



Bhutanese
refugee
distributing
food to other
refugees,
Timal camp,
Nepal

Christer Lænkholm

asked to choose between a future in the US and their right to return to their own country.

It is essential that the refugees' right to self-determination is respected and that they are empowered to make well-informed decisions about the various consequences of all three durable solution options. They may be forced to make some pragmatic decisions. At the moment repatriation is not a realistic prospect; the human rights situation of the remaining ethnic Nepalis in Bhutan is highly precarious despite announced moves towards democratisation

in the Buddhist kingdom. In the absence of a UNHCR presence in Bhutan and given Bhutan's unwillingness to entertain the idea that UNHCR could facilitate and monitor voluntary repatriation of the refugees, there can be no guarantees

of a secure legal status for any returning ethnic Nepali refugees.

Thus for many refugees the 'next-best choice' might be the best option for their and their children's future. Realistically, a lot of the refugees may end up getting low-skilled and low-paid jobs and finding difficulties integrating in the USA – but they will be able to offer their children the possibility of a better education and job prospects than would be possible if they stay languishing in the refugee camps.

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For further information, see the April 2007 report of Human Rights Watch, 'The Need for Durable Solutions for Bhutanese Refugees in Nepal and India' (<http://hrw.org/reports/2007/bhutan0507>).

1. For the background to the Bhutanese displacement, see FMR7 (www.fmreview.org/FMRpdfs/FMR07/fmr7.7.pdf); FMR10 (<http://www.fmreview.org/FMRpdfs/FMR10/fmr10.18.pdf>); FMR19 (www.fmreview.org/FMRpdfs/FMR19/FMR19update.pdf); and FMR25 (www.fmreview.org/FMRpdfs/FMR25/FMR2545.pdf).

part to accept the offer of resettlement does not extinguish their right to return to Bhutan. Despite Bhutan's intransigence, refugees have not given up hope that one day they will be allowed to return home. Some refugees now fear that they are being

Bulgaria's treatment of asylum seekers

by Valeria Ilareva

Asylum seekers face appalling treatment at the immigration detention centre in Bulgaria. Treated as undocumented immigrants, they are penalised and deported – in blatant violation of Bulgarian law and Refugee Convention obligations.

Alfred is a 16-year-old unaccompanied asylum seeker from Kosovo. Frightened and confused, he looks even younger. He has been detained at the immigration detention centre in Sofia since May 2007, held under the same regime as adults. No officials from the State Agency for Refugees¹,

who come to the detention centre to interview asylum seekers, have visited him. On 14 September 2007, I visit him for a second time, having advised him the week before to submit a second asylum application. He says he cannot do so but I give him a sheet of paper and ask him

to write the application in front of me in his language, Albanian. He writes it. I accompany Alfred to find an official to witness receipt of his asylum application. The official starts shouting that Alfred has already presented an asylum application. When I try to explain that Bulgaria's Law on Asylum and Refugees obliges state officials to receive asylum applications and forward them for consideration to the competent body, she berates me for telling her how to do her job. We are startled by her

hostility and do not know how react. I now understand what Alfred meant when he said he couldn't submit another application. But what can we do? There is a deportation order against him, a product of impossible circumstance in which Alfred was kept unaware of appeal deadlines and the content of the order itself.

This is just one example of the treatment meted out to asylum seekers in Bulgaria, most of whom come from Afghanistan, Iran or Iraq and have entered Bulgaria from Turkey.

According to Article 31(1) of the Geneva Convention relating to the Status of Refugees – which Bulgaria has ratified and whose rulings Bulgaria is therefore obliged to uphold – refugees should not be penalised for illegal entry if they have come from a territory where their life or freedom is threatened. In international law there is no such thing as 'illegal entry' with regard to asylum seekers and refugees. It is not illegal for an asylum seeker to enter any Convention country, regardless of method, loss of papers, etc, as long as the intention is to claim asylum.

Additionally, the Bulgarian Penal Code exempts refugees from prosecution for 'illegal' entry. As a member state of the European Union, Bulgaria has also transposed the EU directives regarding the rights of asylum seekers, the most important being the right to stay in the territory of the host country while the asylum application is being considered. Under Bulgarian law, asylum seekers who are minors must automatically be released from detention.

The law is one thing; the way it is practised is quite another. In order for the protection prescribed in law to function, one needs to be recognised as an asylum seeker. This happens with the registration of an asylum application. In Bulgaria the time between submission of an asylum application and its registration has no restriction, resulting in tremendous hardship for asylum seekers as many are obliged to remain indefinitely

in detention without legal recourse while awaiting 'registration'. The large margin of discretion given to state officials regarding the time to register an asylum application has opened the door for corruption.

Those relatively fortunate asylum seekers who are not detained are required to go to the State Agency for Refugees and beg for a date simply in order to begin the asylum process and receive basic and much-needed assistance and protection. Those detained for entering Bulgaria 'illegally' wait for months in detention until their applications are registered. Applications are sent regularly in the hope of receiving official attention but are not considered unless they



Busmanci detention centre for undocumented immigrants in Sofia.

are personally submitted by the director of the detention centre.

The most dangerous consequence for asylum seekers is the imminent risk of deportation (*refoulement*). Asylum seekers who have entered Bulgaria 'illegally' are issued deportation orders and their embassies asked for cooperation in facilitating their return. Deportation orders are usually issued with a ruling of their preliminary execution, meaning appeal against them has no suspensive effect unless an asylum application is registered. As a result, the State Agency for Refugees may arrive at the detention centre to register and interview an asylum seeker only to find that the individual has already been deported as an 'illegal immigrant'.

Those who are not summarily deported face prolonged and unlimited detention, regardless of strict requirements under the EU Reception Conditions Directive

stating that "Member States shall take into account the specific situation of vulnerable persons such as ... persons who have been subjected to torture ... or other serious forms of psychological, physical or sexual violence."

Khaled, a Chechen asylum seeker, was twice detained and tortured in Russia by the Federal Security Service. The second time he 'disappeared' for seven months during which he was interrogated daily and subject to electric shocks, suffocation, injection of 'panic-inducing' substances, squeezing of his legs between metal presses and other acts. After entering Bulgaria 'illegally' at the end of October 2006, he was detained. He submitted a written asylum application on 1 November 2006 (and later repeatedly re-sent it) but it was not registered until 31 May 2007 and then only after he had shouted at officials. For punishment he was – like many other inmates – placed in solitary confinement, in a room called 'the isolator'. The isolator is a cell with nothing in it but a camera. After a quick interview from within the isolator building, his asylum application was rejected without any medical examination as to

his torture claims. His prolonged solitary confinement, which still continues, falls under the definition of torture set out in the 1984 UN Convention against Torture.

By bureaucratically postponing 'official' recognition of asylum seeker status, Bulgaria is wrongly applying domestic legislation regarding undocumented immigrants to persons who should be exempted from such treatment. The Bulgarian authorities are prioritising the administrative convenience of officials from the State Agency for Refugees over the rights and lives of asylum seekers.

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