

**BHUTANESE REFUGEES IN NEPAL: A SYSTEM LEVEL ANALYSIS**

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## **LETTER OF RECOMMENDATION**

I certify that this dissertation entitled “Bhutanese Refugees in Nepal: A System Level Analysis” has been prepared by Ankit Khanal under my supervision. I hereby recommend this dissertation for final examination to the Research Committee of Department of International Relations and Diplomacy, Tribhuvan University, in fulfillment for the Degree of MASTER’S IN INTERNATIONAL RELATIONS AND DIPLOMACY.

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Dr. Keshav Bashyal

Research Supervisor

February, 2021

## DECLARATION

I hereby declare that this dissertation is my original work and that it contains no materials previously published. This study has not used its materials for the award of any kind and any other degree. Where other authors' sources of information have been used, they have been acknowledged.

Signature:

Name: ANKIT KHANAL

Date: February, 2021

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## ABSTRACT

Bhutanese refugees in Nepal have become a major challenge to Nepal-Bhutan relations since early 1990s. The problem of Bhutanese refugees was initiated due to the ethnic divide between the Drukpas and the Lhotshampas of Bhutan. It was further intensified by the policies adopted and implemented by the Bhutanese government in the name of 'national integration'. The process of 'Bhutanisation' has aimed to homogenization of the Bhutanese society which forced the Lhotshampas to flee their homeland and seek refuge in Nepal following their ethnic roots. Therefore, this research has explored the rise of ethnic nationalism in Bhutan and also has closely examined its consequences and relations with the Bhutanese refugee problem.

The Bhutanese refugee problem no more remains as the bilateral issue of Bhutan and Nepal. It has been internationalized and many levels including IGOs, INGOs and NGOs are working for the refugees. Being an immediate neighbor to both Nepal and Bhutan, India is considered as an important actor for the resolution of the issue. Methodologically, this study is system level analysis and triangulation method has been used to explain the issues. The study tried to explore the bilateral attempts through diplomatic dialogue made by Nepal and Bhutan and briefly described the role of India, regional and multilateral frameworks.

Out of the three durable solution for the refugees proposed by the UNHCR, the repatriation was considered as the only solutions to the problem and the attempts were made through the bilateral dialogue. After the series of fifteen failed talks, resettlement was introduced as the solution to the problem. Though a huge population of refugees was resettlement till date, there are more than seven thousand refugees languishing in the refugee camps. Therefore, the study has dealt with the attempts for resolution and portrayed their limitations as well.

Keywords: Refugees, Lhotshampa, Nepal, Bhutan

## TABLE OF CONTENT

<b>LETTER OF RECOMMENDATION</b> .....	i
<b>DECLARATION</b> .....	ii
<b>APPROVAL LETTER</b> .....	iii
<b>ACKNOWLEDGEMENT</b> .....	iv
<b>ABSTRACT</b> .....	v
<b>TABLE OF CONTENT</b> .....	vi-viii
<b>LIST OF TABLES</b> .....	ix
<b>LIST OF FIGURES</b> .....	ix
<b>LIST OF ABBREVIATIONS</b> .....	x
<b>Chapter 1: Introduction</b>	<b>1-7</b>
1.1 Statement of Problem.....	4
1.2 Research Questions.....	5
1.3 Research Objectives.....	5-6
1.4 Delimitation of Study.....	6
1.5 Organization of Study.....	6-7
<b>Chapter 2: Literature Review</b>	<b>8-16</b>
<b>Chapter 3: Conceptual Framework/Research Methodology</b>	<b>17-18</b>
3.1 Conceptual Framework.....	17
3.2 Research Methodology.....	18

3.2.1 Research Design.....	18
3.2.2 Nature/Source of Data.....	18
3.3.3 Method.....	18
<b>Chapter 4: Bhutanese Refugees in Nepal</b>	<b>19-31</b>
4.1 History of the Bhutanese Refugees.....	19-23
4.2 Shift in National policy of Bhutan.....	23-27
4.3 Migration to Nepal .....	27-29
4.4 Role of India.....	29-31
<b>Chapter 5: Nepal and Bhutan – Diplomatic Initiatives</b>	<b>32-40</b>
5.1 Ministerial Joint Committee and its Endeavors .....	32-35
5.2 Joint Verification Team and Decisions .....	35-37
5.3 Appraisal of the MJC and JVC.....	37-40
<b>Chapter 6: Bhutanese Refugee Problem: Means, and Strategies of the Resolution</b>	<b>41-58</b>
6.1 Bhutan; One Nation One People .....	43-46
6.2 Nepal as a Host Country .....	46-50
6.3 Standpoints of Bhutan and Nepal.....	50-51
6.4 Role of Regional and Multinational Frameworks .....	51-53
6.5 The United Nations and the Bhutanese Refugee.....	53-56
6.6 International Non-State Actors and Bhutanese Refugees.....	56-58

6.7 Third-Countries Resettlement .....	58-60
<b>Chapter 7: Summary and Conclusion</b>	<b>61-67</b>
<b>APPENDIX A: THE BHUTAN MARRIAGE ACT 1980 (CHAPTER TWO)</b>	<b>68-72</b>
<b>APPENDIX B: THE BHUTAN CITIZENSHIP ACT 1985</b>	<b>72-76</b>
<b>REFERENCES</b>	<b>76-83</b>



**LIST OF TABLES**

Table (i): The Result Published by the JVT of Khudunabari Refugee Camp	39
Table (ii): Refugees Population in the Camps of Nepal (December 1995)	49

**LIST OF FIGURES**

Figure (i): The districts of Bhutan with Lhotshamapas' dominance and the districts of Nepal hosting Bhutanese refugees	22
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## **LIST OF ABBREVIATIONS AND ACRONYMS**

AMDA: Association of Medical Doctors of Asia

BPP: Bhutan's People Party

FAO: Food and Agriculture Organization

INGO: International Non-Governmental Organization

IOM: International Organization of Migration

JVT: Joint Verification Team

LWF: Lutheran World Foundation

MJC: Ministerial level Joint Committee

NGO: Non-Governmental Organization

NOC: No Objection Certificate

NSA: Non State Actor

OMIU: Operation Management and Implementation Unit

SAARC: South Asian Association for Regional Cooperation

SCCA: Special Commission for Cultural Affairs

UDHR: Universal Declaration of Human Rights

UN: United Nations

UNHCR: United Nations High Commissioner for Refugees

WFP: World Food Program

## Chapter 1

### Introduction

According to ‘A Pocket Guide to Refugees’ published by UNHCR, displaced persons are categorized into asylum seekers, refugees, economic migrants and internally displaced persons and defined as the following (UNHCR, 2008, pp. 11-32). Asylum seeker is anyone fleeing from his or her country of origin and seeking safe sanctuary in another country. Every people have the right of protection until the completion of the verification process or determination of refugee status to him or her. Economic migrants are those who have migrated on their will in search of economic opportunities and better being. Internally displaced are defined as those who are displaced within the territory of their own state from their place of origin due to different reasons, which might be political, social, religious, economic or generated by natural calamities and disasters. Whereas refugee are those people who are compelled to leave their homeland and cross the international border for the survival due to political, socio-cultural, ethnographical, economic issues or natural calamities and disasters to escape from danger or persecution and cannot or don’t want to return their homeland because of fear or threat.

The United Nation Convention Related to the Status of Refugee held on July 28, 1951 defines a “refugee” as a person who

*“as a result of events occurring before 1 January 1951 and well-founded fear of being persecuted for reasons of race, religion, nationality, membership of particular social group or political opinion, , is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who,*

*not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”*

(UNHCR, 1951)

As said by Sadako Ogata, refugees are not born or they come out of nowhere but are created by states, individual and groups (Ikram, 2005). In fact, refugees are the victims of the armed and ethnic conflict, xenophobia, racial discrimination and political turbulence. The refugee problem has been a major challenge to the international relations as it comes with the economic, anthropological and securities issues (Freedman, 2019, pp. 1-3).

Bhutanese refugee problem was caused by ethnic and religious differences between the Buddhist “Drukpas” living on the northern part and the Hindu “Lhotshampas”, people of Nepali origin, living in the southern part of Bhutan (Gosh, 2016, p. 22). Bhutan consists of five ethnic groups namely Ngalongs, Sharchops, Bumthaps, Kurtops and Lhotshampas. Ngalongs are the ruling elites of the country and are politically dominant. Among these ethnic groups, Lhotshampas were the industrious people and were engaged in the agriculture. They had commanded the more land resources compared to the ‘Drukpas’. Citizenship Act of 1977 agitated the harmonious co-existence of ‘Drukpas’ and ‘Lhotshampas’. It introduced some procedures to obtain nationality which were restrictive in nature to the Lhotshampas. The Citizenship Act 1985 became more restrictive and demanded to present the proof that one had been registered in 1958 following the first nationality law and had paid the land tax. Also, the census was conducted in 1988, only in the southern districts where most Lhotshampas resides. The population was then classified into seven categories (Skretteberg, 2008, p. 2). They are:

- a. Genuine Bhutanese citizens

- b. Returned migrants
- c. People who were not present at the time of the census
- d. Foreign women married to Bhutanese men and their children
- e. Foreign men married to Bhutanese women and their children
- f. Legally Adopted
- g. Non-nationals

The Bhutan Marriage Act 1980, *Drigham Namzhe* (Code of Conduct), *Thrim Shung Chenpo*, Green Belt, No objection Certificate, Voluntary Leaving Certificate were some other policies adopted by the Royal Government of Bhutan with the intense slogan of ‘One Nation One Policy’. All these policies were against the people of Nepali origin, Lhotshampas and were denied from the nationality (Hutt M. , *The Bhutanese Refugees: Between Verification, Repatriation and Royal Realpolitik*, 2005). The silent ethnic cleansing policies made the state very harsh against a nation within that state. In early 1990, a large influx of Bhutanese refugee, more than 100,000 was reported in Nepal. They were settled temporarily in seven camps in Jhapa and Morang district of Nepal. The United Nations High Commissioner for Refugees (UNHCR) assumed the responsibility of the refugees in September 1991 (Baral L. R., 1999). Since, then many international organizations like World Food Program (WFP), International Organization of Migration (IOM) and many other International Non-governmental Organizations (INGOs) are providing humanitarian assistance. Nepal is not a signatory to any treaty for the protection of the refugees. Even though, Nepal has allowed the refugees for the temporary stay on humanitarian basis. Moreover, Nepal has made the diplomatic attempts to resolve the issue and initiate the repatriation through talks at Minstrel level and internationalized the issue (Shrestha H. P., 2018). In 2007, Bhutanese core group together with UNHCR, IOM and Nepal,

third country resettlement process was initiated. By 2015, more than 100,000 Bhutanese refugees were resettled in the third countries and still there are about 7,000 refugees waiting for the repatriation or local assimilation (UNHCR, 2015). The resettlement process was facilitated by the UNHCR where the refugees interested for the third country resettlement had to register themselves through application. Then the refugees were called for the interview on the basis of first come first serve according to their application dates. After the interview, the behavioral and medical screening of the refugees was conducted and those who were able to pass were selected for the resettlement (IRIN, 2008). The remaining are those who never applied for resettlement waiting for their repatriation along with those who were screened out during the resettlement process.

### **1.1. Statement of the Problem:**

Refugee problems are mostly considered as the realm of migration studies with respect to the political, ethnographical, economical and socio-cultural aspects. Bhutanese refugee problem is not only associated with these above-mentioned aspects. After the decolonization process in the South Asian region, together with the state building process, modern state system was introduced. Bhutan also went through this process which has also played role to create refugee. Bhutanese refugee problem was initiated due to the homogenizing attempts of the Bhutanese government of the pluralist Bhutanese society. The problem further grew into the ethnic cleansing by the Bhutanese state making a large Lhotshampa population flee from Bhutan to Nepal. The Lhotshampas were forced to live a miserable life in the refugee camps of Nepal and had to dependent on the humanitarian assistance of the donor organization for their survival. India, being the immediate neighbor sharing contiguous border to both Nepal and Bhutan, has remained silent over the issue. The role of India regarding the Bhutanese refugee issue and its

resolution has always been suspicious due to the special relation of India with Bhutan. Therefore, the study attempts to establish the relation of the introduction of modern state system in Bhutan with the initiation of the Bhutanese refugee problem. Furthermore, it deals with attempts to solve the Bhutanese refugee problem through the perspective of the theories of International Relations. It also investigates the consequences of the Bhutanese Refugee problem and requirement of the diplomacy and international system to handle the issue.

### **1.2 Research Questions:**

The research questions of the study on Bhutanese Refugee in Nepal include:

1. What are consequences of the rise of ethnic nationalism in Bhutan?
2. What attempts are made to resolve the Bhutanese refugee problem by the concerned states (Nepal, Bhutan, India and others involved in resettlement process), international system?
3. How system level initiatives analyze the Bhutanese refugee problem?

### **1.3 Research Objectives:**

With respect to the above-mentioned research questions and the identified research gap, the followings are the objectives of the study:

1. To assess the relation of Bhutanese refugee problem with the rise of ethnic nationalism in Bhutan.
2. To discuss the attempts made to resolve the Bhutanese refugee problem by the international system.

3. To explore the relation of the system level initiatives with the Bhutanese Refugee problem.

#### **1.4 Delimitations:**

Refugee issue has the wide spectrum of studies. The research is limited to the study of the aspect of International Relations only and anthropological and economical aspects are not considered.

In Nepal, not only Bhutanese refugees but the refugees from various part of the world taking shelter and some unrecognized Bhutanese refugees are also living in India. The study is strictly focused on the Bhutanese refugees in Nepal only and the attempts made to resolve this problem.

The study mostly relies on the secondary sources of data. Since, the study is subjected to the limited time frame of research, any improvement hence made is not accounted.

#### **1.5 Organization of the study:**

The dissertation is divided into seven chapters as follows:

The first chapter provides a general introduction of the topic. The chapter includes the statement of the problem, research questions, and objectives of the study together with the limitations of the study.

The second chapter include the review of the related literatures to this research study and identifies the literature gap and this study aims to fill that gap.

The third chapter deals with the conceptual framework and the methodology employed for the research. The research designed and nature of data is also defined.



The fourth chapter elucidates the history of the Bhutanese refugees in Nepal and the policies of Bhutan making the refugee to flee their homeland. It also explains how they reach Nepal seeking refuge though Nepal and Bhutan do not share the contiguous border and the role played by India on the issue of the refugees.

The fifth chapter explains the diplomatic initiatives between Nepal and Bhutan for the resolution of the Bhutanese refugees. It analyses the agreements achieved during the meetings of Ministerial Level Joint Committee and their impact on the process of resolving the issue. The role of Joint Verification Committee and its result are discussed with the appraisal of the both MJC and JVC.

The sixth chapter assesses the cause of the issue, the way Nepal treated the refugees, standpoints of Bhutan and Nepal. The chapter also highlights the role of the regional and multilateral framework and international non-state actors to cope and manage the refugee problem and to initiate and implement the resettlement process after the failure of the repatriation process.

Finally, the seventh chapter concludes the research work with the summary and conclusion.

## Chapter 2

### Literature Review

Refugee problem is caused by various factors which might be political, socio-cultural, ethnographical or natural calamities and disasters. Emma Haddad (2008) in her book “The Refugees in International Societies” argues that the figure of the refugees to be an integral part of the international system which symbolizes the failure of the state-citizen-territory relationship (Haddad, *The refugee and the international state system*, 2008). In the fourth chapter of this book, English school of thought is implied by the author to analyze “whether the refugee and refugee protection point to a solidarist or pluralist make-up of international society” following the dichotomy, nature law versus positive law (Haddad, *Sovereign rights, human rights*, 2008, p. 70).

Betts and Leoscher (2011) highlights on the shift from Refugee Studies to Forced Migration Studies covering a border range of ‘people of concern’ which includes people fleeing human rights violations, survival migrants (the people fleeing to avoid the environmental disaster and state fragility) and internally displaced people (IDP). The article finds the relation between International Relations and forced migration on three different levels: the cause of forced migration, the consequence of the forced migration and response to forced migration. Then the authors relate the issue of force migration to globalization, international organization, regime complexity, international co-operation, the role of non-state actors, security, North-South relation and regionalism and examine through the empirical angles such as conflict, peace-building, post-conflict reconstruction and state-building, humanitarian assistance and durable solution and protection (Betts & Loescher, *Refugees in International Relations*, 2011).

“Forced Migration and Global Politics” by Alexander Betts attempts to explain the global refugee regime with the IR theories. Also, the chapter “Sovereignty and the State System” deals with the theoretical approach to the complex relationship between the forced migration and the state sovereignty by focusing on the “mutual constitutive relationship between them” (Betts, *Forced Migration and Global Politics*, 2009, p. 44). Similarly, Jack Snyder in “Realism, Refugees and Strategies of Humanitarianism” (2011) focuses on the reluctance in the international actors to stop the actions which results the force migration. The realist insight over the principle of humanitarian intervention are explained comparing the four humanitarian strategies ('a bed for the night', tactical humanitarianism, 'back a decent winner', and comprehensive peacebuilding) (Snyder, 2011).

Elisabeth Kirtsoglou and Giorgos Tsimouris in “Migration, crisis, liberalism: the culture and racial politics of Islamophobia and “radical alterity” in modern Greece” (2018) applies a “critical and ethnographically informed approach to relate migration, racialization and liberal values in modern Greece” (Kirtsoglou & Tsimouris, 2018, p. 1874). The study touches the ultra-nationalism and the far right in Greece and examines the Islamophobia. It also offers ethnographic evidence of how migrants are routinely produced as racially, religiously and culturally and traces the limitations of cosmopolitanism and multiculturalism which are due to the ambiguities created by the policies of the states, legal mechanism and the gap between the desirable and undesirable migrants (Kirtsoglou & Tsimouris, 2018).

Michael Hutt in the book “Unbecoming Citizens” presents the first hand analysis of the Bhutanese refugee problem by means of the field studies done in Bhutan and the refugee camps of Nepal (Hutt M. , *Unbecoming Citizens; Culture, Nationhood and the Fight of Refugees from*

Bhutan, 2003). The first chapter of the book (pp. 1-13) introduces the origin, geographical location, historical aspects (origin of the civilization, cultural, religious and traditional practices) together with the establishment of the theocratic governance system and the transformation to hereditary practices. A brief introduction of the process and impact of modernization is also included in the chapter. The second and third chapters of the book look upon the historical aspects of Bhutan-Nepal relations with the process of migration leading to form Lhotshampa population in the southern border. It is further emphasized with the concept of the *'Umbho'* and *'Undho'* where *'Umbho'* represents the northerners or the ruling elites (Drukpas) having power and *'Undho'* represents the southerners (Lhotshampa). The sub-title "First Sighting" of the third chapter (p.41) mentions the first official record of settlement of people of Nepali origin by the British Officials, Charles Bell and John Claude White in the year 1904 and 1909 respectively. The fourth chapter discusses over the early ethnic nationalism in Bhutanese through the story of Garjaman Gurung, an early Nepali settler in Bhutan who rose to the power in Southern Bhutan and was killed by the Drukpa in order to take back control of the Lhotshampa population. The chapter is based on memoirs of the grandson of Garjaman because there is no official record of this first but unsung political martyr of Lhotshampa. Similarly, the chapters 5-7 focus on the chronology of the settlements of the Lhotshampas, their culture and flourishing of the Lhotshampa civilization. The chapters 8-10 explains the political awakening of the Lhotshampa people, their representation to the government, nation building process of the Bhutan and development process. The chapter 11 deals with the rise of ethnic nationalism in the Bhutanese ruling elites and their realist policies of national integration through the homogenization of the society. The chapters 12 and 13 elucidates the endeavors of the Lhotshampa to resist the realist approach (ethnic nationalism) of the state and the repressions and intimidations of the state

forcing them flee from Bhutan. The chapters 14 through the life story of Dil Maya, a Bhutanese refugee living in a camp in Nepal conveys the hardships faced by the Lhotshampa before leaving Bhutan and their worries about their uncertain future. It also analyses the efforts made by the international actors together with Nepal and Bhutan for the resolution. The final (fifteenth) chapter provides the brief summary of the life of Lhotshampas in the refugee camps depicting the involvement of the international governmental and non-governmental organizations.

In an article, “Ethnic Nationalism, Refugee and Bhutan”, Hutt evaluates the Bhutanese refugee problem by considering the conflict between two different modes of ethnic nationalism: the Bhutanese state promoted new style of ethnic nationalism after 1980s and the demotic nationalism of the people of the Nepali ethnicity (Lhotshampas) living at the southern borders of Bhutan (Hutt M. , 1996).

Rup Kumar Barman in his article “Ethnic Mosaic and the Cultural Nationalism of Bhutan’ published in the book “Identity in Crossroad Civilisations: Ethnicity, Nationalism and Globalism in Asia” clarifies how the relationship between cultural nationalism and ethnic aspiration proves to be antagonistic when the culture of a specific dominant group is considered as the national culture and imposed over other subordinate culture (Barman, 2009, pp. 55-64). He also highlights the internal policies of Bhutan, their impacts and consequences.

The article “Forced Migration in South Asia” by Paula Banerjee published in The Oxford Handbook of Refugee and Force Migration Studies conducts the descriptive analysis of the Bhutanese Refugee problem and the initiation of the problem is identified as the ethnic dichotomy between the ruling Drukpas of Bhutan and Lhotshampas of Nepali origin (Forced Migration in South Asia, 2014).

Partha S. Gosh in “Migrants, Refugees and the Stateless in South Asian Scene” (2016) accesses the history of migration of Lhotshampa people to Bhutan and the formation of ethnic plurality in Bhutan along with the policy of inter-ethnic assimilation adopted by Bhutanese government. The sectarian approach of the Bhutanese authority for the nation building process and its counterproductive consequences are closely studied with the then contemporary political developments of Nepal. In the second chapter, ‘The Political Connection’ of the same book under the sub-title ‘The Bhutanese experience’ (pp. 116-119) Gosh defines the political connection of the Bhutanese Refugee problem with the internal political divide and unequal acquisition of the land and other resources among Drukpas and Lhotshampas of the Bhutan, kinship relations of the Lhotshampas beyond the border of Bhutan into India and Nepal. The sub-title, ‘Nepali Migrants and Bhutan’s Sense of Insecurity’ (pp.168-168) and of the third chapter has illustrated the perceptions of the threat by the Bhutanese authority from the Chinese determination of reuniting Tibet to the mainland China and also from the people of Nepali origin living in Southern Bhutan. It further present the Indian interest of supporting the Drukpa King and not letting the Lhotshampas to take refuge in India which could have possibly contaminated the India-Bhutan relations. The sub-title ‘Lhotshampa Refugee and India-Bhutan-Nepal Relations’ (pp. 168-169) of the same chapter explains how the Bhutanese refugee problem has not been confined only to the domestic political domain of Bhutan and Nepal. The relation of Bhutan with India is illustrated and the reason behind why the refugee had to take shelter in Nepal sharing no contiguous border with Bhutan is deciphered (Gosh, 2016).

Sushila Manadhar (Fischer) in her book “*Nepal-Bhutan Sambandha: Ek Aihisik Bibaran*” has summarized the history of Nepal-Bhutan relations from very early phase in seventh century to the modern days through the political, religious, diplomatic and economic perspective (Mandhar

(Fischer), n.d., pp. 94-154). In the third part of the book (pp.165-188), she has presented the genesis of the Bhutanese Refugee problem together with its causes analyzing the political linkage of Lhotshamapa movement with the then political environment of Nepal and the efforts to solve the problem. The author finds the focus of Nepal-Bhutan relations has shifted to the Bhutan Refugee problem soon after the Lhotshampas seek for refuge in Nepal (Mandhar (Fischer), n.d., p. 196). In her conclusion (p.198), she has also wished for the mediation of the international actors for the resolution of the refugee problem through which Nepal-Bhutan relations can rejoice and smoothen.

“Bhutanese Refugee Problem and Multi-track approach of Nepalese Diplomacy” by Tara Baral (1998) condemns the cause of the Bhutanese refugee problem be the ethnic cleansing policies adopted by the Royal Government of Bhutan and expounds the diplomatic efforts taken by Nepal to resolve the problem through the talks with Bhutan. The detailed study on the meetings held, the position of the both states and the agreements reached, the progress of the implementing agreements into action and Nepal’s attempts to involve India for trilateral talks and internationalization of the refugee issue (Baral T. , Bhutanese Refugee Problem and Multi-track Approach of Nepalese Diplomacy, 1998).

Similarly, “Nepal-Bhutan Bilateral Talks and Repatriation of Bhutanese Refugees” by Smruti S. Pattanaik focuses on the series of bilateral talks between Nepal and Bhutan necessarily on the matter of unconditional repatriation of the refugee and the India’s perspective towards the issue is also put forward (Pattanaik, 1999). Pattanaik also demonstrates the negative consequences of the nation building process of Bhutan towards the Lhotshampa population having a significant share and contribution to the kingdom of Bhutan. Furthermore, the author has condemned the

agreement made by the MJC meeting on categorizing the Bhutanese refugees into four different categories as the obstacle to solution of the crisis. India approach towards the problem is also critically studied by taking the Treaty of Peace and Friendship between Bhutan and India, 1984 together with the strategic and economic interest of India in Bhutan into account.

Also, Zubia Ikram (2005) in “Bhutanese Refugees in Nepal: An analysis” states the root cause of the Bhutanese refugee issue is the policies of Royal Government of Bhutan which are unfriendly towards the Lhotshampas. He also depicts the role of Nepal played for internationalizing the issue, initiating the bilateral talks through Ministerial Joint Committee and assisting for the resettlement process in a third country (Ikram, 2005).

A report prepared by International Commission of Jurists/Nepal, titled “Refugee Problem in Nepal” condemns the policies adopted by Bhutan during 1980’s motivated by the intention of ethnic cleansing in silent manner. The report also thoroughly examines the policies adopted at that period by Royal Bhutanese Government including The Bhutanese Citizenship Act 1985, The Bhutan Marriage Act 1980, Green Belt, No objection Certificate, and Voluntary Leaving Certificate. The impacts on Nepal in terms of ecological, social and cultural aspects are also studied (International Commission of Jurist/Nepal Section, 1993).

“Bhutan: Land of Happiness for the Selected” clarifies how the harmonious Shangri-La, a bi-junction of Buddhists and Hindus and people of different languages, turned into the land of happiness only for the selected making every sixth citizen a refugee. In addition, the report uncovers violation of the basic human rights of the refugees as Nepal not being a party to any treaty protecting the refugees and has no national legislation. It discusses the reluctance behavior



of Bhutan to resolve the issue and Bhutan's denial to seek assistance of UNHCR limiting of the role strictly to humanitarian purpose.

Rajesh S. Kharat (2003) in "Bhutanese Refugees in Nepal: Survival and Prospects" concerns the protection of the refugees through international human rights and humanitarian laws with respects to the efforts of the international actors especially UN, UNHCR, IOM and Amnesty International. The major focus of the article is on the conventions of law for rights, survival and protection of the refugees (Kharat R. S., 2003).

Brain C. Shaw in his article, "Bhutan in 1991: "Refugees" and "Ngolops" pictures the cry out of Lhotshampas for democracy and human rights by means of engagement in the demonstrations and protest organized by the political parties against the homogenization of the multi-ethnic society. He also includes the oppression of the state, creation of the ngolops (antinationalists) subjecting these activities as the sign of cultural imperialism in Bhutan through the Drukpas (Shaw, 1992, p. 188).

A report by Human Rights Watch (2007), "Last Hope: The Need for Durable Solution for Bhutanese Refugees in Nepal and India" describes the explicate the life in the Refugee camps in Nepal along with the life of the ethnic Nepalis (Lhotshampas) in Bhutan with the constraints imposed on them. The prospects and challenges of possible solutions, repatriation, resettlement and local integration, are analyzed. The report also tries to accumulate the issues of the unregistered refugees living in Nepal and India (Human Rights Watch, 2007).

In a Master's thesis submitted to John Carrol University by Samantha Peddicord titled "The Long Journey Home: A Brief Overview of Bhutanese Refugee Resettlement" presents the first

hand information with a comparative study on the struggles of Bhutanese refugees, differences in education and cultural orientation before and after the resettlement through the personal testimonies of some refugees.

After the detailed study of the above-mentioned literatures, it is found that the perspectives of the forced displacement, socio-cultural, ethnographical, humanitarian and human rights study the Bhutanese refugee problem. It is pertinent issue of International relations to assess the role of bilateral and multilateral attempts to resolve or obfuscate it. The attempts to resolve the issue by the states and the other non-state actors are superficially studied though it is a pertinent issue of International Relations and is yet to be resolved. On the basis of these literatures, there is gap to analyze the Bhutanese refugee problem through system level of study in International Relations creating an international sub-system of the states which are indulged and affected by the problem.

## **Chapter 3**

### **Conceptual Framework/Research Methodology**

#### **3.1 Conceptual Framework:**

The study begins with the formation of an international sub-system consisting of the three states of South-Asia, Nepal, Bhutan and India which are linked with the Bhutanese refugees in Nepal. The research explores the ethnic divide giving rise to the ethnic nationalism within Bhutan which has affected the international sub-system of the region. It also examines the policy formulated and implemented by the Royal Government of Bhutan. Also, the diplomatic initiatives made through both bilateral and multilateral means are studied relating to their achievement for the resolution of the problem. Furthermore, the engagement of the international organizations, regional and multilateral frameworks for the humanitarian assistance and resettlement process is described and the impacts of those initiative are focused. Finally, the study is based on the analysis of the role of the international sub-system has played on Bhutanese refugee problem in Nepal for the creation and resolution of the problem.

#### **3.2 Research Methodology:**

##### **3.2.1 Research Design**

The study is based on the qualitative research design. Nepal, Bhutan and India are the areas to study for this research.

##### **3.2.2 Nature and Sources of Data**

Primarily, the secondary data is employed for the research purpose. The collection of the secondary data is done through books, journal and research articles, and theses, official reports of the organizations working for the refugees, the newspaper articles, relevant blogs and website along with the other relevant and reliable sources. Primary data is also sought to add the value and reliability and is collected from the joint press release of the MJC, reports of the UNHCR, IOM, Human Rights Watch and other organizations working for the Bhutanese refugees in Nepal.

### **3.2.3 Methods**

This research work is a case study method, which has adopted analytical inquiries for the analysis. Also, the demographic, socio-cultural, political and collective violence approaches of force migration studies are employed for the study.

## CHAPTER 4

### BHUTANESE REFUGEES IN NEPAL

#### 4.1 History of the Bhutanese Refugees

Bhutan is a country divided into three main geographical regions; northern, central and southern. Each region consists of the people having their own distinct culture and ethnic composition. Similar to the geographical distribution, the population is also divided into three main ethnicities; Ngalongs, Sharchops and Lhotshampas with many other minorities making Bhutan a multi-ethnic, multi-cultural, multi-religious and multi-lingual country (Ikram, 2005).

Ngalongs are the ruling elite of Bhutan. They are of the Tibetan origin migrated to Bhutan from 8<sup>th</sup> century. They live in the western part of the northern and central Bhutan and speak *Dzongkha*, a Tibetan dialect which is the national language of Bhutan at present. They follow *Kagyupa* sect of *Mahayan* Buddhism and only accounts about twenty percent of the total population of Bhutan (Ringhofer, 2002, p. 43). Sharchops are recognized as the first inhabitant of Bhutan whose history of the origin leads to the tribes of the northeast India and northern Myanmar. This ethnic group is the biggest in terms of the population size and resides on the eastern part of the northern and central Bhutan. They speak *Tsangla*, and follow *Nyingmapa* sect of *Mahayan* Buddhism.

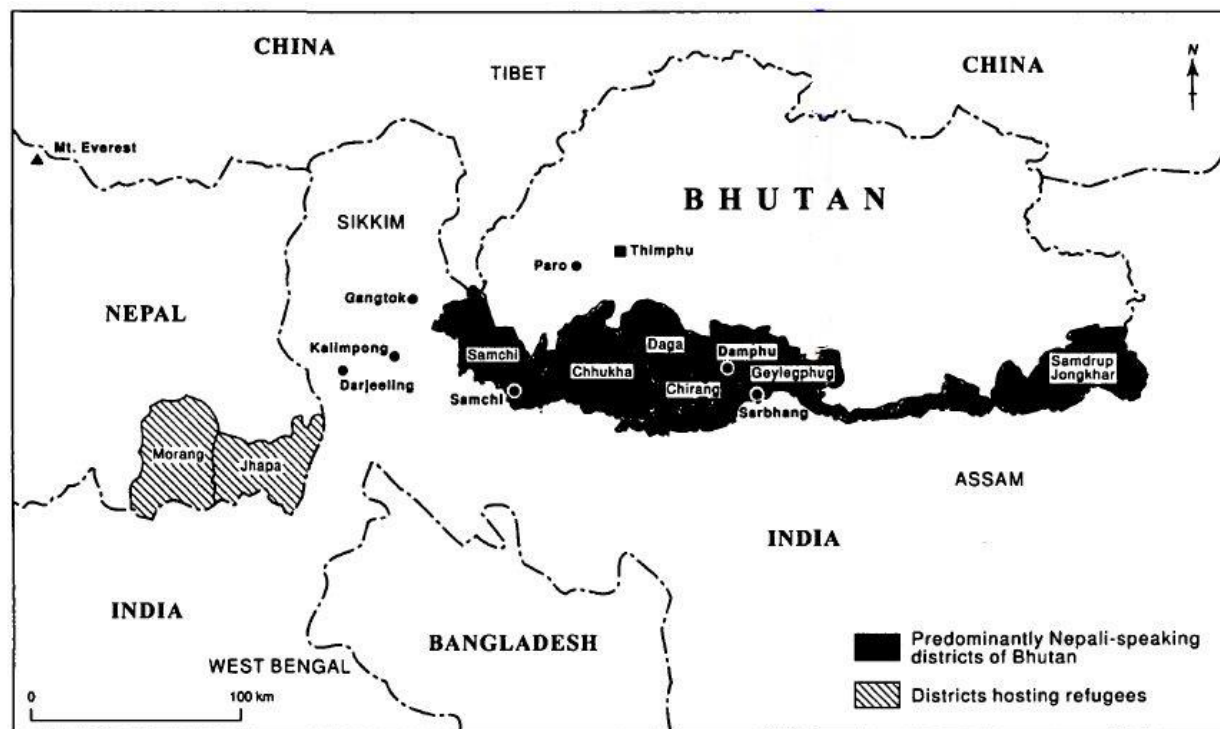
Lhotshampas are the Bhutanese people living in the southern part of Bhutan who follow the Hindu religion, culture and civilization and speak Nepali language as their mother tongue. The Bhutanese government has used the Dzongkha term 'Lhotshampa' since the mid-1980s to refer these Nepali speaking southern lowland dwellers of Bhutan. The migration of these people

having Nepali origin might have happened from the ancient time of which no official record is available except some claims made by some researchers. Suman Dhakal in his article “Nepal-Bhutan Relations: A Study of Its Past” claims that the Gopal Raja Vamsavali has mentioned the establishment of relations between Kingdom of Gorkha and Bhutan in sixth century which is not proved yet and also 40/50 Gorkhali families were taken to Bhutan by the Bhutanese *Dharmaraja Nawang Namgyal* after his visit to Gorkha in 1640 A.D. and the Nepali artisans were allowed to enter the Thimpu and Punakha valley for building the monuments and sculpture (Dhakal S. , pp. 2-3). The similar claim made by a Bhutanese political party in 1993 in its manifesto is mentioned in a book “*Bhutan: A movement in Exile*” (Dhakal & Strawn, 1994, p. 112). Also, after the Anglo-Nepal war, Nepal has lost a huge area of its territories with the population and the people living in those defeated territory of east (present day Sikkim and Darjeeling) also might have migrated to Bhutan from the northeast India (Naidu, 1986). On this basis, it can be argued that ‘step-migration’ from Nepal to Bhutan through the northeast India could have happened in different periods and contexts.

Hutt and Saul have mentioned about the migration of the people of Nepali origin to Bhutan after the Anglo-Bhutan Duars War of 1864-65 (Hutt M. , 2003, p. 46; Saul, 2000, p. 325). A website [www.bhutanese-refugees.com](http://www.bhutanese-refugees.com) has published the timeline of Lhotshampa people of Bhutan from 1890s to 2010 where it documents that from 1890s the people of Nepali origin were brought by the government contractors to settle in the hot and malaria prone southern lowland by clearing the forest in Samchi, Chirang, Gaylephung, Samdrup Jonkhar and Phuentsholing area and converting those area into the arable land (Timeline, n.d.). In the British record, the then Settlement Officer in Kalimpong of British East India Company, Charles Bell has reported about the settlement of the people of Nepali origin in Bhutan for the first time in 1904 and the

Bhutanese officials claims this period as ‘first sightings’ of the Nepali origin in Bhutan (Jigme Thinley in Hutt, 2003). At that time, Drukpas accepted the influx of the migrants and the settlement of migrants on those bordering land areas to India because Drukpas had considered those southern lowlands unsuitable for themselves to settle by clearing the forest due to malarial conditions. Later, these migrants cleared the forest and established those southern lowlands as the major food production site of Bhutan. They paid a heavy tax for the farming land and grazing their cattle in cash and which in turn boost the economy of the Bhutan (Hutt M. , 2003, p. 74). Later with the implementation of the first Five Year Economic Development Plan in 1961, again the Bhutanese government allowed the skilled foreign labourers from India and Nepal to work and settle in Bhutan (Saul, 2000, p. 325). Therefore, the settlement of Lhotshampas in Bhutan was before the establishment of absolute monarchy a with the first hereditary monarch of Wangchuck dynasty, Ugyen Wangchuck as *Druk Gyalpo* or Dragon King.

The decade of 1940s came with huge political changes in South Asian region resulting the decolonization and initiation of the process of state building. The people in the region also became politically aware and desiderated modernization through the political reforms and change in the regime and system. The ethnic Lhotshampas who were marginalized and dominated by the Drukpas for a long period of time participated in *Jai Gorkha* (i.e. Hail Gorkhas) movement by aiming the social reform and development (Pulla, 2016, p. 4). In 1952, they also set up a first political party Bhutan State Congress in history of Bhutan and sought for the equitable share of Bhutanese state affairs (i.e. both policy and economy), citizenship rights, democratization and political representation (Rizal, 2004, p. 155).



**Fig(i): The districts of Bhutan with Lhotshamapas' dominance and the districts of Nepal hosting Bhutanese refugees**

Source: (Hutt M. , 1996)

The then King of Bhutan, Jigme Dorji Wangchuck was well-informed about the ongoing political scene and very conscious about the pluralistic nature of the society of his country. Therefore, he introduced the social, political and administrative reforms (Rose L. E., 1977, p. 38). He established *Tshogdu* (the National Assembly) in 1953, introduced nationality legislation with Citizenship Act 1958, initiated the first Five Year plan in 1961, and created Royal Advisory Council in 1965 (Hutt M. , 2003, p. 133). Furthermore, with the policy of integrating to the Drukpa flod, Lhotshamapas were lured by offering grants for inter-ethnic marriage, scholarships and representation on *Tshongdu* and appointments to the Royal Advisory Council (Sinha, Dialogue between Deaf and Dumb: The Lhotshampa Refugees and their Predicament, 2002, p. 118). The schools in the south were allowed to teach Nepali and Sanskrit though *Dzongkha* was



declared as the national language in 1961 (Hutt M. , 2003, p. 5). In 1972, King Jigme Singye Wangchuck ascend the throne after the death of his father and also the attitude of the Bhutanese government towards Lhotshampas started to change. In 1980s, the idea of ‘united and homogeneous Bhutanese populace’ was promoted and the policies changed accordingly undermining the pluralistic nature of the Bhutanese society (Whitecross, 2009, p. 15).

#### **4.2 Shift in National Policy of Bhutan**

In 1975, the monarchy of Sikkim was overthrown by the people through a referendum and was annexed by India as its twenty second state (EurAsian Times Desk, 2018). The Bhutanese authorities perceived the cause of the event of Sikkim annexation as the ethnic Nepali origin people and their desire of being integrated to India (Whitecross, 2009, p. 76). Then the Bhutanese authorities became skeptical towards the Lhotshampas of the southern Bhutan because of their political awakening and demand of democratization and initiated the policy of the ‘Bhutanization’ and “Drukpanization’ aiming ‘consolidating national integrity, Drukpa culture, values and Buddhist ideology’ (Ikram, 2005, p. 105). The skepticism fueled the Bhutanese government to introduce some new Acts and make changes in the national policy. The major Acts and changes in policy are:

##### **a. The Bhutan Marriage Act 1980:**

The Bhutan Marriage Act was enacted in 1980 and implemented in 1988. The Act defines the Bhutanese citizens to marry outside Bhutan would be deprived of his/her citizenship and the right to services and facilities provided by the states (Bhutan Women and Children Organization, n.d.). The implementation of this Act was biasedly focused against the Lhotshampa people especially targeting those who had married a non-

Bhutanese citizens from Nepal and India. The Act also withdraw the provision of granting citizenship to foreign citizen marrying a Bhutanese citizen (Rizal, 2004, pp. 159-160).

**b. The Bhutan Citizenship Act 1985:**

National Assembly of Bhutan had enacted the Nationality Act of Bhutan in 1958 and had granted citizenship to Lhotshampas for the first time (Mitra, 1995). The regime of the fourth King of Bhutan enacted a new Citizenship Act in 1985 which was retroactive to that of 1958. The provision of granting the citizenship on the basis of three criteria: by birth, by registration and by naturalization was introduced. The Article 3 of the Act states, “A person permanently domiciled in Bhutan on or before 31<sup>st</sup> December, 1958, and, whose name is registered in the census register maintained by the Ministry of Home Affairs shall be deemed to be a citizen of Bhutan by registration”. Furthermore, the new Act replaced the ‘fatherhood’ to ‘parenthood’ as the sole criteria to grant citizenship by birth. With the implementation of this new Citizenship Act in 1988, a census was conducted in the southern region where the most Lhotshampas reside. Lhotshampas were forced to present the proof of their settlement before 31<sup>st</sup> December 1958. It was hardly possible for them to have the record of the taxes they had paid about thirty years ago. Also, those who were born after 31<sup>st</sup> December, 1958 and having only one parent Bhutanese citizenship should apply for citizenship by naturalization where they should be able to read and write Dzongkha, national language which many Lhotshampa failed to do so (Barman, 2009, p. 62).

On the basis of the documents which the Lhotshampas were able to present during the census, they were divided into seven categories from ‘F1’ to ‘F7’ as follows:

F1 Genuine Bhutanese Citizen, who were able to present the proof of their settlement (tax receipt) in 1958

F2 Returned emigrants, who were able to present the proof of their settlement in Bhutan before and after 1958 but not exactly in the year of 1958

F3 Drop out cases, who were absent at the time of the census

F4 Non-national women married to Bhutanese men and their children

F5 Non-national men married to Bhutanese women and their children

F6 Legally adopted children

F7 Non-nationals (Hutt M. , 1996, p. 403)

Due to these very dubious provisions of Citizenship Act 1985 and categorization of the people only few Lhotshampas were categorized as F1 or Genuine Bhutanese Citizen and rest were called as ‘illegal immigrants’ and forced to leave Bhutan.

**c. *Driglam Namzha* (Code of Conduct):**

Karma Phuntso describes *Driglam Namzha* as Bhutan’s code of etiquette. He further explains

*“Drig denotes order, norm and conformity. Thus, driglam literally means the way (ལམ་) of having order and conformity while namzha refers to a concept or system. Driglam namzha is thus a system of orderly and cultured behaviour, and by extension, the standards and rules to this effect”* (Phuntsho, 2015).

This code of conduct was severely implemented for Bhutanization in the name of protecting the Bhutanese national integrity with the slogan of “one nation one policy” included in the sixth Five-Year plan of Bhutan (1987-1992) (Ikram, 2005, pp. 107-108).

The policy was against the pluralistic nature of the Bhutanese society which had aimed to establish the Drukpa supremacy with their religion, culture, tradition and language subjugating those of the others. It made the Bhutanese national dress mandatory to all in government office, schools, official programs and public places and were fined heavily if not followed. Men should wear knee-length robe tied with belt called '*gho*' and women should wear an ankle-length dress called '*kira*' with the blouse called '*wonju*' and short silk jacket or '*tego*' (Lhamo, 2019). These dresses were not suitable for the Lhotshampas leaving the southern lowlands in hot and humid climate. Also, mostly Hindu Lhotshampas were not religiously and culturally accustomed to the prescribed dress and the code of conduct influenced by the Buddhist religious norms. Moreover, the dress was too expensive to afford for many poor Lhotshampas. Nepali and Sanskrit pathsalas were restricted to function and Nepali language was no longer taught in the schools. Lhotshampas felt their freedom of religion, culture, tradition and language was captivated and tried to unite against these restrictions on the name of code of conduct.

**d. Green Belt Policy:**

The Bhutanese government officially declared the "Green Belt" policy in 1989 which was approved by the 69<sup>th</sup> session of National Assembly of Bhutan in March 1990 (Proceedings and Resolutions of the 69th Session of the National Assembly of Bhutan, 1990). The policy aimed to create a kilometer-wide strip of green belt as one of the measures to eradicate malaria through afforestation along the either side of the 800 km long Indo-Bhutan border (Giri B. , 2004). The policy seemed to be very promising and attractive but it directly affected the livelihood of the densely populated Lhotshampa

inhabitants near to the India. The government only paid a very small amount as the compensation to those who had lost their home and land due to this policy.

**e. No Objection Certificate and Voluntary Leaving Certificate:**

The demonstration against the policies adopted by the Bhutanese government by Lhotshmapas in 1990 with the call for democracy was reciprocated with the ruthless state violence and atrocities. No Objection Certificate (NOC) or a police clearance became a requisite to all the Southern Bhutanese for employment, education and all basic services. NOC was denied to most of the Lhotshampas allegedly for participating in the demonstration (AHURA, Bhutan, n.d.). The inhumane treatments of the authorities consisted numerous arbitrary arrests, tortures and detentions without trails, loot, arson and demolition of the house and property, ban on basic survival necessities and health facilities, confiscation of the citizenship, termination of the employment and the most degraded act of gang rapes. Even Lhotshampas, previously identified, as genuine Bhutanese were intimidated with others to leave the country by the state-sponsored terror because their relatives were involved in the demonstration. These people were forced to sign ‘voluntary migration form’ with which later, the state tried to veil the policy of ethnic cleansing renaming it as ‘Voluntary Leaving Certificate’ (Neikirk & Nickson, 2017, p. 41).

The compulsory unpaid labor for development works, irrespective of the age and ability, the resettlements of the Sharchops and Ngalongs in the southern regions, etc. were some other policies of the Bhutanese authorities to pressurize the Lhotshampa and coerce them to flee the country.

### 4.3 Migration to Nepal

In 1989, the then National Assembly representative from southern Bhutan and a member of Royal's Advisory Council Tek Nath Rizal along with some other representatives presented a petition to the King against the Citizenship Act 1985 and Driglam Namzha and warned that the people of the southern Bhutan were intimidated, threatened and coerced to sign the documents. In contrary to their expectation of justice, Rizal was expelled from both National Assembly and Royal's Advisory Council and imprisoned. After few days, he was released forcing him agree some conditions. Then he left Bhutan and travelled to Assam, Sikkim and finally to Nepal. In Nepal, he set up the 'People's Forum for Human Rights' in July 1989 to fight against the discrimination towards Lhotshampas by the Bhutanese government. In November 1989, on the call of the Bhutanese government, he was arrested by Nepalese authority and handed over to the former (Rose C. , 1993).

The imprisonment of Tek Nath Rizal and imposition of the Citizenship Act 1985 and Driglam Namzha intensified the anger to erupt in the form of the mass demonstration organized by Bhutan's People Party (BPP) in September 1990 (Giri B. , 2004). The government quickly reacted to crack down the revolution and labelled the demonstrators as "*ngalops*" or "anti-nationals". Due to the brutality of the authorities, the Lhotshampas faced a chaotic situation. They were denied of NOC required for acquiring basic fundamental facilities allegedly for their or their family members' and relative's participation in the demonstration. They were compelled to sign the 'voluntary migration form', a tool used by the state for 'a systematic eviction of southern Bhutanese' (Nath, 2016).

After the expulsion from their homeland, Lhotshampas crossed the border into India and stayed in make-shift camp hoping the situation to normalize. Instead, the situation worsened in Bhutan as well as the camp. The Border Police of India didn't permit them to set up permanent camps. Even the camps were destroyed and some refugees were abducted and returned across the border. Though the Lhotshampas were not willing to leave for Nepal, but with the fear of prosecution on their return to Bhutan, torture and inhuman behavior of Indian authorities, there was no option for them other than sought for refuge in Nepal. The expelled Lhotshampas, first entered Nepal in December 1990 (Baral T. , Bhutanese Refugee Problem and Multi-track Approach of Nepalese Diplomacy, 1998, p. 77). Nepalese government failed to keep the records of these people initially. A report of AHURA Bhutan states that in July 1991, with 235 refugee by the bank of Mai River at Jhapa first refugee camp was set (AHURA, Bhutan, n.d.). The inflow of the refugees continuously increased. There was rapid increment of the number of the refugees entering Nepal. By the end of March 1992 the number of asylum-seekers hiked to about 27,000 (Barman, 2009, p. 62). The large number of refugees has created a chaotic situation and the management of those people was then the most required issue. On 30<sup>th</sup> September 1995, the number of the refugees living in seven different camps at Jhapa and Morang districts of Nepal was around 90,000 (Hutt M. , 1996, p. 412).

#### **4.4 Role of India**

Bhutan and Nepal don't share border with each other but have common immediate neighbors, China and India. China lies to the north of both the countries whereas India borders the remaining sides. The difficult mountainous terrain of the north has shifted the geopolitics of the both the states to the south i.e. India. Therefore, the exiled Lhotshampas first fled to India from Bhutan. The Indian authorities in Indian soil denied their appeal for shelter, safety and security.

Instead, their camps were destroyed and they were forcefully loaded onto trucks and left on the Indo-Nepal border (Rizal, 2004, p. 165).

In article 2 of “Treaty of Friendship” signed by Bhutan and India in 1949, Bhutan has agreed to be guided by the government of India to conduct its foreign affairs (Ministry of External Affairs, Government of India, 1949). On this basis, Baral (1997) claims that India has ‘special relations’ with Bhutan and holds the key that could untangle the refugee imbroglio once and for all has been very forthcoming to assist the two smaller neighbors to expedite the process (Baral T. , *Bhutanese Refugee Problem and Multi-track Approach of Nepalese Diplomacy*, 1998, p. 80).

Rose (1993) believes that India has both political and economic incentive for keeping silence and might not have prescribed Bhutan to resolve the issue (Rose C. , 1993). Sinha (2005) offers the possible reasons to explain the India’s benign detachment which might be the import of cheap electricity from Bhutan, the continued and consistent support of Bhutan in international fora and the Indian interest of having a stable kingdom over the sensitive Himalayan rim (Sinha, *The Lhotshamapa and Indian Abandonment*, 2005). Hence, India has been remaining silent over the issue of the Bhutanese refugees in Nepal and insisting the crisis must be solved bilaterally. India has also refused to mediate as well as internationalize the issue of the Bhutanese refuge. It denies the return of the refugee to Bhutan through the same path which once they had entered Nepal seeking asylum.

Hence, it is found that the every ethnic group of Bhutan has the migratory history and are migrated to Bhutan in different point of time. Also, the state-building process of Bhutan was very lately started as it has become the unified polity under the Wangchuck dynasty established in the early twentieth century. The ruling elites are from the Nalong sect of Drukpa community



who a minority group among Drukpa but the political majority and the Lhotshampas are the political minority living in the southern Bhutan. Therefore, the Bhutanese refugees in Nepal are the Lhotshampa people of Bhutan who speak Nepali, the Nepali culture and traditions. They have settled in Bhutan before the twentieth century and contributed to the economic and social development of Bhutan. But due to the ethnic, social and cultural differences with the ruling Drukpa, the Lhotshampas were treated brutally by the Bhutanese authorities and forced to flee the country seeking refuge in neighboring India. Since India denied the appeal of the Lhotshampas, they were truck loaded and left at the Indo-Nepal border. Nepal recognized the refugees on a humanitarian basis.

The state behavior of Bhutan clearly follows the realist notion where in the name of national integration, a large population was forced to either assimilate to the culture of the ruling sect or to flee the country. An ethnic group with powerful political majority has made another political minority ethnic group suffer and the national policies were so made and implemented against the latter. The role of India is also realist in nature. India never got involved in the refugee issue due to its economic interest over the resources and security interest which is available to India due to the geographical location of Bhutan. The issue of refugees for Nepal was a major challenge at that period. The attempts made to manage and resolve the issue by Nepal clearly depict the liberal state behavior of Nepal. The attempts for initiating the diplomatic dialogue either bilateral or trilateral or even multilateral and internationalization of the issue are the examples of the liberal approaches implemented by Nepal.

## Chapter 5

### Nepal and Bhutan – Diplomatic Initiatives

When the turmoil in the southern Bhutan initiated, the movement for the restoration of the democracy in Nepal was sprouting. The influx of the Bhutanese refugees entered Nepal soon after the restoration of the democracy in Nepal. The political parties and their leaders along with the moral support and solidarity exhibited a liberal approach guided with sympathetic nature towards the refugees. For a developing country like Nepal, managing the large number of refugees is a huge burden. After the formation of the democratic government headed by Girija Prasad Koirala as Prime Minister, Nepal started to respond the issue systematically. Khanal (1998) states that the attempts made to initiate the dialogue with Bhutan by Nepal for the resolution is often referred as 'quite diplomacy'. He further claims that Nepal had sought for the involvement of India forming the tripartite committee to resolve the problem of Bhutanese refugee but India suggested to resolve the issue through the bilateral talks. (Khanal, 1998, p. 153).

During the seventh SAARC summit held in Bangladesh in 1993, the meeting between the King of Bhutan, Jigme Singye Wangchuck and Prime Minister of Nepal, Girija Prasad Koirala prepared the ground for the bilateral talks between Nepal and Bhutan where they agreed for a Joint committee to find out the modalities to resolve the issue of the Bhutanese refugees in Nepal (Pattanaik, 1999).

#### 5.1 Ministerial Joint Committee and its Endeavors

On July 17, 1993 meeting of the Home Ministers of the both countries in Thimpu initiated the official negotiation process where they agreed to establish a Ministerial Joint Committee (MJC) with three members of each side for the resolution and the committee is entrusted with the following mandates (Piper, 1995):

- a. To determine different categories of people claiming to have come from Bhutan in the refugee camps of eastern Nepal.
- b. To specify the position of the two governments on each of these two categories.
- c. To arrive at a mutually acceptable agreement on each of these categories which would provide the basis for the resolution of the problem.

On 13 September, 1993, the Nepal Bhutan Ministerial Joint Committee (MJC) on refugee problems was constituted to act over the mandated and the committee was comprised with the Ministers of the both countries (Nepal-Bhutan Ministerial Joint Committee Meeting (MJC), 2004). The first meeting of MJC was held on October 4-7, 1993 in Kathmandu where Nepali side presented the details of the refugee families living in the refugee camps on the basis of the documents those families had possessed. The presented details is as follows (Khanal, 1998, p. 154):

- a. 10,073 families with citizenship documents.
- b. 1762 families with records pertaining to the land ownership
- c. 251 families with health documents
- d. 40 families with education certificates
- e. 2490 families with documents such as the service in the government, marriage certificate and court documents

- f. 368 families who do not have any documents

Furthermore, the committee also agreed to verify and categorize the people languishing in various camps in eastern Nepal onto four categories (K.C., 2002, p. 58):

- i. Bonafide Bhutanese if they have been evicted forcibly;
- ii. Bhutanese who emigrated;
- iii. Non-Bhutanese people and
- iv. Bhutanese who had committed criminal acts.

The joint statement issued after the first meeting of MJC had proclaimed that the both states would specify their positions on each categories and seek a mutual agreement for providing the basis to resolve the refugee problem upon the completion of the verification process of the refugees. But meetings of MJC until the tenth round after the first meeting were unable to break the deadlock and find the agreement in the modalities of the verification process. The seventh round of meeting ended with the stalemate as Bhutanese delegation remained so firm on their standpoints that the verification of the refugee must be based on the Citizenship Act 1985 and Bhutanese emigration laws (K.C., 2002, p. 60) and Nepal had taken the standpoint that the refugees categorized in i, ii and iv categories should be repatriated in a dignified manner (Pattanaik, 1999). In December 2000, the tenth round of the meeting was finally able to break the ice and agreement for creating Nepal Bhutan refugee Joint Verification Team (JVT) was achieved after more than seven years of first round of talks (Nepal-Bhutan Ministerial Joint Committee Meeting (MJC), 2004). The eleventh meeting of MJC granted the more authority to the JVT making it able to make some minor decision on disputes without forwarding those to the MJC but still failed to harmonize the position of both sides on the four categories of the refugees.

The agreement achieved during the twelfth meeting of MJC in February 2003 states that the refugees under the first, second and fourth categories were accorded to the right to repatriate and the status of citizens of Bhutan would be restored to only the people of first categories, the people in second category should have to reinitiate their naturalization process by applying for Bhutanese citizenship as they return to Bhutan and the people in fourth categories would be first tried in the Bhutanese court as per the Bhutanese national law and the people in third categories would not be repatriate (Human Rights Watch, 2007). No further provision and decision was made for the people in third categories. So, these people were forced to remain stateless.

After the fifteenth rounds of talks in ministerial level and four rounds of that in foreign secretary level, the bilateral dialogue between Nepal and Bhutan on the issue of the refugee was discontinued without making progress in repatriation. The last diplomatic dialogue between Nepal and Bhutan was held on October 20-23, 2003 in Thimpu (Nepal-Bhutan Ministerial Joint Committee Meeting (MJC), 2004). The political changes which took place in Nepal during 2006 and the being of the resettlement process shadowed the process of repatriation. After more than a decade and half long pause, the need of bilateral dialogue for the repatriation of the refugees was sensed by Nepal and a cabinet decision was made to resume talks with Bhutan on December 3, 2019 (Giri A. , 2019). But no further developments are noticed yet.

## **5.2 Joint Verification Team and Decisions**

Though the verification process of the Bhutanese refugees living in the camps of Nepal was envisaged by the first meeting of the MJC, the process was lingered in uncertainty due to the failure in harmonizing the position of the both sides over the four categories on to which refugees are to be categorized. A Nepal Bhutan Joint Verification Team (JVT) of ten person, five

from each side was agreed to form during the tenth meeting of MJC with a view to resolve the issue bilaterally (K.C., 2002, p. 58). JVT was commissioned for “validating of family relationship as well as verification of the status of the people in the refugee camps” (Nepali Times, 2001). The basis of the verification was agreed to be the official documents issued by the Bhutanese government, such as the Bhutanese citizenship certificate, land ownership documents, birth and marriage registration certificate, documents related to the civil service and the Bhutanese government, passport, voluntary labour contribution certificate, trade license and school registration documents to authenticate the claim of being Bhutanese citizen. It started its work by interviewing and verifying the refugees of Khudunabari refugee camp on March 26, 2001 (Acharya, n.d.) and the completion of the entire process of verification is subjected to eight different stages (Nepal-Bhutan Joint Verification of Refugees, 2003):

- a. Verification and documentation: The first and fore-most stage where verification of refugees is based on a plan that those above the age of 25 will be dealt individually and below 25 as a member of a family group (Nepali Times, 2001). Since there was no agreed timeframe for the completion of the verification, the pace of verification was very slow. It took more than nine months to complete the verification process of Khudunabari camp, the smallest one.
- b. Harmonization: The two governments’ position should be harmonized over the categorization done by the JVT which had become the most difficult task. The failure in harmonizing the position had even led to the stalemate. The same became the reason for discontinuation of the process of repatriation and bilateral talks in 2003 initiated from 1993.

- c. Submission of the verification report by JVT to the Joint Foreign Secretary Level Committee to resolve the differences.
- d. Submission of the complete verification report to MJC for its approval.
- e. Seeking approval of the final list of the verified refugees to repatriate from the Bhutanese government after its ratification from the Bhutanese parliament.
- f. Final agreement on the repatriation
- g. Preparation of the modalities and logistic required for the repatriation from Nepal and to rehabilitate in Bhutan.
- h. Repatriation of the verified refugees to their homeland..

The JVT took about nine months to complete the verification process of 12,090 person from 1,935 families of Khudunabari camp and ended the process on December 14, 2001 (European Union, 2001). The report was than submitted to the MJC for the harmonization and further discussions in ministerial level. Only the twelfth round meeting of MJC was able to harmonize the positions on the report of JVT and agreed to resume the work of JVT in Bhutan from February 2003 (Twelfth Ministerial Level Joint Committee Meeting Joint Press Release, 2003) and the fifteenth MJC meeting has selected Sanishchare camp as the next site for the JVT to initiate the verification (Fifteenth Ministerial Level Joint Committee Meeting Joint Press Release, 2003) but till date no verification process is initiated.

### **5.3 Appraisal of the MJC and the JVT**

A total of fifteen rounds of Ministerial Joint Committee was held in between ten years of period, from 1993 to 2003 for resolving the issue of the Bhutanese refugee. But due to the stand taken by the Bhutanese government, the process of resolving the issue was limited to the bilateral

dialogue between Nepal and Bhutan only. The agreement achieved during the first meeting of the MJC to categorize the refugees into four groups was heavily criticized as a blunder because it was based on the Bhutan's Citizenship Act 1985 which states that once a Bhutanese citizen voluntarily migrates from the country the citizenship of such migrants is forfeited and is never allowed to return to Bhutan. Mitra (1995) believes the ban on the return of emigrants put by the 72<sup>nd</sup> session of Bhutan National Assembly held in July 1993 is an indicative behind the Bhutanese design of categorization of the refugee (Mitra, 1995, p. 831). K.C. (2002) professes that Nepal is in a diplomatic dilemma because after accepting the 'categorization' scheme it is unable to back from the agreement and also lost its position for insisting Bhutan to repatriate those who were recognized as 'genuine' refugee by the UNHCR (K.C., 2002, p. 59). Pattanaik asserts that the acceptance of categorization reflects political immaturity of Nepalese government and its haste attempt to solve a complex issue (Pattanaik, 1999). But then the Nepalese side had stated that the agreement was on subjecting the refugees to verification and the process of categorization was not definite (Baral T. , Bhutanese Refugee Problem and Multi-track Approach of Nepalese Diplomacy, 1998, p. 79).

After the tenth round of bilateral talk in December 2000, JVT was formed and assigned to verify the Bhutanese refugees. JVT commenced its task of verification in March 2001 by interviewing and verifying the people of Khudunabari camp into four categories as per the guidelines set by the MJC. The verification process ended in December 2001 but the result was not released until June 2003 and 12,090 people out of 12,643 registered in the camp were categorized as the remaining were absent during the time of the verification (Nepal-Bhutan Ministerial Joint Committee Meeting (MJC), 2004). The result of the verification process was published as follows:



**Table (i):****The Result Published by the JVT of Khudunabari Refugee Camp**

<b>S.No.</b>	<b>Categories</b>	<b>Number of refugees in each categories declared jointly by JVT</b>	<b>Percentage (%)</b>
1	Bonafide Bhutanese	293	2.4
2	Bhutanese who emigrated; subjected to naturalize after their return to Bhutan	8,595	70.55
3	Non-Bhutanese	2,948	24.2
4	Bhutanese with criminal record; subjected to be tried in Bhutanese court	347	2.85

Source: Human Rights Watch (Human Rights Watch, 2007)

The fifteenth meeting of MJC in October 2003 considered the appeals by the people of Khudunabari camp against their categorization, agreed to review against the appeals on being categorized in third categories and the treatment of the people who had committed criminal acts assuring their family members are not subjected to be tried. The committee also selected the Sanischare as the next camp where the verification process would be conducted (Fifteenth Ministerial Level Joint Committee Meeting Joint Press Release, 2003). However, this fifteenth round of bilateral talk became the last diplomatic dialogue between the governments of Nepal and Bhutan for the resolution of the Bhutanese refugee issue and also the verification process in Sanischare camp is never initiated until the date.

Thus, Nepal-Bhutan diplomatic initiatives failed to repatriate the Bhutanese refugees to their homeland. The agreement of the first MJC meeting to categorize the refugees into four groups and verify them by the JVC gave the room for the Bhutanese officials to escalate the process and

achieve their interest where Nepalese official failed to calculate the aftermath of that agreement. According to the agreement, the citizen rights of first category Bhutanese refugees only would be restored upon their repatriation. The second category should be naturalized again and the fourth should be tried at the Bhutanese court before the process of naturalization. This provision would create a large stateless population because the naturalization process may take longer and also the state has the right to not to naturalize a person. Also, the agreement failed to decide over the third category of Bhutanese refugees living in the camps of Nepal. As Bhutan has agreed to be guided by India to conduct its foreign affairs, the role of India in the negotiation process could have an effective impact for the resolution of the problem which was lacked during the process. Hence, the negotiation process was unable to resolve the Bhutanese refugee problem through the sub-system of Nepal, Bhutan and India.

## Chapter 6

### **Bhutanese Refugee Problem: Means, and Strategies of the Resolution**

Refugee problems are burdensome for the host countries as the problems come with the social, cultural and religious indifferences, economic, environmental and anthropological challenges. The problems need to be swiftly responded with basic humanitarian assistance for the survival and protection of the people who are compelled to flee from their place of belonging. After the determination of the refugee status and addressing their immediate needs to the refugees, the long term, sustainable and acceptable resolutions of the problem are required. The three durable solutions of refugees promoted by the UNHCR as part of its core mandate are voluntary repatriation, resettlement and local integration (UNHCR, 2001). UNHCR further explains that out of these solutions any or integrated approach combining all three solutions could be implemented for resolving the refugee issues. The implementation of these solutions requires a very close cooperation and understanding between the countries of origin, host states, international organizations working for humanitarian support and development of the refugees along with the refugee themselves which could lead to the best and sustainable solution to the problem.

Among the above mentioned three solutions, each solution has different prerequisite conditions and methods for its implementation into action.

a. Voluntary repatriation:

Voluntary repatriation involves the process of rehabilitating the refugees to their country of origin by shifting from the host country through the cooperation arrangement between both host country and country of origin when and where it is feasible. The repatriation

process should ensure that the choice of the return is voluntarily made by the refugees out of their own will and free from coercion to avoid the refoulement. Furthermore, it should also guarantee the physical, material and legal safety with full restoration of national protection and dignity together with property restitution, legal guarantees for amnesties and reintegration through the establishment of appropriate framework between the host state and state of origin (Stein, 1986, p.269.). Voluntary repatriation of the Afghan refugees from Iran and Pakistan in 2008, Sri Lankan refugees from India and Mauritanian refugees from Senegal in 2010 are some of the examples (UNHCR, 2001).

b. Resettlement:

Resettlement of the refugees to the third country allows them to integrate in the society and enjoy long term protection in a fear-free environment. The resettlement process is feasible especially for those refugees whose voluntary patriation and local integration are hardly possible or those who become unable to find the adequate protection in the country of origin and country of asylum. It is also a burden and responsibility sharing mechanism achieved through international cooperation for large -scale and protracted refugees. Resettlement has been a solution to the refugees of Latin America through the adoption of the Mexico Plan of Action in 2004 and Italy accepting Eritrean women detained in Libya in 2007 (UNHCR, 2001).

c. Local Integration:

Local integration could be the appropriate solution for some groups of refugees and/or in some countries. Local integration requires the acceptance of the country of first asylum. It may be affected by the socio-economic conditions of the host country and the refugee

caseload. In most of the cases, the local integration is adopted as a tool to resolve the issue of statelessness for those who were born in the territory of the host country and do not have the chances of repatriation in foreseeable future like those happen in Iran (integration of Afghan refugees) and Tanzania (Burundi naturalization) (UNHCR, 2001).

This chapter analyses the genesis of the Bhutanese refugee problem with respect to the country of origin (Bhutan) and host country (Nepal), the policies and standpoints of the both countries, the response of the United Nations and other international humanitarian and development actors with their attempts for the resolution. It also elucidates the challenges which led to the adoption of the resettlement process as the durable solution for protracted Bhutanese refugee problem in Nepal and explores the process of its adoption along with the actor involved.

## **6.1 Bhutan; One Nation One People**

Bhutan is a multi-ethnic, multilingual and multi-religion country where the Durkpa tradition associated with the Northern Bhutanese prevails as they are the ruling elites of the kingdom. The country was aligned to the path of modernization by the third king, Jigme Dorji Wangchuck with the establishment of *Tshongdu*, or National Assembly and initiation of the cabinet system of the government. He was well aware about the pluralistic nature of the Bhutanese society and during the 1960s made reforms compatible with the society (Dixit, 1992, p.13). After the fourth King of Bhutan, Jigme Singye Wangchuck ascended the throne, he followed the footsteps of his father for some years. At that time, some political agitations were going on in Sikkim and the people dethroned the king. The political development of Sikkim in the 1970s also made the Bhutanese authority to fear cultural and ethnic diversity. This fear could be sensed in words of the fourth king of Bhutan, Jigme Singye Wangchuck, during an interview to Reuters in February, 1992 that

Bhutan was facing “the greatest threat to its survival since the seventh century” which was when the theocratic system of rule was introduced to Bhutan (Dixit, 1992). Later in 1999, a Vision Statement published by the then Planning Commission of Royal Bhutan Government (now renamed as “Gross National Happiness Commission”) states, “The main challenge facing the nation as a whole is the maintenance of our identity, sovereignty and security as a nation state” and primarily focus on the cultural imperative which could assert the distinctive Bhutanese identity (Planning Commission Royal Bhutan Government, 1992).

In the 1980s, the fear of ethnic and cultural heterogeneity led to the reinterpretation of cultural preservation as ‘a positive and essential means to safeguard national security’ by Bhutanese authorities. National Council for Social Cultural Promotion was founded in 1980 by the Bhutanese government with the following objectives (Barman, 2009, pp. 60-61):

- a. The organization and promotion of social, cultural and educational activities to foster and strengthen a feeling of national community transcending regional loyalties.
- b. Adoption of schemes to develop the sense of national identity among the youth and make them dedicate their service to the king and the country.
- c. Initiations of plans and programs calculated to emphasize the social, cultural and spiritual aspects of life and to make the youth participate in activities conducive to national level at the rural level.

Similarly, the Special Commission for Cultural Affairs (SCCA) (now it is named as “Department of Culture” under the Ministry of Home and Cultural affairs) was established in July, 1985 through a Royal Decree with the mandate to preserve and promote the cultural and traditional heritage (*About Department*, n.d.). The main point of concern of the Sixth Five Year Plan (1987-

92) was focused on projecting the unique national identity of Bhutan (Muni, 1991, p.147). The concept of “One Nation, One People” was then put forward by the Druk Gyalpo (King of Bhutan) in the name of national integration and promoting Bhutanese nationalism which aimed to modernize the minds of the people and lead them into a post ethnic consciousness (Mathou, 2000, p.245). The further explanation of the concept “One Nation, One People” illustrates that Bhutan being a small country could not afford to have too many divided identities (Dixit, 1992).

‘Driglam Namzha’, a royal decree issued by the king of Bhutan as a part of the promotion of unique national identity and the ‘One Nation, One People’ policy is a conscious plan of the Drukpa elite to transform the whole Bhutanese society emphasizing the Buddhist tradition, culture and religion where all individuals loyal to the throne. Buddha, Dharma and Sangha, three refuge of Buddhism, have been politically misinterpreted to mean Tsa-Wa-Sum or the three elements of Bhutan, the King, Country and people. The act of criticism or defamation of these three elements is considered treason and subjected to the death sentence (Ikram, p.104). In fact, these actions were a tactful move to avoid modernization and its threat to Drukpa culture through exposure of the Bhutanese citizens to the outside world. The policy also aimed to marginalize educated youths, immobilise the political opposition and became a means of consolidating control of the state over political modernization (*One Nation One People*, n.d.).

The Lhotshampas people of southern Bhutan were distinctly different from the Drukpa people in the north in culture, tradition, religion and many anthropological perspectives. The code of conduct, Driglam Namzha, has prescribed the national dress for all the Bhutanese and made it mandatory to be worn at public places. Also, Nepali language was taken out to be taught in the schools of southern Bhutan and Lhotshampa childrens were compelled to study Dzongkha.

Lothshampas found these provisions unsuitable and as the tool of forced integration and detrimental to their identity. The process of homogenisation which would lead to the exclusive domination of the Drukpa culture and tradition over them. Also, Bhutanese government conducted the census to identify 'illegal immigrants' especially targeting the Lhotshampas of the south. Therefore, they raised their voice against these disparities and biased policies of the states directly affecting the Lothshampa people. This protest of Lhotshampas was considered as the act of treason and the participants as 'ngalops' or anti-nationals. These people were forced to flee Bhutan seeking for the refuge in Northeastern states of India and Nepal.

Hence, the Bhutanese policy of 'One Nation, One People' is the root cause of the Bhutanese refugee problem which was selectively biased against the Lhotshampa and was carefully designed for the ethnic cleansing.

## **6.2 Nepal as a Host Country**

There are conventions and declarations for the protection of the refugees (or asylum seekers) and stateless persons adopted by the United Nations. Some of them are Statue of the Office of the United Nations High Commissioner for Refugee, 1950; Convention Relating to the Status of Refugees, 1951; Convention Relating to the Status of Stateless Person, 1954; Convention on the Reduction of statelessness, 1961; Protocol Relating to the Status of Refugees, 1966 and Declaration on Territorial Asylum, 1967. All these conventions and declarations were adopted with the aim to reduce statelessness, provide humanitarian assistance to refugees and stateless people. These instruments seek for international cooperation and solidarity for the protection of the refugees and stateless people and are not a compulsion for the states to ratify or become a



party to these conventions and declarations. Therefore, very few states have been the party to these instruments. (International Commission of Jurist/Nepal Section, 1993, p.42).

Nepal is also not a party to Convention Relating to the Status of Refugees, 1951; Convention Relating to the Status of Stateless Person, 1954; Convention on the Reduction of statelessness, 1961; Protocol Relating to the Status of Refugees, 1966 and Declaration on Territorial Asylum, 1967. Therefore, Nepal is not bound to commit to the provisions of these conventions. However, the Universal Declaration of Human rights and accession to a number of other international human rights instruments such as the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Elimination of All Forms of Discrimination against Women; and the Convention on the Rights of the Child, has created a general obligation for Nepal to protect human rights and follow the humanitarian law. On these bases, Nepal has been hosting large groups of refugees for over 60 years (UN High Commissioner for Refugees (UNHCR), 2015).

Nepal has no national refugee legislation regarding refugees and Nepal Immigration Act, 1992 only covers the judicial aspects associated with the foreigners in Nepal where no reference for refugees and asylum seekers is included (International Campaign for Tibet (ICT) & FIDH – International Federation for Human Rights, 2020, p.5). Even though Nepal recognizes the Bhutanese refugees on a prima facie basis and are allowed to stay in the camps bounded by the humanitarian values (International Catholic Migration Commission (ICMC), 2013, pp.59-60). The Bhutanese refugees are restricted to the camps only and are subjected to obtain prior permission and pass if they have to leave the camp for more than 24 hours. A six months

renewable pass is granted for the educational purpose. If the refugees remain absent for the extended period of time without the permission of the authority their ration cards would be temporarily suspended. The refugees are restricted to engage in income generating activities except the activities within the camps like small cottage industries. Even though many Bhutanese work as the school teachers and farm workers as cheap human resources (United States Committee for Refugees and Immigrants, 2008).

The Ministry of Home Affairs of Nepal had taken the responsibility for the management of the refugee crisis through the National Refugee Coordination Unit and created an Operation Management and Implementation Unit (OMIU). OMIU was created to fulfill the requirement of systematic and effective refugee documentation and management. It was assigned to co-ordinate with the UNHCR for undertaking the task of verification and documentation of the refugee. Initially, the refugees were interviewed and registered in the camps but after May 1993 they were formally screened at Kakarbhitta, the entry point on the Nepal-India border (International Commission of Jurist/Nepal Section, 1993, p.46). With the humanitarian assistance of the UNHCR the seven different camps at five places were built for the refugees. The details of the Bhutanese refugee's population as of December 1995 in the camps of Nepal are listed below in the table.

**Table (ii):****Refugees Population in the Camps of Nepal (December 1995)**

<b>Camps</b>	<b>District</b>	<b>Population</b>
Timai	Jhapa	8,459
Sanischare	Morang	17,542
Goldhap	Jhapa	8,134
Beldangi-1	Jhapa	15,349
Beldangi-2	Jhapa	19,273
Beldangi-Ext	Jhapa	9,652
Khudunabari-N*	Jhapa	7,393
Khudunabari-S*	Jhapa	3,938
<b>Total</b>		<b>89,740</b>

Note: \* - Merged into one camp in July 1, 1996

*Source: UNHCR/Nepal No.4/95 (December, 1995)*

Later, the responsibility of the survival necessities of the refugees was handed over to UNHCR by Nepalese government which UNHCR took together with its partners.

In 1993, Nepal initiated the bilateral talks with Bhutan for the repatriation and rehabilitation of the Bhutanese refugees in Nepal to their homeland. Nepal also internationalized the issue in order to create a diplomatic pressure on Bhutan to find out a mechanism by means of diplomatic dialogue to commence the dignified repatriation process of the refugees. As a result, after the

fifteenth round of failed attempts to resolve the issue through the bilateral talks, the group of eight countries, Australia, Canada, Denmark, New Zealand, the Netherlands, Norway, the United Kingdom and the United States of America, agreed to share the responsibility of the Bhutanese refugees and resettle them (Ghimire, 2017).

### **6.3 Standpoints of Bhutan and Nepal**

Bhutanese refugee problem has been a major concern of Nepal-Bhutan relation, right from its initiation in early 1990. Initially, the Royal Government of Bhutan denied to accept that the refugees in Nepal are not from Bhutan. Later, it argued that the people taking shelter in the refugee camps fall into the following five categories according to their motivations and expectations; (a) Economic migrants to Bhutan seeking employment but returned to Nepal due to the unfavorable political situation of southern Bhutan; (b) Ethnic Nepali public servants of Bhutan absconded with government funds; (c) Militants and criminals of southern Bhutan engaged in armed struggle against Bhutan; (d) Ethnic Nepalese who felt insecure in Bhutan and left voluntarily and (e) People who never lived in Bhutan; the people of Nepal and India taking shelter in refugee camps for free lodging and supplies from donor agencies (Ahsan & Chakma, 1993, pp. 1052-53). This argument of the Bhutanese government clearly states its denial to accept the refugees to be the Bhutanese nationals. They are considered as illegal immigrants or economic migrants and showed almost no interest on the refugee issue till 1993.

On the other hand, Nepal has made efforts to seek an amicable solution to the problem through diplomatic dialogue for the resolution of the issue which is often termed as ‘quiet diplomacy’ through bilateral, trilateral and multilateral means. In fact, the Bhutanese refugee problem was the first major diplomatic challenge to the democratically elected government of Nepal formed

after the restoration of democracy in 1990. Therefore, Nepal tried to resolve the issue peacefully through a multi-track approach.

The official negotiation process started in 1993 with the formation of the Ministerial level Joint Committee (MJC) where both the parties agreed for the categorization of the refugee into four groups: (a) bona fide Bhutanese (b) Bhutanese who emigrated (c) Non-Bhutanese and (d) Bhutanese with criminal records. Furthermore, a Joint Verification Team (JVT) was also created for the verification and categorization of the refugees. The agreement for the repatriation and the treatment of the refugees falling under categories (a), (b) and (d) were achieved but the both sides failed to harmonize their positions regarding category (c). There has been no further proceedings made by the both sides after the fifteenth round of meeting of MJC in 2003. Even though, Ministry of Foreign Affairs, Nepal wishes to solve the issue through diplomatic dialogue and holds a firm view that the refugees should be repatriated with dignity and honor to their homeland at the earliest. It further states that Nepal has been requesting Bhutan for the revival of the MJC to resolve the issue of Bhutanese refugees. From this statement, Nepal has made clear that the only accepted solution is repatriation for the Bhutanese refugees languishing in camps of Jhapa and Morang districts since 1990.

#### **6.4 Role of Regional and Multilateral Framework**

When the expelled Lhotshamapas seeking for refuge entered Nepal, initially on the appeal of the refugee leaders, local communities assisted with their immediate requirements. But, in long run, it was not possible for the locals to provide assistance to the large influx of the refugees. At that time, the Lhotshampas were in very grimy conditions. Soon, the make-shift camp was hit by malnutrition, dehydration and diseases like diarrhea, cholera, and measles due to lack of food,

clean drinking water supplies and proper sanitation. This situation took no long to turn into a state of emergency, in fact a humanitarian crisis.

Bhutanese refugee problem should have become a regional issue because the issue has direct impact on the three countries of the South Asia, Bhutan, India and Nepal. Therefore, South Asian Association for Regional Co-operation (SAARC) should have act up on the issue. Article II (1) of SAARC charter clarifies the non-intervention on the internal affairs of the other states and article X (2) excludes the bilateral and contentious issues from the deliberations, the issue of Bhutanese refugees never entered SAARC because Bhutan has claimed the issue as its internal affairs and India has declared that to be bilateral between Nepal and Bhutan. Kharat (2015) averred that SAARC was used by Bhutan as a platform to raise its voice against the ethnic unrest within Bhutan and the South Asian region and to obtain support to justify its domestic policy through the King's address to 5<sup>th</sup> SAARC submit at Male in November 1990 (Kharat R. , 2015, p. 90).

Up on the formal request of Nepalese government in September 1991, UNHCR got involved in managing the refugees (Hutt M. , *Unbecoming Citizens; Culture, Nationhood and the Fight of Refugees from Bhutan*, 2003, pp. 257-258). The UNHCR established seven camps in five different sites, Beldangi, Khudunabari, Timai and Goldhap of Jhapa district and Sanishchare (Pathari) of Morang district in Nepal. The refugees were provided with the camp amenities by the implementing agencies: the World Food Program (WFP), Oxfam, Caritas-Nepal, Lutheran World Fund (LWF), and Red Cross, Save the Children and many other nationals and international NGOs working for the UNHCR. The World Food Program provided the rations with the rice, pulses, cooking oil, salts and vegetables (World Food Program, n.d.). LWF along

with Oxfam maintained the sanitation facilities. After March 1992, Oxfam shifted its focus on social development and ran non-formal education and income generating activities for the refugee women (Oxfam, n.d.). The Caritas-run education system provided mandatory attending free English-based classes of primary and secondary level with all required stationary supplies to the refugee students and healthcare was provided by AMDA-Nepal funded by the UNHCR (Neikirk & Nickson, 2017, pp. 44-45). The UNHCR has been able to provide high grade humanitarian assistance to the Bhutanese refugee in Nepal but its involvement has been excluded in verification, harmonization, repatriation and rehabilitation due to its non-political mandate and unwillingness of Bhutan to involve of any other actor or state with the fear of internationalization of the refugee problem (Rizal, 2004, p. 171).

### **6.5 The United Nations and the Bhutanese Refugee**

The United Nations General Assembly in Paris (General Assembly resolution 217A) had proclaimed the Universal Declaration of Human Rights on 10 December 1948 (United Nations, 1948). The declaration has set fundamental human rights to be universally protected. Article 3 of the UDHR guarantees the right to life, liberty and security of the person, article 13(2) assures the right to leave any country, including own country and to return own country, article 14(1) grants the right to seek and to enjoy in other countries asylum from persecution and article 15(1) confirms the right to nationality of any individual. Bhutan was admitted as a member of the United Nations on September 21, 1971. Being a member of the UN, Bhutan is also bound to commit to the provisions of the UDHR. But the Bhutanese refugees are being deprived of these basic fundamental rights due to the policies and acts adopted by the Bhutanese government. The Bhutan Marriage Act, 1980 Chapter 2 limits the rights of the person marrying a non-Bhutanese depriving him/her from being a citizen to Bhutan and violates the right granted by article 3 of the

UDHR. Mostly the refugees living in the camps were compelled to sign the voluntary migration document under duress before fleeing from Bhutan. The Bhutan Citizenship Act, 1985 through the decision of 72nd session of the National Assembly of Bhutan in July 1993 put a band on the return of the emigrants (Mitra, 1995, p.831). This act also violates the right to leave any country (even the own) and return to the own country granted by article 13(2) of UDHR. The provision of categorizing the people through the census of 1988 into seven categories on the basis of the tax receipts of 1958 and declaring illegal migrants and confiscating their citizenship right to those who fail to produce the receipts of exactly 1958 are also against the right to nationality assured by the article 15(1) of the UDHR. Though Bhutan has presented its faith on the UN charter and promised to follow and participate in the work of the United Nations and its various processes, it has failed to respect the human rights obligation prescribed by UDHR. Furthermore, Bhutan has claimed the issue to be its internal matter and the United Nations has not accepted the issue as the ethnic cleansing and has not intervened.

The United Nations has also established an agency to help refugees in a transitional state subjected to the international refugee regime. This agency is UNHCR (also known as UN Refugee Agency) which was established on 14 December 1950 with a three-year mandate to help the European displaced by World War II. Later in July 1951, the UN adopted the Convention Relating to the Status of Refugees which created the legal foundation for helping refugees and basic statute guiding the work of UNHCR (United Nations, n.d.). Therefore, the UNHCR is continuously working to help the refugees till date even after the completion of its mandate assigned to it in 1950. The decolonization of Africa during the 1960s generated a huge number of refugees in the continent where humanitarian intervention was required to solve the crisis. This incident made the requirement of the permanent UN agency crucial to assist the refugees



and solve the refugee related problem. In the next two decades, the agency assisted the uprooted people in Asia and Latin America as well. The role played by the UNHCR in managing the large mass of refugees in Asia, Middle East and Africa in the beginning of the 21st century is another remarkable action of humanitarian intervention by the agency. The UNHCR is assisting to resolve the refugee problems based on three durable solutions, voluntary repatriation, resettlement and local integration plan promoted by itself. This UN refugee agency has been awarded with the Nobel Peace Prize twice in 1954 and 1981 for assisting the refugees worldwide (UNHCR, n.d.). At present, the UNHCR has been working for the protection of the refugees wherever and whenever required in any part of the world.

The UNHCR has been involved in assisting and managing the Bhutanese refugees in Nepal from 1991 upon the formal request of the Nepalese government. As mentioned in the UNHCR's mid-year progress report 2000, its initial objectives to work for Bhutanese refugees in Nepal are as follows:

- a. Provide protection and assistance to the Bhutanese refugees until a lasting solution is found.
- b. Support bilateral efforts by the Governments of Bhutan and Nepal to find such a durable solution.
- c. Promote self-reliance of the Bhutanese refugees and encourage their active involvement in camp management (UNHCR, 2000, p.161).

Following the above mentioned objectives, the UNHCR along with its partner organization took the total responsibility of the protection and management of the refugees. At the initial phase, the refugees were registered and were sheltered in the seven different camps. The camp amenities

were provided and other basic survival needs of the refugees were also backed by the UNHCR. Since, the involvement of the UNHCR is based on the non-political mandate, it is excluded in the process of resolution by the both countries, Nepal and Bhutan. Hutt (2003) has mentioned that Bhutanese government had adopted a hostile attitude to the operation of UNHCR in Nepal and the Bhutanese authorities had even condemned UNHCR's refugee recognition and its involvement had exacerbated the problem by increasing the number of asylum seekers (Hutt, 2003, p.257). These allegations from Bhutan and its unwillingness to involve the UNHCR in diplomatic dialogue in the negotiation process limited the role of the UNHCR to humanitarian assistance to the refugees. Since 2007, the UNHCR and the International Organization of Migration (IOM) are working together on the resettlement of the Bhutanese refugees and more than 100,000 refugees are successfully resettled in the third countries (Shrestha, 2015). The role played by the UNHCR in protecting and managing the Bhutanese refugees and their successful resettlement to the third countries is very remarkable and outstanding. The UNHCR is actively working to find a durable solution for the remaining refugees in Nepal and continuing its humanitarian assistance to them.

## **6.6 International Non-State Actors and the Bhutanese Refugees**

The concept of the Non-State Actors (NSA) is very broad and hard to define. Generally, NSAs refer to the non-criminal citizens' organizations independent to the state entities under the umbrella of the civil society working for the welfare of the human beings. They are often called as Non-Government Organization (NGO) and sometimes Civil Society Organization (CSO). These NGOs have diversified the interactions in the transnational relations and increased the cohesions among the states by means of the international society (Arakaki, 2013, pp. 287-288). The solutions to any global issue could be sought through the knowledge, experience and skills

of the civil society along with the policies and means adopted by the state/government.

Therefore, in liberal practices the NSAs play a vital role to solve or help to solve the issue.

Non-Government Organizations are also actively taking part in assisting and managing the refugee crisis as implementing agencies of the UN Refugee Agency, UNHCR. Many NGOs have been providing amenities to the refugees together with other vital survival requirements. Save the Children, Oxfam, Caritas-Nepal, Amnesty International, Habitat International Coalition, Human Rights Watch, the Lutheran World Federation, the Bhutanese Refugee Support Group, Jesuit Refugee Services are some of the organizations working for the Bhutanese refugees together with the UNHCR. These NGOs are working on their specified sectors related to the refugees. A group of leading six NGOs had also lobbied the donor governments to push Nepal and Bhutan for the successful bilateral dialogue and not to compromise the right of Bhutanese refugees to return to their home (Jesuit Refugee Services, 2003). Most NGOs have focused on the empowerment of the refugees through their community participation. Even though the refugees were not allowed to earn for their living except being involved in some cottage industries inside the camp and camp related works, the NGOs attempted to strengthen the self-esteem of the refugees through the skill development program for income generations. The attempts were also made by the NGOs to make refugees aware about their educational, health and sanitation concerns. Obviously, these attempts are also not free from negative impacts. The dependency of the refugees increased to the NGOs and their western donors. The expectations of the refugees raised and they became the victims of sympathy shown by the western world achieved through the western media coverage. The focus on the community participation did not consider the heterogeneity of the culture and tradition in the refugee society. As a result, it was difficult to get the expected result. The empowerment plan politicized the refugees and created difficulties even

for the NGOs to deal with them (Hilton, 1996, pp.27-33). In spite of few incidents, the role played by the Non-State Actors has a significant importance in management of the large population of refugees. They have assisted the UN agencies (UNHCR and IOM) right from the establishment of the camps, facilitation of the third country resettlement process to the present. In this way, the Non-State Actors have become an indispensable part of the Bhutanese refugee problem and its resolution.

### **6.7 Third-Countries Resettlement**

According to the UNHCR, resettlement is one among the three durable solutions for refugees, which involves their selection and transfer from the host country to the third country which had agreed to admit them granting permanent residence. This process aims to end the cycle of displacement and to resolve the plight of the refugee protecting them against the refoulement and providing them and their descendent access to the similar rights enjoyed by the nationals of the admitting country along with the opportunities of naturalization (UNHCR, 2015). Therefore, resettlement is a multilateral approach to sustainably resolve the refugee problem. Resettlement of the refugees requires a joint effort of the host country, third country and the UNHCR where UNHCR facilitates the process.

After the fifteenth MJC meeting in 2003, Nepal and Bhutan failed to reinstate the bilateral talks for the repatriation of the refugees. Nepal went through the various political transitions as a result the refugee problem did not get much attention from Nepalese side. Bhutanese side was very reluctant to initiate the repatriation process. The political awareness built in the refugee as a spillover effect of Nepalese transition created a fear to Bhutanese authorities of importing democracy if repatriation is started. These incidents made the international community to act on

the issue which led to the adoption of the resettlement. In 2006, the United States, a member of the core group among the eight countries, formally announced its willingness to accept 60,000 Bhutanese refugees and even more if required (Human Rights Watch,). The other members of the core group consisting of Australia, Canada, Denmark, the Netherlands, New Zealand, Norway and the United Kingdom also expressed their interest to take part in the resettlement program (UNHCR, 2007). The large number of refugees were not convinced with this durable solution at the beginning and regarded resettlement as the capitulation which would make their repatriation impossible (Hoellerer, 2017, p.145) which also led to the divide among the refugees and their leaders. But as the donors started to reduce their assistance to the refugee camps, there was an increase in the number of refugees willing to get resettled. Finally, the resettlement process was initiated in early 2008 (IOM, 2009). By 2015 more than 100,000 refugees were resettled to the core group countries where the number of refugees resettled in each country is as follows; Australia has accepted 5,554, Canada 6,500, Denmark 874, New Zealand 1,002, the Netherlands 327, Norway 556, the United Kingdom 358 and the United States 84,819 (IOM, 2015). The number has increased to more than 117,000 by 2021 (UNHCR, 2021).

The resettlement process promised the refugees for their permanent residence and protection but some refugees had to suffer the negative effects too. More than 7,000 refugees are still languishing in the refugee camps (Bhattarai, 2019). Some families of the refugees are split in various countries and the agenda of those wanting their dignified repatriation to Bhutan has been succumbed. Therefore, resettlement has failed to become an ultimate solution of the problem and still the diplomatic means are required and should be employed to find the suitable and sustainable solutions for addressing the plight of the remaining refugees as well.

As the UNHCR has put forward the voluntary repatriation, resettlement and local integration as the durable solution to the refugee problem, in case of the Bhutanese refugees in Nepal repatriation process is not initiated till the date due to the failure of the diplomatic initiatives between Nepal and Bhutan. The diplomatic initiatives were limited to the bilateral talks where no mediation of any other state or international organizations having the experience of successfully resolving refugee issues was sought. It happened so due to the denial of the Bhutanese authorities. Also, the regional framework, SAARC became unable to play its role in the regional issue because of the provision of SAARC charter which mentions that no bilateral issue would be the discussed and no intervention would be made into the internal affairs of a state. Though, Bhutanese refugee problem is no longer an internal affair of Bhutan only. It has affected Nepal and India where Nepal is more affected and has become shelter to the Bhutanese refugee since 1990. But since India has mentioned the issue to be solved bilaterally by Nepal and Bhutan and the changes in domestic policies and politics are the internal affairs of Bhutan, the issue never entered SAARC. The international organization like UNHCR and IOM has acted upon this chaotic situation together with the Bhutanese core group to resettle the refugees into the third country. The resettlement process has partially resolved the problem but has become unable to secure the right of the refugees to return to their homeland. Also, the families of the refugees are torn apart in the various part of the world. Some of the refugees are still languishing in the refugees camps of Nepal and waiting for the repatriation to their homeland. Therefore, this international sub-system of Nepal, Bhutan and India should be co-operate with the international organizations for the effective resolution of the problem.

## Chapter 7

### SUMMARY AND CONCLUSION

Bhutanese refugees in Nepal are the Bhutanese person of ethnic Nepali origin who speak Nepali as their mother tongue, mostly follows Hindu religion, culture and traditions who are referred as Lhotshampas meaning the people of South in the Bhutanese language. They surely have migrated from Nepal and India to the hot and malaria prone southern regions of the Bhutan for the agrarian purpose but the period of migration was long before the initiation of the state building process in the region. The people of Nepali origin had played a vital role to boost the economic, socio-cultural and anthropological development of Bhutan by facing many challenges and turning the southern lowlands into the granary. Even though, they were marginalized for a long time by the ruling elites because of difference in culture, tradition, religion and language. The political awakening flourished in the region of South Asia as the decolonization process started which also made these Lhotshampa people aware about their political rights. They participated in the movement forming a political party of their own for their recognition and equitable shares in state affairs together with political representation. Their movement was generously considered by the then King of Bhutan, Jigme Dorji Wangchuck. The King was aware about the ethnic plurality of his kingdom. Therefore, some major political, social and administrative reforms were introduced and citizenship was granted to Lhotshampa through the nationality legislation in 1958. These reforms became the tools of cohesion between Drukpas and Lhotshampas.

This period of symbiotic existence of Drukpa and Lhotshampa did not last long after the death of King Jigme Dorji Wangchuck. The then developed political events, separation of East Pakistan

from Pakistan forming Bangladesh as a result of linguistic nationalism and annexation of Sikkim to India, gave enough room for the new King, Jigme Singye Wangchuck and the Bhutanese government to be terrified by Lhotshampa population and consider the later to be the threat to nation-state of Bhutan. It was so because, the Bhutanese government had perceived annexation of Sikkim as the result of the dominance of the Nepali origin people over the indigenous Lepchas and Bhutias and the interest of those people of Nepali origin to be integrated to India. The skepticism of the Bhutanese authorities gave rise to the ethnic nationalism. The policies of 'Bhutanization' (also called as 'Drukpanization') aiming the cultural, religious and linguistic homogeneity were adopted with the intense slogan of 'One Nation One People' in 1980s. Ngalongs undermined the pluralistic nature of the Bhutanese society, a ruling sect of Drukpa and major changes in policies backed with the Acts were introduced. Some of them are: The Bhutan Marriage Act, 1980, The Bhutan Citizenship Act, 1985, Driglam Namzha, Thrim Shung Chempo, Green Belt Policy, No Objection Certificate etc. The realist notion of the state behavior was observed at that time where Royal Government of Bhutan was focused to establish Bhutan as a Drukpa nation-state based on the Mahayan Buddhist practices of Kagyupa sect and the other ethnic minorities and marginalized population were compelled to the accept the authority.

But the southern Bhutanese people, Lhotshampas, were already into the mainstream politics of Bhutan where some of them were representatives to *Tshongdu*, the Bhutanese National Assembly and members of the Royal Advisory Council, for them the discrimination on the basis of ethnicity was unacceptable. Therefore, some Lhotshampa leaders peacefully protested the shift in the policies by means of petition to the King. In contrary to the expectation of Lhotshampas, the Bhutanese government acted brutally against these leaders with the arbitrary



arrests, intimidation and torture. After these events, ethnic dichotomy of the Bhutanese society became clearly noticeable which agitated the harmony of the society. The Lhotshampas expressed their anger against the discriminatory governance system in the form of mass public demonstration. On which the government soon reacted and labelled the demonstrators as 'ngalops' or anti-nationals. The state impunity and aggression against the Lhotshampas became very inhumane and intolerable which is often mentioned as act of 'ethnic cleansing' by some scholars. Due to the counterproductive political development in 1989 at southern Bhutan forced the Lhotshampas to flee from their homeland for survival. They first crossed the Indo-Bhutan border seeking refuge in India. But they were ill treated by the Indian authorities. Later, they were loaded in the trucks and left to Panitanki, a place in India near to Indo-Nepal border. Then, the Lhotshampas entered Nepal seeking refuge in early 1990 and continued till mid-1990s.

The issue of refugee became an unexpected challenge to a newly formed democratic government of Nepal. With the faith on liberalism, respecting the liberal values and humanitarian laws Nepal recognized the Bhutanese refugees on the basis of 'prima facie' though it has not been party to any international mechanism and instrument for protection of the refugees. In the beginning, Nepal adopted 'quite diplomacy' and made some attempts to initiate the diplomatic dialogue with Bhutan and India for the resolution. But, India being in the position of dealing with the foreign affairs and security issues of Bhutan through the Treaty of Peace and Friendship, 1949 abstained itself from getting involved in the refugee issues. India also suggested Nepal and Bhutan to solve the issue through bilateral talks and negotiations. There was no chance of finding the solution through the only regional framework, SAARC as its charter forbids to enter into discussions on bilateral agendas of its member states. With no other options left, Nepal formally call on the international society for their assistance. On the formal invitation of Nepalese

government, the UNHCR together with its implementing agencies got involved in assisting and managing the refugees. The chaotic situation immediately formed after the large influx of the refugees to southeastern districts of Nepal was somehow came under control with the involvement of these international organizations.

The mandate to the UNHCR was limited to humanitarian assistance. Therefore, the role on the basis of experiences, which UNHCR can play to facilitate for finding the solutions, was never considered because the Bhutanese government never wanted to internationalize the issue. At first, the Bhutanese government denied to identify the people in the refugee camps to be the Bhutanese nationals and also had ignored the request of the Nepalese government to initiate the mechanism to resolve the issue. But with the increasing pressure from the international society, the Bhutanese government agreed with the Nepalese government to establish a Ministerial Level Joint Committee with the mandates to find amicable solutions of the refugee problem.

The MJC started the negotiation process with the first meeting held in October 1993 in Kathmandu. The agreement achieved in the first meeting about the categorization of the refugees into four different groups namely, bona fide Bhutanese, Bhutanese who emigrated, non-Bhutanese and Bhutanese with the criminal record, later proved to be the reason for the stalemate between the both states. That particular agreement is perceived as the diplomatic maneuvering of the Bhutanese over the haste and immature decision of the Nepalese side. The series of meeting failed to form a verification mechanism after the first meeting. Only the tenth meeting held in December 2000 was able to break the iceberg and the Joint Verification Team (JVT) was formed with the mandate to identify and verify the refugees living in the camps into the four agreed categories. The verification process took a very long time for completing its task in just a camp,

Khudunabari, which have comparative less population to other camps. The MJC meetings also failed to harmonize the position of both states on the results of categorization and the treatment and mechanism of the repatriation process. The fifteen round of MJC meeting was held in 2003 with no distinct agreement about the repatriation process or any durable solution and no further progress in the repatriation has been noticed till date.

With no sign of initiation of peaceful and dignified repatriation process, the international actors (mostly NGOs working for the protection and survival of the refugees) made appeals to the donor states to act upon the issue. The Bhutanese core group of eight countries responded with another durable solution, resettlement in 2007. The resettlement of the Bhutanese refugees facilitated by the UNHCR in assistance of IOM began in 2008 and about 117,000 are resettled to those eight countries till date. Even after the resettlement, there are still about 7,000 refugees languishing in the camps waiting for a solution whose conditions are worsening gradually as many helping organization are limiting their assistance. Some refugees are still waiting for their repatriation with honor to Bhutan.

Therefore, Bhutanese refugee problem is a result of intensified ethnic differences and divide in the Bhutanese society due to policies adopted by the then Bhutanese government aiming the homogeneity in the society with the Drukpa supremacy. In other words, Bhutanese refugees are created by the rise of ethnic nationalism in Bhutan and the ethnic cleansing policies. Bhutanese government has violated the basic fundamental human rights provided to everyone by the Universal Declaration of the Human Rights in the name of national integration. Nepal has made its effort to resolve the problem through the multi-lateral approaches but became unable to resolve completely due to its diplomatic limitations. The protracted refugee problem could be

solved through the diplomatic dialogue between all the stakeholders and the refugees could be able to repatriate and rehabilitate with honor and dignity to their homeland. Beside, Nepal and Bhutan, India could play a significant role to find the solution but has been denying to participate the talks. The role played by the UNHCR and its implementing agencies together with the international society for protection and management of the refugees is very remarkable. The resettlement of the refugees might have reduced the burden of Nepal but the rights of the refugee to nationality and return their homeland has been compromised and still many refugees are living in uncertainty in the refugee camps whose plights are not heard yet.

Hence, after the study of the Bhutanese refugees in Nepal, it is found that the issue has affected the international sub-system of three states (Nepal, Bhutan and India) though the refugee problem is caused by the rise of ethnic nationalism, a domestic affair of Bhutan. The combined effort or action by the sub-system to resolve the issue is still lacking and the rights of the refugees against the statelessness and to return to their homeland has been compromised for a long period of time. The diplomatic dialogues and initiatives between Nepal and Bhutan have failed to initiate the repatriation process of the Bhutanese refugees. The political awakening in the refugees due to the political changes of Nepal and its fear in the Bhutanese authorities might be the unwillingness of Bhutan to repatriate the Bhutanese refugees. Meanwhile, the silence of India has escalated the issue without finding the proper resolution. Without the assistance from the international organizations, the humanitarian crisis in managing the crisis would never be possible only for Nepal. But by limiting the involvement of the UNHCR and other NGOs working for the refugees only for the humanitarian assistance, the expertise and experience such organization possess were never applied for finding out the solution. As a result, though the issue

is shadowed after the resettlement process, it is not resolved completely and is still remaining with some thousands stateless people.

**APPENDIX A****BHUTAN MARRIAGE ACT, 1980****CHAPTER - TWO****MARRIAGES WITH NON-BHUTANESE**

Kha 2-1. If any Bhutanese citizen intending to contract a marriage with a non-Bhutanese residing within or without the Kingdom of Bhutan approaches a Court of law for acquiring a Marriage Certificate, than the two persons who are standing sureties for the couple shall have to present themselves before the Court, one out of which shall have to be a Bhutanese citizen and acceptable by the Court; but both the sureties shall have to be well acquainted with the couple. Thereafter, the case shall be processed in accordance with the provisions laid down in Section Kha 1-5. (Refer Section Kha 2-2 of THRIMSHUNG 1957).

**ADOPTION OF SOCIAL TRADITIONS AND CUSTOMS AND ABIDING WITH  
CITIZEN ACT BY ONE MARRYING BHUTANESE CITIZEN.**

Kha 2-2. A non-Bhutanese wife or husband of a Bhutanese citizen intending to acquire a Bhutanese citizenship or to take up domicile in the Kingdom of Bhutan shall have to adopt the traditional customs and rituals of the country as laid down in the Citizenship Act of under the rules promulgated by the Government from time to time.

**RULES TO BE COMPLIED WITH BY ONE MARRYING A BHUTANESE.**

Kha 2-3. A non-Bhutanese person having a Bhutanese wife or husband, irrespective of whether or not he or she acquires a Bhutanese citizenship, shall have to comply with the provisions laid down in the following Sections.

**RESTRICTION ON PROMOTIONS FOR GOVERNMENT EMPLOYEE MARRYING A NON-BHUTANESE.**

Kha 2-4. Any Bhutanese national in Government service marrying a non-Bhutanese shall remain in the same rank as on the 11th June, 1977 or on the day of the marriage with a non-Bhutanese held by him or her and shall not be entitled to any further promotions. And such a person shall be restricted from holding any appointment above the rank of a Junior Rabjam(Ramjam Woma ).

**RESTRICTION ON BEING MADE A PERSON OF HIGHER POSITION IF MARRYING A NON-BHUTANESE.**

Kha 2-5. Any Bhutanese national marrying a non-Bhutanese shall remain in the same position in society as on 11th June, 1977 or prior to his or her marriage with a non-Bhutanese; and from the date of the marriage with a non-Bhutanese or after 11th June, 1977, such a person shall not be given a higher position of more importance

**RESTRICTION ON EMPLOYMENT IN FOREIGN AND DEFENCE SERVICES OF A PERSON MARRIED TO A NON-BHUTANESE.**

Kha 2-6. If any Bhutanese national employed in the defence or foreign department of the Government of Bhutan marries a non-Bhutanese, then that Bhutanese national shall be discharged from the said departments. And any Bhutanese national married to a nonBhutanese, shall not be offered employment in any of the two said departments.

**RESTRICTION ON ONE MARRYING A NON-BHUTANESE FROM ENJOYING PRIVILEGES AS GIVEN TO OTHER CITIZENS.**

Kha 2-7. A Bhutanese citizen, irrespective of his or her status, shall be restricted from enjoying the privileges and other benefits as mentioned herein below subsequent to a marriage with a non-

Bhutanese: (ka) Allotment of land (KIDU) (kha) Cash Loans. (ga) Seeds for fields and lands and ploughing bulls. (nga) Cattle and livestock from the Department of Animal Husbandry. (cha) Medical treatment in foreign countries. (chha) Capital for workshops, trade and industries.

**RESTRICTION ON A PERSON MARRYING A NON-BHUTANESE FROM ENJOYING PRIVILEGES OF STUDIES AND TRAINING.**

10 Kha 2-8. Any Bhutanese citizen receiving training or education under Government sponsorship if married to a non-Bhutanese shall be restricted from enjoying the privileges and benefits as mentioned herein below: (Ka) Restriction from receiving any aid from the government to pursue or undergo training in foreign countries. (kha) From the date of contracting such a marriage, the Government aided expenses given for studies and training shall be withdrawn forthwith. (ga) The expenditure given by the government for pursuing studies or undergoing training up till date of such a marriage shall have to be refunded. (nga) The Government of Bhutan shall send an intimation to the country sponsoring the student to withdraw all the expenses provided for studies or training to a Bhutanese national who is marriage is contracted with a non-Bhutanese.

**RELIGION OF A NON-BHUTANESE MARRYING A BHUTANESE.**

Kha 2-9. A non-Bhutanese married to a Bhutanese citizen if domiciled in the Kingdom of Bhutan shall, except for following the state religion of Bhutan, be strictly prohibited from propagating any other religion or introducing any new religion.

**ADOPTION OF CUSTOMS AND COMPLYING WITH LAWS OF THE GOVERNMENT BY A NON-BHUTANESE MARRIED TO A BHUTANESE IF DOMICILED IN BHUTAN.**



Kha 2-10. A non-Bhutanese married to a Bhutanese citizen, who intends to take up domicile within the Kingdom of Bhutan and whether or not that person acquires a Bhutanese citizenship shall have to adopt the existing traditions and customs, and comply with the laws of the Government and other laws promulgated by the government.

**A NON-BHUTANESE MARRIED TO A BHUTANESE TO ABIDE WITH MARRIAGE ACT.**

Kha 2-11. 11 A non-Bhutanese married to a Bhutanese citizen and whether or not that person has acquired a Bhutanese citizenship shall in processing any matters relating to marriage comply with the rules and regulations laid down in this Marriage Act.

## **APPENDIX B**

### **THE BHUTAN CITIZENSHIP ACT, 1985**

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

#### **2. CITIZENSHIP BY BIRTH**

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

#### **3. CITIZENSHIP BY REGISTRATION.**

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

#### **4. CITIZENSHIP BY NATURALIZATION.**

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

- a) The person must have attained the age of 21 years, and 15 years in the case of a person either of whose parents is a citizen of Bhutan;
- b) The person must be mentally sound;

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

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

## **5. GRANT OF CITIZENSHIP:**

a) A person, whose application for naturalization has been favourably considered by the ministry of Home Affairs, shall take the Oath of Allegiance according to Form KHA of this Act and then His Majesty the King may grant citizenship Kasho.

b) A person shall then be deemed to be a citizen of Bhutan upon receiving a Kashog from His Majesty the King of Bhutan according to Form GA of this Act.

## **6. TERMINATION OF CITIZENSHIP:**

a) Any citizen of Bhutan who acquires the citizenship of another country shall cease to be a citizen of Bhutan. The wife/husband and children of that person if they were Bhutanese citizens, shall have the right to remain as citizens of Bhutan provided they are permanently domiciled in Bhutan and are registered annually in the citizenship Register maintained by the Ministry of Home Affairs.

b) Any citizen of Bhutan who has acquired citizenship by naturalization may be deprived of citizenship at any time if it is found that naturalization had been obtained by means of fraud, false representation or the concealment of any material fact.

c) Any citizen of Bhutan who has acquired citizenship by naturalization may be deprived of citizenship at any time if that person has shown by act or speech to be disloyal in any manner whatsoever to the King, Country and People of Bhutan.

d) If both the parents are Bhutanese and in case of the children leaving the Country of their own accord, without the knowledge of the Royal Government of Bhutan and their names are also not recorded in the citizenship register maintained in the Ministry of Home Affairs, then they will

not be considered as citizens of Bhutan.(Resolution No.16 (2) adopted by the National Assembly of Bhutan in its 62nd Session).

e) Any citizen of Bhutan who has been deprived of Bhutanese citizenship must dispose of all immovable property in Bhutan within one year, failing which, the immovable property shall be confiscated by the Ministry of Home Affairs on payment of fair and reasonable compensation.

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