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## Bhutan Update No. 20: Drafting written constitution- the pitfalls ahead

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**Note No. 142**

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**by Dr. S. Chandrasekharan**

**Drafting of a written Constitution in the midst of ethnic crisis is suspect.** Kuensel of 7<sup>th</sup> December, 2001, reported the briefing given by the King to the members of the Drafting Committee of a written Constitution at the traditional inauguration ceremony on November 30. The report said that the Committee represented a wide section of Bhutanese society. It consists of 39 members, chaired by the Chief Justice with others including the Speaker, one representative each of the 20 dzhongkongs elected by the DYT, the chairman and members of the Royal council, five members of the government and two lawyers from the High Court.

This composition does not do justice to the Bhutanese of Nepali origin who used to constitute more than 40 percent of the population before the State-sponsored eviction. The Royal Council does not have any representative of Lhotsampas and knowing how elections take place, the representatives of the 20 dzhongkongs will hardly be truly representative when they are supposed to take an independent position to meet the just aspirations of all the people.

It looks that the Constitution will be written in the way the King wants it to be and as in Alice in Wonderland, the provisions in the Constitution, would mean "what the King wants them to mean."

With due respects to the Chief Justice, it is felt that his speech was not reassuring either when he said, we quote

" As we play our humble role in Bhutan's journey through time, His Majesty, the Druk Gyalpo's extraordinary vision will be our guiding light." As history unfolds before us, let us call on the foundations of our golden past to meet our responsibility to posterity. Let us begin our journey, inspired by the vision of our Druk Gyalpo, towards Gross National happiness for the people of Bhutan, today and for succeeding generations."

Sweet and inspiring words for the fortunate few of the Southern Bhutanese who have been permitted to remain in Bhutan and not for those hundred thousand Bhutanese who have been forcibly evicted and now languishing in eastern Nepal. Gross National happiness for whom?

**Professor Jack Ives on the Gross National Happiness in Bhutan.** It is interesting to see the comments of Prof. Jack D. Ives in his paper on "Attitudes toward Mountains: 1950 to 2002 and Beyond." He said that the treatment meted out to approximately 100,000 refugees "dragging out their lives for the last ten years in camps in Jhapa, in Nepal,." by a government that "we all had come to believe was concerned with GNH ( *Gross National Happiness*) rather than GNP, is unforgivable."

Towards the end of the paper, Prof. Ives had warned - we quote

"It is widely understood that there are many highly destructive and militant outlaw groups throughout the region of Nepal, Bhutan, northeastern India and Bangladesh. It would be a tragedy to provoke a conflagration by actual or apparent denial of a humanitarian response or by leaving the Royal Government of Bhutan to continue to perpetrate its propaganda and what is claimed by many to be "ethnic cleansing."

We fully agree with the assessment made by the learned Professor. Prof. Ives of United Nations University and Carleton University, Ottawa, Canada. He has also written to President Bush and Prime Minister Tony Blair to intercede on behalf of the refugees. He has pointed out in his letter of his double concern. First, the suffering of the refugees is absolutely unacceptable. Second, given the long period of frustration, the young males in the camps are increasingly tempted to violence which in turn could become the spark that will set ablaze the tinderbox of the entire northeastern region of the Indian sub continent.

**More questions than answers on the drafting of the written Constitution.** Coming back to the drafting of the Constitution, many questions arise.

\* Managing a multi ethnic, multi religious, multi linguistic and multi cultural country like Bhutan needs many years of experience. Judging from the way Bhutan has treated its minorities, is it in a position to formulate a viable Constitution with justice to all?

\* It is surprising that the Government has gone in for consulting a Professor from Stanford University, USA ( so it is heard, though there is no official communication) when many outstanding legal luminaries are available next door in India. India has an excellent record of managing a diverse country, more diverse than Bhutan and the basic provisions of the Indian Constitution have stood the test of time. Does it mean that Bhutan does not trust Indian experts and go for an outsider who may have knowledge but not experience in organising a country like that of India?

\* The drafting Committee as said earlier is not representative.

\* How are the rights of the minorities going to be tackled? Will they be permitted to practise their own culture and traditions? Should there be proportional representation to provide proper representation for the minorities? Should not the Royal Council reflect truly, the ethnic diversity of the country and give due space to all?

\* What does one do with Bhutanese who are forced to live outside Bhutan? Will they be rehabilitated or is the Constitution going to regularise the ethnic cleansing which has already been done? Should there not be guarantees? Can the government be more transparent? Will the right to information be made a fundamental right as has been introduced in the latest Constitution of Nepal?

\* There are other sensitive questions like the role of monarchy. We still believe that monarchy is the only unifying factor and that the King should take the initiative to bring justice to the poor refugees. Will he use this opportunity when a written Constitution is being drafted?

**Verification goes on at Snail's pace and nobody cares except the refugees.** Verification of the Khudanabari camp with a population of over 12,500 has just been completed and the teams from the two countries have returned to their capitals. There is yet no information when they would resume their work again. They have taken eight and half months to complete verification of one camp. With the current pace they will take more than five years to complete.. The so-called harmonisation was also not done. No one appears to be sincere, particularly the Government of Bhutan, as delay suits them.

**The refugees are therefore despairing for international intervention.**

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