

1995 Country Reports on Human Rights Practices

Released by the Bureau of Democracy, Human Rights, and Labor
U.S. Department of State, March 19, 1996

*The United States does not have an embassy in Bhutan. Information on the human rights situation is therefore limited.

The Wangchuk dynasty of hereditary monarchs has ruled Bhutan since 1907. Located in the Himalayas between India and Tibet, the small kingdom has been able to escape domination by any external power since the 10th century. There is no written constitution or bill of rights. King Jigme Singhye Wangchuk, on the throne since 1972, has continued efforts toward social and political modernization begun by his father.

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 and the Buddhist majority's fear for the survival of their culture led to ethnic conflict and repression of ethnic Nepalese in southern districts during the late 1980s and early 1990s. Tens of thousands of ethnic Nepalese left Bhutan, many forcibly expelled. Approximately 90,000 remain in refugee camps in Nepal and upwards of 15,000 reside 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, maintains internal security. Some members of these forces committed human rights abuses against ethnic Nepalese in the past.

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 GDP. 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 \$700.

The Government significantly restricts the rights of the Kingdom's citizens. The King exercises strong and active, although indirect, influence over the Government. The Government discourages political parties and none operate legally. Judicial processes remain rooted in practices hundreds of years old. Written criminal and civil procedure codes are lacking, although programs to build a body of law and train lawyers are underway. There are significant limitations on the right to a fair trial, assembly, association, privacy, and workers' rights. All 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 the refugees. The Government 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. From 1989 to 1992, many of the thousands of ethnic Nepalese detained on suspicion of supporting a dissident movement were held in incommunicado detention. The Government has denied responsibility for any disappearances.

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

There were no reliable reports of torture or of rape by security forces in 1995. However, new and credible evidence continues to emerge among recent arrivals in refugee camps in southern Nepal that persons detained as suspected dissidents in the early 1990's were tortured during confinement. Security forces committed these abuses in southern Bhutan as a part of the Government's efforts to reduce the presence of ethnic Nepalese. This policy created a climate of impunity in which the Government tacitly condoned the physical abuse of ethnic Nepalese.

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 below international standards, but have been described by international monitors as 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 the 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 may be 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. The authorities continued to hold 129 persons on charges associated with political dissidence in southern Bhutan. Of these, 49 were serving sentences following conviction and 79 were still being tried 5 years after their alleged offenses were committed.

Although the Government does not formally use exile as a form of punishment, many accused political dissidents freed under government amnesties say 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 constitution and the judiciary is not independent of the King. The judicial system consists of district courts and a High Court in Thimphu, with judges appointed by the King on the recommendation of the Chief Justice. 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 they understand and are given time to prepare their own defense. This practice is not always followed, however, according to some ethnic Nepalese refugees. In cases where defendants cannot write their own defense, courts assign judicial officers to assist defendants. There are no lawyers. A legal education program is gradually building a body of persons who have received formal training in the law.

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 and public hearings, however in practice this is not always the case according to reports from ethnic Nepalese refugees.

Question 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. Some or all of the 129 prisoners accused of antinational activity serving sentences or under trial for offenses related to political dissidence primarily among 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 which 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, but cultural traditions are highly respectful of personal privacy. However, the Government has undermined these traditions by its emphasis on promoting national integration. The wearing of national dress, for example, is required when visiting Buddhist religious buildings, monasteries and government offices, 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 press. The country's only regular publication is Kuensel, a government weekly newspaper, with a circulation of 10,000. Kuensel sometimes reports 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

These freedoms are restricted. 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 are not known to conduct activities inside the country. Their announced goals are 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

Bhutanese travelling 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.

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

Citizens do not have the rights 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 decision making involves only small number of officials.

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, is composed of 150 members. Of these, 105 are elected by the people and 10 by religious bodies. The remaining 35 represent the Government and are appointed by the King. 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 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.

As a result of efforts to integrate ethnic Nepalese and women into the Government, ethnic Nepalese account for 28 percent of the civil service at all ranks up to minister, according to the Government. Women have made smaller but visible gains.

Section 4 Government 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 (HUROB), the People's Forum for Human Rights in Bhutan (PFHRB), and the Association of Human Rights Activists - Bhutan (AHURA)--as political organizations and does not permit them to operate openly in Bhutan.

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 United Nations High Commissioner for Refugees visited Bhutan in July 1994. The chairman and members of the United Nations Human Rights Commission working group on arbitrary detention visited in October 1994.

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

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. Concern over rapid population growth and political agitation among ethnic Nepalese has resulted in policies and abusive practices that led to the expulsion of tens of thousands of members of this group. The Government disputes claims by exile groups that ethnic or gender discrimination in employment is a problem. Women are accorded respect in the traditions of most ethnic groups. Persistence of traditional gender roles apparently accounts for a low proportion of women in government employment.

Women

There is no evidence of an extensive pattern of rape or spousal abuse. Six cases of rape or attempted rape were registered during 1995 in the capital city, which has a population 20,000. Criminal gangs operating in southern border districts continued to commit rape in addition to robbery. On May 4, one such gang raped seven women, including two girls. Security forces reportedly used rape in efforts to force emigration of ethnic Nepalese from southern Bhutan during 1991 and 1992. 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.

Bhutan has not developed a rigid caste system or customs that sequester women. Women comprise 48 percent of the population. Forty-three percent of enrollment in schools is female, and women account for 16 percent of civil service employment. Inheritance practices vary among ethnic groups, but generally divide family land equally among sons and daughters, and 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.

Polygyny is sanctioned as long as 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. Women in unskilled jobs are generally paid less than men.

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 under- five-year-olds have dropped dramatically since 1989. Children enjoy a privileged position in society and benefit from international development programs focused on maternal and child welfare. There is no pattern of societal abuse against children.

A study by the United Nations International Children's Fund (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. UNICEF found that, among urban dwellers, girls are given "equal or near equal opportunities" to pursue education.

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 arrived in Bhutan in large numbers at the turn of the century. The Citizenship Law of 1958 granted citizenship to all ethnic Nepalese adults who owned land and had lived in Bhutan for at least 10 years. However, the Government maintains that large-scale illegal immigration occurred and was not detected until the 1988 census. The increase of population prompted the Government to launch an aggressive campaign to reassert Drukpa culture, restrict immigration, and expel ethnic Nepalese. Members of the Buddhist majority, including many members of the National Assembly, expressed fears that Bhutan's Buddhist society would be overwhelmed by the Hindu ethnic Nepalese--as happened in neighboring Sikkim, which was incorporated into India in 1974.

Early efforts at halting the demographic trend focused on limiting immigration and attempting to assimilate the existing ethnic Nepalese. Measures to promote assimilation included financial incentives for intermarriage, education for some students in regions other than their own, and direction of economic development funds to the south. By 1989 assimilation gave way to policies aimed at "Bhutanization." Measures intended to promote a national identity required the wearing of national dress for official occasions, the teaching of Dzongkha as a second language in all schools, and discontinued instruction of Nepali as a second language. (English is the language of instruction in all schools.)

Beginning in 1988, the Government expelled limited numbers of ethnic Nepalese through enforcement of a law that significantly tightened the requirements for citizenship. Until 1985 citizenship was conferred upon children if their father was a citizen under the 1958 Nationality Law. However, the 1985 Citizenship Act raised this standard by requiring that both parents be citizens to confer citizenship on their children. The Government declared as illegal immigrants all residents who could not meet the new requirement. Residents who lost their citizenship under the 1985 Act may apply for naturalization but must prove residence during the previous 15 years. Exile political groups complain that the law makes unfair demands for documentation on 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 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 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 national leaving the country to assist and help the antinationals shall no longer be considered as a Bhutanese citizen . . . such people's family members living under the same household will also be held fully responsible and forfeit their citizenship." Human rights groups charge that this provision was widely used to revoke the citizenship of ethnic Nepalese who were subsequently expelled or otherwise departed from southern Bhutan.

A large-scale flow of people from southern Bhutan began in 1991, resulting from a Government policy of discrimination against ethnic Nepalese. Tens of thousands of them were expelled between 1989-92. The Government asserts that claims of widespread abuses were fabricated and that civilian and security officials have been punished for a few instances of misuse of authority.

When the UNHCR began providing food and shelter in September 1991, there were only 304 persons claiming to be Bhutanese refugees in Nepal. By year end, there were 6,000. The refugee flow peaked in 1992, when 66,000 refugees arrived in southern Nepal. At year's end, approximately 90,000 refugees were registered in UNHCR camps in Nepal. Upwards of 15,000 other refugees are believed to have settled with family members in India. By 1994 the flow into the refugee camps had slowed to slightly more than 60 persons a month and has further declined since then. Many recent arrivals report that they departed Bhutan because of the depopulation in the southern districts, a heightened sense of apprehension and insecurity, and the desire to be reunited with family members already in Nepal.

The Government maintains that the numbers of persons who departed southern Bhutan during those years was substantially smaller than the number in the refugee camps, that many of those who left were Nepalese or Indian citizens who arrived in Bhutan after the enactment of the 1958 Nationality Law, and that many of the persons registered in the camps as refugees have no claim to Bhutanese citizenship and may never have resided in Bhutan. The UNHCR reports that the overwhelming majority of refugees who have entered the camps have been able to show documentary proof of Bhutanese nationality since screening began in June 1992, and random checks of camp residents bear this out.

A Nepal-Bhutan ministerial committee met six times in 1994-95 to discuss ways to determine which refugees might be entitled to return to Bhutan. These discussions achieved little progress and as of the end of the year, no date for another round had been set.

Section 6 Worker Rights

a. The Right of Association

Trade unionism is not permitted, 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 only a minute fraction of the total work force. The Government affects wages in the manufacturing sector through its control over wages in state-controlled firms.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The Government abolished its system of compulsory labor taxes in December. 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 non-citizens. 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 range from \$.75 (roughly 25 ngultrums) to \$2 (roughly 70 ngultrums) per day for unskilled and skilled laborers, with various allowances paid in cash or kind in addition. The work day was 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 a special allowance in July 1994. Only about 31 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.