

**Joint Submission to the
Human Rights Council**

Universal Periodic Review

**47th Session
4th Cycle
November, 2024**

Bhutan

**Nationality For All
Statelessness and Dignified Citizenship Coalition - Asia Pacific**

April 7, 2024

Joint Submission
to the Human Rights Council
at the 47th Session
of the Universal Periodic Review.

BHUTAN

Introduction

1. Nationality for All and the Statelessness and Dignified Citizenship Coalition - Asia Pacific make this joint submission to the Universal Periodic Review (UPR), on the right to nationality and human rights challenges on statelessness in Bhutan.
2. This submission focuses on:
 - I. Childhood Statelessness
 - II. Discrimination in nationality laws based on ethnicity
3. Nationality For All (NFA) is a regional organization working to promote the right to nationality and address statelessness in the Asia Pacific region. NFA works closely with stateless persons, persons affected by statelessness, grassroots organizations, activists, and national NGOs. NFA aspires to increase the proximity to power of persons with lived experience of statelessness through their meaningful participation in the statelessness ecosystem.
4. Statelessness and Dignified Citizenship Coalition - Asia Pacific (SDCC - AP) is a newly formed regional coalition of civil society organizations and activists working together to address statelessness and ensure the right to nationality for all in the Asia Pacific region. SDCC's work includes advocacy, research, and capacity building.
5. The co-submitting organisations have developed this submission in close collaboration with a Bhutanese activist that works on the right to nationality, the rights of stateless people and refugees, and related issues. However, after careful consideration of the growing risks faced by them, we collectively decided that they would not be named as co-submitters.

Previous UPR of Bhutan under the First, Second, and Third Cycle

6. Bhutan was previously reviewed during the 6th, 19th, and 33rd Sessions of the UPR, in

2009, 2014, and 2019 respectively.

7. During the 33rd Session, Bhutan received a recommendation from Peru to “Continue measures to eradicate discrimination against children of Nepalese ethnic origin, particularly with regard to their access to education and citizenship”;¹ from France to “Enable women to transmit Bhutanese nationality to their children under the same conditions as men”;² from the United States of America to “Resume discussions with the Government of Nepal on the status of individuals in Nepal who assert claims to Bhutanese citizenship or residency”;³ from Argentina to “Take the measures necessary to guarantee effective procedures to determine the nationality of refugee children based on the right to a nationality, in particular Nepalese boys, girls and adolescents”⁴
8. During the 19th Session, Bhutan received a recommendation from France to “Harmonize the procedure for transmitting Bhutanese nationality in order to allow women to transmit Bhutanese nationality to their children on the same terms as men”⁵; from Canada to “Accede to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol and the 1961 Convention on the Reduction of Statelessness”⁶, both of which were noted by Bhutan.

Bhutan’s International obligations

9. Bhutan has international obligations to protect the right to a nationality, without discrimination including on the basis of sex, and protect the rights of stateless persons on the basis of other UN and regional treaties to which it is a party. These include, among others, the Convention of the Rights of the Child (CRC) (see Articles 2, 3, 7 and 8), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (see Article 9), the Convention on the Rights of Persons with Disabilities (CRPD) (see Article 18).⁷ Furthermore, the right to nationality is protected under Article 15 of the Universal Declaration on Human Rights (UDHR). The UDHR also provides each individual the “right to leave any country, including his own, and to return to his country” which is similarly reflected in Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), to which Bhutan is a signatory.⁸
10. Bhutan has not ratified other core international human rights treaties which present further obligations concerning the right to nationality. These include: the International Covenant on Civil and Political Rights (see Article 24.3), the International Covenant on Economic, Social and Cultural Rights (see Article 2.2 and Article 3), or the International Convention for the Protection of All Persons from Enforced Disappearance (see Article 25).⁹

¹ Peru (Rec. 158.50). The recommendation was noted by Bhutan

² France (Rec. 158.63). The recommendation was noted by Bhutan

³ United States of America (Rec. 158.68). The recommendation was noted by Bhutan

⁴ Argentina (Rec. 158.69). The recommendation was noted by Bhutan

⁵ France (Rec. 120.33). The recommendation was noted by Bhutan.

⁶ Canada (Rec.120.14). The recommendation was noted by Bhutan

⁷ *Multilateral Treaties Deposited with the Secretary General*, United Nations Treaty Collection, <https://treaties.un.org/Pages/TreatyParticipantSearch.aspx?clang=en> (last visited April 2, 2024).

⁸ Article 13 (2) UDHR;

⁹ *Multilateral Treaties Deposited with the Secretary General*, United Nations Treaty Collection, <https://treaties.un.org/Pages/TreatyParticipantSearch.aspx?clang=en> (last visited April 2, 2024).

11. In 2017, the CRC Committee recommended that Bhutan “dissociate birth registration from citizenship and simplify the birth registration procedure after the 12 months”.¹⁰ Further, the Committee recommended ensuring that “single mothers can register their children and ensure that children born to either a Bhutanese mother or father, including in cases when the identity of the father cannot be ascertained, are granted Bhutanese citizenship”.¹¹ The Committee also stressed the need for negotiations to ensure the return or resettlement of children living in refugee camps in Nepal and reunite them with their families.¹² As a party to CRC, Bhutan is obligated to ensure all children have the right to acquire a nationality as well as that every birth is registered immediately.¹³

Statelessness in Bhutan

12. Between the years 2019 - 2022, Bhutan reported zero stateless persons.¹⁴ UNHCR has identified Bhutan as a country that possesses information about stateless persons but lacks any reliable data.¹⁵ However, anonymous sources confirmed that Bhutan, considering its population size, has the highest per capita statelessness, with 40,000 stateless persons, majority of whom are siblings and relatives of the resettled refugees. While there are no formally reported stateless populations there was a concerted focus on the denationalisation and expulsion of Nepali-speaking communities, the ‘Lhotshampa’, in the 1980s and 90s.¹⁶ According to the U.S. State Department’s 2022 Human Rights Report, media and civil society have reported the existence of stateless children in Bhutan who are born to unwed mothers and unable to prove the identity of the child’s father.¹⁷ Besides this, thousands of stateless adults were born in Bhutan to Bhutanese mothers and permanently living non-Bhutanese fathers. Although Bhutan consistently denies having stateless persons, it has indirectly acknowledged statelessness by listing the nationality of these stateless individuals as ‘Resident’ in their travel documents.

13. Stateless individuals in Bhutan also are devoid of access to public healthcare, employment, primary and secondary education, enrollment in higher education institutions, obtaining travel documents, and owning businesses.¹⁸ This is because

¹⁰ Committee on the Rights of the Child, Concluding observations on the combined third to fifth periodic reports of Bhutan, 5 July 2017, CRC/C/BTN/CO/3-5, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FBTN%2FCO%2F3-5&Lang=en

¹¹ Committee on the Rights of the Child, Concluding observations on the combined third to fifth periodic reports of Bhutan, 5 July 2017, CRC/C/BTN/CO/3-5, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FBTN%2FCO%2F3-5&Lang=en

¹² Committee on the Rights of the Child, Concluding observations on the combined third to fifth periodic reports of Bhutan, 5 July 2017, CRC/C/BTN/CO/3-5, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FBTN%2FCO%2F3-5&Lang=en

¹³ Bill Frelick, ‘Bhutan’s Ethnic Cleansing’ Human Rights Watch (Online 1 February 2008) <<https://www.hrw.org/news/2008/02/01/bhutans-ethnic-cleansing>>

¹⁴ UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, available at: <https://www.refworld.org/docid/3ae6b3970.html> [accessed 30 May 2023]

¹⁵ UNHCR, ‘Global Trends: Forced Displacement in 2021’ (June 2022) Annex, Table 5

¹⁶ Bill Frelick, ‘Bhutan’s Ethnic Cleansing’ Human Rights Watch (Online 1 February 2008) <<https://www.hrw.org/news/2008/02/01/bhutans-ethnic-cleansing>>

¹⁷ “2022 Human Rights Report: Bhutan,” United States Department of State (blog), 2022, <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/bhutan/>.

¹⁸ “2022 Human Rights Report: Bhutan,” United States Department of State (blog), 2022, <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/bhutan/>.

documents such as “no objection certificates” or police clearance certificates are usually required to get access to the above-mentioned services, which stateless persons are not eligible for.¹⁹

14.

The Bhutan Nationality Law

15. The citizenship law of Bhutan operates solely through *jus sanguinis* provisions, providing that a person is considered a citizen at birth if both of their parents are Bhutanese citizens, regardless of their place of birth.²⁰ There is no definition of statelessness included in the citizenship legislation of Bhutan.
16. A person can apply for a Bhutanese naturalized citizenship after attaining the age of 21 and after having lived in Bhutan for 20 years, and must be able to speak, read and write Dzongkha proficiently with good knowledge of the culture, customs, traditions, and history of the country.²¹
17. Despite these laws, for the southern Bhutanese community and some residents Sharchop, citizenship can only be granted by the Royal decree.

Childhood Statelessness

18. Bhutanese nationality law does not include provisions for foundlings and children of stateless parents to acquire citizenship. Since Bhutan’s nationality law requires both parents to be citizens for the child to acquire citizenship, many children born to unwed mothers who are not able to ascertain the identity of the father are at the risk of statelessness. Further, this also puts **children born to a Bhutanese mother and a stateless/non-Bhutanese father** at risk of statelessness.²² **This has led to exponential growth in statelessness in Bhutan, ultimately making it the country with the highest per-capita statelessness.**
19. The requirement that both parents have to be citizens for their children to acquire citizenship in Bhutan undermines the independent notion of nationality conferral. This is against Article 9 of CEDAW and inhibits the exercise of Article 7 of CRC.

Discrimination based on Ethnicity

20. The ethnic Nepali community known as ‘Lhotshampas’ were stripped of their citizenship in the late 1980s with the Bhutanese government expelling them from the country in the early 1990s.²³

¹⁹ “2022 Human Rights Report: Bhutan,” United States Department of State (blog), 2022, <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/bhutan/>.

²⁰ Bhutan Citizenship Act (1985) s 2; The Constitution of the Kingdom of Bhutan (2008) Article 6(1).

²¹ Bhutan Citizenship Act (1985) s 4.

²² United States Department of State, ‘Bhutan 2021: Human Rights Report’ (April 2022) 10.

²³ Maximillian Mørch, ‘Bhutan’s Dark Secret: The Lhotshampa Expulsion’ The Diplomat (Online, 21 September 2016); ‘Lhotshampas’ Minority Rights (WebPage) .

20-21. More than 100,000 'Lhotshampas' arrived in Nepal as refugees in the 1990s and lived in Nepal for more than 20 years. Most of them have now been resettled with 6,365 persons remaining in the refugee camps.²⁴ Sources have confirmed that currently, around 40,000 stateless persons live in Bhutan, most of whom belong to the Lhotshampa ethnicity.

22-22. It is estimated that there are still 250,000 Lhotshampas living in Bhutan in fear of losing their citizenship.²⁵ Many 'Lhotshampas' who were expelled from Bhutan and have now resettled in other countries still cannot visit their homeland. This is violative of both provisions mentioned in the UDHR as well as ICERD, the latter to which Bhutan is a signatory, which provides individuals the right to leave and return to one's country.²⁶

22-23. While in law, there prima facie exists no discrimination on the basis of ethnicity, in practice, the application for naturalization is discriminatory against Nepali-speaking persons. Thousands of stateless Lhotshampas, upon turning 15, have applied for Bhutanese citizenship through naturalization, yet their applications have remote chances of acknowledgment. Nepali-speaking applicants, eligible for naturalisation, have waited decades, living their lives in limbo, without any information on the result of their application. In contrast, applicants from other ethnic communities, like the Drukpas, receive preferential naturalization treatment.

24. In 2022, the current regime seized the stateless Lhotshampas' freedom of movement by denying the issuance and re-issuance of their travel documents. This sudden, atrocious act, seemingly inspired by an intent for renewed ethnic cleansing, has effectively confined all stateless Lhotshampas within Bhutan. Those who had travelled overseas with a travel document became trapped in various foreign countries due to the denial of their travel document renewals.

23-25. Royal Bhutanese Embassies/Missions in countries such as the USA, Kuwait, Belgium, Australia, and Thailand consistently refuse to provide consular assistance to stateless Lhotshampas facing legal challenges in these countries. Several incidents involve Royal Bhutanese Embassies/Missions in the USA, Kuwait, Belgium, Australia, and Thailand where they have intimidated stateless individuals and threatened them with forced deportation by host countries. Moreover, the Embassies/Missions threatened to forcibly repatriate stateless persons using a one-way emergency travel permit. This intimidation puts these individuals into constant trauma, uncertainty and likely persecution on return to Bhutan without having citizenship.

24-26. There is credible evidence of gross misconduct and intimidation against the stateless Lhotshampas by various public offices, agencies, and agencies including the Zimpon's (King's Secretary) office, on a daily basis. Lhotshampas are treated with extreme disdain in these offices.

25-27. These are clear examples of deprivation of citizenship based on ethnicity. Introducing arbitrary requirements to validate citizenship is against the principle of the right to nationality.

²⁴ Maximilian Mørch, 'Bhutan's Dark Secret: The Lhotshampa Expulsion' The Diplomat (Online, 21 September 2016); 'Lhotshampas' Minority Rights (WebPage) . <https://thediplomat.com/2016/09/bhutans-dark-secret-the-lhotshampa-expulsion/>

²⁵ 'Lhotshampas and Nepalese in Bhutan', Facts and Details (February 2022) <https://factsanddetails.com/south-asia/Bhutan/People_Bhutan/entry-7906.html>.

²⁶ Article 5, CERD.

Commented [1]: not sure where this figure is from, but both UNHCR in 2015 and the Diplomat article, place the remaining Bhutanese refugee population in Nepal ~18,000

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Commented [3]: It was approximately 6365 as per this 2022. I presume 18,000 includes refugees from other countries as well. report <https://kathmandupost.com/national/2022/03/06/government-decides-to-allow-bhutanese-refugees-to-do-business>

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Commented [6]: As per 4(a) Bhutan's Citizenship Act, 1985 all stateless Lhotshampa children usually apply for citizenship through naturalization. But according to the sources quoted in this report the statelessness grew exponentially over the years. Which clearly indicates the gross negligence and denial of acknowledging Stateless Lhotshampas naturalization application. <https://www.himalmag.com/reportage/waiting-for-the-king>

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Commented [9]: The 90s atrocity is widely acknowledged by the democratic world as a genuine ethnic cleansing operation that forcibly expelled more than 100,000 Lhotshampas. It was a genuine atrocity against them, and therefore, they were helped by the resettling country to find a place to call their home. Bhutan has taken further steps to continue this atrocious trend. Stateless Lhotshampas have always been denied their fundamental birthright of citizenship and additionally in 2022, Bhutan stopped issuing travel documents indiscriminately, essentially forcing them to seek refuge elsewhere. This has been viewed as a new form of ethnic cleansing operation, perpetuating the injustices. Denial of nationality and the exclusionary policies against Lhotshampas have been condemned as actions that suppress legitimate claims for basic democratic rights (Pandey, 2021).

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Impact of Statelessness

~~26-28~~. Firstly, speaking against statelessness is perceived as speaking against the Royal authority so anyone who voices their concerns on the citizenship law and the issue of statelessness is penalized. There are no civil society organizations operating out of Bhutan that advocate on this issue for this reason. Many resettled refugees that we spoke to have also expressed the fear of retaliation against their remaining family members in Bhutan for openly condemning the actions of the government.

~~27-29~~. In Bhutan, stateless persons cannot obtain the 'no objection certificates' and the police clearance certificates that are required to access public health care, employment, access to primary and secondary education, enrollment in higher education, travel documents, and business ownership.²⁷

~~28-30~~. Stateless persons are denied ownership of land, property, and assets.

~~29-31~~. Initiated in 2022 as a renewed ethnic cleansing operation, stateless persons are denied travel documents. This shocking crackdown has rendered them completely unable to travel beyond Bhutan's border.

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Commented [15]: Section 9, Bhutan's constitution: A Bhutanese citizen shall have the right to own property, but shall not have the right to sell or transfer land or any immovable property to a person who is not a citizen of Bhutan, except in keeping with laws enacted by Parliament.

Recommendations

~~30-32~~. Based on the above information, the co-submitting organizations urge reviewing States to make the following recommendations to Bhutan:

- I. amend its nationality laws to ensure gender equality, allowing Bhutanese men and women to pass their nationality to their children and spouses independently
- II. Ratify the two Statelessness Conventions, 1951 Refugee Convention and Protocol ICCPR, ICESCR, and the International Convention for the Protection of All persons from Enforced Disappearance.
- III. Immediately resume issuing travel documents to stateless persons to respect and restore their universal right to freedom of movement.
- IV. Instruct all Bhutanese Embassies and Missions overseas to provide the necessary consular assistance to stateless persons living overseas who use Bhutanese travel documents.
- V. Grant Bhutanese Embassies and Missions overseas the authority to issue and re-issue travel documents to stateless persons for enhanced transparency and efficiency.
- VI. Identify the offices and individuals alleged to be responsible for or complicit in intimidating stateless persons, and hold them accountable to stop all forms of intimidation, harassment, and discrimination against these individuals.
- VII. Impose targeted financial and/or non-financial sanctions on offices and individuals, if necessary, who are alleged to be responsible for or complicit in intimidating stateless persons.
- VIII. Allow civil society, non-governmental, voluntary organizations, and individuals the freedom, autonomy, and necessary safety to advocate for and address socio-economic discriminations, including statelessness.

²⁷ "2022 Human Rights Report: Bhutan."

