

COUNTRIES AT THE CROSSROADS



COUNTRIES AT THE CROSSROADS 2011: BHUTAN

INTRODUCTION

Since 2007, Bhutan has undergone a major political transformation. The Bhutanese state moved within a period of ten years from a monarchical government into a parliamentary democratic monarchy. For the first time since Bhutan's unification in the 17th century by the Tibetan religious hierarch, Ngawang Namgyal, there is a clear separation of religion and state and monastic representation in the main institutions of government has been removed.

The transformation of the political landscape was accompanied by the abdication of the fourth king, Jigme Sangye Wangchuck, in December 2006 in favor of the then Crown Prince, Jigme Khesar Namgyal Wangchuck, who became the fifth king. This unforeseen move was perhaps a signal by the fourth king marking the wider political transition already unfolding. The fifth king oversaw the first elections and on July 18, 2008, formally signed Bhutan's first written constitution, completing the political transformation that began in 1998 when a Cabinet of Ministers replaced direct royal rule. In November 2008, the coronation of the fifth king in Thimphu also served as a belated celebration of the centenary of the Wangchuck dynasty, which was established in December 1907.

Despite the ongoing development of a democratic system, no permanent solution has been found for the Nepali Bhutanese, or Lhotshampa refugees. In the 1990s, approximately 90,000 Nepali-speaking Bhutanese were, it is claimed, forcibly evicted from the country. Since 2008, the United States, Canada and other countries agreed to accept Lhotshampa refugees though many remain in refugee camps today, awaiting resettlement or repatriation.

It is still too early to say how Bhutan's political transformation will evolve. The developing democracy has only two political parties, both dominated by royalist sympathizers, and lacks an effective opposition. Bhutanese appear to have cautiously embraced the top-down democratization process, but Bhutan faces a range of other challenges—notably a series of earthquakes, the global economic downturn and its impact on the tourism industry, and intermittent acts of political violence by antigovernment groups—that will test the newly democratized government.

ACCOUNTABILITY AND PUBLIC VOICE

As outlined in the country's new constitution, Bhutan has a bicameral parliament comprising the National Council or upper house, and the National Assembly or lower house. The party that wins a simple majority is the governing party and its leader acts as prime minister.

The king is Bhutan's head of state and appoints the heads of national commissions, the attorney general, and members of the Supreme Court. The king can object to or amend legislation and return it to the parliament for review, but after it has been reconsidered and

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resubmitted, the king is obligated to sign it into law. Furthermore, the king's cabinet nominations are subject to the National Assembly's approval.

The creation of a new electoral framework for regular, free, and fair elections based on universal and equal suffrage took place between 2005 and 2007 and represented a major transformation of the Bhutanese political landscape. The Election Commission of Bhutan (ECB) is responsible for management of the electoral system, namely the creation of electoral rolls and the oversight of parliamentary and local elections (for the position of *gup*, or the head of local administrative units). It was also responsible for a referendum on the new constitution. The ECB was established on January 16, 2006, and currently comprises the chief election commissioner and two election commissioners, along with supporting staff. The commissioners were recommended for appointment by an independent committee and confirmed by the king on December 31, 2005. The ECB has maintained independence from political interference since its creation. In addition, the UN Development Program (UNDP), in participation with the Japanese government, has been working with the ECB since 2009 to enhance its capacity to ensure the conduct of free and fair elections at local levels and promote awareness on rights and duties through civic education.¹

The ECB approached the establishment of an electoral system with two main concerns: the basic electoral education of the Bhutanese people, and the creation of an effective voter registration process. Throughout 2006 and 2007, election officials worked on creating the country's first voter database. The ECB believed that approximately 400,626 Bhutanese would be eligible to vote in the 2008 general election. Following several rounds of voter registration, 318,465 voters were registered by March 2008.

The registration process was not without incident. A high percentage of voter registration forms did not contain all the information required. Further problems were created by delays in the provision of new citizenship cards, which were required in order to register. The ECB faced major challenges to reach all of communities to ensure that each person had the correct documentation in order to be registered. However, despite the difficult terrain in Bhutan and the number of remote rural communities, registration in rural areas was higher than in the urban centers. It appears that either a significant number of rural-urban migrants did not understand that they were required to register in order to vote or that there was confusion over where they should register.

Mock elections were held in April 2007 to educate the electorate about the voting process and enable the ECB to identify structural problems that needed to be resolved prior to the 2008 general election. There were no registered political parties at the time of the mock elections, so four dummy parties were created, each of which was associated with a particular set of values. The traditionalist Druk Yellow Party received 44.3 percent of the vote, while the pro-industrialization and development Druk Red Party received 20.38 percent. The Druk Yellow party went on to secure 46 of the 47 constituencies in a run-off. These two mock parties were in reality very similar to the two real political parties that were created later in 2007. Election observers from the UN, Denmark, and India attended the first round of the mock elections and did not find any major irregularities.²

The formation of political parties became legal in April 2007. Political parties must register with the ECB and party representatives who wish to stand in elections must not have a criminal record and must have acquired tertiary-level education. Although a number of political parties emerged in the second half of 2007, only two parties ran in the elections: the Druk Phuensum Tshogpa (DPT), led by the former prime minister, Lyonpo Jigme Y Thinley, and the People's Democratic Party (PDP), led by another former minister, Lyonpo Sangye Ngedrup. The two parties campaigned on similar messages of unity and development and both proclaimed loyalty to the royal family, leaving little ideological contrast between the two parties.

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A third party, the Bhutan People United Party (BPUP), was disqualified from competing in the elections on the grounds that it lacked the requisite member diversity and that its ideology was unclear. The BPUP had declared itself to be a party for the *nyamchung* (downtrodden) and, under Article 15(4)(b) of the constitution, membership of a political party may not be based on “region, sex, language, religion or social origin.” The BPUP was held to be in breach of this article.

National Council elections were held in December 2007. The National Council is a nonpartisan body that has both legislative and review functions and can initiate or prepare legislation, with the exception of monetary and financial bills. Of the 25 members, 6 are women. A simple majority elects 20 of the members from each of the 20 *dzongkhag* (districts), while the remaining 5 are appointed by the king.

The National Assembly has 47 representatives, all of which are elected on the basis of a first-past-the-post system in which a single member represents the constituency. According to the electoral framework, elections for the National Assembly are held in two rounds: in the first, voters select the party of their choice, and in the second, candidates from the two parties with the most votes compete. However, in the first general election for the National Assembly, held on March 24, 2008, only two parties competed, eliminating the need for a first round. Turnout was very high, at 79.4 percent. Despite predictions of a competitive race, and the fact that the PDP received 32.9 percent of the overall popular vote, the DPT secured 45 of the 47 seats in the new National Assembly.³

International observation reports of the elections indicated no major irregularities, but stressed the importance of a genuine choice among alternative ideological perspectives.⁴ Both the DPT and PDP published manifestos, but the substantive differences between the parties were difficult to delineate. Both party leaders made it publicly known that they would follow the King’s desire that they work in the “pursuit of Gross National Happiness.” As a result, the elections were perceived as focusing on the personalities of the party leaders. Although the party candidates made strenuous efforts to reach as many communities in their prospective constituencies as possible, it was the role of the two party leaders that appears to have shaped both the campaign and voting.

There were 42 international and 52 domestic observers. From the reports of the election observers, the elections ran smoothly in all 20 *dzongkhag*.⁵ However, recommendations by the international observers included a wide range of changes, including boosting capacity of the ECB and a more proportionate system for the allocation of seats.⁶ Furthermore, the high voter turnout is somewhat mitigated by the fact that 82,000 Nepali Bhutanese living within the country were declared nonnationals under the 2005 census and were therefore ineligible to vote.⁷ The lack of inclusiveness in the democratization process was reportedly the rationale for four bomb attacks on January 20, 2008, which the government claimed were launched by ethnic Nepalis protesting their exclusion from the electoral system.⁸ Though the attacks caused minimal damage, they drew attention to the ongoing tension between the government and groups that are marginalized from the Bhutanese state.

Irregularities in the vote tallying process arose after a recount was conducted. It was found that in Phuntsholing, the tally of votes was miscounted and prematurely called in favor of the PDP.

In 2002, Bhutan held its first universal suffrage local elections. Despite the success of the national elections, however, local elections originally scheduled for late 2008 continue to be delayed. In May 2010, the ECB announced that the process of preparing a voter list for local elections could not be completed until other work, including the revision of local-level district boundaries, is finalized. The process of “delimitation” follows from the Local

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Government Act 2010. In addition, the ECB has noted that extra time is required to educate people about the changes, conduct training, and address various logistical problems.⁹

Following the signing of the constitution in 2008, the Royal Civil Service Commission (RCSC) members submitted their resignations. Under Articles 2(19)(g) and 26(2) of the constitution, the right to appoint the chairperson and members of the RCSC rests with the king. In February 2009, the new commission and a new secretary were formally installed. The RCSC has developed a clear process of selection through competitive examinations, with a new exam introduced in 2008. Promotion is based on merit and there has been a steady training program to ensure professionalism across the RCSC.¹⁰

The state generally does not interfere with civil society organizations, though this is potentially because very few controversial or overtly political groups exist. The 2007 Civil Society Organization Act and the resultant creation of the Civil Society Organization Authority provided the first legal framework to support nongovernmental organizations (NGOs), and there is a growing awareness of the importance of NGOs in the development of democratic procedures and their role in strengthening democratization in Bhutan. A number of donor organizations, notably the United Nations, work closely with NGOs, reflecting the positive relationship between donors, the national government, and NGOs. Key civil society organizations (for example RENEW, an NGO working to promote women's education and empowerment) have played an important role both in developing and delivering a range of services and in influencing and working with government officials.

Bhutan has seen a substantial increase in the range of media outlets in the last few years. The formerly state-run Bhutan Broadcasting Service (BBS) is now a private corporation, marking the end of state media control. Nevertheless, it is currently the only service to offer both radio and television and is the only television service to broadcast from inside the Bhutanese border. In February 2008, BBS began an online radio service as well. Meanwhile, print and online media sources in Bhutan have proliferated over the last few years, replacing the monopoly of state-owned *Kuensel* as the only newspaper in the country.

Journalists are free from extralegal intimidation, arbitrary arrest, and physical violence. The state does not censor the media, but there is undoubtedly a substantial degree of self-censorship regarding culturally-sensitive issues. The media's role in the promotion of democratic values and debate is still embryonic; it will likely play an increasing role as the new party system becomes embedded and a new political consciousness emerges across Bhutanese society. Internet is becoming more widespread in the main towns and is free from state censorship.

CIVIL LIBERTIES

The 2008 constitution sets out for the first time the fundamental rights (Article 7) and duties (Article 8) of Bhutanese citizens. Article 7(1) of the constitution states that "All persons shall have the right to life, liberty, and security of person and shall not be deprived of such rights except in accordance with the due process of law." The death penalty was formally abolished in March 2004 and Article 7(18) affirms that no person will be subject to capital punishment. Similarly, torture is officially prohibited under Article 7(17), together with the use of inhumane or degrading treatment. There have been reports, however, that officials use torture in Bhutanese prisons, particularly with political dissidents.

The High Court and the judiciary have been proactively seeking to educate ordinary people about their rights and responsibilities through meetings organized in local communities. A key component of these meetings is to ensure that people understand their options for redress not just from violations committed by their neighbors but also with respect

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to the state. Crime levels remain low, although there are increasing reports of drug-related crimes, notably in Thimphu and Phuntsholing. There are no state-sponsored attacks on activities or political opponents and few reports of arbitrary arrests. Bhutan allows the International Committee of the Red Cross to visit and inspect its prisons annually and conditions were found to be generally acceptable in 2009.¹¹

Gender equality in primary and secondary education has been achieved, with the proportion of girls equal to that of boys, but there remains a lag in terms of the ratio of females to males in tertiary institutions. The constitution allows for female members of the royal family to inherit the throne. Nevertheless, female representation in national and local government remains low. At present, only 10 of the 72 MPs are women, and there are no female cabinet ministers. At the local level, there remain very few women elected as gups. However, the percentage of civil servants who are women has increased from 19 percent to 29.5 percent. Employment remains primarily agriculture-based, but unemployment among urban women is significantly higher than among men, at 9.5 percent compared to 5.3 percent.¹² Two key NGOs, the Tarayana Foundation and RENEW, are actively promoting programs to empower Bhutanese women. The EU Election Observation Mission report recommends that political parties consider voluntary quotas for women candidates and that the election administration seek to ensure that women are well represented among election officials.¹³

Under Article 9(17) of the constitution the state will “endeavor to take appropriate measures to eliminate all forms of discrimination and exploitation against women including trafficking, prostitution, abuse, violence, harassment and intimidation at work in both public and private spheres.” There are a range of organizations that actively promote equality and empowerment, for example the National Commission for Women and Children (NCWC), set up in 2004. These organizations emphasize improving child and maternal health, and recent indicators suggest that progress has been significant on lowering maternal mortality and improving under-five infant survival rates.¹⁴ The National Assembly has unanimously endorsed the two Convention on the Rights of the Child Optional Protocols on the sale of children, child prostitution, and child pornography and the involvement of children in armed conflict. In addition, two draft bills under consideration, the Child Care and Protection Bill (CCPB) and the Adoption Bill, provide a comprehensive legal framework for child protection.

Although there is no specific law protecting Bhutanese citizens with disabilities, there is no evidence of official discrimination. The government seeks through the Disability Prevention and Rehabilitation program to provide medical and vocational rehabilitation and promote the integration of disabled children into schools.

Bhutan has three main ethnic groups and its people speak 19 languages. The majority of Bhutanese follow Himalayan Buddhism, notably the Druk Kagyu and Nyingma schools. The majority of Lhotshampa are Hindu, and there is a small, though gradually growing, number of Christians in the country. Article 7(4) of the constitution sets out the rights of freedom of conscience and belief for all Bhutanese. It acknowledges that “Buddhism is the spiritual heritage of Bhutan” (Article 3(1)), while specifically refraining from declaring Buddhism to be the official state religion on the grounds that recognizing Buddhism could create social division within the country. This marks a major transformation in Bhutan’s political history, as the system of government intertwined secular and religious affairs beginning in the 17th century, with the unification of the country. Even during the period of modernization introduced by the third king during the 1950s and 1960s, monastic representation in government continued. It was not until the dissolution of the last National Assembly in 2007 and the move toward a newly constituted National Assembly that no places were reserved for the State Monk Body.

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However, although the Bhutanese constitution sets out official indifference to religion and recognizes religious freedom and equality, the apparently secular nature of the new Bhutanese state is affected by the following considerations: the king must be Buddhist (Art. 2(1)), although the monarch will also act as protector of all religions (Art. 3(2)); Buddhist monks and nuns are prohibited from voting or standing as candidates for office (Art. 3(3)); and the state continues to provide adequate funds and facilities to support the Zhung Dratshang (Monk Body) (Art. 3(7)). However, the state does not involve itself with the appointment of spiritual leaders or the internal organization of the Monk Body.

All religious groups are able to fully practice their faiths. However, while the king is to be regarded as the protector of all religions and of freedom of belief (Article 7(3)), there remains a prohibition on proselytizing. In addition, it is unclear whether the exclusion of Buddhist monks and nuns from voting or standing as candidates extends to other religions.

As noted above, Bhutan's most significant human rights problem relates to ongoing reports of discrimination towards the Lhotshampa community. Tensions between this group and the royal government began to rise in the 1980s, following the redefinition of the legal requirements for Bhutanese citizenship in 1985. Tensions erupted in the early 1990s and approximately 90,000 Lhotshampa either left or were expelled from Bhutan. For Lhotshampa remaining in Bhutan those who are unable to claim full citizenship are permitted to reside in the country but are not classified as citizens. Article 6 of the constitution sets out the basis for full citizenship: being born to two full Bhutanese citizens; being born in Bhutan prior to December 31, 1958, and appearing in government records; or by naturalization. This can cause problems for those individuals who have permission to reside but are not recognized as Bhutanese citizens.

The right to freedom of association has been formalized under Article 7(12) of the constitution, which provides that "Bhutanese citizens shall have the right to freedom of peaceful assembly and freedom of association." However, membership in associations that are deemed "harmful to the peace and unity of the country" is prohibited. This caveat mirrors the prohibition on the formation of political parties based on ethnicity, religion, or region.

The introduction of the Civil Society Organization Act 2007 was a major step forward for civil groups in Bhutan. The act sets out the scope of two new forms of civil society organizations, for "public benefit" and "mutual benefit." The former refers to those civil society organizations that assist a section of society; the latter represent the interests of their members, for example a particular profession or business. The act was under consideration for a number of years and uncertainty about its implementation probably inhibited the development of civil groups.

The Civil Society Organization Act also sets out the role and function of the Civil Society Organization (CSO) Authority, which is responsible for oversight and implementation of the act. Members of civil society organizations elected the authority's five members in March 2009, and the organization was formed the following month with 28 member organizations. Only one of the listed members was from eastern Bhutan, with the remaining 27 located in western Bhutan.¹⁵

The constitution does not specifically provide for a right to peaceful demonstrations, and whether this right exists remains unclear. To date, public demonstrations and protests have not been part of the Bhutanese political culture. As the wider society becomes more accustomed to the new political landscape and the possibilities for engaging in political activities, the use of peaceful demonstrations may develop.

At present there are no trade unions in Bhutan, possibly because of the primarily rural-agricultural focus of the Bhutanese economy and society. The right of association does not explicitly include or exclude the right to form and participate in free and independent trade unions, although the 2007 Labor and Employment Act does allow employees to form an

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association in the workplace if at least 12 employees wish to join. In 2008, for example, telecommunications employees formed an association in response to concerns over promotions. To what extent these workplace associations can be seen as trade unions remains uncertain. However, the state does support a range of civil associations, and business organizations that are active in engaging with officials.

RULE OF LAW

Under Article 21(1) of the constitution, the Bhutanese judiciary is independent and charged with upholding the rule of law. The structure of the judiciary changed slightly in 2009 with the formation of the Supreme Court, which is the ultimate court of justice for all appeals and specifically is charged with upholding the provisions of the constitution. Immediately below the Supreme Court is the High Court of Justice located in Thimphu, and in the main administrative center of each district there are district-level courts. Due to its size and commercial importance, the border town of Phuntsholing hosts a subdistrict court. The decisions of lower courts can be appealed upwards, and judicial independence is adhered to at each level of the court system.

Former chief justice Lyonpo Sonam Tobgay, who oversaw major reforms in the Bhutanese judiciary—notably the development of formal legal education and civil and criminal procedural reforms—retired in October 2009. Shortly afterward, based on the advice of the Appointment Committee, the king appointed him to preside over the newly created Supreme Court. As the new highest court of law in the country, the Supreme Court will play a key role in the interpretation and application of the constitution.

In August 2010, opposition party leader Tshering Tobgay challenged the constitutional right of the government to revise tax rates without parliamentary approval.¹⁶ The High Court had ruled against the government, which raised an appeal to the Supreme Court. The case was heard on appeal in January 2011; the February 2011 verdict held the government's actions in breach of the legislative process. The decision was the first case to interpret the 2008 constitution and was noted by various commentators as an important landmark in Bhutanese political and constitutional development.

The Bhutanese judiciary has become more professionalized over the last 15 years in a process of slow but steady change. Since the April 2010 judicial appointments were made to the High Court, a professional, well-educated judiciary at all levels has now been achieved. The High Court also now includes one female judge for the first time. Appointments are based on advice and recommendations by the National Judicial Commission, which are submitted to the king for his approval. Selection is based on a judge's knowledge of the law and experience, with a minimum of seven years as a district court judge required before appointment to the High Court. An annual judicial conference is held that all judges at all levels must attend. In addition, the High Court monitors court data from across the country to ensure that all district courts are handling cases promptly and reducing delays to court hearings and decisions. Bench clerks and judges receive continuous training on use of the case management system. According to the 2009 World Bank and IFC Enterprise Survey, while more than 7 percent of companies operating in Bhutan identify functioning of the courts as a constraint to doing business, three-fourths of companies perceive the judiciary as fair and impartial.¹⁷

Judges have led a number of initiatives to ensure that ordinary Bhutanese are aware of the general structure of the legal system and the main areas of law, including property and contract law. In a series of visits, judges have discussed legal problems with villagers in order to ensure that they understand the range of legal options available beyond the traditional

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practice of village-level mediation. Two key aspects stressed in these meetings are the civil and criminal procedural codes, and the judges have emphasized that a person accused of a crime is held to be innocent until proven guilty. Another important part of this public legal education program has an explanation of court process. With the appearance of private law firms, the role of traditional attorneys (*jabmi*) is being supplanted by legally-trained representatives. The engagement with ordinary Bhutanese has been important for establishing confidence and improving the public's understanding of legal rights and obligations.

Article 7(23) of the constitution establishes the right of all Bhutanese to raise an action in any court. In addition, under the constitution and as set out in legislation governing civil and criminal procedure, all Bhutanese citizens have the right to due process. Access to the courts and the importance of ensuring that the courts handle cases in a timely manner has been a major factor in court reforms since the late 1990s. All citizens have the right to be represented and, if required and desired, the court may appoint independent representation. However, representation is not mandatory and an individual has the right to self-represent.

In the course of the democratic transition, the Office of Legal Affairs became the Office of the Attorney General, which acts as the state prosecutor, and a new attorney general was appointed in March 2010. The duties of the attorney general, who is accountable to the prime minister and the king, are set out in Article 29 of the constitution. The attorney general can be asked to speak on legal matters in parliament. The Attorney General is required to declare any conflict of interest under Section 46 of the Office of Attorney General Act 2006.

The king is the commander in chief, and the chief operational officer reports directly to him and the prime minister. In June 2007, the Royal Bhutan Army (RBA) stood at 9,021 active duty personnel. However, in line with the government initiative introduced in 2005, which followed a December 2003 military campaign against Indian guerrillas who had set up camps in southern and southeast Bhutan, the size of the army has been reduced and a citizen militia is being trained. By 2008, the army had only 8,000 active duty personnel.

The Indian Army maintains a mission in Bhutan, known as the Indian Military Training Team (IMTRAT), responsible for the military training of RBA and Royal Body Guard (RBG) personnel. RBA and RBG officers are sent for training at the National Defence Academy in Pune, India, and at the Indian Military Academy in Dehra Dun. The Indian military has also provided support to the Bhutanese authorities, for example during the 2003 campaign, but does not exert any influence over Bhutanese affairs.

The Royal Bhutan Police joined Interpol in 2005. The police do not interfere in the political process and appear to have worked with election officials in 2008 to ensure the smooth running of the National Assembly elections.

Ordinary Bhutanese may own property alone or in association with others as long as they are full citizens. Property rights are enforceable and the state maintains a centralized land register. The state does not seize land; if areas of land are required for development purposes the owners are compensated.

ANTICORRUPTION AND TRANSPARENCY

Bhutan's Anticorruption Commission (ACC) was established in 2006, and since then has made a substantial impact in the country. It has established an effective legislative and administrative framework that promotes integrity and the prevention, detection, and punishment of public officials, and a wider program focuses on educating the general public about the role of the ACC and what constitutes corruption. This approach recognizes that certain aspects of Bhutanese custom may inadvertently promote some forms of corruption. Under the direction of Neten Zangmo—a highly respected and independent-minded woman

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who was reconfirmed in August 2010—the ACC fulfills its duties without interference from the state.

Bhutan's relatively small economy remains dependent on the state. In efficient state-owned companies dominate many spheres of the private sector. According to a 2007 ACC survey, the main forms of corruption in the country identified by Bhutanese are nepotism, favoritism, and the misuse of public funds.¹⁸ In a 2009 ACC report, 63 percent of Bhutanese companies identified corruption as a major problem.¹⁹ Petty corruption does not appear to be a major problem, however, as evidenced by the fact that 75 percent of individual respondents to the 2009 ACC survey claimed to have had no experience with corruption in the past year. The Royal Audit Authority report and the surveys undertaken by the ACC demonstrate increased scrutiny of public finances and a state focus on increased transparency.

Following a 2010 review of business in Bhutan, a recent report suggests that there remains a lack of transparency around tax policies, and that tax officials deal with cases individually. As a result of this approach, decisions appear to be arbitrary and the relevant legislation open to various interpretations. A 2009 survey of companies operating in Bhutan reported demands for bribes, especially during frequent interactions with local authorities when doing business. The survey noted that the publicly declared war on corruption emphasizes the intentions of the government to promote private sector development. However, in roundtable discussions with small and medium-sized enterprises (SMEs) conducted by the ACC, some companies complained that the ACC is overly focused on petty corruption at the expense of addressing large-scale corruption.

According to the World Bank and IFC 2010 "Doing Business" report, while starting a business and applying for licenses in Bhutan are cheaper than the regional average, these processes are time consuming and bureaucratically complex.²⁰ A challenge or hindrance to companies appears to be the cost of enforcing commercial contracts. In contrast, enforcing commercial contracts is a costly affair, which does not necessarily involve heavy bureaucracy. A 2009 survey found that 15 percent of senior management time is spent dealing with the requirements of government regulations in Bhutan, which is the highest among all countries in South Asia. In an attempt to address these issues, the Bhutanese government has created an online web portal, the Bhutan Portal, which contains a range of practical information on legislation, requirements, and various licenses. Recognizing the importance of providing advice to promote and develop the private sector, the Bhutan Chamber of Commerce and Industry has developed its website as well and now provides companies with information and how-to guides. In addition, the ACC is working with a range of agencies to reduce the administrative burden on businesses and to streamline public sector procedures.

Bhutan's media present allegations of corruption and question the actions of authorities. However, a number of issues likely discourage would-be whistleblowers. The ACC website does not allow anonymous allegations of corruption to be submitted and individuals reporting corruption must provide not only details of the incident and the nature of the corruption, but also personal details. If an allegation is found to be unsubstantiated and made maliciously or with false information, the informant may be prosecuted under the Anti-Corruption Act of 2006.

The constitution sets out the legal right of all citizens to obtain information and to petition government agencies. However, the draft Right of Information Bill has yet to be passed by the government. Work began on the draft in 2007, but recent statements by the minister for information and communication, Lyonpo Nandalai Rai, indicate that there is a reluctance to introduce the bill. This delay was publicly discussed and debated in a UN-sponsored forum on public space in August 2010, showing a growing demand for a clear legal framework and right to access information.²¹

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The National Council may challenge the government on budget-making and provides an important review. However, it remains unclear to what extent ordinary Bhutanese have access to information on the executive budget-making process and expenditures. Although there are tight procurement guidelines, a 2009 survey revealed concerns about bribery and petty corruption that undermine confidence in the transparency of procurement processes.

RECOMMENDATIONS

- The government should pass the draft Right of Information Bill to ensure greater transparency.
- The ECB must complete local election voter registration lists and conduct the necessary education and training of officials, and hold long-delayed local elections.
- The government should promote wider political participation, including by integrating parties with genuinely divergent viewpoints, to ensure a more effective opposition in the National Assembly.
- The government needs to find a permanent solution to the Lhotshampa question, including full restoration of citizenship rights for Lhotshampa within the country and a resolution to the refugee crisis for the Lhotshampa living in refugee camps in eastern Nepal.

¹ “Strengthened Institutional Capacity of the Election Commission of Bhutan,” United Nations Development Programme, January 20, 2009,

<http://www.undp.org.bt/Strengthened-Institutional-Capacity-of-the-Election-Commission-of-Bhutan.htm>.

² “Bhutan: Final Report on the National Assembly Elections, 24 March 2008,” European Union Election Observation Mission to Bhutan, May 21, 2008,

http://eeas.europa.eu/human_rights/election_observation/bhutan/final_report_en.pdf.

³ “Bhutan: Tshogdu (National Assembly),” Inter-Parliamentary Union,

<http://www.ipu.org/parline/reports/2035.htm>.

⁴ Ibid.

⁵ For a fuller analysis of the 2008 elections, see R W Whitecross, forthcoming, “The King’s Gift: Constitutional Change and Democracy in the Dragon Kingdom,” In *People Power, Democracy and Political Change: The Experience of South and Southeast Asia* A Dasgupta (ed). Dasgupta.

⁶ “Bhutan: Final Report on the National Assembly Elections, 24 March 2008.”

⁷ “Letter to Prime Minister of Bhutan regarding discrimination against ethnic Nepalis,” Human Rights Watch (HRW), April 16, 2008, <http://www.hrw.org/en/news/2008/04/15/letter-prime-minister-bhutan-regarding-discrimination-against-ethnic-nepalis>.

⁸ Andrew Buncombe, “Ethnic Nepalese blamed as bombs shake Bhutan,” *Independent*, January 22, 2008, <http://www.independent.co.uk/news/world/asia/ethnic-nepalese-blamed-as-bombs-shake-bhutan-771717.html>.

⁹ Phuntsho Choden, “Delimitation ball in govt. court,” *Kuensel Online*, May 11, 2010, <http://www.kuenselonline.com/2010/modules.php?name=News&file=article&sid=15420>.

¹⁰ See Royal Civil Service Commission website: <http://rcsc.gov.bt/>, accessed April 26, 2011.

¹¹ See <http://www.icrc.org/eng/assets/files/annual-report/icrc-annual-report-2009-new-dehli.pdf>.

¹² Gross National Happiness Commission, National Commission for Women and Children, and the Royal Government of Bhutan, *National Plan of Action for Gender: 2008–2013*, <http://www.undp.org.bt/assets/files/gender/NPAG.pdf>, accessed April 26, 2011; National Statistics Bureau, <http://www.nsb.gov.bt/>, accessed April 26, 2011.

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¹³ See “Bhutan: Final Report on the National Assembly Elections, 24 March 2008,” European Union Election Observation Mission to Bhutan, recommendations 32 and 33,

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