

NC Reflections



National Council of Bhutan

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Foreword

The first issue of NC Reflections, the magazine of the National Council of Bhutan was published in April 2009. This is the second issue published nearly a year later. The purpose of NC REFLECTIONS is to publish articles on any issue so that it becomes a space for extending dialogue and discussions beyond the halls of formal National Council session. In this edition, the seven articles take up different topics for discussion, reflection and analysis. They range from topics like a unique archery match in the mountains of Lingzhi to reflections on law-making process in our country. I commend the writers as well as the editorial board for working to publish this magazine on the occasion of the 30th birthday of our beloved king.



The National Council hopes to reach out to a wider section of our society. Gradually, it hopes to develop this magazine into an important means of engaging readers into discussion and debate on important national issues. The next issue will have some articles in Dzongkha as well. We would like to encourage readers to contribute articles or feedback on the ones published. Every issue of the magazine shall hereafter, have two guest writers although contributions from others are also welcome. I would like to hope that the readers will enjoy this edition of NC REFLECTIONS.

Tashi Delek.

(Namgye Penjore)

Chairperson

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C O N T E N T S

THE HOUSE OF REVIEW: BEYOND THE NUTS AND BOLTS

Dr. Jagar Dorji, Trongsa

Introduction

Elected representatives have been known to make promises that cannot be kept while voters are known to have believed in them but lost faith pretty soon. What can keep our democracy vibrant? How can we strengthen trust and confidence in

the system that has been designed for every Bhutanese? This paper attempts to explore some ideas with regard to the role of review of the National Council.

The contents are my personal views and do not represent those of the National Council or any of its Committees.



Keeping the promises

The principal responsibility of an elected representative is to deliver what has been pledged, besides legislation. At the grassroots level, though, people may see

the need to tell their representatives about some shortcomings, but do not have the courage to raise their voices. The "State of India's Public Service" Report (2008) points out that average citizens lack expertise in technology and delivery systems which limits them to give their feedback in a way

that would convince the service provider. A farmer is asked to come again and again to obtain a timber permit which is his due; another person has applied for exchange of land but the dealing officer is rarely in station; yet another wants to collect money for the work he has done but the paying desk is uncooperative; somebody has been wronged about the fees he has to pay but he has been bombarded with responses he cannot understand. These are individuals who need the attention of someone at higher levels to address their problems.

Generally, no one is impeccable and mistakes in the tasks that we perform are as natural as weeds in the fields. Today our government has taken some excellent policy initiatives designed to help the common people. A reduction in the bureaucratic steps for effective delivery of basic services to the public is a case in point. At the other end of this some questions come to mind. How do we ensure that this good intention is translated into day-to-day work culture at the ground level and make a difference in the life of the people? Who will articulate the average citizen's feedback and make the programme more effective? Is the online forestry service practically useful to the farmers?

It is pertinent that the house of review seeks answers to these questions between the providers and beneficiaries of such policy decisions. We all need to know whether these noble intentions are vastly assimilated into operational realities in the field. The National Council, through its review mandate, is also a legitimate forum to articulate the views from the field.

The upper house around the world

The legislative mandate is that generally all bills must be passed by a majority of both houses of Parliament. Around the world, the upper house is different from the lower house in one or more of the following aspects. In some cases, the upper house

enjoys limited power compared to the lower house, as it is mandated to review only the legislation of the latter. There are countries where the upper house cannot even initiate legislation.

The obvious reason is that members to the upper house are indirectly elected from either the lower house or from the state assemblies as in the case of the Indian Rajya Sabha. In Germany members of the Bundesrat are also the members of the federal cabinets. What is interesting is that in most parliamentary systems, unlike the Bhutanese, members of the upper house are also represented by political parties that are already represented in the lower house.

The upper house of parliament usually has fewer seats than the lower house and serves for longer term or for life time. A large number of seats in the British House of Lords and the Japanese House of Peers are hereditary and often for life.

In some countries, the upper house has no veto power of proposed legislation, but can only scrutinise and suggest amendments of legislation drafted hastily by the lower house, for example, in the British Parliament. They can, however, delay the bill if it is not deemed appropriate.

A few countries have abolished the upper house and adopted the unicameral system of Parliament, mainly because they did not see the upper house's roles as effective. In New Zealand, the Legislative Council used to be appointed by the Governor on the recommendation of the Prime Minister. As the "Council was having no significant impact on New Zealand's legislative process" it was finally abolished in 1950.

Upper houses are generally created to provide an additional step in the legislative process with a view to avoid any loose ends that occur in hastily prepared laws. It also appears that even delaying the legislation by the upper houses gives the parliament adequate time to remove any noticeable flaws before making the laws.

The intent of our Constitution

In "A Guide to the Draft Constitution of the Kingdom of Bhutan" it is suggested that the Constitution of the Kingdom of Bhutan intends that the "National Council will play an important role in ensuring a proper *check and balance* in the new political system" (p. 17-18). That is why both houses have equal responsibility in terms of originating and passing a bill. A bill does not effectively gain legal status until both houses have passed it and assented to by the Druk Gyalpo.

It is also mentioned that Bhutan has adopted a bicameral system of Parliament and "both houses have equal powers except with regard to money and financial bills" meaning that a money bill can only originate in the National Assembly. There are provisions in the Constitution regarding how the bicameral system should function.

Another intention of the Constitution is that the two houses should not be called upper or lower house. By virtue of being an apolitical body, members of the Council do not belong to any political party and are not obliged to bring any party interests in its business. The review that the National Council conducts will sometimes result in putting a check on certain policies that the government implements. At other times such a review may find the results completely in favour of the government. The former must not be construed as opposition or the latter pro-party element. A review must serve the larger interest of the nation.

Parliamentary processes are, as much as the electoral processes, a means to bring people's voices where policy decisions are made. It is a form of ensuring sound legislation, ensuring adherence to the rules of law, and delivering basic services such as education, health, water and sanitation (Chhibber, 2009). According to Chhibber, if it were possible to fulfil delivery of justice and services without any institutional mechanisms, parliamentary institutions would not have been necessary in the first

place. Our beloved Druk Gyalpo had already foreseen such a need and, therefore, has paved a way for democratic processes with these extraordinary intentions in mind.

It is also intended that our Parliament maintains its vigour by removing any imbalances, and not being subjected to the persuasions of any group. In most parliaments, discomfort arises when the government sometimes seeks to employ convenient methods to implement the programmes deviating from parliamentary directives. An example of this was clearly depicted in a Thai newspaper article (Songkran, 2009).

Holding the government to account

Scrutinising the government activities is not unique to Bhutan, as many countries have continued to respect this accountability system for ages. In the Australian Parliament, the Senate is required to scrutinise and hold the government accountable for its actions either directly or through its select committees. For many years, when the Senate had a minority representative of the government, this role became more effective. The opposition and minor parties in the House of Commons have also been able to 'use their Senate numbers as a basis for conducting inquiries into government operations.'

It was also noted that when a party winning the majority in the lower house becomes the government, its members have inherently limited 'capacity to implement executive scrutiny' of its own government. Critics of the Australian Parliamentary processes have remarked that, "In practice, party discipline ensures that the government controls the House of Representatives and that the (Lower) House (in its turn) imposes no check on government."

This difficulty was noted during the Howard Government in Australia when it enjoyed a majority in the Senate. It is only natural that the policies of the executive are equally acceptable to the members of the ruling

party in the National Assembly as well as those in the Upper House who belong to the ruling party. The Constitution of the Kingdom of Bhutan requires the National Council to scrutinise the activities and policies of the government, among others. Although there is hardly any reason to doubt the present elected Government in terms of its intentions, operations and outcomes for the benefit of the people, a system that empowers a neutral agency (in this case the National Council) to review their policies will only be beneficial to the future of Bhutanese democracy.

In order to fulfil this role, the National Council of Bhutan has five eminent members appointed by the Druk Gyalpo to represent a still larger constituency – the nation, while the other twenty members do not have affiliation to any political party. The members sitting in the Council are, therefore, directly accountable to the people and should bring no political obligations in their views.

Whether tightly or loosely interpreted, members of the National Council cannot brew any excuses for failing in their mandates enshrined in the Constitution and entrusted by the people. The essence of democracy is to allow people's voices to reach the decision-making houses through their elected representatives. Their feedback may often come in many different forms that need to be articulated to the government. The intentions must be that people must feel that democracy can be beneficial to them as in the past. I strongly believe that our aspirations can be resolved through frank exchange of views, mutual reflections and selfless actions.

In keeping with these mandates, the business deliberations at the National Council have to be more collegial and be conducted in a non-partisan atmosphere. In order that the deliberations in the house are based on facts and represent wider views of the public, rather than reactions prompted by vested interests, forceful arguments and debates, there are five committees each of which looks into issues pertaining to their

respective areas of responsibilities. The current National Council, as a part of the new Parliamentary system, frequently debates over which path to choose whenever there is a cross-road. It is not always possible that a correct path is chosen, but the interactions, wisdom and shared visions make it possible to revisit the choices and retrace the path.

A review may also lead to challenging of the policies and programmes of the government, not just because the "Executive is accountable to the Parliament" but because it is critical that the citizens' feedback are conveyed clearly and reflected in the parliamentary debates and resolutions.

A review exercise may require interacting with members of the cabinet either as part of the formal sessions or through informal meetings and discussions. In countries like Australia, the select committees are empowered to conduct public hearings, ask questions and collect evidences from the executives to satisfy the people's queries. However, our system may need time to absorb such a mandate.

People matter

At the opening ceremony of the Regional Conference in Paro on 11 October, the Prime Minister of Bhutan said that democracy in some countries failed not because the democratic principles are bad but because it has landed in the hands of "bad people." This suggests that our present government considers its tenure as the privileged responsibility to act in strict adherence to the good principles of democracy. One of the missions of the first Parliament in Bhutan is to establish a clear working procedure which ensures that future Parliaments have less room for any manoeuvring to suit their ideological stand. It has been expressed repeatedly by all present parliamentarians that this is the right time to put in place a system that will enable election of good intentioned people to the Parliament.

Although most countries see the merits of bicameral arrangements that provide check and balance, in recent times there has been a trend to weaken the upper house in relation to the lower house. We have acknowledged that the bicameral system of Parliament is bestowed upon us as the most appropriate for the people of Bhutan both at present and in the future.

Whilst successful invocation of the essence of the Constitution will take time and experience, we have tremendous capacity to align our working habits with a democratic form of governance and draw much from the needs at the grassroots.

Democracy in Bhutan is designed to be distinct from the ones that have prevailed in other countries patented by having two houses with equal voices in the parliament. Our Parliament is designed to suit our culture characterised by *checks and balance*, not merely rhetoric, but practically valid and people oriented. It is the people's era, for whom our monarchs have given up their power, and it is people's voices that should guide our decisions.

Democracy is a vehicle to deliver good

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governance and services suited to the needs of people but it also needs its nuts and bolts tightened from time to time. The mission of the National Council calls for duties much beyond fixing the nuts and bolts.

Conclusion

In the Bhutanese Parliament the creation of the apolitical National Council gives the bicameral system a strength that most parliaments do not have. The views expressed in this paper are very well summarised in the following words:

It has long been recognized that checks and balances are necessary in a system of government to ensure that individual power is not abused. A Parliament to which the executive government, the ministry, is responsible for its actions is one such check. Parliament is the law-making assembly where the opinions, interests and beliefs of the people are represented. It is the foundation upon which modern democracy is built. It is the Parliament's role to ensure that government is answerable to the governed (Australian Senate brief No 10, March 2008).

LEGISLATION – FORMULATION, APPLICATION AND INTERPRETATION

Kuenlay Tshering, Eminent Member

Background

Bhutan has a rich history of legislation with codified laws dating as far back as the 17th century during the reign of Zhabdrung Ngawang Namgyel¹. The *Chhoesid Lugnyi*, the dual system of laws known as *Gyalthrim Sergyi Ngashing* (Temporal laws) and *Chhoethrim Dhargyi Dudphoed* (Spiritual laws) based on the Buddhist principles of *Lha chhoe Gyawa Chu*, the ten pious acts and *Mechhoe Tsangma Chudru*, the sixteen deeds of social piety and the *Kanjur*² and *Tenjur*³.

Our leaders have built upon the Code of Zhabdrung Rimpoche and the Bhutanese jurisprudence has evolved over time ever since. During the reign of His Majesty, Druk Gyalpo Jigme Dorji Wangchuck⁴, the Third King of Bhutan, the National Assembly (*Tshogdu*) was established as the legislative body in the country in 1953. The National Assembly enacted the *Thrimzhung Chhenmo* – the General Law of Bhutan – from 1953 onwards. It was during the reign of His Majesty, Druk Gyalpo Jigme Singye

Wangchuck,⁵ the Fourth King of Bhutan, that numerous laws were passed and international treaties, conventions and protocols were ratified by the National Assembly. The Land Act of 1979, the Marriage Act of Bhutan, 1980, the Inheritance Act, 1980, Civil and Criminal Procedure Code of the Kingdom of Bhutan, 2001, the Penal Code of the Kingdom of Bhutan, 2004, the Forest and Nature Conservation Act, and the Jabmi Act, to mention a few. In 2001 His Majesty commanded the drafting of the Constitution to establish parliamentary democracy in Bhutan.

In 2008, the Constitution of the Kingdom of Bhutan was adopted by His Majesty, Druk Gyalpo Jigme Khesar Namgyel Wangchuck⁶ by appending His Hand and Seal and the Members of the First Parliament⁷ of Bhutan by affixing their signatures on the historic document.

1 *Zhabdrung Ngawang Namgyel is the founder of the Bhutanese polity. He gave 'law to a law-less land just as handle to a handle-less Urn' (Lho Thrim med la Thrim, Za lung med la Lung Dok).*

2 *Teachings of Lord Buddha.*

3 *Commentaries by followers.*

4 *His Majesty Druk Gyalpo Jigme Dorji Wangchuck, the Third King of Bhutan is known as 'Father of the Modern Bhutan'.*

5 *His Majesty Druk Gyalpo Jigme Singye Wangchuck, the Fourth King of Bhutan is known as the 'Father of the Constitution'.*

6 *His Majesty Druk Gyalpo Jigme Khesar Namgyel Wangchuck appended His Sign and Seal on the Constitution of the Kingdom of Bhutan on the 15th Day of the second fifth month of the Bhutanese calendar corresponding to 18 July 2008.*

7 *His Majesty the Druk Gyalpo, (25 Members of) the National Council and (47 Members of) the National Assembly constitute the Parliament of the Kingdom of Bhutan.*



as permanent, uniform and universal.

A noted jurist wrote, "Not even all legislative enactments are law, if they fail to conform to the definition of a "rule."⁹ Law to fit within the definition of rule is important and this is confirmed by the excerpt which states, "A concurrent or joint resolution of legislature is not a "law"; a resolution of the House of Representatives is not a "law"; an unconstitutional statute is not a "law." When a statute is passed in violation of law, that is, of the fundamental law or constitution of a state, it is the prerogative of courts to declare it void, or, in other words, to declare it not to be law."¹⁰

Principles of Legislation

The occupation of making laws is an important assignment and a sacred responsibility. The laws formulated by the Parliament must be precise, unambiguous, welfare oriented and must meet the needs of the people and the country. Laws must embody the Bhutanese value system and must be essentially Bhutanese in spirit and character. We must achieve Gross National Happiness for the people of Bhutan through laws. Hence, we shape the destiny of Bhutan and inspire the future generations through laws.

While the law-making powers are vested in the Parliament⁸, it is important that the Parliament follows norms of legislation while enacting laws. One of the rules of legislation is to dedicate adequate time on a Bill. Parliament cannot tamper with laws again and again. The laws once enacted must hold good in the long run and must have the imprint of the sagacity and wisdom of the law-makers. Law made by Parliament cannot exhibit relativity as to time, person or place. Law, being defined as a prescribed "rule of action," is therefore, characterized

⁸ *Bhutan has adopted the Bi-cameral Parliamentary system to make laws thoroughly and not to have rushed legislation with the promulgation of the Constitution of the Kingdom of Bhutan.*

An important principle of legislation is utility, which is a property in any object, whereby it tends to produce benefit, advantage, pleasure, good, or happiness, (all these in Principles of Morals and Legislation to prevent the happening of mischief, pain, evil, or unhappiness to the party whose interest is considered; if that party be the community in general, then the happiness of the community; if a particular individual, then the happiness of that individual). It is therefore, important for the law-makers to be constantly guided by this principle.

The Executive

The Executive organ must follow the principle of fair implementation/execution of laws. Just as the Executive is vested with the powers to execute the laws, it does not mean that law enforcement is carried out as it wishes. The Executive has to follow the rule of law and its action has to be within the confines of laws, rules and regulations and every action must be Justifiable.

⁹ *Adherence to the principles of legislation is of paramount importance.*

¹⁰ Black's Law Dictionary, 4th ed., p. 1028.

Law Enforcement Agencies

The law enforcement agencies¹¹ must not cross their boundaries in their investigative process. They are not there to decide cases but to carry out investigation in free and fair manner. Due process must be followed and they have a duty not to kill the motivation of the people performing their duties in serving the Tsa-Wa-Sum. Undue influence and harassment must be avoided at all costs.

Parliament must not make draconian laws nor should the law enforcement agencies have such rules which contradict the principles of justice and fairness.

It is not healthy for the nation to have a single organization with excessive powers nor weak agency to carry out lawful duties effectively. Law enforcement agencies must command respect from people and must be viewed with reverence and not with fear and suspicion. It reminds me of the saying, "Power tends to corrupt, and absolute power corrupts absolutely." We have to prevent these undesirable elements through the application of the rule of law.

The Judiciary

The Judiciary is entrusted with the responsibility to interpret the Constitution and other laws. Because it has powers to interpret laws it cannot do things based on whims and fancies of the Judges. It has to carry out its duties within the perimeter of the laws and rules of interpretation will have to be applied. The role of the judge is to declare what law already exists. The standard legal maxim is, *Jus dicere, et non jus dare*, that is, the province of a judge is to declare the law, not to make it. There is a dictum, "Justice must not only be done, but it must appear to be done". Therefore, following the due process of law is as important as being just

¹¹ *Law Enforcement Agencies such as the Royal Bhutan Police, the Anti-Corruption Commission etc.*

and fair.

Today, with the help of advanced technology in the field of medicine, physical ailments can be cured without pain, but no medicine can heal the pain of 'INJUSTICE'. Therefore, it is important that we have an independent judiciary with full support from the State which dispenses free and fair justice. If there is miscarriage of justice (or injustice), we must also take the judiciary to task, in accordance with the Constitution of Bhutan and the code of Conduct of the Judicial Services Act as it is said that the judges are the depositary of the laws; the living oracles, who must decide in all cases of doubt, and who are bound by an oath to decide according to the law of the land.¹²

Rules of Interpretation

The Golden Rule

Where the meaning of words in a statute, if strictly applied, would lead to an absurdity, the golden rule is that the courts are entitled to assume that Parliament did not intend such absurdity, and they will construe the Act to give it the meaning which the Parliament intended.

The Mischief Rule

When it is not clear whether an act falls within what is prohibited by a particular piece of legislation, the judges can apply the mischief rule. This means that the courts can take into account the reasons why the legislation was passed; what 'mischief' the legislation was designed to cure, and whether the act in question fell within the 'mischief'.

In the ultimate analysis, Judges must interpret laws by applying the rules of interpretation and people must be able to view Courts as "House of Justice." An independent yet fair and impartial judiciary is a prerequisite for democracy to succeed.

¹² *Blackstone, 1 COMMENTARIES *69.*

Fundamentals of Legislation

People's participation in the law-making process is of prime importance. The idea of a new law should be mooted to the people or the proposal of amendment of a law should be taken to the people. The people should be consulted as they are the ultimate consumers of law and justice.

Involving the stakeholders (concerned organizations and agencies) is an important element of legislation. The stakeholders are the ones who implement the laws while the people are the final consumers. Therefore, a thorough interaction by the Parliamentarians with the stakeholders is an important step in legislation.

It is important to seek the guidance of expert opinion on a law. The in-depth knowledge of the experts should be harnessed to further enhance the quality of the law in question. Their guidance will add more value to Law.

Reference of laws of other countries on similar issues is yet another important factor which enriches the quality of law. It is not necessarily done to borrow everything from others but to learn the good things from other systems and to translate to suit our own system. A great Buddhist scholar said, "*Luk zang dra la yoed chang len, Luk ngyen phami tenchang pang,*" which means adopt good practices even from enemies and avoid bad ones even if practiced by our Parents.

An important process is to frame law in a well structured form by skilled draftspersons. 'Form' is as important as the substance. The entire human civilization is engaged in the process of the art of refining things. The quality of things are determined by refinement, be it language or commodities or even such intangible things like services. The finer and smoother, the better.

Another important process for giving concrete shape to a law is through work of Committees of Parliament. In fact, it is the Committees which are responsible to organize and carry out most of the activities

mentioned above. It is the respective Committees which are largely involved in all the activities of drafting till the enactment stages of legislation.

Finally, it is at the formal sitting of the Houses of Parliament where the Bills are deliberated, discussed and debated to give the ultimate form to the law. Parliamentary deliberations and debates are important for many reasons. It educates public on the intent of legislation, the purpose and the goals that the law must achieve. In the process, awareness on each clause of the law is created in the country. Second, the deliberations and debates of Parliament are recorded in verbatim and audio and visual records are preserved by the library and archive of the Parliament. Moreover, they are published in the form of resolutions. These serve as valuable references for the Judges when they are called upon to interpret the laws. The judges use them to ascertain the legislative intent of a law in question which should facilitate the interpretation.

Conclusion

The general objectives of all laws are to prevent mischief and ensure that penalties are proportionate to offences.

The main objective of a legislator must be to prevent, in as far as it is possible, all sorts of offences and to ensure that no offence whatsoever may be committed. The next important object is to dispose him/her to do no more mischief than is necessary to his/her purpose. The other objective is, whatever the mischief may be, which it proposes to prevent, to prevent it at as inexpensive a rate as possible.

It must be our noble objective and constant endeavour to establish a reformatory legal system rather than punitive one. It is only kindness and compassion through which we can transform offenders to better citizens and human beings at large.

We in the Legislature must make good laws that have values and characteristics of good laws that naturally are respected by all and laws that are enforceable and laws that will lead to economic growth and development, ensure social justice and political stability of our country. Further, we should strive to make Bhutan a leading country where the legislature frames laws in the best possible

manner and they are enforced effectively by the executive and interpreted in just and fair manner by the judiciary. This should be a principle founded by Bhutan. May all laws serve the purpose that is in the best interest of the nation and people for which they are made by the Parliament of the Kingdom of Bhutan.



BEFORE MOUNTAINS ECHO DIFFERENT SONGS

Ugyen Tshering, Paro

From all four corners, mountains loom large against the clear blue sky. Inside this bowl of rugged beauty lies the small village of Gongyul in the tiny mountain kingdom of Bhutan.

Today is a special day in Gongyul, as once again the mountains echo the traditional village songs. The reason for this joyful occasion is *Dhatse*, the Festival of Archery Games. But even as the arrows fly amongst the age old call for ritual and blessings, *bangchang* wine, laughter and camaraderie, there is a hint of change in the air.

For despite the difficult terrain of this remote

village, modern life is finding its inevitable way in. And so it is that modern songs mix with the old.

Little wonder then that Angay Dorji Om, at eighty two, the eldest woman in the village is frustrated. She is finding it difficult to find folks interested enough to pass on the verses and melodies she learned as a child.

Thirteen years ago, after four days of hard trekking over Yalayla from Thimphu, the capital city of Bhutan, I made my first visit to Lingzhi to film these mountains and lakes. It was then that I first learned of the little known *Dhatse* festival of Gongyul.



Unknown to most Bhutanese, Gongyul celebrates “*Dhatse*” each year. Sadly, the festival had long since passed when I arrived, and so it was my good fortune that the villagers offered to re-enact it for me.

I made a promise to myself that one day I would come back, as I wanted very much to record the unique traditions of *Dhatse* on film. I thought it important that a permanent record be made of this special festival before the day arrived when change at last overwhelmed tradition, and Angay Dorji Om’s songs were carried away for the very last time on the mountain winds.

And so it was, in March of 2006, I came across a fellow from Lingzhi in my town of Thimphu. He assured me that the festival was to take place a week later. I quickly organized supplies, gathered up my film crew, and we set off for the trek. As we neared the village, I expected to find things bustling with excitement on what was supposed to be the eve of Gongyul’s annual *Dhatse* festival.

Instead we were met with dumb looks. The festival had been postponed as the village headman had gone to Thimphu for an official meeting. After consulting the astrologer, the villagers rescheduled the festival to four days later when the headman would return.

So, we found ourselves four days too early. Our food could be rationed to last, but this wouldn’t help our mules which would surely run out of fodder. On a more positive note, the extra time gave me the opportunity to conduct interviews while getting something of a feel for life in the village. But for our mules, the fact did not change; the ground was almost bare, still covered in places with melting snow. No amount of money would fetch fodder for our animals, as what scarce fodder existed was designated for the village animals.

With the advent of spring just around the corner, it was time for the villagers to gather

Yak dung for fuel, and then an idea struck: we would hire out our mules. Each day then our newly employed mules earned their food by carrying dung to the village households. The four days passed quickly by.

Given the delay, the festival finally began on the 30th of April and continued non-stop for the following three days.

On the first day of the festival each year, part of the village prepares and celebrates a “*Dralha*” ceremony.

On the last night prior to the start of the festival, men sleep in the home of a host. Gongyul’s custom calls for the host’s house to rotate, so that each year a different host feeds their visitors dinner, while supplying a steady stream of local “*bangchang*” wine. Tea is served to the rare teetotaler in the crowd.

As the first day of the festival dawns, the village astrologer burns incense and recites religious verses purifying the surroundings.

The day then is clear to start with the preparation of “*Dron Jay*,” a Bhutanese version of pizza, made only of rice and flavoured by *perelie amaranthas*, which the local people call *zhimtse*.

The men busy themselves making the *Dron Jay*. Huge pots of rice are employed to make the delicious treat. Tasty as it is, *Dron Jay* is slowly losing its appeal as it struggles to compete with the modern snacks the younger generations seem to favour these days.

The lay monk, usually the astrologer of the village, performs certain rituals, while the members of eleven households dress as warriors. Armed with bows and arrows, they climb to a roof top whereby they release their arrows in all four directions to subdue evils as protection for the coming year.

Copious tea and wine drinking follow. Then

the entire community, each member attired in his or her best, circumambulates the village. Young girls carry the *Dron Jay* rice cakes. After rounding the village for the third time, all gather for songs and dancing, their raucous joy reverberating throughout the surrounding mountains.

The day ends as all receive *Dron Jay*. Despite their growing hunger for the modern snacks, the children still receive it as a delicious and special treat. For adults, the *Dron Jay* is doubly loved, blessed as it has been with so many good wishes. Thus it is that the festive mood is set.

Over the next two days, the villagers participate in a form of age-old archery which is unlike any of the many other archery matches currently held throughout Bhutan. For example, down in the valley, in the capital of Bhutan, Thimphu, the national game these days is as modern as it can be. Fibreglass constructed bows and carbon arrows are the order of the day. This expensive archery equipment comes across the globe from the USA and is here to stay. Recently BHUTAN TIMES wrote: "If development in Bhutan is to be gauged, there is no single area that could compete with archery. From the traditional bamboo bow to the graphite compound bow, it is like moving from the cave age to the space age in the shortest time possible."

Early in the morning of the second day of the festival, two men, chosen for their appropriate birth sign, leave for the archery ground where they will shoot the first few arrows. In this manner the ground is auspiciously broken, and the anticipation which has been building all year is finally met as the day is set for the competition to begin in earnest!

Although distance between the two targets can vary by a meter or so, this pitch seems to be

fifteen meters shorter than the conventional range around the country.

The *Sha gi Gup*, the village's elected head who has full authority and commands the festival, explains that the range has been determined by *Zhabdrung* and cannot be moved.

The archers arrive with battle cries, their horses decked out in their best saddle carpets and head gear. Women and children follow. Suddenly, the winter bare archery fields, brilliantly coloured clothing, and ornately decorated horses all melt together in what looks like the spring tulips of Holland swaying to and fro on the warm winds of spring.

Sha gi Gup gives a short speech and the ceremony begins with an offering of wine to the local deities

This archery match is so unique in many ways. The men in warrior dress outnumber the men in plain clothes; they are unequal teams! Indeed, it is a match of twenty-two against thirteen team players, but there will be no compromise, and so the game begins.

This tournament is not about victor and vanquished, but rather about keeping an



age old tradition alive. Each household must send a man to participate in this game. A couple of hours later the two teams settle for a "Lam Chang," a drink while on the road, and another round of offering and drinking of the local wine. One might rightly wonder if the archery match was conceived simply for an excuse to drink.

The women folk make tea on the spot. Huge pots are placed over three stones with fires burning beneath. There is plenty of tea to drink for all. Warmth and hospitality spark from at least a dozen bright fires spread across the field. The women invite each archer over to taste their tea and wine.

These days when men and women all over Bhutan share more equally in work and life, this village still maintains definite gender roles - just like the old days. Time has stood still for these rural folks. Nothing has changed here and everything seems to be

intact. Or is it so? While they observe *Dhatse* like generations before them, changing times are slipping in.

Gongyul's youth lean into modern songs that crackle in over Bhutan's national radio. Similar to young people the world around, they eagerly soak in the latest tunes, hungry for all that is new and happening. They pick up and remember these tunes much more readily than they do the songs the mountains in these parts have echoed for hundreds of years.

For most of her eighty-two years, Angay Dorji Om has always made it a point to be present at the archery ground. Festival custom demands that only traditional songs, "Zhay lay Chusu" songs, of thirteen numbers are sung.

With her advancing age, the songs are getting rusty even for the zealous old maestro



herself. Since the songs were never written down, and only passed on orally, we may never know how much was absorbed and retained by the old woman. Despite it all, the local songs and dances unfold endlessly under Angay Dorji Om's careful tutelage. Gongyul, at least for the moment, can rest assured that the songs of their village will live on as long as she has a voice to sing.

Nevertheless, it is clear that the rich old traditional songs will soon disappear. For the moment Angay Dorji Om takes a rest or is out of sight, the youngsters break into a modern song.

Lunch can only be eaten when a game is complete. With all the wine and tea, it is no surprise that the archers seem to have trouble hitting their targets, and so it is that the game is some time in finishing. However, with the entire village cheering, at last food is in sight and people settle down on the grounds for a special lunch.

The archers sit in three groups a good distance away from each other. Tradition maintains that they cannot mix, and so they sit with their own community. One group has only four archers. Sitting on both sides of a long cloth, archers are joined by their families. Cooked rice is poured over a long piece of cloth and eaten with treated meat (*marsha*) spiced with chillies. The ever present local wine and tea completes the big buffet.

After lunch the archery continues. With so much drink and banter the outnumbering of an opponent's team matters little now. Everyone plays for fun.

Hugely outnumbered, the plain clothes team is finally beaten by the warrior's team.

Content and happy, the villagers both hoped for and expected this outcome. They believe that the victory of the warrior's team will bring many blessings - a good harvest for Gongyul and very little illness to the village. By the end of the match there are no spectators. Everyone has joined in the traditional dance that forms a huge circle around the chorten.

The third and final day moves to a field much closer to the village. The same fun and ritual of offering wine to the local deities, with equal parts to themselves, continues. Both food and sitting arrangements change at lunch. People no longer sit in different groups. The distance between two targets is longer today but the people are much closer. Harmony prevails as they sit together on the final day.

Lingzhi people grow barley, wheat, and some vegetables, in addition to which they depend heavily on the produce of their yaks. Before the *Dhatse* festival, the farmers are not allowed to put any metal into the soil. No shovel or plough can touch the fields. Only after the tips of the festival's arrows have pockmarked the earth can the farmers start preparing their fields for spring planting.

The last day draws to a close. The game ends early in the evening and dancing abounds on both the archery grounds and in the village.

Bonfires warm cold knees, while hot *bangchang* quenches thirst and fires full bellies. The richness of old melodies rise into a sky brilliant with stars as people sing from their hearts late into the night. One cannot help but wish that the mountains might be alive with the sounds of these beautiful songs till time with no end.

DRUGS AND YOUTH: STILL LOOKING FOR AN ANSWER

Sonam Yangchen, Wangduephodrang

Drug use has been on a constant rise in the country. There are a varying set of factors contributing to the ever rising drug abuse problem. The most vulnerable have been the youth and particularly the youth in the urban centers who have been the most affected. The emerging issues on drug abuse and its impact on youth are showing serious signs of the symptoms. Students skip their classes lured by the pleasurable comfort of smoking cannabis and sniffing substances. Many roam around, looking for options to make a fast buck, driven by the crazy force of the next dosage.

The National Baseline Assessment (NBA) 2009 initiated by the Bhutan Narcotic Control Authority (BNCA) reports drug use as being quite rampant in 14 Dzongkhags of the country. According to the BNCA, between 2001 and 2008, 85 percent of these offenders are youths and majority are males. Among them, students and jobless youths stand out with 539 and 588 offenders respectively.

Of the 1398 offenders, over 90 percent were abusers and 9 percent dealers. Dealers and offenders are both victims of an ill-equipped society. In schools and institutions, students who spend more years to complete their course of studies than was necessary were invariably substance abusers. Theirs is a world completely different from our cares and concerns. The addicts get regular free supply of drugs if new entrants can be hooked and brought in. Free drugs are supplied to beginners until they are hooked completely. The sensitivity of the vulnerable age is

exploited and the current of the mounting peer pressure sweeps everyone off their feet. The parents blame the schools, the schools blame the parents and in between, the children slip away into darkness. And the worst thing of all is that parents are very unsuspecting of their own children and invariably will be the last ones to know.

The change in the social structure of the family with the extended family quickly getting replaced by the nuclear family and the demand for both the parents to work to keep body and soul together is one of the causes for losing grip of our children. Many pick up business ventures to meet the expenses that are escalating by the day. Most children are raised by Television or by baby sitters. Parents keep children occupied with generous sums of pocket money. Some do this to avoid children being nuisance at home while others want to make them happy and still others do it out of ignorance about how the pocket money is being used. When the consequences of hasty change are felt it seems already too overwhelming. A few wise families manage to keep their children safe because of their prudence.

In a Kappan (an educational magazine) Special Report (1987) Richard Hawley writes, "Drugs are taken for the pleasurable feelings it produces – or are rumored to produce," but drugs cannot create or alter feeling without altering the functioning of the brain. An external chemical substance that can produce changes in the nervous system can also cause damages. I have ventured to quote a full paragraph from Hawley below



as it gives a good description that drugs can be subtle destroyers of our life.

But while the brain is the principal organ affected by mind altering drugs, it is an organ ill-equipped to register its own immediate impairment. The brain has no pain receptors, poke it, squeeze it, cut it, pound it and it will not "hurt" (although the consequences will be otherwise dramatic). Because the brain does not hurt when it is injured, brain damage, whether caused by tumor growth, concussion, stroke or drug abuse, often remains undetected until brain function is lost; speech, memory, movement, and so on. In the case of serious stroke, head trauma, or Alzheimer's disease, such losses are dramatic, but we should be no less attentive to losses caused by the use of alcohol and other drugs, even when those losses are subtler and are distributed over a longer period of time.

A couple of doses may reduce shyness but a few more of that reduces more basic functions such as judgment, speech, or motor coordination. The final effect is the loss of consciousness. Even then, the brain never complains of any injury. This is the main problem with drug abuse. It means

when there is no pain in the brain, a drug user can go on until one becomes an addict and a "confirmed user."

Initially a user may experience hangover which is a sign that a healthy system is trying to force out the poison. With some mind altering drugs such as marijuana, hangover is distributed over days and weeks. The user is usually not able to connect the irritation or uneasy feeling with the drugs but rather they make a connection with the family, or friends or other surrounding circumstances. By the time the disposition or behaviour of the users has noticeably altered, he/she has become what is called "burned out." This is when the person becomes a problem. They become dependent on drugs (Hawley, 1987).

The findings of the NBA 2009 reveal that Bhutan has access to quite a variety of mood-altering and dependence-causing substances which can be broadly classified as marijuana, pharmaceuticals and its variations, volatile solvents, brown sugar and alcohol. The assessment also reveals that marijuana is the only drug available locally and the others are brought in from abroad. Despite the availability of drugs, the assessment revealed the lack of knowledge

amongst drug users on treatment and rehabilitation services. The findings also slightly hinted on the possibility of drug use to enhance Sexually Transmitted Infections (STIs) amongst the general populace.

The quality of a society is perhaps apparent from the intensity of its laws. In our legal provisions, there are examples of compassion when educative and preventive measures are made clear. For example, Narcotic Drugs, Psychotropic Abuses and Substance Abuse Act 2005 has provisions under section 35 (a to e) that educational lessons and preventive measures would be provided in order to protect the youth from substance abuse and maybe even addiction. Sections 36 to 41 provide the Bhutan Narcotic Control Agency adequate lee way to take initiatives for treatment and rehabilitation of those already addicted.

These seeds of compassion can make greater impact if they are adequately backed up by financial and human resources to strengthen the programmes developed to address the needs. One of the programmes that is desperately needed at present is the continuous education and raising of awareness among students. There is no evidence to show we know our laws. The recent incident at Bae Langdra in the Sha valley where the farmers were *allegedly* cultivating marijuana in their fields is a case in point. Cannabis is grown wild and plenty all over the place. They are smelly but of little use except for making ropes or kindling a fire when dried. In the farm it is a weed. Few families learnt to feed the tender leaves to pigs and make them sleepy all day which saved the trouble of keeping them from destroying crops. Very few have thought that this physical inertia was helping them to increase their fat and improve the quality of pork. Uprooting the plant will take years before we see the end of it. The last symptom is evident in the fact that we have made laws and established agencies to counter the problems. The Narcotic Drugs Act has a provision in section 98 that 'cultivation and domestication of cannabis shall be an offence' and 'harvesting and

collection is prohibited.' Section 99 says that if it is 'naturally grown, the owner must destroy them.' But how many of us know what section 99 requires us to do until somebody takes us to a detention cell?

The overt growth of cannabis in the field in that village never captured anybody's attention. On the other hand this growth by the local populace can also be taken for granted as natural weeds rather than as a source of evil substance. In either case, this is an example that our people are absolutely ignorant of the fact that it is an offence and that our law does not take cognizance of lack of knowledge of laws.

Section 37 of the Act (2005) says, "The Board shall ensure the establishment of institutions with adequate and appropriate facilities for treatment and rehabilitation services for drug dependent persons and users as approved treatment centers for the purposes of this Act."

In the absence of such an institution the users may be arrested, prosecuted and charged appropriately but no alternative measures are available to remedy the problems. Such offences may be on the increase.

Section 500 of the Penal Code of Bhutan (2004) renders a person guilty of offence if the person "possesses or uses any psychotropic substance or narcotic drugs without the prescription of a registered doctor." Use of a substance is graded as petty misdemeanor while possession is of such quantity that the court is of the opinion that it is intended to sell, then the charge is graded as misdemeanor. A person can pay for the penalty instead of imprisonment.

It implies that, unless the basic Buddha nature in the person arises in time, he/she may see it as an opportunity to double the loss incurred. The target again will be the innocent youth who have been somehow lured to the substance through peer pressure and forced circumstances which gradually lead the person to habitual pursuit of the substance.

Between the scientific evidences of what drugs can do to our body and the prescriptions in laws, there does not seem to be any concrete answer to the problem. Unless some drastic steps are taken, we may be losing a good proportion of our younger generation to the clutches of the laws, and being under the influence of drugs and alcohol, they may

find themselves caught up in other related offences. Therefore, the maze will be more intense. Once they come out of the cells, there are very few opportunities they can avail. We are in the country of happiness and there must be some way out of this maze.



HALO OF RAINBOWS AND LIGHTS IN THE SHADOW OF MY KING

Rinzin Rinzin, Lhuentse

Of excitement and anxiety

When I was honoured with the news that our Druk Gyalpo was on his way to Lhuentse to launch the Land *Kidu* Program, honestly, I was full of mixed feelings- excitement and anxiety alike. Excitement, because His Majesty had chosen my constituency, my birthplace, to launch the historic land reforms; a magnanimous project that I thought then was going to be a Herculean task for any mortal to undertake.

Furthermore, I was going to be on the entourage, although I did not know for how long then. Anxiety, because I had no clue as to how I could best serve my King during such a historic and auspicious occasion. Nevertheless, His Majesty granted me and my two colleagues from the National Assembly the privilege of being on the Royal

entourage throughout the tour. Then, right at the end of the first day of the tour, I found myself already looking forward to the rest of the tour, and the anxiety that I had felt from the time I heard about the tour had magically faded away.

While the tour, the Land *Kidu* Program in Lhuentse to be specific, was a grand success, I must confess that I could not make any significant contribution to it. On the contrary, I had the opportunity, privilege and the honour of many phenomenal and highly enlightening experiences, which I will always have the privilege of cherishing for all times to come. Perchance it takes a combination of time, distance and opportunity to live to see as well as get a first hand experience of a great being at work. Since I have had the fortune of such a combination, I know that it would be utter selfishness on my

part not to share those wonderful experiences with my fellow countrymen. Therefore, I will make a modest attempt to share a few of them the way I remember them, the way I experienced them and the way my limited penmanship would permit me to put in words. However, I neither intend to be judgmental on the persona of our Druk Gyalpo nor narrate a sequential event of the Land *Kidu* program in Lhuentse that was carried



out under the benevolent leadership of His Majesty himself from 11th to 31st March 2009. Furthermore, I must warn the readers that given the constraints of time and space, I shall not rewrite what the readers are already aware of through the media.

A Kidu like no other

On the first day of the tour, His Majesty made historic land reforms by launching the Land *Kidu* Program at Domkhar. His Majesty personally went through the land records of each and every household in Tsankhar Geog and granted audience to both landowners and the landless people alike. His Majesty patiently talked to and listened to every one of them. After the audience, to everyone's relief and great joy, His Majesty commanded that all the excess land that the people had been using thus far were being granted as *Kidu* to them. Moreover, all the landless people were also granted land *Kidu*. This meant that all those land that the people did not own legally but had been knowingly or unknowingly using them, for generations in most cases, were legally theirs for all times to come. This also meant that their problems like land disputes, lack of money to pay for excess land, fear of losing the excess land that they were in great need of, so on and so forth were all solved for all generations to come. And, there will no longer be any landless household in their Geog. Thus, the people of Tsankhar Geog were so taken by surprise by His Majesty's great wisdom, vision and generosity and were overcome with jubilation.

I was confident that His Majesty understood the people's sentiments, for His Majesty would often say, "*Land is something that is closest to people's heart. People in the villages need enough land to be able to sustain their livelihoods.*" and, the most visionary and generous *Kidu* was replicated all over Lhuentse Dzongkhag within the next 20 days. Furthermore, His Majesty granted numerous other *Kidus* like scholarship to destitute students and those who could not complete their studies, lifetime financial support to the aged and physically challenged

who had no reliable relatives to support them, fully funded medical treatment beyond Lhuentse and so on. And, all these *Kidus* were delivered to the people at their doorsteps.

Truly the People's King

During the twenty one-day-program, everywhere we traveled people of all ages from all walks of life flocked to His Majesty the King. Many had walked for hours and even days to make it to wherever His Majesty's presence was expected to either grant an audience to the public or just pass through. And, many had come not for the Land *Kidu* but with the hope to chance a glance of our newly crowned Druk Gyalpo in person and to offer His Majesty their love and prayers of good wishes. Everywhere the entourage went, hundreds of people lined up along the road sides or on the outskirts of the villages to offer their respects to His Majesty. Even the aged, the deaf, the dumb, the blind and the physically challenged braved the narrow and steep mountain tracks to come and see and/or hear His Majesty. It really did not seem to matter to them if their impaired senses did not give them the complete pleasure of seeing or hearing His Majesty. It seemed to be enough that they were there to pay their homage to their Druk Gyalpo.

People everywhere welcomed His Majesty wholeheartedly with *Marchang* and/or *Tshogchang* and offered His Majesty and the entourage whatever humble refreshments they could like *ara*, *bangchang*, *singchang*, milk, tea, bitten maize, dry-fried-rice, brightly coloured boiled eggs, popcorn and even tree tomatoes. They also submitted to His Majesty their appreciation of His Majesty's visit and His Majesty's generous *Kidu*, offered His Majesty *Tashi Khadar*, pledged their unwavering love, loyalty and dedication and prayed for His Majesty's long life. People sang and danced in jubilation. The soothing traditional songs that the village folks sang often rings in my ears even to this day. And, His Majesty always conveyed his appreciation of the people's hospitality and showered them with gifts of all sorts-



blankets, cloth, walking sticks, prayer beads and many more- often reminding us that "*no one should be sent back empty handed.*" Many genuinely needy people were also given *Kidu* of land or scholarship or lifetime financial support or fully funded medical treatment outside Lhuentse.

His Majesty has immense love and compassion for the aged, the physically or mentally challenged and most of all children. Everywhere the entourage went, I noticed that His Majesty always had an eye for them even amidst all the cacophony of gatherings of hundreds of people. His Majesty always approached them, spoke to them and held their hands or put his hand over their shoulders and held them close to his body. I noticed that many onlookers as well as those who had the privilege of being directly spoken to or touched by His Majesty relieve tears of joy at His Majesty's great love and concern for the people. Such simple but profound conduct undoubtedly shows that His Majesty considers "*Our people as our country's greatest wealth.*"

One day His Majesty was granting audience to two groups of students, about which I will make a mention later. After the first group of

students had left, His Majesty and Her Royal Highness Ashi Dechen Yangzom Wangchuck sat down in the tent on a carpet laid on the ground with the three of us, at the same level with us. His Majesty was most generous as to share with us some of his innermost, most profound, sincere, and highly visionary thoughts. And, he did it with such openness and friendliness that, I must confess, for a brief moment there I almost forgot that I was sitting in the presence of my King. Thus, while I was totally humbled by His Majesty's humbleness and openness, I felt much more honoured and euphoric, feeling utterly reassured that we have a King who feels for the people, who works for the people and who lives for the people. A King who is but truly the People's King. After all, at least I know of not a single leader in the world who had ever had even the civility of saying "*I am deeply fortunate that I don't have the day to day worries and concerns of a normal family man. Therefore, my only goal is to serve the people and country*" but our King. And, to know that it comes from his heart and to see that he means it is more than touching. It is an overwhelming inspiration to any patriot to tread in his noble steps in serving one's fellow countrymen and one's beloved country.

The personal touch

While on the tour His Majesty took great pleasure in visiting each and every school, monastery and as many households as possible. No matter how tiring the day's trek and work were or how harsh the natural conditions, His Majesty took great pleasure in meeting as many people- farmers, students, monks, businessmen and civil servants alike- as possible. Every village we visited, His Majesty tirelessly visited as many households, mostly the economically disadvantaged, as possible. Door-to-door, he personally studied the socio-economic conditions of those households by inspecting the houses and interacting with the members of the households. Wherever necessary, His Majesty granted appropriate *Kidus* on the spot.

While in a school and/or by a roadside with students, His Majesty addressed them and conversed with them and their teachers with unparalleled love and patience. Often His Majesty would narrate stories to the children in a language that the youngest of them all could understand. And, no story was ever told without a moral like *one must build up a solid foundation right from the beginning so that one can stand on his/her own feet in life, that one must always try to excel in what one does, that one must be honest and sincere to oneself and others and in everything that one does, that united we stand and divided we fall...* Watching our King thus, I could not help but often envy those students for their fortune. After all, not many students in the world ever get the opportunity to talk face to face with a King or eat with him or take a photo with him, get a pat on the back from him, get a kiss on the cheek from him, feel his warm embrace, receive gifts from him and above all, receive his guidance that gives you the much needed inspiration to take you forward.

One afternoon, we, the three MPs, had yet another great honour and the privilege of witnessing the Druk Gyalpo granting audience to two groups of school children. When we rushed to the tent outside the

Royal Guest House after having received the Royal Command, we saw His Majesty, HRH Ashi Dechen Yangzom Wangchuck and HRH Dasho Jigyel Ugyen Wangchuck sitting in front of a group of children. No sooner had we paid our respects, His Majesty invited us, in his ever friendly voice, to sit near him, and informed us that the children were under the Scholarship Program for the Destitute. This we knew was one of the many noble programs under the Druk Gyalpo's *Kidu* Program. His Majesty also informed us with a sad and tender expression on his face that they were children from economically disadvantaged family in Lhuentse who could not afford to go to school, and that they were mostly from broken families.

Seated on a carpet, at the same level with the children who seemed to be closest to his heart, His Majesty addressed each child with his/her name and asked how he/she was doing, how his/her mother or some other relative who had ulcer or some other problems was doing or whose brother who had gone to Thimphu looking for a job was doing, how his/her grand mother/father/uncle/brother/sister who was/were at home was/were doing.... Tirelessly, with the patience and compassion of a Bodhisattva, His Majesty conversed in great length with every single child without a tinge of prejudice. The more I watched and listened to His Majesty interact with the children, the more I felt my heart in my throat that for a moment or two, I just had to momentarily turn my face away to hide my tears. And, finally when the children took leave, their frail arms happily filled with their Druk Gyalpo's shower of generous gifts, the jubilations in their hearts was clear in the smiles on their innocent young faces and twinkling bright eyes. And, something deep inside of me told me that at that moment 'destitute' was no longer a word that could be associated with them, and that each of them had already got the most needed torch to guide him/her towards a lifetime of happiness. What can be a better *Kidu* than a wholesome education and His Majesty's personal touch- the lights that clear the darkness of one's life- for such children, I thought.

Later His Majesty granted audience to a group of outstanding students. During His Majesty's inspirational talk, His Majesty emphasized on the need to excel and compete not only amongst themselves but beyond the national horizons. "*Education is the root to our country's economic development,*" said His Majesty. His Majesty also explained in a layman's words that our youth will do well in life if they are educated and provided proper guidance. And, only if they do well in life can they serve their own parents and then our country. "*So, the first thing to do is to work hard and try to do well in whatever you pursue in life,*" encouraged His Majesty.

Then, His Majesty awarded the students certificate of recognition written in his own hand. His Majesty conscientiously filled up some of the certificates and signed them on the spot. "They are the luckiest students I have ever seen," I murmured to one of my colleagues. "Even after this, if they don't do well, I wouldn't know what to make of them!" I added feeling thoroughly elated for those fortunate students.

Something interesting about the two groups of students was that one group was composed of destitute students and the other outstanding students. And, there were students who belonged to both the groups.

On the wheels of love for the people

"Jigyel, Rinzin and Sangay Khandu, get on the horse back," commanded His Majesty. Totally taken aback, I turned to HRH DASHO Jigyel Ugyen Wangchuck, my nervous eyes searching his friendly face for a solution. I had never ridden a horse in presence of my superior, except that of my parents when I was a little boy in Kurtoe. Besides, my limited knowledge on etiquette instantly reminded me that I was not supposed to ride a horse in presence of my superior, let alone the Druk Gyalpo.

"Get on the horse," resounded DASHO Jigyel, his face glowing with the understanding of a yogi. "It's okay. It is His Majesty's command,"

reassured the wise prince.

The *Tapoen* helped me on to a huge, well-built and handsome Kham Zilingta. For a minute or two, I was so rattled that I really did not seem to be keeping myself abreast of my surroundings. Slowly I composed myself, raised my head and looked ahead to see if my King was riding. To my utmost surprise, His Majesty was walking. Nervously I tried to get off the horse but one of the attendants reminded me of His Majesty's command, so I just rode on.

As the entourage trekked up the narrow valley led by His Majesty, only the three of us riding, I looked back and forth a couple of times and murmured a solemn prayer. It was a great honour. Well, as for His Majesty, during the entire trip, His Majesty rode a horse only twice and that too for a total of less than ten minutes. And, when he got onto a horse for a few minutes for a second time after commanding three of us (MPs) to ride but he himself got off the horse and commanded us to keep on riding, my gut feeling told me that His Majesty had done it in the first place not because he was tired of walking, but only to make us feel comfortable to ride in his presence.

Furthermore, something inside of me told me that His Majesty wanted to meet the people more as a person than as a King. Whatever the reasons, all I know is that no matter how fast or far or long a trek was, I never saw His Majesty panting or sweating. His Majesty once said to the three of us, "*My age is my biggest asset. I never feel tired.*" But, I remember very clearly that I used to feel tired when I was His Majesty's age, and I have not seen many young people who can walk or work like His Majesty. Therefore, while I believe that His Majesty's physique, endurance and intelligence are all genetic wonders, I honestly think that His Majesty's exceptional endurance is more a product of genetic trait and his love for his people whereby the value of the later factor is much higher than the former. So, I guess I can just about say that His Majesty does not feel tired because he walks on the wheels of love for his people.

A fellow citizen in a King's guise...

His Majesty did not only share his own steed with us but also his other facilities. At the end of the first day of the tour, one of His Majesty's officers on duty approached the three of us (MPs) and said, "His Majesty wishes you all to take rest now. On His Majesty's command, a tent and bonfire have been prepared. Your meals and whatever refreshments you desire shall be served in your tent. You just need to let us know," and ushered us to our tent. We were taken totally by surprise since we had not expected any logistic arrangements for us by anybody and

yet another two honours by His Majesty. At around 7:00 A.M., one of His Majesty's attendants visited us to find out if we had been brought hot water from the kitchen for washing up.

"There is no need of hot water," one of us said as a matter of fact since the temperature of the water that we had access to, though cold, was manageable, and we had already cleaned up ourselves. "Who sent you?" was our next question.

"His Majesty, Sir," responded the man to our utmost surprise. We were so touched and humbled that for a moment all we could



as a matter of fact we had just discussed among the three of us that we should request some village folks for the night's shelter. So, we followed the officer dumbfounded and extremely honoured. Right after the officer had left, unable to contain our excitement, the three of us set out to light the bonfire and make ourselves comfortable. We also learned that His Majesty graciously granted the same logistic arrangements to the sole lady officer in the entourage as well.

Early next morning, we were showered with

do was look at one another. Despite our insistence that we would be fine using the accessible cold water, the man came back after a few minutes with a bucket of hot water.

A King who worries if we, his subjects, had gotten hot water to wash our faces! We were lost for words. His Majesty also seemed to be constantly worried whether we or others accompanying the Royal entourage had eaten on time, had enough rest or simply if we were alright.

Sometimes, when we took a break to partake our packed lunch, His Majesty would send us a Tiffin of one of his recipes through one of his attendants. The first night at Gortsum, feeling a bit exhausted after a long day's walk, the three of us retired for the night a bit earlier than usual. AT 10 p.m. one of His Majesty's attendants walks into our tent with a basket of sausages and other snacks and says, "His Majesty sends the three of you these. Since you must all be very tired, His Majesty wishes you all to take a good rest." The very next day His Majesty shared his entire packed lunch with us, and we ate in a farmer's house seated on the floor in almost a circle just like a rural Bhutanese family at a meal.

On the way to Gortsum, as village folks from Manjebi and Dangleng villages hosted a *Tshogchang* after His Majesty granted an audience to the gathering at Manjibi, we had an unexpected shower of rains. Everyone put on their raincoats, including His Majesty. Upon noticing that a cameraman from the Bhutan Broadcasting Service (BBS) - did not have a raincoat, His Majesty took off his own raincoat and gave it to him saying, "Take this. I can use an umbrella. That office camera is very expensive and you have a difficult job. You must take good care of it and yourself."

Thus, if anyone had ever felt as if he/she was in the company of a fellow citizen in a King's guise when he/she was in presence of the Druk Gyalpo during the entourage, I guess it was just because His Majesty's love, compassion and wisdom were as profound as those of *Rigsum Gonpo*.

A lotus will beget a lotus

A warm smile, a friendly gesture, a pat on the back, a few kind words, a kind glance, a

holding of hand, a kiss on the cheek, a warm embrace, a hand over the shoulder or posing for a picture with, all seem so simple but I know are priceless moments when it but comes from the Druk Gyalpo himself. And, it humbles me greatly to be able to tell the world and all my children and grandchildren to come that I and hundreds of Kurtoeps had the honour and privilege of enjoying it all during His Majesty's entourage to Lhuentse to launch the Land *Kidu* Program. A renowned Buddhist master had once said that only a rose will beget a rose and a lotus a lotus. Today, having had the opportunity to be a living witness to the most gracious and noble conduct of our beloved Kings, the Druk Gyalpo and the Fourth Druk Gyalpo, not a hair on my body shall move to contest what the great master had said. Rather I will always take great pride that I was born a Bhutanese during the reign of such great Kings whose greatness was never paralleled in any human history and shall never again be paralleled. And, knowing full well that the generations of Bhutanese who shall follow me and those of my generation shall rejoice in the ambrosia of well being and happiness that shall flow from the magic trees of Gross National Happiness- the seeds of which were sown by the Fourth Druk Gyalpo- that the Druk Gyalpo nurtures. I shall be a content man, but always hunger to walk in the noble paths of our Great Kings, and be a messenger of love and happiness amongst my fellow countrymen. Lastly, I know that to wish that I get many more or even another chance to walk in the shadows of my King and enjoy the halos of rainbows from his compassion and pure white lights of knowledge from his wisdom would be utter selfishness. Nevertheless, I wish the same for many more Bhutanese patriots so that they may also possess the treasure that I have the honour and the privilege of cherishing for as long as I shall live.

LAW-MAKING IN BHUTAN

Sangay Khandu, Gasa

1. General

The Constitution of Bhutan states amongst other things, how the legislature should conduct its legislative process. In addition there are the relevant Rules of Parliament that have a bearing on law-making. An initial draft of the Rules of Procedure for Joint Sitting of the Parliament remains to be worked upon to have a more comprehensive and systematic approach towards conduct of business.

Article 13 of the Constitution defines the process of lawmaking in our Parliament in eleven sections, more specifically, the process of passing of bills in order to enact laws. It outlines the steps from originating a bill to finally granting assent by the Druk Gyalpo to turn a bill into law.

2. Legislative Authority

Our Constitution empowers the Parliament as the only legislative body in the country, to pass new laws, amend existing laws and repeal old laws.

Excerpt from the Constitution:

There shall be a Parliament for Bhutan in which all legislative powers under this Constitution are vested and which shall consist of the Druk Gyalpo, the National Council and the National Assembly. (Section 1, Article 10)



Local Government

It is felt important here to introduce the topic of Local Government. As the nomenclature suggests, the body is very local and does not have any legislative authority. The Dzongkhag Tshogdu, the Gewog Tshogde and the Thromde Tshogde are responsible for introducing by-laws as mandated by Article 22 of the Constitution.

Excerpt from the Constitution:

Power and authority shall be decentralized and devolved to elected Local Governments to facilitate the direct participation of the people in the development and management of their own social, economic and environmental well-being. Local Governments shall ensure that local interests are taken into account in the national sphere of governance by providing a forum for public consideration on issues affecting the local territory. (Sections 1 and 3, Article 22)

A by-law may be enforced only after it has been published in the official gazette of the relevant province. The practice in our case has been a public notification or announcement either through the broadcast or print media; this is keeping in mind that the laws must be made accessible to the public. Circulation and public reading is the current practice.

3. Law-making Process:

The Constitution categorizes bills into two general categories, i.e., money bills or financial bills and other bills under section 2 of Article 13. It also prescribes the parliamentary process through which each type of bill must go before it can be passed by Parliament and become law.

A Bill could be:

- (a) a standard Bill
- (b) money/financial Bill
- (c) for Amendment of the Constitution

A visible and significant difference between other bi-cameral systems here is that the origination of bills could be from any of the Houses of Parliament (subject to exceptions under section 2, Article 13).

a. Preparing Legislation

Parliament considers draft pieces of legislation in order to exercise its power to make laws. The draft legislation, first called a Draft Bill and later a Bill, must formally be submitted to Parliament before it can consider making it a law. Most Bills are prepared by government departments under the direction of their minister.

The question that often arises in our minds is that, when an agency (other than the Parliament) drafts a Draft Bill; does that translate into infringing the legislative rights of the Parliament. There are several examples of specialized agencies utilized for such purposes in many democracies in the world. However, it is to be borne in mind that an agency or to be precise, a ministry takes up the task of drafting a Draft Bill, it is under the auspices of the minister concerned and therefore, a member of the Parliament and furthermore, within the purview of delegated legislative authority.

The preparation of a Bill involves a number of steps, for example the investigation and evaluation of the legislative proposals and consultation with stakeholders. An Illustration of some prevalent practices may make our own process clearer.

(i) Green and White Papers

The Government puts forward its broad statement of policy and involves stakeholders for feedback and comments. Although, in some countries, before a policy announcement is made in the public domain, another intermediary stage where through a green paper,

the government often puts forward its proposals in a paper, a discussion document on policy options is also used. This is published for comment and ideas from stakeholders. These instruments become the basis for Draft Bill(s).

A submission date is usually given for input from civil society and public at large.

(ii) Cabinet Approval

Once all relevant inputs have been taken into account, the minister and departmental officials draft the legislative proposals. These are usually in the form of a Draft Bill and an explanatory memorandum. The minister will submit these documents to Cabinet in order to obtain approval for the introduction of the Bill in Parliament.

(iii) Certification by the Office to the Attorney General

After Cabinet approval, a copy of the Draft Bill is sent to Parliament. However, before the submission is formal, the office of the attorney general must be approached to certify the Draft Bill. The role of the office of the attorney general is to ensure that the proposed legislation is in line with existing law and the provisions of the Constitution. If they are satisfied that the Bill is technically correct and the provisions are legally sound they approve the Bill (called the "certification" of the Bill). The Bill is then ready to be formally submitted to Parliament.

Excerpt from the Constitution:

The Attorney General as the chief legal officer shall be the advisor to and legal representative of the Government. The Attorney General shall have the right to appear and express opinions in any legal question in Parliament. (Sections 3 and 6, Article 29)

b. Introduction of a piece of Legislation

In Parliamentary language the introduction is called "tabling". Once the legislation becomes a document of Parliament the appendage "Draft" falls away.

Only a cabinet minister, a committee or an individual member of the National Assembly introduces a Bill in the National Assembly and only a committee or an individual member of the National Council introduces a Bill in the National Council.

All Bills are introduced only after prior notice of the tabling has been given in the Government Gazette. It helps if the notice is accompanied by an explanatory summary of the Bill. If the Bill itself (instead of a summary) is published, it would be beneficial for the notice to contain an invitation to interested persons to submit written representations to the secretaries of Parliament (Secretaries of the National Council and the National Assembly), which has been the practice with the National Council in the few of the earlier sessions of Parliament and its deliberations. This ensures public ownership and therefore, a more pragmatic approach towards enacting public-friendly laws.

i. House Business

(a) First Reading

A Bill becomes part of the programme (Agenda/Business Order/Order Paper) when it is "read for the first time".

(i) Portfolio Committees

After the first reading stage the Bill is referred to a committee of the House for consideration. In the House these committees are called portfolio committees.

If there is public interest in a Bill, the committee may organise public consultations to allow stakeholders to submit written comments and sometimes make oral representations on the provisions of the Bill. The members of the committee are then tasked with considering and debating the Bill in order to determine whether they are satisfied. If they are not, they amend the Bill.

(c) Second Reading

At the conclusion of its work the committee submits the Bill, together with a report, to the House for debate (called the second reading debate) and a vote. If the House passes the Bill, it is referred to the other House for its consideration and thereafter, provisions of Article 13 shall apply.

Some parliaments have provisions for three readings, however, in our case, given under section 5 of Article 13 of the Constitution, a clearer understanding and interpretation is needed.

Excerpt from the Constitution:

Where a Bill has been introduced and passed by One House, it shall present the Bill to the other House within thirty days from the date of passing and that Bill maybe passed during the next session of Parliament. In the case of Budget and Urgent Bills, they shall be passed during the same session of Parliament.(Section 5, Article 13)

This clause assumes that the Bill would be passed by the end of the next session of Parliament. However, it also leaves uncertain areas for one to assume that incase the Parliament fails to do so, the Bill would be rendered a *Dead Bill* and consequently, the Bill would have to start its initiation once again at a later point of time. Depending on how it is interpreted, the introduction of a third

reading which would mean, inserting another step before the third reading referred to as the *committee stage* would be plausible. This would mean that the second reading would turn into a more informative pronouncement in the House without debate. This would be followed by the *Committee Stage* and then the reading would follow based on the report and recommendations of the portfolio committee in the House for vote.

4. Amendments to the Constitution

Excerpt from the Constitution:

A motion to amend the Constitution under section 1 of this Article shall be initiated by a simple majority of the total number of members of Parliament at a joint sitting and, on being passed by not less than three-fourths of the total number of members in the next session at a joint sitting of Parliament, the Constitution shall stand amended on Assent being granted by the Druk Gyalpo. (Section 2, Article 35)

5. Signing the Bill into Law

A Bill is referred to the Druk Gyalpo after it has passed through the National Council and the National Assembly. The Constitution requires that the Druk Gyalpo grant assent to a Bill in order for it to become law. Provisions for exception are outlined under section 3 of Article 35 and by way of extension, sections 1, 3 and 4 of Article 34 of the Constitution.

However, a Bill that has been granted assent and signed becomes an Act of Parliament and must be shortly thereafter, published in the Gazette. An Act becomes binding on everyone when it is published or on a date determined in the legislation.

6. Joint Sitting of Parliament

Situations under which a joint sitting of Parliament would take place.

- (i) Incase of invoking a Council of Regency as per section 7(c) of Article 2
- (ii) Incase of abdication of the Throne as per section 20 of Article 2
- (iii) Incase of the opening and closing of Parliament as per section 6 of Article 10
- (iv) Incase of the State of Nation address by the Prime Minister as per section 10 of Article 10
- (v) Incase there are differences and disagreements over Bill(s) as per section 8 of Article 13
- (vi) Incase the Druk Gyalpo does not grant assent to bill(s) as per section 10 of Article 13
- (vii) Incase of extension of proclamation of emergency as per section 3 of Article 33
- (viii) Incase a constitutional amendment is to be made as per section 2 of Article 35

Incise of joint sitting under section 8, Article 13 of the Constitution, a joint ad hoc committee maybe constituted by the Parliament to move forward and arrive at an understanding and agreement when faced with a deadlock. On receiving a Royal command for a joint sitting, the ad

hoc joint committee then submits its report and recommendations to the Parliament for vote.

However, there still remain a few questions unanswered. What happens if and when a money/financial Bill is not passed? What happens when an urgent Bill is rejected? It is a practice in several democracies that when a money/financial Bill are not passed, it indicates the incapability of the more essential function of a Government and therefore, all economic development would come to a halt. This translates into dissolution of the Government. As for urgent Bills, declaration of what or which Bill is urgent seems to be key. It is expected that an *Urgent Bill* may not be rendered *dead* as it is expected that the Bill's significance warrants passage. In order to do so, it is very vital that only the most critical Bills be pronounced urgent. As for the mechanism to pronouncing a Bill as Urgent, keeping in mind the provisions of the Constitution, with three-fourth majority support, incise of both Houses and joint sitting, a Bill could be pronounced Urgent.

Note: The legislative concepts and procedures contained in the article represent the personal views of the author and may not necessarily reflect the actual procedures being followed by this government or Parliament – Editor.

ZHABTO LEMI CHATHRIM: THE NEED FOR COMPLETING THE LAW-MAKING PROCESS

Sonam Kinga, Tashigang

I. Context

Despite intense deliberation on *zhabto lemi* in the two houses of Parliament in its second session, the exact legal status concerning its mobilization and contribution remains unclear. This has generated lots of confusion among the people and even among parliamentarians due to the manner in which Zhabto Lemi Chathrim 1996 (hereafter 'Chathrim') had been supposedly 'repealed'. On the one hand, people are still required to provide *zhabto lemi*, which some people perceive to contradict a Parliamentary decision. On the other hand, the government considers some form of *zhabto lemi* contribution necessary for minor community works since the Parliament had not abolished it completely. Owing to the urgency for a need to clarify the exact status of *zhabto lemi*, it is important to reflect on what has actually happened in Parliament and what could possibly be done to address this concern.

II. What happened first

The National Assembly passed the Zhabto Lemi Repeal Bill 2009 (hereafter 'Bill') in its second session and sent it for deliberation in the National Council. This Bill had two parts. The first part, which had only two sections, proposed the repeal of the Chathrim. The sections are as follows. 1) This Act may be called the Zhabto Lemi Chathrim Repeal

Act, 2009. 2) The Zhabto Lemi Chathrim, 1996 is hereby repealed. The second part included a proposal by the National Assembly (hereafter, the proposal), which indicated that Section 3 of the Chathrim that outlined the 'Aims and Purposes' of *zhabto lemi* should be retained although the Chathrim itself was to be repealed. Besides, it also stated that the resolutions of the 85th and 87th session of the former National Assembly concerning *zhabto lemi* should be retained. It also outlined the modalities and activities for mobilizing *zhabto lemi*.

The National Council did not pass the Bill because it viewed the Bill as an amendment rather than a repeal Bill. When an Act is repealed, it would mean that it is no longer valid. However, if certain sections of that Act were retained, the Act would then be amended instead of being repealed. Hence, the Zhabto Lemi Chathrim Repeal Bill, 2009 actually amended the Zhabto Lemi Chathrim, 1996. The reasons are as follows.

1. Although the Chathrim was to be repealed, the proposal stated that one of its sections, i.e. Section 3 would be retained. Since this section outlined the aims and objectives of *zhabto lemi* (see below), what was being proposed was not the repeal of the law but its amendment in order to retain some forms of *zhabto lemi*.
2. After proposing the retention of

Section 3, the proposal also suggested that the resolutions of the 85th and 87th sessions of the former National Assembly concerning *zhabto lemi* be acknowledged. These resolutions actually identify community works for which *zhabto lemi* needs to be mobilized. Thus what happens is that *zhabto lemi* as an activity is not being abolished but the law that governs this activity is

being amended. The interesting aspect of this proposal is that just like these resolutions, section 4 of the Chathrim also identifies categories of community works for which *zhabto lemi* need to be mobilized. Therefore, the proposal to uphold these resolutions technically becomes a proposal to amend section 4 (see table below for details).

Sectors	Zhabto Lemi Chathrim, 1996	Resolutions of 87 th session of National Assembly	Remarks
Education	Renovation and maintenance of primary and community schools	Renovation and maintenance of community schools	Primary schools are not included in the 87 th session
Health	Renovation and maintenance of Basic Health, health sub-posts and water/sanitation	Not included	This means that any work under Health and Animal Husbandry sectors listed here would not be done with <i>zhabto lemi</i> contribution if the proposal were accepted.
Animal Husbandry	Renovation and maintenance of Livestock Extension Centres	Not included	
Agriculture	Renovation and maintenance of Livestock Extension Centres, storage facilities and farm roads	Farm roads	Although the 87 th session resolutions identify farm roads as categorized by the Ministry of Agriculture, the new guidelines for road classification would determine if <i>zhabto lemi</i> is required for farm road maintenance.

Sectors	Zhabto Lemi Chathrim, 1996	Resolutions of 87 th session of National Assembly	Remarks
Irrigation	Renovation and maintenance of irrigation channels	Renovation and maintenance of irrigation channels that are less than 5 km long.	It was reduced from 10 kms.
Forestry	Renovation and maintenance of Community Training Hall and community plantation	Not included	This work would also no longer be done with <i>zhabto lemi</i> if the proposal was accepted.
Division of Works and Housing	<ul style="list-style-type: none"> a. Renovation and maintenance of Rural Water Supply Schemes (RWSS) b. Suspension and traditional bridges c. Mule track and farm roads 	<ul style="list-style-type: none"> i. Renovation and maintenance of rural water supply tanks and pipelines ii. Suspension bridges iii. Mule tracks and farm roads 	<p>Rural water supply for supply lines that are less than 10 kms.</p> <p>Comments on farm roads would be as above.</p>
Lhakhangs and Chortens	Restoration and maintenance of local Lhakhangs and Chortens	Minor repairs and renovation of <i>lhakhangs</i>	Chortens are not mentioned in the resolutions

3. The proposal also suggests a new modality for mobilizing *zhabto lemi*. It has three aspects. One, maintenance of basic services will be left to local communities. Two, local leaders will identify and decide on such activities and timing of work in close consultation with the concerned communities. Three, a Memorandum of Understanding (MoU) will be drawn up between the government and communities for every scheme on

the modalities of basic maintenance. But Section 5 of the Chathrim is also about the modality of mobilizing *zhabto lemi*. It has two sections:

- i) The participant shall be on the basis of Miphu/Gung/Threlkang or Sathram.
- b) The working seasons will be determined by the Gewog Yargay Tshogchung and Dzongkhag Yargay Tshogdu respectively. Therefore,

the proposed modality also amends Section 5.b of the Chathrim.

4. Finally, the proposal suggests how *zhabto lemi* would be mobilized hereafter. Yet again, section 5.1 of the Chathrim stipulates how *zhabto lemi* would be mobilized. It has four parts. The proposal that suggested the signing of MoU is about how *zhabto lemi* would be mobilized hereafter. Thus, this also amends section 5.1 and not repeals it.

It is for these reasons that the National Council viewed the Bill as one that amends the Chathrim rather than repeal it. Hence, it sent a message titled 'A Critique of the Zhabto Lemi Repeal Bill 2009' to the National Assembly. The main aspects of the message were as follows.

1. Since the National Council felt that the Bill was actually an amendment Bill, it proposed a re-structured Bill for deliberation in the joint sitting of the Parliament. The re-structured Bill was not a new Bill but arrangement of the proposal in the format of a Bill. The National Council indicated that it could support this Bill, which would be called Zhabto Lemi **Amendment** Bill 2009 instead of Zhabto Lemi **Repeal** Bill 2009 (see the re-structured Bill below).
2. The National Council suggested that the legislative committees of the two houses meet to either endorse or reject the re-structured Bill before tabling it in the joint sitting.
3. The National Council also indicated that irrespective of whether the Repeal Bill or the re-structured Bill was passed in the joint sitting, the resolutions and recommendations passed in its second session and submitted to the government needs to be considered. The recommendations were to make *zhabto lemi* more equitable among different communities in rural areas and between rural and urban

communities. In other words, there would still be a Zhabto Lemi Chathrim, with amendments proposed by the National Assembly. When the Chathrim is implemented once the Parliament passes it, the government could consider the recommendations of the National Council.

Text of the re-structured Bill sent by the National Council to the National Assembly. This text is based on the 1996 Chathrim. The provisions deleted (by a line) are based on the National Assembly's proposal and resolutions of the 87th session of the former National Assembly.

1. Title and Extent

- a) This Bill may be called the Zhabto Lemi Chathrim Repeal Act Amendment Bill, 2009.
- b) The Zhabto Lemi Chathrim, 1996 is hereby repealed amended.

2. Aims and Purposes

- a) **Principle of People's Participation:** The participation in Zhabto-Lemi shall be based on benefits and welfare that accrue to the community due to construction, renovation and the maintenance of community or public facilities and amenities.



b) Principle of local self-reliance: Beneficiary shall maintain facilities and amenities so that community's use of such services can be increasingly sustained by local efforts and initiatives.

c) Principle of decentralized decision-making: The power of making decision for the development of Zhabto-Lemi to create and maintain community facilities and amenities is vested in Gewog Yargay Tshogchung Tshogde, or depending

on circumstances in Dzongkha Yargay Tshogchung Tshogdu, in accordance with the principle of decentralization of decision-making.

3. Project/Schemes falling within Zhabto-Lemi

The projects/schemes to be implemented with *zhabto lemi* participation should be within the concerned *gewog*. The schemes are;

SECTORS	ZHABTO LEMI CHATHRIM, 1996
EDUCATION	RENOVATION AND MAINTENANCE OF PRIMARY AND COMMUNITY SCHOOLS
HEALTH	RENOVATION AND MAINTENANCE OF BASIC HEALTH, HEALTH SUB-POSTS AND WATER/SANITATION
ANIMAL HUSBANDRY	RENOVATION AND MAINTENANCE OF LIVESTOCK EXTENSION CENTRES
AGRICULTURE	RENOVATION AND MAINTENANCE OF AGRICULTURE EXTENSION CENTRES, STORAGE FACILITIES AND FARM ROADS
IRRIGATION	RENOVATION AND MAINTENANCE OF IRRIGATION CHANNELS
FORESTRY	RENOVATION AND MAINTENANCE OF COMMUNITY TRAINING HALL AND COMMUNITY PLANTATION
DIVISION OF WORKS AND HOUSING	A. RENOVATION AND MAINTENANCE OF RURAL WATER SUPPLY SCHEMES (RWSS) B. SUSPENSION AND TRADITIONAL BRIDGES C. MULE TRACK AND FARM ROADS
LHAKHANGS AND CHORTENS	RESTORATION AND MAINTENANCE OF LOCAL LHAKHANGS AND CHORTENS

Note: The sectors in the first column and clauses in the second column get deleted by the resolutions of the 87th session of the former National Assembly, and not by the National Council. This has to be re-looked at, especially issues like maintenance of farm road, upon which the NC has passed a resolution.

4. Modalities for participation of Zhabto-Lemi

Local leaders will identify and decide

on such activities and timing of work in close consultation with the concerned communities.

5. Mobilization of Zhabto-Lemi

A Memorandum of Understanding (MoU) will be drawn up between the government and communities for every scheme on the modalities of basic maintenance.

III. What did not happen next

Neither the Repeal Bill nor the re-structured Bill was discussed in the joint sitting let alone be discussed by the legislative committees of the two houses since they did not meet. The National Assembly also did not respond to the message of the National Council. However, the National Assembly considered the Bill to be passed. The letter sent by the Hon'ble Speaker to the Hon'ble Minister of Home and Cultural Affairs on 10 July 2009 stated that the Chathrim had been repealed.

If the Chathrim were indeed repealed, it would have involved two processes. First, the National Council would have passed it (which it did not) or the joint sitting of Parliament would have passed it (in whose agenda the Bill was not included). Two, since it was a Bill, albeit a repeal Bill as opposed to a new or an amendment Bill, His Majesty the King would have granted assent to it.

Because the Bill was assumed to be passed, it is also assumed that the National Assembly's proposal is the new 'legal' framework concerning *zhabto lemi*. This is problematic due to the fact that neither the Bill had been passed nor had the proposal been endorsed by the joint sitting. Passing of the Bill or endorsement of the proposal would have taken place either if the Bill as proposed by the National Assembly or amended by the National Council was passed in the joint sitting. The joint sitting needed to discuss and vote on it since the National Council did not pass it. It could also have been considered passed if the National Assembly formally wrote to state that the message of the National Council was accepted.

The prevailing indications are that the

message of the National Council was accepted although this was not formally communicated. If it were, then it would mean that the proposal re-structured by the National Council in the form of a Bill was endorsed by the National Assembly. If this is so, it would mean that the Parliament had amended the Chathrim by passing the Zhabto Lemi Chathrim Amendment Act 2009. This needed to be submitted to His Majesty the King for royal assent.

IV. What could happen next

Since neither the amendment Bill (which is not a new Bill but a re-structuring of the National Assembly's proposal) nor the repeal Bill passed by the National Assembly has been submitted to His Majesty the King, the Zhabto Lemi Chathrim 1996 would legally be still in force. Two things can happen hereafter.

First, if the National Assembly considers that it has accepted the message of the National Council, it must submit the 're-structured Bill' to His Majesty the King for royal assent. To reiterate, the text of this Bill constitutes the main part of the message sent to the National Assembly. This Bill however, amends the Chathrim instead of repealing it. But it also includes the issues raised in the National Assembly's proposal. *It is His Majesty's prerogative to either grant assent or command further deliberations.*

Second, the National Assembly could deem the Bill to have been passed by the National Council. This is because the Constitution states that if a Bill sent to the other house is neither passed nor returned by the next session, it will be deemed to have been passed. This would imply that the message of the National Council was not accepted. The Bill should still be submitted to His Majesty the King.

If the first option is considered, it would mean that the Chathrim is amended and therefore, *zhabto lemi* would still be mobilized for certain community works although the modality and scale would be

as proposed by the National Assembly. This appears a better alternative considering the intent and objective of introducing the Bill in the first place. If the second is considered, it would mean that the Chathrim is repealed and *zhabto lemi* cannot be legally mobilized. It would be tantamount to abolishing *zhabto lemi*. However, this was not the intent. *Zhabto lemi* also continues to be mobilized for some community activities.

V. In the end

Whether a Bill tabled in the Parliament is a new Bill, amendment Bill or repeal Bill, they can come into force only after His Majesty grants assent. Since the Parliament consists of His Majesty the King, the National Council and the National Assembly, the need for His Majesty to grant assent for any Bill passed by the two houses to become a law is clearly stated in the Constitution. By the same token, the act of repealing any existing Act would not be complete without His Majesty's

assent. Otherwise, it would appear that royal assent is necessary only for enacting new Acts but not for repealing old Acts. However, this assumption is problematic because the repealing of a law by Parliament, which includes His Majesty the King would be incomplete.

Since the issue of *zhabto lemi* has caused lots of confusion among the people and parliamentarians, there is an urgent need to arrive at a clear understanding of its legal status and complete the legal process. The National Council's recommendations on *zhabto lemi* were submitted to the government as it has resolved to do so. The recommendations provide a set of alternatives on addressing concerns over *zhabto lemi*. Once its legal status is clarified and the law-making process complete, the government can consider the National Council's recommendations while implementing the provisions of the amended Act.



BRIEFS OF IMPORTANT EVENTS

- February 22, 2009: 11 members led by Hon'ble Sonam Kinga left for a visit to Indian Parliament and Cultural Heritage Sites.
- May 14, 2009: His Excellency Lyonchhen Jigme Y. Thinley launched the National Council website and released the Magazine National council.
- July 1, 2009: Dasho Karma Ura, Eminent Member-cum-Deputy Chairperson resigned from National Council.
- August 8, 2009: His Majesty the King appointed Hon'ble Tashi Wangyal as one of the five-eminent members of National Council.
- August 12, 2009 H.E. Pavan Kumar Varma, Ambassador of India made a courtesy call on the Hon'ble Chairperson. He re-assured continued support of the Government of India to the Parliament of Bhutan.
- September 11, 2009: Parliament held the first Extraordinary Sitting during which Local Government Bill was passed.
- September 7, 2009: Mr. Kevin Deveaux, Policy Advisor, UNDP called on the Hon'ble Chairperson. He was in Bhutan to conduct a workshop on parliamentary committee functions and study future UNDP support to Parliament of Bhutan.
- September 14, 2009: National Council organized a panel discussion on the "Promotion and Consolidation of Democracy" in collaboration with UNDP and BBSC at the Banquet Hall to commemorate the 2nd International Day of Democracy.
- October 1, 2009: Hon'ble Chairperson and Secretary General left for a parliamentary visit to The Philippines, Singapore and Thailand to learn about best parliamentary practices and establish institutional linkages.
- October 12-14, 2009: Members attended a Conference on Deepening and Sustaining Democracy in Asia at Paro organized by the Center for Bhutan Studies.
- October 15, 2009: Hon'ble Chairperson and Hon'ble Kuenlay Tshering left for Australia on the invitation of Australian Parliament.
- November 4, 2009: National Council unanimously elected Hon'ble Sonam Kinga as its Deputy Chairperson.
- November 5/6, 2009: National Council held a two-day workshop at Paro to come

up with strategies to improve its overall performance.

December 9, 2009: A delegation from Ministry of Parliamentary Affairs, Sri Lanka called on the Hon'ble Chairperson and also observed the concluding ceremony of the 4th session of National Council.

December 9, 2009: The 4th session of National council concluded. The house passed the Royal Monetary Authority Bill of the Kingdom of Bhutan 2009, Tobacco Control Bill of the Kingdom Bhutan, Standards Bill of the Kingdom Bhutan 2009 and Marriage Act (Amendment) 1980.

NEW STAFF IN THE SECRETARIAT

January 1, 2009: Mr. Tshering Dhendup was appointed by Royal Civil Service Commission as an Assistant Program Officer. He graduated with BA Hons. (Dzongkha) from Sherubtse College in 2006. He also completed his Post Graduate Diploma in Public Administration from the Royal Institute of Management, Thimphu in 2008.

August 25, 2009: Ms. Tshering Wangmo joined as Assistant Media & Communication Officer. She was transferred from Samdrup Jongkhar Dzongkhag, where she had served as a Gewog Administrative Officer II of Martshala Gewog. She completed her B.A (General) from Women's College, Shillong, India in 2006.

January 1, 2010: Ms. Changa Lhamo was appointed by the Royal Civil Service Commission as an Assistant Research Officer. She graduated from Institute of Language and Cultural Studies, Thimphu in 2007 and completed her Post Graduate Diploma in Public Administration from the Royal Institute of Management, Thimphu in 2009.

Mr. Tendel Gyeltshen was appointed by the Royal Civil Service Commission as an Assistant Legislative Officer. He graduated with BA Hons. (Geography) from Sherubtse College in 2007 and then completed his Post Graduate Diploma in National Law from the Royal Institute of Management, Thimphu in 2009.

STANDING COMMITTEES OF NATIONAL COUNCIL OF BHUTAN

A. House Committee Members

1. Hon'ble Sonam Kinga (Chairperson)
2. Hon'ble Kuenlay Tshering
3. Hon'ble Naichu
4. Hon'ble Dr. Jagar Dorji
5. Hon'ble Tshering Dorji
6. Hon'ble Justin Gurung

B. Legislative Committee Members

1. Hon'ble Kuenlay Tshering (Chairperson)
2. Hon'ble Karma Yezer Raydi
3. Hon'ble Karma Damcho Nidup
4. Hon'ble Sangay Zam
5. Hon'ble Karma Donnen Wangdi

C. Economic Affairs Committee Members

1. Hon'ble Naichu (Chairperson)
2. Hon'ble Tashi Wangyal
3. Hon'ble Rinzin Rinzin
4. Hon'ble Jigmi Rinzin
5. Hon'ble Jigme Wangchuk

D. Social & Cultural Affairs Committee Members

1. Hon'ble Dr. Jagar Dorji (Chairperson)
2. Hon'ble Tshewang Lhamo
3. Hon'ble Tshewang Jurmi
4. Hon'ble Sonam Yangchen
5. Hon'ble Kesang Namgyel

E. Good Governance Committee Members

1. Hon'ble Justin Gurung (Chairperson)
2. Hon'ble Tashi Wangmo
3. Hon'ble Sangay Khandu
4. Hon'ble Pema Lhamo
5. Hon'ble Sonam Kinga

F. Natural Resources and Environment Committee Members

1. Hon'ble Tshering Dorji (Chairperson)
2. Hon'ble Sonam Dorji
3. Hon'ble Ugyen Tshering
4. Hon'ble Dr. Mani Kumar Rai

