive discussions", the two sides were no closer to an agreement. An outright resolution of the problem was never on the cards. However, in view of oft-repeated resolve of the new Nepalese leadership, there were faint hopes that some small steps forward might materialise. Obviously, this has not been possible. According to the terse Joint Press Release issued at the end of the talks, the two sides have agreed to meet again in April.

U.S. HUMAN RIGHTS REPORT: BHUTAN FLYED

The United States State Department submitted its annual report on human rights practices, in different countries for 1994 to the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs on February 1.

"In the past half-decade government efforts to repress ethnic Nepalese has side-tracked further progress" in the efforts toward social and political modernization begun by late King Jigme Dorji Wangchuck, the report on Bhutan states. "There was little evidence that the Government investigated or punished security force officials implicated in the widespread abuses reported during 1989-92. Government forces committed these abuses in southern Bhutan as part of an effort to reduce the presence of ethnic Nepalese. This policy created a climate of impunity in which the Government tacitly condoned the physical abuse of ethnic Nepalese," states the report.

The U.S. Government has publicly expressed serious concern over the crisis in Bhutan which has led to the consequent problem of Bhutanese refugees in Nepal. The Royal Government has also been censured through the annual human rights reports since 1992. Last year, Assistant Secretary of State for South Asia Ms Robin Raphel visited Thimphu where she raised the issue with the King and senior government officials.

COLUMBIA CONFERENCE CALLS FOR THIRD-PARTY MEDIATION



HUROB Executive Member Bhim Subba speaking at the conference

A seminar on **BHUTANESE REFUGEES: An Unresolved Crisis** was held at Columbia University, New York on February 18. Organized by the Centre for the Study of Human Rights and the Southern Asian Institute, School of International and Public Affairs of the Columbia University and the Alliance for Democracy and Human Rights in Nepal, New York, the seminar was attended by over 140 participants. The participants included high level officials from the US State Department; representatives from the Permanent Missions to the United Nations of Japan, Austria, Nepal, Kenya, and Pakistan; Bhutanese refugees, representatives of the United Nations Secretariat, UNHCR, UNICEF, World Food Program, Amnesty International, Freedom House, Human Rights Watch/Asia, US Committee for Refugees, Refugees International, Refugee Policy Group, Lawyers Committee for Human Rights, International Center for Law and Development, American Physicians Association for

Human Rights, journalists, scholars and students from major US Universities. Bhim Subba, executive member of the Human Rights Organization of Bhutan (HUROB), was invited as a representative of the Bhutanese refugees. The governments of Bhutan and India declined the invitation to participate in the seminar.

The participants were unanimous in stressing the need for fairness in finding acceptable solution to the refugee problem and emphasized that principles should not be sacrificed for expediency in the process of working out a settlement. The participants took note of the on-going bilateral talks between the governments of Nepal and Bhutan, but in view of the lack of substantive progress, the conference recognized and stressed the role of the international community, governments as well as agencies and organizations, in expediting the process of finding a just solution. The participants appreciated the stand taken by the Government of the United States of America, but expressed

serious concern over the unwillingness of neighbouring India to become involved in helping to resolve the crisis. Key recommendations of the conference:

- strongly urge negotiators/ parties to take into account international norms and practices during the bilateral negotiations;
- ensure input from the refugee community;
- incorporate third party mediation to ensure that the negotiations proceed expeditiously but not at the cost of fair process;
- implement institutional safeguards to assure the safety of the repatriated refugees."

Among others, report of the conference was sent to both the governments of Bhutan and Nepal prior to the fifth meeting of the Joint Ministerial Committee in Kathmandu.

[Extracts from the preliminary report on page 4. Also see page 3 for report on the conference by Kanak Mani Dixit, editor of *Himal*.]

CHINESE GOODS FLOOD BHUTANESE MARKETS

The (il)legal flow of Chinese goods into Bhutan has increased dramatically in the last few months. After the 1959 take-over of Tibet by China, the Bhutan-China border which saw brisk barter trade earlier was officially closed from the Bhutanese side. For the next two decades, all cross-border transactions ceased. During the eighties, Chinese blankets, shoes and some small electronic goods started appearing in the market, especially in western Bhutan.

Lately, in a bid to keep the business sector happy, the government has given covert official sanction for the flourishing illegal trade. It is not by sheer coincidence that such a policy is currently being

followed; the elite, including royalty, are directly and indirectly involved in trade and industry, and benefit the most from such business. While direct sales within the kingdom itself makes this tax-free enterprise highly lucrative, the expansion into the Indian market makes it even more rewarding.

Recently, customs officials in the south-western Indo-Bhutan border town of Phuntsholing snared a large haul of smuggled Chinese cigarettes. On instructions from "higher ups", no seizure list was prepared and the complete consignment released without any penalty or record. Another item to hit the Bhutanese market in a big

way is Chinese beer. Obviously, large quantities of bottled beer cannot be freely transported from one place to another without the knowledge of the government.

All contraband must be carried into Bhutan as there is no motorable road connection. Haa district in the west which has less than 1.5% of the country's population but which boasts of 43% of ministers in the government is the main illegal entry point for all Chinese goods in the country. The valley also has a comparatively large Indian Army presence since it is the main base of the Indian Military Training Team (IMTRAT).

DIPLOMATIC CORP VISITS KHUDUNABARI

While preparations were being made by Nepal and Bhutan for the fifth round of talks on the refugee problem, Kathmandu-based diplomats visited the Bhutanese refugee camps on February 22. The group mingled with refugees in Khudunabari camp and inquired about the living conditions and the reasons that led to their departure from Bhutan. Refugees stressed their desire to return home and sought the help of the international community for speedy repatriation. The team also inspected the refugee screening post at Kakarvitta.

The group included heads of diplomatic missions in Nepal or their representatives from Bangladesh, Japan, Israel, Sri Lanka, Russia, Myanmar, Thailand, Italy, Netherlands, Germany, France and Finland. They were accompanied by officials of His Majesty's Government of Nepal. Dr. Michael Hutt from the School of Oriental and African Studies, London who organized a conference on contemporary Bhutan in London in March 1993 also accompanied the delegation.

Other visitors to the camps during the month included Kathmandu-based British diplomats. Peter Heigl, Deputy Head of Mission and Kevin J. Brind, Third Secretary (Development) from the British Embassy in Kathmandu visited the refugee camps and the refugee screening post in Kakarvitta. The diplomats also met with representatives of the refugee community and organizations working in the camps and inquired about the situation in the camps as well as the present human rights situation in Bhutan. The refugees apprised the visitors for the need to involve a third party in the current bilateral talks.

AI CONCERNED ABOUT

BHUTANESE REFUGEES - DANIELS

Ross Daniels, Chairperson of the Amnesty International Working Group on a week-long visit to Nepal toured various parts of the country addressing gatherings of human rights activists and workers. Prior to his departure, Daniels spoke at a Press Conference on wide ranging issues of concern to Amnesty International.

Illegal detention, ill-treatment of people in custody, torture and disappearances were some of the key problems highlighted by Daniels. Speaking on the problem of Bhutanese in exile, the Chairperson emphatically stressed that Amnesty International was "very concerned about the refugees from Bhutan". "Our concern is that people have been forcibly exiled from Bhutan because of their ethnic origins and political beliefs," he added.

In a separate development, Amnesty International, Nepal Section has translated and published **BHUTAN: Forcible Exile** in Nepali. The document was published in English by the International Secretariat of A.I. in London in August 1994. The Nepali version is available from the Nepal Section of the Amnesty International, P.O.Box 135, Kathmandu.

The Bhutan REVIEW

STALEMATE

The fifth round of bilateral talks between Nepal and Bhutan concluded, as expected, without the two sides reaching any agreement. A terse press statement announcing the joint decision of the two governments to meet once again in April was the only result of three days of deliberations.

News of the stalemate did not, naturally, go down well in the camps. After anxiously waiting for eight long months, informed that nothing had happened in the talks, restless refugees had, it appeared, just cause for disillusionment and dejection. But in truth, much as the waiting and further delay may be painful for us, we could look at the silver lining.

After so many years in exile, living on handouts in refugee camps, we are impatient and restive. We are disappointed and frustrated when quick solutions to our predicament are not immediately forthcoming. However, in our desperation we sometimes overlook the fact that very often when solving a problem is difficult, the very act of ensuring that at the least the situation does not further deteriorate is in itself an achievement. The stalemate in the bilateral talks needs to be viewed in this light.

It is public knowledge that in the negotiations between the two governments thus far, Thimphu has been the more successful protagonist, generally incorporating its views and positions at will. Thimphu's aggressive thrusts from the very first round, coming from the party which was forced to the negotiating table as the "accused" and defendant, seemed to have completely unnerved Kathmandu. From the farce of categorization to the establishment of a strictly bilateral Joint Verification Team, the Bhutanese side accomplished a great deal, possibly far beyond its own expectations. With the refusal of Kathmandu to be conned into yet another concession this time, the slide, it appears, has finally been arrested.

But even as it was faced with a potential stalemate, the Royal Government of Bhutan, as usual, had prepared itself and the international community for the outcome of this fifth round meeting in its own devious fashion. In the build up to this much-delayed fifth round, Bhutan undertook a special misinformation campaign centred on Thimphu's supposed understanding that this round would be crucial as a "meeting of minds" and a "harmonization of positions" was in the offing. That this was not the truth was immaterial to Bhutan - in fact, Thimphu was well aware that a deadlock was the only likely outcome; what the Bhutanese side merely wished to accomplish was to set the stage so that fingers could be pointed to Nepal when the talks did indeed fail. Now that it has, having taken great pains to "show" its interest in finding a solution, Bhutan is busy intensifying efforts among its limited circle of friends to "show" that it is Nepal which does not want a solution.

The Royal Government's "almost resolved" campaign (which in effect meant, please stay off our backs for the time being) as a means to counter pressure, especially from governments assembled at the Round Table Meeting in Geneva last January, came from different quarters and in startling form.

Foreign Minister Dawa Tsering's disclosure to the BBC on February 20 regarding the alleged "remarkable meeting of minds" with the former Nepali Congress government was itself "remarkable". "We were hoping very much to have a breakthrough last year" does not mesh with the known facts surrounding the bilateral talks. The fourth round in Thimphu generated little discussion because of the vastly differing positions - positions which were carried over to Kathmandu, and which remain unchanged even at the end of the current fifth round. There never were any indications then or subsequently that any "meeting of minds" was possible given the unacceptable position of the Bhutanese side.

Meanwhile, at a seminar in distant America, asked by Thimphu to lend a hand, South Asia expert Professor Leo Rose unsuccessfully pitched in to try and convince the U.S. State Department and international human rights groups that the problem was on the verge of being resolved. Although he took great pains to show that he was a confidant of the Royal Government, Rose, if he was privy to Thimphu's darkest secrets, did not divulge the reasons for his extreme optimism. Surprisingly, even as the Nepalese government representative speaking before him had made it very clear that such optimism would be misplaced, Rose boldly, and foolishly, declared that the problem of Bhutanese refugees in Nepal was an "about to be resolved" crisis. One is at a loss to explain which has suffered more, Rose's scholarship or his integrity.

That both the Bhutanese Foreign Minister and the Berkeley Professor were only acting out their parts in a grand design to mislead the world is now obvious. The stalemate is confirmation that neither side was willing to budge from its previous position. If Thimphu had no intention of offering a compromise, it is inconceivable how the Royal Government could have hoped for a breakthrough. Clearly, by publicly forecasting a "meeting of minds", Bhutan was either hoping to charm a new Nepalese team into accepting the Bhutanese point of view or simply setting a favourable backdrop for a potential deadlock. Thimphu's strategy may have worked yet again, but with the continuing stalemate the bilateral engine may finally be running out of fuel.

THE COMPARATIVE SURVEY OF FREEDOM

The last issue of The Bhutan Review carried a front-page story about Bhutan being among the 21 most repressive states in the world according to an annual survey conducted by Freedom House. The following extract from Freedom Review, Jan-Feb 1995, explains the methodology adopted in the survey of 191 countries and 58 territories.

The purpose of the Survey remains what it has been since its inception in the 1970s: to provide an annual evaluation of political rights and civil liberties everywhere in the world. The Survey does not rate governments *per se* but rather the rights and freedoms individuals have in each country and territory. Freedom House does not score countries and territories based on governmental intentions or constitutions but on real world situations caused by governmental and non-governmental factors.

The Survey's understanding of freedom is broad and encompasses two sets of characteristics grouped under political rights and civil liberties. Political rights enable people to participate freely in the political process. Civil liberties are the freedoms to develop views, institutions and personal autonomy apart from the state.

The Survey employs checklists for these rights and liberties to help determine the degree of freedom present in each country and related territory, and to help assign each entity to a comparative category.

Political Rights Checklist

1. Is the head of state and/or government or other chief authority elected through free and fair elections?
2. Are the legislative representatives elected through free and fair elections?
3. Are there fair electoral laws, equal campaigning opportunities, fair polling and honest tabulation of ballots?
4. Are the voters able to endow their freely elected representatives with real power?
5. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system open to the rise and fall of these competing parties and groupings?
6. Is there a significant opposition vote, *de facto* opposition power, and a realistic possibility for the opposition to increase its support or gain power through elections?
7. Does the country have the right to self-determination, and are its citizens free from domination by the military, foreign powers, totalitarian parties, religious hierarchies, economic oligarchies, or any other powerful group?
8. Do cultural, ethnic, religious and other minority groups have reasonable self-determination, self-government, autonomy or participation through informal consensus in the decision-making process?
9. Is political power decentralized, allowing for local, regional and/or provincial or state administrations led by their freely elected officials? (For entities such as tiny island nations, the absence of a decentralized system does not necessarily count as a negative in the Survey.)

Additional Discretionary Political Rights Questions

- A. For traditional monarchies that have no parties or electoral

processes, does the system provide for consultation with the people, encourage discussion of policy, and allow the right to petition the ruler?

B. Is the government or occupying power deliberately changing the ethnic composition of a country or territory so as to destroy a culture or tip the political balance in favour of another group?

The Checklist for Civil Liberties

1. Are there free and independent media, literature and other cultural expressions? (Note: In cases where the media are state-controlled but offer pluralistic points of view, the Survey gives the system credit.)
2. Is there open public discussion and free private discussion?
3. Is there freedom of assembly and demonstration?
4. Is there freedom of political or quasi-political organization? (Note: This includes political parties, civic associations, ad hoc issue groups and so forth.)
5. Are citizens equal under law, with access to an independent, non-discriminatory judiciary, and are they respected by the security forces?
6. Is there protection from political terror, and from unjustified imprisonment, exile or torture, whether by groups that support or oppose the system, and freedom from war or insurgency situations? (Note:

Freedom from war and insurgency situations enhances the liberties in a free society, but the absence of wars and insurgencies does not in itself make an unfree society free.)

7. Are there free trade unions and peasant organizations or equivalents, and is there effective collective bargaining?
8. Are there free professional and other private organizations?
9. Are there free businesses or cooperatives?
10. Are there free religious institutions and free private and public religious expressions?
11. Are there personal social freedoms, which include such aspects as gender equality, property rights, freedom of movement, choice of residence, and choice of marriage and size of family?
12. Is there equality of opportunity, which includes freedom from exploitation by or dependency on landlords, employers, union leaders, bureaucrats or any other type of denigrating obstacle to a share of legitimate economic gains?
13. Is there freedom from extreme government indifference and corruption?

When analyzing the civil liberties checklist, Freedom House does not mistake constitutional guarantees of human rights for those rights in practice. For tiny island countries and territories and other small entities with low populations, the absence of unions and other types of associations does not necessarily count as a negative unless the government or other centres of domination are deliberately blocking association.

Ratings, Categories, and Raw Points

The Survey rates political rights and civil liberties on a seven-category scale, 1 representing the most free and 7 the least free. A country is assigned to a particular category based on responses to the checklist and the judgments of the Survey team at Freedom House. The numbers are not purely mechanical; they also reflect judgment. Under the methodology, the team assigns initial ratings to countries by awarding from 0 to 4 raw points per checklist item, depending upon the comparative rights or liberties present. The only exception to the addition of 0 to 4 raw points per checklist item is the discretionary question on cultural destruction and deliberate demographic change to tip the political balance. In that case, we subtract 1 to 4 raw points depending on the situation's severity. The highest possible score for political rights is 36 points, based on up to 4 points for each of the nine questions. The highest possible score for civil liberties is 52 points, based on up to 4 points for each of the thirteen questions. Under the methodology, raw points correspond to category numbers as follows:

Category Number	Political Rights	Civil Liberties
1	31-36	45-52
2	26-30	38-44
3	21-25	30-37
4	16-20	23-29
5	11-15	15-22
6	6-10	8-14
7	0-5	0-7

The Tabulated Ratings

In political rights, generally speaking, places rated 1 come closest to the ideals suggested by the checklist questions, beginning with free and fair elections. Those elected rule. There are competitive parties or other competitive political groupings, and the opposition has an important role and power. Category 7 includes places where political rights are absent or virtually non-existent due to the extremely oppressive nature of the regime or extreme oppression in combination with civil war.

Category 1 in civil liberties includes countries and territories that generally have the highest levels of freedoms and opportunities for the individual. Places in this category may still have problems in civil liberties, but they lose partial credit in only a limited number of areas. At category 7, countries and territories have virtually no freedom. An overwhelming and justified fear of repression characterizes the society.

The Survey places countries and territories into tripartite divisions by averaging the category numbers they received for political rights and civil liberties. Those whose category numbers average 1-2.5 are considered "FREE", 3-5.5 "PARTLY FREE", and 5.5-7 "NOT FREE". ["NOT FREE" Bhutan was rated 7 in both categories - Ed]

TALKING BHUTAN IN NEW YORK

By Kanak Mani Dixit

"IN QUOTES"

"That is, you know, what you are saying this is, this allegation which is being made is contrary to the fact."

Foreign Minister Dawa Tsering (BBC, February 20, 1995) responding to allegations that Bhutan is deliberately delaying trying to find a settlement because they do not want to resolve the problem.

"The tiny Himalayan kingdom of Bhutan has one of the worst human rights records in the world."

Charles Graybow, Asian Affairs Specialist, Freedom House, in Freedom Review, Jan-Feb 1995.

"We are very concerned about the refugees from Bhutan. Our conclusion is that people have been forcibly exiled from Bhutan because of their ethnic origins and political beliefs."

Ross Daniels, Chairperson of Amnesty International Working Group.

On 18 February, the New York advocacy group Alliance for Democracy and Human Rights in Nepal, together with Columbia University's Centre for the Study of Human Rights, organized a one day workshop to discuss the Bhutanese refugee question. Having become a "Bhutan expert" on the basis of two articles in Himal magazine, this writer was also invited to make a presentation.

There was some naivety on the part of the organizers to expect initially that this would be a gathering where Bhutanese and Nepal government representatives would meet to discuss the problem of the refugees. It was also unfortunate that the invitation to the workshop included the names of Lyonpo Dawa Tsering and Madhav Nepal as invited speakers, something that had been done without first getting clearance.

And it was quite surprising for the organizers to assume that Thimphu could be included to participate in any exercise, scholarly or otherwise, where it might be "found out". The first academic conference on Bhutan, organized a year earlier at the School of Oriental and African Studies in London, proved once and for all in the eyes of unbiased academia, the less-than-kosher activities of a regime that has engaged in an exercise of depopulation.

Rather than engage in open-minded discussion that could lead into unwelcome directions, therefore, Thimphu prefers to cultivate academics, editors and diplomats on a one-on-one basis. Its techniques range from outright bribery of journalists to expense-paid holidays to Bhutan for academics, as well as strict control of access to Druk Yul and full exploitation of the Shangri La myth to advantage.

Bhutan might also have feared sending its representatives into a roomful of Bhutan-bashing expatriate Nepalis of New York. As it turned out, however, there was no overt grandstanding by the New York crowd, and the meeting at the Columbia University succeeded in highlighting several critical issues.

One, was the need to immediately focus in on the underlying question of refugee identification, verification and repatriation. Thimphu has been doing everything within its powers to delay the day when the parties will have to address the critical question of verifying the refugee's claim to citizenship. In the past, the Nepal side of the Joint Ministerial Committee has willingly been led up the garden path by Thimphu.

Two speakers emphasized that neither the Bhutanese nor the Nepal government should be allowed to take an expedient way out of the present crisis by ignoring the fundamental interests of the hundred thousand odd refugees. Given that the Bhutanese, Indian, Nepali and Western donor governments are all either unwilling or unable to move the negotiation process ahead, it was suggested by Paul Martin, head of the Center for

the Study of Human Rights, that NGO's take up the task of protecting the interest of the refugees. This call for voluntary groups and activists to get involved on the Lhotshampa question, particularly by ensuring that humanitarian principles are followed in the verification and repatriation might be said to have been the conclusion reached by the New York meeting.

Meanwhile, what was the Bhutanese position on the whole affair? In a letter to Paul Martin, Bhutanese Ambassador to the United Nations, Ugyen Tshering said he could not attend the seminar organized by a "patently partisan body like the Alliance". For good measures he added that "Nepalese immigrants through sheer force of numbers have in the recent past taken over political control of the area between Nepal and Bhutan". It was an incontrovertible fact, said Tshering, that "Nepal has traditionally been a large-scale exporter of people ... with the result that Bhutan and the North Eastern States of India are coming under increasing pressure from Nepalese economic migrants."

T.P. Sreenivasan was kind enough to send a reply, but the Indian Ambassador need not have bothered. His curt one-line response to Martin reads, "I am afraid no representative of this mission will be able to participate in the Seminar."

The Nepal government's case was presented by the newly emplaced former Foreign Secretary Narendra Bikram Shah, who read out a prepared speech that went to the heart of the matter. Shah maintained that the refugee problem could not be resolved without reference to international norms and practices. Bhutan claims that the refugees who have left "voluntarily" are no longer citizens by its national laws, whereas they cannot therefore be given Nepali citizenship under Nepali laws. Because "the laws of Bhutan and Nepal do not create a seamless web", Shah went on to warn, "the possibility of statelessness looms large".

Bhim Subba of the Human Rights Organization of Bhutan, representing the refugees, asked very simply of the international community "Are we Bhutanese? If we are, have we come out willingly? If we have not come out willingly, what are you going to do about it?"

It cannot be said that Bhutan was not represented at the conference. Firstly, there was the Indian college student studiously taking notes on the first row, for the benefit of the Bhutanese Permanent Mission to the United Nations. Secondly, the absence of official Druk representation was more than made jump for by the presence of Berkeley professor Leo E. Rose.

Once-upon-a-time an acclaimed Himalayanist, Rose has more than once in recent times stood and mouthed Thimphu's version of events while keeping the appearance of academic objectivity. In New York, Rose chose to take the path of argumentation by anecdote and innuendo. He

sought to generalize on the basis of opportunistic example, and to make claims hoping they would not be challenged. Challenges, meanwhile, would be met by quick retreat, with an offhand, "Oh, but I was only presenting what the Bhutanese say is their position on the matter..."

At one time till not so long ago, Rose was the much-sought-after American professor for all Nepal, courted and more than welcome for tea with the big politicians, including Girija Prasad Koirala and Ganesh Man Singh. He represented the power of American academia with leverage in Washington DC's corridors. Or so we thought.

The tide has shifted in Nepal, and it is much more difficult to retain one's place of respect in a cantankerous democracy. Hence, it seems, Rose's turn to the dragon Kingdom and the lesser demands of propaganda as compared to tiresome analysis based on the shifting of facts. (His stay in New York was said to be as a house guest of Ambassador Tshering.)

As was clear from his participation in the earlier Bhutan conference Prof. Rose's technique has been to make his presentation and disappear from the venue. This gives the appearance that he is a busy professor with not the time to evade uncomfortable questions and from being held accountable.

Among many Byzantine claim made by Rose in New York, one was that he believed that last August the two sides (in the Joint Ministerial Committee) would have reached agreement had not the meeting of the Joint Ministerial Committee been postponed due to the elections in Nepal. He had learnt this while visiting Thimphu. Even today, he believed that the refugee crisis is at the verge of being resolved. The professor believed that one of the worst things that Western powers could do was to get involved in any way whatsoever in resolving the crisis of Southern Bhutan. That would be a recipe for disaster, he said and he did not want the United States Government to intervene in any way, even by providing good offices.

The Professor then sallied forth to assassinate character through the use of innuendo. The UNHCR representative, he said, was a Pakistani, who was blatantly anti-Indian. As long as he was in his position, UNHCR would never be trusted by Indians or Bhutanese. Now in reporting on Bhutan's southern problem, this writer has interviewed the whole cast of individuals involved from Bhutanese Ambassador in New Delhi to former Indian Foreign Secretary J.N. Dixit, and everyone in between. Not one individual interviewed over this period once raised the nationality of the international civil servant who serves as a factor in the Bhutanese Government's reaction to that agency's presence.

As the time for verification of the refugees' status draws high whether Thimphu likes it or not, it is clear that once more it would like to play for time by raising

yet one more extraneous issued. As UNHCR is the one agency with the expertise and the international mandate to get involved in the process of verification and repatriation, it is obvious why Thimphu would do anything not to get the agency involved. Enter Leo. E. Rose. To provide an appropriate spin.

In all this including the co-opting of an American professor, I cannot but express my admiration of His Majesty the King Jigme Singye Wangchuck and his ministers. I have to admire their administrative, political and diplomatic acumen, and the cool and calculated audacity with which they have implemented a policy that is basically inhumane - a policy to depopulate the southern hills of Bhutan of a community that they (the King and Government) suddenly found inconvenient.

(Courtesy: *The Rising Nepal, Kathmandu.*)

MEDIA SCAN

Human Rights - Bhutan: Caught in a time warp

Colombo - The tiny himalayan kingdom of Bhutan is tightly closed to foreigners, and human rights groups say the consequent absence of international media attention has allowed the government to keep abuses under wraps. About 105,000 Bhutanese of Nepali origin have fled the country in the past three years - one-sixth of the country's population. Of them, 86,000 are in refugee camps in Nepal run by the United Nations and charity groups.

International human rights groups have said there is evidence of forced eviction, but admit the kingdom's reclusive nature has made it difficult to independently verify it. Bhutan is a country caught in a time-warp, said Om Dhungel, a Bhutanese refugee delegate at a South Asian Human Rights conference in the Sri Lankan capital. The Human Rights Organization of Bhutan (HUROB) says Bhutan's extreme selectivity in issuing visas to rights observers and journalists, and the lack of democracy within the country have helped the country get away with the abuses.

The Buddhist-dominated government of Bhutan has not denied that the mainly-Hindu Nepali-speaking Bhutanese have left, but says they did so on their own accord. In turn, it accuses 'anti-national' militants from the South of committing murders and banditry. Bhutan fears that its unique Buddhist culture and customs are threatened by Nepalese from the South. Current talks between Nepal and Bhutan about repatriating refugees are to resume this month. But negotiations are deadlock over procedures to categorize refugees. Nepal says as many as 60,000 of the Bhutanese were forced out. But Bhutan says they left voluntarily.

In its 1994 report, Amnesty International said: "Many of the people in the camps have been forcibly exiled from Bhutan on account of their ethnic origin or political beliefs."

HUROB presented a report at the Colombo meeting that detailed what it said were domestic curbs on free expression, the lack of a democratic constitution and independent judiciary as reasons why the abuses have gone unchallenged. At a time when countries in South Asia are humming with elections, the electoral process is still alien to Bhutan. All rights are treated as privileges granted by the king. The HUROB report traces the problem back to a 1988 census which it says was "clearly designed to revoke the citizenship of as large a segment of the ethnic Nepali population as possible". Citizens were required to prove their residence with a land tax receipt from 1958. "Anyone unable to show this 30-year-old document was automatically considered a non-national and an illegal immigrant," the report added.

Ethnic Nepalese started settling down in Bhutan in mid-19th century during the time when the British were in India. Nepal and Bhutan do not have a contiguous border, and refugees have traveled through India to reach Nepal.

Bhutan began a two-year term as an elected member of the United Nations Commission on Human Rights in Geneva. Activists say it will be interesting to see how the government will balance its responsibilities in Geneva with the treatment of its citizens. At present most visitors to Bhutan are those who buy expensive guided tours. Foreign journalists are carefully screened, and the domestic media is state-controlled. HUROB said this meant: "The world reads, hears or sees only news about the country which the government wants the world to know."

Beena Sarwar - Inter Press Service (IPS).

THE COLUMBIA UNIVERSITY CONFERENCE

Approximately 140 people attended the conference; these included U.S. State Department and United Nations officials, representatives from government missions to the UN, academics and international human rights activists representing various interests.

It was the general opinion of conference participants that unless these issues [suggestions coming out of the conference] are attended to, the negotiations will not lead to expeditious and fair resolution of the Bhutanese refugee problem. Both organizers and participants were in agreement regarding the urgency for resolving this problem: the issue is a humanitarian one that should focus on the refugees who have been living for up to five years in the refugee camps. However, the Bhutanese refugee crisis should not be resolved in a manner that sacrifices fairness and justice to expedience. Rather, the resolution should provide a way for these people to return to their homes both with all deliberate speed, and with dignity and honor.

Some panelists stated that, reflecting growing concern about population increases and consequent shifts in the balance of Bhutan's three ethnic groups, the government acted to revise the 1958 citizenship law in 1985. It then followed a policy in 1985 and 1986 of expelling non-Bhutanese from the country. The government continued to follow its concerns about "ethnic inundation" by Nepali-Bhutanese with its establishment of the dress code act, which imposed restrictions on the dress, language, customs and religion of the Nepali-Bhutanese people. According to several panelists and participants, the southern Bhutanese responded to these actions by holding demonstrations in 1990 to protest impositions on their cultural rights. Those who participated in such demonstrations were deemed to be "criminals" or "terrorists".

Following this, the government initiated a series of expulsions, inducing Nepali-speakers to leave the country quietly in exchange for a small payment, or confiscating their papers, or, if they would not leave "voluntarily", forcefully expelling them from the country. The Amnesty International (AI) representative who served as a conference panelist told of AI's documentation of the torture, random imprisonment, rape, and forcible evictions practiced by the government security forces against the Nepali-Bhutanese who refused to leave the country. Another panelist, human rights activist Charles Graybow of Freedom House, noted that lack of adequate representation in government as well as a government view that internationally recognized human rights were privileges to be granted by the government rather than rights the government has a duty to protect, contributed to a state of general unease in Bhutan around this time. Such lack of protection of civil and political rights by the Bhutanese government seems to have left the Nepali-Bhutanese with no alternative but to flee from their homes.

During the course of the seminar, some key issues came up again and again. These can be broken down into three parts: (1) the bilateral negotiations themselves; (2) categorization and verification of the refugees; and (3) repatriation and protection of returning refugees.

THE NEGOTIATIONS

First, conference participants were concerned with the extent to which the ongoing bilateral talks between Nepal and Bhutan have been successful. Although panel participant Professor Leo Rose expressed his hope for movement in the forthcoming talks as well as his opinion that the talks have been progressing, albeit quietly, since their inception, most participants agreed that there has been little movement thus far in the bilateral negotiations. Rose expressed concerns that third party intervention at this point could only complicate and thus further delay the talks, and the consequent resolution of the problem at hand.

Interestingly, during the question and answer session that followed the panel discussions, even Professor Rose, the panelist who was most optimistic about the bilateral talks, suggested that it may be helpful for a third party to enter the negotiations as a mediator. The question becomes, then, who should that third party be? The first third party that came to the minds of panelist and participants was India. Up to this point, India has been reluctant to intervene in these negotiations. Many participants expressed dismay over this, and there was agreement among participants that India would serve well as a third party mediator given its traditional relations with both Nepal and Bhutan, and with Bhutan in particular, its positions as a regional power, and its position as the first entry point of the Bhutanese refugees.

The next question that arises regarding the negotiations is that of which law to apply. Thus far, the countries have adhered to Bhutan's national law. However, it has been noted by several participants, including panelist Clarence Dias, a prominent international legal expert from India, as well as panelist Narendra Bikram Shah, the newly-appointed Permanent Representative of Nepal to the United Nations, and the former Nepalese Foreign Secretary during whose tenure the bilateral talks began, that the application of Bhutan's national law to this situation would leave many, many people stateless, in contravention to international norms. Mr. Shah, for example, stated:

"Some major difficulty lies in the insistence that the work [of the Joint Ministerial Committee] proceed in accordance with the national citizenship and immigration laws of the two countries. Without passing judgment on the merit or otherwise of the Bhutanese Marriage and Citizenship Acts, I will be straightforward in saying that the laws of Nepal and Bhutan on these matters do not form a seamless web, and the discrepancy leaves room for the creation of statelessness on a massive scale."

Mr. Dias went further than this in his presentation, stating

the following:

"In this context, to use the concept of citizenship -- unless we define citizenship under international standards -- would be to impart the utter inequality and discrimination of Bhutanese law and perpetuate it in an international settlement... Bhutanese law embodies apartheid Drukpa style."

Dias notes also that these negotiations are being handled on a geopolitical basis rather than on a basis of principles. He argues that this should not be handled merely as a matter of expediency, but should be looked at within a larger framework of international law and human rights. He lists five specific international instruments [refugee-related conventions and protocols] which he claims "must form the framework for any valid internationally negotiated settlement or bilateral settlement that is to last and endure."

Considerable attention was also given to the question of the role of the larger international community in the resolution process. This was defined to include Western governments, international aid organizations, international human rights organizations, non-governmental organizations, international media, and academics. Professor Rose stated that these should play a minimal role, if any, in the resolution process. Since it is his belief that the talks are proceeding expeditiously, he believes on that basis that outside pressure would only serve to complicate matters. The government of the United States, Rose stated, should not intervene because this would only make either country more hardline in its position. Furthermore, outside interveners lack the capacity for doing anything substantive; they can only "make noise", not really contributing to resolution.

Most other participants of the conference, however, saw more merit in the involvement of the broader international community in the resolution process. Journalist and conference panelist Mr. Kanak Dixit noted the absence of adequate media and academic attention, particularly from Bhutan scholars, with regard to the Bhutanese refugee problem. As reasons for this, he cites strict control of foreigners' access to Bhutan by the Bhutanese government, as well as the use of bribery at subtle and not-so-subtle levels to control those who do obtain access to the country. Further, he notes the media's interest in Bhutan's exoticism, and the government's use of this to divert attention from its human rights problem.

As for the involvement of the United States and other Western governments, Dixit notes that the U.S. Department of State has produced two reports criticizing Bhutan for human rights violations, and stating that any resolution of this matter should be accomplished by looking to standards of international law and the principles of displaced persons. He contrasted this to Nepal, which up until six months ago, did not even have a dossier on the Bhutanese refugee issue. Dixit attributed this to lack of focus and low prioritization of the issue due to Nepal's being mired in its

own internal politics. Other participants highlighted the capacity of the U.S. to play a role encouraging Bhutan to allow human rights monitors, encouraging multi-lateral and bilateral donors to Bhutan to take a stronger stance on human rights issues, using them as a basis for the discussion of aid issues, to encourage non-governmental organizations to actively monitor and bring the issue before the Human Rights Commission, and to encourage UNHCR and UNDP to consider human rights as an issue in their discussions.

CATEGORIZATION AND VERIFICATION

Participants were also very concerned with both categorization of refugees, as well as the subsequent verification of these categories. Professor Rose stated that there was broad agreement over categories one [forcibly evicted], three [non-Bhutanese], and four [Bhutanese who have committed criminal acts], and that the main differences between the parties were over category two [Bhutanese who have "voluntarily" emigrated], that is, over why the Nepali-Bhutanese nationals in question left Bhutan. He also stated that he believed Bhutan was ready to move forward on this issue. However, he did not indicate what path he thought they would follow. Since this category is the one into which most refugees in the camps would fall into, it is crucial that the parties reach agreement on this issue.

Many conference participants expressed concerns about the process of verification, suggesting that the mechanisms agreed to by the parties in the last round of talks, that is, the joint verification committee made up of even number of members from Nepal and Bhutan, and the right of refugees dissatisfied with their classification to appeal to the committee were not enough to ensure fairness of the process. Several emphasized the necessity of third party participation and monitoring of this process in order to assure its fairness. But who should this third party be? One participant suggested, and several agreed, that UNHCR is the party most equipped to assist in verification since this process involves verification on the ground, and since UNHCR already is in the position to perform such a task.

In response to this suggestion, however, Professor Rose noted that both Bhutan and India had expressed strong objections to UNHCR's participation as a third party because they viewed the representative in Kathmandu,

who is a Pakistani national, as being "anti-Indian", and were therefore concerned that UNHCR would appoint someone with such views to that particular position. Panelists Kanak Dixit and Bhim Subba, along with other participants, objected to this argument on the grounds that this UNHCR representative holds his position not as a Pakistani national, but as an officer of the organization. Dixit further argued that the contention was merely a red herring used by the Bhutanese government to divert international attention from the real issues using Indian sensitivities. Moreover, Dixit argued, it is in Bhutan's interest to keep UNHCR out of the verification process since it is already in a good position to sort out verification issues on the ground. In other words, objecting to UNHCR is the best way to slow down the whole process. In effect, Dixit argues that delay tactics have been Bhutan's central strategy to prolong the resolution of the refugee issue.

REPATRIATION AND PROTECTION OF RETURNING REFUGEES

Another major concern of the conference participants was the repatriation of the refugees. Several questioned the viability of a repatriation process that does not include assurances of safe return and, once returned, ongoing security in the future. The underlying reason for this problem, several panelists and participants argued, was the absence in Bhutan of mechanisms such as proper representation in government, an independent judiciary, freedom of association, and protection of all ethnic groups and their religion, languages and customs, as well as the lack of government protection of citizens' most basic civil and political rights, that the Bhutanese of Nepali ethnicity could have employed to protect themselves from expulsion in the first place. If there is continued absence of internal governmental reforms in Bhutan upon repatriation, the refugees would only be back in the same precarious position they had been in before they left Bhutan. Furthermore, panelist Dixit noted that although fear of "ethnic inundation" in Bhutan is a real one, all Bhutanese currently face this problem. Since Bhutan is a multi-ethnic and multi-cultural society, care must be taken to protect all ethnic groups. Internal reform therefore benefits not only Nepali-Bhutanese, but all Bhutanese people. Thus, it is necessary to allow for such reform in the resolution of the refugee problem.

Extracts from the Preliminary Report.

REFUGEE CAMP INFORMATION

Location	District	Refugees	Students
Timai	Jhapa	8,247	2,903
Goldhap	Jhapa	7,911	2,814
Beldangi I	Jhapa	14,981	4,858
Beldangi II	Jhapa	18,486	6,902
Beldangi II Ext.	Jhapa	9,266	3,179
Sanischare (Pathri)	Morang	16,924	5,367
Khudunabari (N)	Jhapa	7,075	3,533
Khudunabari (S)	Jhapa	3,681	
Total		86,571	29,556

Cumulative births: 4,709

Cumulative deaths: 2,642

The above figures are as of December 31, 1994.