

1996 Country Reports on Human Rights Practices

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Bhutan is a monarchy without a constitution or a bill of rights. The Wangchuk Dynasty of hereditary monarchs has ruled the country since 1907. King Jigme Singhye Wangchuk, on the throne since 1972, has continued efforts toward social and political modernization begun by his father. In recent years, there has been rapid progress in education, health, sanitation, and communications, and an increase in elected representatives and their role in decisionmaking. The judiciary is not independent of the King.

Three quarters of the population of 600,000 is composed of Buddhists with cultural traditions akin to those of Tibet. The remaining quarter of the population are mostly Hindus of Nepalese origin inhabiting the country's southern districts. The rapid growth of this ethnic Nepalese segment of the population led the Buddhist majority to fear for the survival of their culture. Government efforts to tighten citizenship requirements and control illegal immigration resulted in political protests and led to ethnic conflict and repression of ethnic Nepalese in southern districts during the late 1980's and early 1990's. Tens of thousands of ethnic Nepalese left Bhutan in 1991-92, many forcibly expelled. Approximately 91,000 ethnic Nepalese remain in refugee camps in Nepal and upwards of 15,000 reside outside the camps in the Indian states of Assam and West Bengal.

The Royal Bhutan Police, assisted by the Royal Bhutan Army, including those assigned to the Royal Body Guard, and a national militia, maintain internal security. Some members of these forces committed human rights abuses against ethnic Nepalese.

The economy is based on agriculture and forestry, which provide the main livelihood for 90 percent of the population and account for about half of the gross domestic product. Agriculture consists largely of subsistence farming and animal husbandry. Cardamom, citrus fruit, and spices are the leading agricultural exports. Cement and electricity are the other important exports. Strong trade and monetary links align the economy closely to that of India. Hydroelectric power production potential and tourism are key resources, although the Government limits foreign tourist arrivals by means of pricing policies. The gross national product per capita is estimated to be \$470. Bhutan remains among the poorest and least developed countries in the world.

The Government significantly restricts the rights of the Kingdom's citizens. The King exercises strong and active, although indirect, influence over the Government. Citizens do not have the right to change their government. The Government discourages political parties, and none operates legally. Judges serve at the King's pleasure. There are no written criminal and civil procedure codes; judicial processes are based on traditional practices. Programs to build a body of written law and train lawyers are progressing. The Government restricts freedom of speech, the press, assembly, association, and worker rights. There are significant limitations on the right to a fair trial, freedom of religion, and citizens' privacy. Private television reception has been banned since 1989. The Government has failed to reach agreement with the Government of Nepal on procedures for screening and repatriation of ethnic Nepalese in refugee camps. The Government claims that it has prosecuted government personnel for unspecified abuses committed in the early 1990's; however, public indications are that it has done little to investigate and prosecute security force officials responsible for torture and other abuses committed against ethnic Nepalese residents.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

According to the Center for the Treatment of Victims of Torture, numerous ethnic Nepalese refugees attempting to return to Bhutan were captured by security forces, tortured, and sent back across the border.

Refugee groups credibly claim that persons detained as suspected dissidents in the early 1990's were tortured by security forces, who also committed acts of rape. During those years, the Government's ethnic policies and the crackdown on ethnic Nepalese political agitation created a climate of impunity in which the Government tacitly condoned the physical abuse of ethnic Nepalese. The Government denies these abuses but also claims it has investigated and prosecuted three government personnel for unspecified abuses of authority during that period. Details of these cases have not been made public and there is little indication that the Government has adequately investigated or punished any security force officials involved in the widespread abuses of 1989-92.

Prison conditions are reportedly adequate if austere. A prison visit program begun in 1993 by the International Committee of the Red Cross (ICRC) and opening of a new prison in Chemgang in 1994 contributed to substantial improvement in conditions of detention over the primitive conditions that existed until a few years ago.

d. Arbitrary Arrest, Detention, or Exile

Under the Police Act of 1979, police may not arrest a person without a warrant and must produce an arrested person before a court within 24 hours of arrest, exclusive of travel time from place of arrest. Legal protections are incomplete, however, due to the lack of a fully elaborated criminal procedure code and deficiencies in police training and practice. Arbitrary arrest and detention remain a problem but are not routinely used as a form of harassment. There sometimes have been delays in informing family members of an arrest. Incommunicado detention of suspected militants was a serious problem in 1991 and 1992, but the initiation of ICRC prison visits and establishment of an ICRC mail service between detainees and family members has helped allay this problem. Of those detained in connection with political dissidence and violence in southern Bhutan in 1991-92, 1,685 were ultimately amnestied, 9 acquitted, and 46 released after serving their sentences, and 88 are serving prison sentences. As of October, charges were pending against two persons arrested for "anti-National activities" in southern Bhutan in 1996.

Although the Government does not formally use exile as a form of punishment, many accused political dissidents freed under government amnesties say that they were released on the condition that they depart the country. Many of them subsequently registered at refugee camps in Nepal.

e. Denial of Fair Public Trial

There is no written constitution, and the judiciary is not independent of the King.

The judicial system consists of district courts and a High Court in Thimphu. Judges are appointed by the King on the recommendation of the Chief Justice and may be removed by him. Minor offenses and administrative matters are adjudicated by village headmen.

Criminal cases and a variety of civil matters are adjudicated under a legal code established in the 17th century and revised in 1965. For offenses against the State, state-appointed prosecutors file charges and prosecute cases. In other cases, the relevant organizations and departments of government file charges and conduct the prosecution. Defendants are supposed to be presented with written charges in languages that they understand and given time to prepare their own defense. This practice is not always followed, however, according to some political dissidents. In cases where defendants cannot write their own defense, courts assign judicial officers to assist defendants. A legal education program is gradually building a body of persons who have received formal training in the law abroad.

Defendants have the right to appeal to the High Court and may make a final appeal to the King, who traditionally delegates the decision to the Royal Advisory Council. Trials are supposed to be conducted in open hearings, however, political dissidents claim that this is not always the case in practice.

Questions of family law, such as marriage, divorce, and adoption, are resolved according to a citizen's religion: Buddhist tradition for the majority of the population and Hindu tradition, which predominates in areas inhabited by ethnic Nepalese, for the minority.

Some or all of the 88 prisoners serving sentences for offenses related to political dissidence or violence, primarily by ethnic Nepalese during 1991-92, may be political prisoners.

Tek-Nath Rizal, an ethnic Nepalese and internationally recognized political prisoner, remained in prison following his 1993 conviction under the National Security Act for writing and distributing political pamphlets and attending political meetings. Nevertheless, a United Nations Human Rights Commission working group on arbitrary detention that visited Bhutan in 1994 at the Government's invitation determined that Rizal had received a fair trial and declared his detention "not to be arbitrary."

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

There are no laws providing for these rights. The Government requires all citizens, including minorities, to wear the traditional dress of the Drukpa majority when visiting Buddhist religious buildings, monasteries, government offices, and in schools and when attending official functions and public ceremonies. According to human rights groups police regularly conduct house to house searches for suspected dissidents without explanation or legal justification.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Government restricts freedom of speech and the press.

The country's only regular publication is Kuensel, a weekly newspaper with a circulation of 10,000 published by an independent corporation that receives government subsidies. Kuensel, which publishes simultaneous editions in the English, Dzongkha, and Nepali languages, supports the Government but does occasionally report criticism of the King and government policies in the National Assembly. Indian and other foreign newspapers are available.

The Government bans all private television reception in the country. Since 1989 all television antennas and satellite receiving dishes have been ordered dismantled.

The Government radio station broadcasts each day in the four major languages (Dzongkha, Nepali, English, and Sharchop).

English is the medium of instruction in schools and the national language, Dzongkha, is taught as second language. The teaching of Nepali as a second language was discontinued in 1990.

b. Freedom of Peaceful Assembly and Association

The Government restricts freedom of assembly and association. Citizens may engage in peaceful assembly and association only for purposes approved by the Government. Although the Government allows civic and business organizations, there are no legal political parties. The Government regards parties organized by ethnic Nepalese exiles--the Bhutan People's Party (BPP), the Bhutan National Democratic Party (BNDP), and the Druk National Congress (DNC)--as "terrorist and anti-national" organizations and has declared them illegal. These parties do not conduct activities inside the country. They seek the repatriation of refugees and democratic reform.

c. Freedom of Religion

Buddhism is the state religion. The Government subsidizes monasteries and shrines and provides aid to about a third of the kingdom's 12,000 monks. The monastic establishment enjoys statutory representation in the National Assembly and Royal Advisory Council and is an influential voice on public policy. Citizens of other faiths, mostly Hindus, enjoy freedom of worship but may not proselytize. Under the law, conversions are illegal.

The King has declared major Hindu festivals to be national holidays, and the royal family participates in them. Foreign missionaries are not permitted to proselytize, but international Christian relief organizations and Jesuit priests are active in education and humanitarian activities.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Citizens traveling in border regions are required to show their citizenship identity cards at immigration check points, which in some cases are located at a considerable distance from what is in effect an open border with India. By treaty, citizens may reside and work in India.

See Section 5 regarding the ethnic Nepalese refugee situation.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens do not have the right to change their government. Bhutan is a monarchy with sovereign power vested in the King. There are, however, elected or partially elected assemblies at the local, district, and national levels, and the Government purports to encourage decentralization and citizen participation. Since 1969, the National Assembly has had the power to remove ministers, who are appointed by the King, but has never done so. Political authority resides ultimately in the King and decisionmaking involves only a small number of officials; however, major decisions are routinely made by officials subject to questioning by the National Assembly.

Political parties do not legally exist, and their formation is discouraged by the Government as unnecessarily divisive. The Government prohibits parties established abroad by ethnic Nepalese (see Section 2.b.).

The National Assembly established in 1953, has 150 members. Of these, 105 are elected by the people, 10 are selected by the Buddhist clergy, and the remaining 35 are appointed by the King to represent the Government. Elections to the National Assembly are contested, with candidates filing their own nominations. The Assembly enacts laws, approves senior government appointments, and advises the King on matters of national importance. Voting is by secret ballot, with a simple majority needed to pass a measure. The King may not formally veto legislation, but may return bills for further consideration. The Assembly occasionally rejects the King's recommendations or delays implementing them, but in general, the King has enough influence to persuade the Assembly to approve legislation that he considers essential or to withdraw proposals he opposes. The Assembly may question government officials and force them to resign by a two-thirds vote of no confidence.

Women are underrepresented in government and politics, although they have made small but visible gains. Three women hold seats in the National Assembly.

All major ethnic groups, including ethnic Nepalese, are represented in the National Assembly. There are 17 "southern Bhutanese" in the National Assembly.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There are no legal human rights nongovernmental organizations (NGO's) in Bhutan. The Government regards human rights groups established by ethnic Nepalese exiles--the Human Rights Organization of Bhutan, the People's Forum for Human Rights in Bhutan, and the Association of Human Rights Activists - Bhutan--as political organizations and does not permit them to operate in Bhutan. Amnesty International visited Bhutan in 1992 to investigate and report on the alleged abuse of ethnic Nepalese. It has not been permitted to return in the years since.

ICRC representatives continue their periodic prison visits, and the Government has allowed them access to detention facilities, including those in southern districts inhabited by ethnic Nepalese. The chairman and members of the United Nations Human Rights Commission Working Group on Arbitrary Detention made a second visit to Bhutan in May as a follow-up to an October 1994 visit. In addition to meetings with government officials, members of the working group visited prisons and interviewed prisoners in Thimphu, Phuntsoling, and Samtse.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

Ongoing Government efforts to cultivate a national identity rooted in the language, religion, and culture of the Drukpa ethnic group constrain cultural expression by other ethnic groups. In the 1980's and early 1990's, concern over rapid population growth and political agitation by ethnic Nepalese resulted in policies and abusive practices that led to the departure of tens of thousands of members of this group, many forcibly expelled.

The Government claims that ethnic and gender discrimination in employment is not a problem. It claims that ethnic Nepalese fill 28 percent of Government jobs, which slightly exceeds their share of the current total population. Women are accorded respect in the traditions of most ethnic groups; however, persistence of traditional gender roles apparently accounts for the low proportion of women in Government employment. Exile groups claim that ethnic and gender discrimination is a problem.

Women

There is no evidence of extensive rape or spousal abuse. Kuensel reported that charges of rape or attempted rape were brought in several cases. However, convictions and sentences were not reported.

There are credible reports by refugees and human rights groups that security forces raped large numbers of ethnic Nepalese women in southern Bhutan in 1991 and 1992. According to Amnesty International, some women were said to have died as a result. In one independent survey of 1,779 refugee families, 26 percent of the respondents cited rape, fear of rape, or threat of rape as a prime reason for their departure from Bhutan. The Government has denied these reports.

Rape was made a criminal offense in 1953, but that law had weak penalties and was poorly enforced. In 1993 the National Assembly adopted a revised rape act with clear definitions of criminal sexual assault and stronger penalties. In cases of rape involving minors, sentences range from 5 to 17 years. In extreme cases, a rapist may be imprisoned for life.

Women comprise 48 percent of the population and participate freely in the social and economic life of the country. Forty-three percent of enrollment in school is female, and women account for 16 percent of civil service employment. Inheritance law provides equal inheritance among all sons and daughters, but traditional inheritance practices, which vary among ethnic groups, may be observed if the heirs choose to forego legal challenges. Dowry is not practiced, even among ethnic Nepalese Hindus. Inheritance practices favoring daughters among some groups are said to account for large numbers of women among owners of shops and businesses and an accompanying tendency of women to drop out of higher education to go into business. On the other hand, female school enrollment has been growing in response to government policies. Women are increasingly found among senior officials and private sector entrepreneurs, especially in the tourism industry. Women in unskilled jobs are generally paid slightly less than men.

Polygyny is sanctioned provided the first wife gives her permission. Marriages may be arranged by partners themselves as well as by their parents. Divorce is common. Recent legislation requires that all marriages must be registered and favors women in matters of alimony.

Children

The Government has demonstrated its commitment to child welfare by its rapid expansion of primary schools, health-care facilities, and immunization programs. The mortality rates for both infants and children under 5-years have dropped dramatically since 1989, and primary school enrollment has increased at 9 percent a year since 1991, with enrollment of girls increasing at a yet higher rate. In 1995 the participation rate for boys and girls in primary schools was estimated at 72 percent, with the rate of completion of 7 years of schooling at 60 percent for girls and 59 percent for boys. Children enjoy a privileged position in society and benefit from international development programs focused on maternal and child welfare.

A study by UNICEF found that boys and girls receive equal treatment regarding nutrition and health care and that there is little difference in child mortality rates between the sexes. Government policies aimed at increasing enrollment of girls have increased the proportion of girls in primary schools from 39 percent in 1990 to 43 percent in 1995.

There is no societal pattern of abuse against children.

People with Disabilities

There is no evidence of official discrimination toward people with disabilities but the Government has not passed legislation mandating accessibility for the disabled.

National/Racial/Ethnic Minorities

Ethnic Nepalese have lived in southern Bhutan for centuries, and the early phases of economic development at the turn of the century brought a large influx of additional ethnic Nepalese. In the late 1980's, concern over the increase of population and political agitation among ethnic Nepalese prompted aggressive government efforts to assert a national culture, tighten control over southern regions, control illegal immigration, expel ethnic Nepalese, and promote national integration. Early efforts at national integration focused on assimilation, including financial incentives for intermarriage, education for some students in regions other than their own, and an increase in development funds in the south.

Beginning in 1989, more discriminatory measures were introduced, aimed at shaping a new national identity, known as Drukpa, based on the customs of the non-Nepalese Ngalong ethnic group predominant in central Bhutan. Measures included a requirement that national dress be worn for official occasions and as a school uniform, the teaching of Dzongkha as a second language in all schools, and an end to instruction in Nepali as a second language (English is the language of instruction in all schools). Also, beginning in 1988, the Government refused to renew the contracts of tens of thousands of Nepalese guest workers. Many of these workers had resided in Bhutan for years, in some cases with their families.

Citizenship became a highly contentious issue. Requirements for citizenship were first formalized in the Citizenship Law of 1958, which granted citizenship to all adults who owned land and had lived in Bhutan for at least 10 years. In 1985, however, a new citizenship law significantly tightened requirements for citizenship and resulted in the denaturalization of 1958 ethnic Nepalese. While previously citizenship was conferred upon children whose father was a citizen under the 1958 law, the 1985 law raised this standard by requiring that both parents be citizens to confer citizenship on offspring. The law permits residents who lost citizenship under the 1985 law to apply for naturalization if they can prove residence during the previous 15 years. The Government declared as illegal immigrants all residents who could not meet the new requirements.

The 1985 Citizenship Act also stipulates the revocation of citizenship of any naturalized citizen who "has shown by act or speech to be disloyal in any manner whatsoever to the King, country, and people of Bhutan." The Home Ministry, in a circular notification in 1990, advised that "any Bhutanese nationals leaving the country to assist and help the anti-nationals shall no longer be considered as Bhutanese citizens...such people's family members living in the same household will also be held fully responsible and forfeit their citizenship." Human rights groups allege that these provisions were widely used to revoke the citizenship of ethnic Nepalese who were subsequently expelled or otherwise departed from Bhutan. Beginning in 1988, the Government expelled numbers of ethnic Nepalese through enforcement of the citizenship laws.

Outraged by what they saw as a campaign of repression, ethnic Nepalese mounted a series of demonstrations, sometimes violent, in September 1990. The protests were spearheaded by the newly-formed Bhutan People's Party (BPP) which demanded full citizenship rights for ethnic Nepalese, the reintroduction of Nepali as a medium of education in the south, and democratic reforms. Characterizing the BPP as a "terrorist" movement backed by Indian sympathizers, the authorities cracked down on its activities and ordered the closure of local Nepalese schools, clinics, and development programs after several were raided or bombed by dissidents. Many schools were reportedly turned into Army barracks. There were credible reports that many ethnic Nepalese activists were beaten and tortured while in custody, and that security forces committed acts of rape. There were also credible reports that militants, including BPP members, attacked and murdered census officers and other officials, and engaged in bombings. Local officials took advantage of the climate of repression to coerce ethnic Nepalese to sell their land below its fair value and emigrate.

Beginning in 1991, ethnic Nepalese began to leave southern Bhutan in large numbers and take refuge in Nepal. Many were forcibly expelled. According to Amnesty International, entire villages were sometimes evicted en masse in retaliation for an attack on a local government official. Many ethnic Nepalese were forced to sign "voluntary migration forms" wherein they agreed to leave Bhutan, after local officials threatened to fine or imprison them for failing to comply. By August 1991, according to NGO reports, 2,500 refugees were already camped illegally in Nepal, with a steady stream still coming from Bhutan. The UNHCR began providing food and shelter in September of that year, and by year's end, there were 6,000 refugees in Nepal. The number of registered refugees grew to approximately 62,000 by August 1992, and to approximately 80,000 by June 1993, when the UNHCR began individual screening of refugees. The flow slowedly considerably thereafter and is now less than a dozen persons a month. At the close of 1996, there were approximately 91,000 refugees registered in camps in Nepal, with much of the increase since 1993 the result of natural increase. An additional 15,000 refugees, according to UNHCR estimates, are living outside the camps in Nepal and India.

Ethnic Nepalese political groups in exile complain that the revision of Bhutan's citizenship laws in 1985 denaturalized tens of thousands of former residents of Bhutan. They also complain that the new laws have been selectively applied and make unfair demands for documentation on a largely illiterate people in a country that has only recently adopted basic administrative procedures. They claim that many ethnic Nepalese whose families have been in Bhutan for generations were expelled in the early 1990's because they were unable to document their claims to residence. The Government denies this and asserts that a three-member village committee--typically ethnic Nepalese in southern Bhutan--certifies in writing that a resident is a Bhutanese citizen in cases where documents cannot be produced.

The Government maintains that many of those who departed Bhutan in 1991-92 were Nepalese or Indian citizens who came to Bhutan after the enactment of the 1958 Citizenship law but were not detected until a census in 1988. The Government also claims that many persons registered in the camps as refugees may never have resided in Bhutan. A royal decree in 1991 made forcible expulsion of a citizen a criminal offense. In a January 1992 edict, the King noted reports that officials had been forcing Bhutanese nationals to leave the country but stressed that this was a serious and punishable violation of law. Nevertheless, only three officials were ever punished for abusing their authority during this period. According to the UNHCR, the overwhelming majority of refugees who have entered the camps since screening began in June 1993 have documentary proof of Bhutanese nationality. Random checks and surveys of camp residents--including both pre- and post-June 1993 arrivals--bear this out.

A Nepal-Bhutan ministerial committee met seven times in 1994-96 in efforts to resolve the Bhutanese refugee problem. These discussions have made little progress. At the end of the year, no date has been set for another round of talks. In March refugees began a series of "peace marches" from Nepal to Bhutan to assert their right to return to Bhutan. Marchers who crossed into Bhutan in August, November, and December were immediately detained and deported by Bhutanese police. In the December incident, police reportedly used force against the marchers.

Section 6 Worker Rights

a. The Right of Association

Trade unionism is not permitted, and there are no labor unions. Workers do not have the right to strike, and the Government is not a member of the International Labor Organization.

b. The Right to Organize and Bargain Collectively

There is no collective bargaining in industry, which accounts for about 25 percent of the gross domestic product, but it employs only a minute fraction of the total work force. The Government affects wages in the manufacturing sector through its control over wages in state-owned industries.

c. Prohibition of Forced or Compulsory Labor

The Government abolished its system of compulsory labor taxes in December 1995. Laborers in rural development schemes previously paid through this system will now be paid regular wages. There is no evidence to suggest that domestics or children are subject to coerced or bonded labor.

d. Minimum Age for Employment of Children

The law set the minimum age for employment at 18 years for citizens and 20 years for noncitizens. A UNICEF study suggested that children as young as 11 years are sometimes employed with road-building teams.

e. Acceptable Conditions of Work

A circular effective February 1, 1994, established wage rates, rules and regulations for labor recruiting agencies, and regulations for payment of workmen's compensation. Wage rates are periodically revised, and range upward from a minimum of roughly \$1.50 (50 ngultrums) per day for unskilled and skilled laborers, with various allowances paid in cash or kind in addition. This minimum wage does provide a decent standard of living for a worker and family in the local context. The workday is defined as 8 hours with a 1 hour lunch break. Work in excess of this must be paid at one and a half times normal rates. Workers paid on a monthly basis are entitled to 1 day's paid leave for 6 days of work and 15 days of leave annually. The largest salaried work force is the government service, which has an administered wage structure last revised in 1988 but supplemented by special allowances and increases since then, including a 25 percent increase on July 1. Only about 30 industrial plants employ more than 50 workers. Smaller industrial units include 69 plants of medium size, 197 small units, 692 "mini" units, and 651 cottage industry units. Bhutan's rugged geography and land laws that prohibit a farmer from selling his last five acres result in a predominantly self-employed agricultural work force. Existing labor regulations do not grant workers the right to remove themselves from work situations which endanger health and safety without jeopardizing their continued employment.