

THE STRUCTURE OF NATIONAL LAW-MAKING AUTHORITY IN BHUTAN

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Bhutan, the land of the "Thunder Dragon," is a sparsely settled realm of manifold and prodigious contrasts. The nation has been evolving from a feudal polyarchy into a modern representative democracy.

The Era of Oligarchial Polyarchy

In the eighth century Lamas from Tibet introduced Buddhism to Bhutan. During the twelfth century Bhutan was greatly influenced by the growth of the Dukpa sect founded by Yeses Dorji at Ralung. At that time Bhutan was developing a separate and distinct identity. The land had no central authority but was governed by a multitude of warring chieftains.¹

During the thirteenth century various Buddhist sects rivaled for supremacy.² By the sixteenth century Buddhism was the dominant faith of the Bhutanese people. In 1616 Nawang Namgyal, a distinguished lama from Tibet attempted to unify Bhutan by proclaiming himself as its chief spiritual and temporal ruler. With the help of allies, he forced the submission or exile of his competitors and assumed the title of Shabdung (Dharma Raja).

Under the Shabdung's reign many large forts and monasteries were built. Copying a system popular in Tibet, Namgyal introduced the dzong system of government to Bhutan. The dzongs (fortresses) concerned themselves with military functions and eventually formed a network of military-administrative centers responsible to whatever government was in power in a respective area.³

Namgyal brought some semblance of stability to Bhutan. The powerful Rajas (feudal lords) sent him presents and friendly missions from Koch Bihar, Gorkha and Nepal.⁴ With the death of Namgyal,

¹ V. H. Coelho, *Sikkim and Bhutan*, (New Delhi: Indian Council For Cultural Relations, 1970), p. 60.

² Ram Rahul, *Modern Bhutan*, (New York: Barnes & Noble, 1971), p. 20.

³ *Ibid.*, p. 26.

⁴ *Ibid.*, p. 23.

unity crumbled and control over Bhutan returned to the warring chieftains.⁵

From 1650 until 1652 the Buddhists forged a formal governmental structure based on a dichotomization of authority between temporal and ecclesiastical leaders. The authority of the central government continued until the mid-eighteenth century.⁶

In the seventeenth century shabdung Doopgein Shepton La-Pha organized Bhutan into several provinces, each of which included one or more forts within its jurisdiction. Shepton consolidated Bhutan through the appointment of Ponlops, to govern the newly created provinces. The Ponlops were in turn empowered to appoint Dzongpons, to command forts within the province. Shepton exercised both spiritual and temporal authority, administering the nation through his appointed Ponlops. A loose theocracy prevailed throughout the land.⁷

Successive generations of Dharma Rajas began concerning themselves primarily with religious matter, leaving authority over secular affairs to an appointed minister known as the Deb Raja. The Deb Raja developed into the actual head of state, and this office was bestowed upon persons elected by a council of Ponlops, Dzongpons, and higher Buddhist (Drukpa) officials.⁸ By the end of the nineteenth century the Ponlops had grown increasingly more powerful, and the Deb Raja became a mere figurehead of the most powerful Ponlop, usually the Paro or Tongsa Ponlop.⁹

For more than two centuries there were continuous encounters and conspiracies throughout Bhutan. No central authority existed, and the nation was divided along feudalistic lines. The economic system relied upon land ownership and slavery.

Prior to 1907 the government of Bhutan was mainly an oligarchical polyarchy. It was a polyarchy because law-making authority was exercised by autonomous groups in the form of territorial Ponlops and

⁵ Coelho, *Sikkim and Bhutan*, *op. cit.*, pp. 61-63.

⁶ Foreign Affairs Studies Division, The American University, "U. S. Army Area Handbook for Nepal with Bhutan and Sikkim", 1964, p. 395.

⁷ Pradyumna P. Karan and William Jenkins, *The Himalayan Kingdoms: Bhutan, Sikkim and Nepal*, (Princeton: D. Von Nostrand, 1963), p. 32.

⁸ "U. S. Army Area Handbook for Nepal with Bhutan and Sikkim," *op. cit.*, pp. 402-403.

⁹ "Kingdom of Bhutan," *U. S. Department of State Publication* 8334, November, 1969, p. 1.

their Dzongpons. Routinized and institutionalized bargaining took place among these individuals, as the rulers of the various provinces contended for power and influence. An institutionalized accounting of the Ponlops to the Dharma Raja and Deb Raja existed in theory. In reality, homage was given to the most powerful Ponlops.

The political system at the national level was oligarchial in that resources in the form of land and military power were represented rather than people. Feudalism, slavery and wealthy landholders were the predominant economic characteristics of this period of Bhutanese history. In nineteenth century Bhutan, no democratic institutions nor political participation on an individual basis were provided for. This dominant position of the leading chiefs and lamas lasted until the creation of a hereditary monarchy in 1907.¹⁰

The Era of Pluralistic Autocracy

In 1885 the Deb Raja requested and was refused Chinese military aid for the purpose of defeating the powerful Ponlops of Paro and Tongsa. During this period all the Deb Rajas, except for one Paro client, were puppets of Tongza.¹¹ The Shabdung office, though never officially abolished, was deprived of powers in December of 1907. There is still a Shabdung resident in India today. At this time Wangchuk was elected as the hereditary monarch (Druk Gyalpo) of the country.¹²

To appease the British and protect Bhutan against Chinese expansionism, King Wangchuk on January 8, 1910, signed the Treaty of Punakha. The Treaty specified that Bhutan's foreign relations be guided by the advice of British India. Bhutan, however, retained full control over its internal affairs, including law-making authority.¹³

Secular and religious law were now vested in the Wangchuk family. This facilitated the establishment of a unified, centrally administered government for the first time in Bhutan's history.¹⁴ The Druk Gyalpo let the other Ponlop titles continue to be used in an honorary capacity, and reduced the size and influence of the Buddhist

¹⁰ Rahul, *Modern Bhutan*, p. 32.

¹¹ U.S. Dept. of State Publication 8334, *op. cit.*, pp. 1-3.

¹² "U. S. Army Handbook for Nepal with Bhutan and Sikkim," *op. cit.*, p. 404.

¹³ U. S. Dept. of State Publication 8334, *op. cit.*, pp. 1-3.

¹⁴ "U. S. Army Area Handbook for Nepal with Bhutan and Sikkim," *op. cit.*, p. 404.

clergy. With the former semi-religious system terminated, the new hereditary kings established direct personal rule.¹⁵

The economic system of the nation continued to be feudalistic, with local elite families losing much of their landholdings to members of the Wangchuk family. These proprietors also held high government posts, and had partial control over army units located in their dzongs.¹⁶ In Bhutan between 1907 and 1952, slavery continued to prevail and no institutions for representative democracy were initiated.

In the first half of the twentieth century, the government of Bhutan was a pluralistic autocracy. The system was autocratic because it did not recognize the accountability of the Druk Gyalpo to any elected Body or Group. Temporal and religious authority were now embodied in the king, who ruled by decree. Political roles were clustered in a hierarchy in which each individual was accountable upward, and ultimately to the Druk Gyalpo himself.

The form of autocracy was pluralistic because the Wankchuk kings recognized the principle of social autonomy. There was a clear dividing line between political and social activities. Most Bhutanese lived in isolated valleys and practiced local customs without governmental interference. Religion, social mores, education, the family and arts were not intricately integrated with the governmental political structure. Because of the existing primitive communication and transportation facilities, it would not have been possible for the kings to accomplish this kind of incorporation, even if they had desired to do so.

The economic system continued to be feudalistic with landowners receiving large revenues from their provinces. There was compulsory labor (chunidom) which in essence was a form of taxation. However, slaves, apparently were not numerous if the number of ex-slave families is a guide. No provisions were made for popular elections, and there were no opportunities for people to bargain on political matters during this phase of Bhutanese history. The source of legitimacy that sustained the political structure was procedural in the hereditary succession of the Wangchuk family. Law-making authority was thus derived from adherence to an institutional norm.

¹⁵ Pradyumna P. Karan, *Bhutan: A Physical and Cultural Geography*, (Lexington: University of Kentucky Press, 1967), p. 9.

¹⁶ Muriel Grendrad ed. "Bhutan and Sikkim: Two Buffer States," *The World Today*, Vol. 15. No. 12, December 1959, 493-494.

Ugyen Wangchuk was succeeded by his son, Jigme Wangchuk in 1926. The new Druk Gyalpo consolidated his control over Bhutan by appointing his relatives to posts of responsibility. He exercised a rigid control over the dzongpons most of whom were his personal appointees and kinsmen.¹⁷

When India received its independence from the United Kingdom in 1947, the Druk Gyalpo felt it necessary to replace the treaty Bhutan had with Britain. An Indo-Bhutan Treaty was signed in 1949 permitting Bhutan control over its internal affairs, but requiring that the kingdom be guided by the advice of India in its foreign relations.¹⁸ When King Jigme Wangchuk died, he was succeeded by his son, Jigme Dorji Wangchuk, who was installed as Maharaja on October 27, 1952.¹⁹

The Era of Transition

King Wangchuk demonstrated great executive leadership in leading Bhutan toward a modern representative government. Shortly after coming to power, the monarch abolished slavery and serfdom, limited landholdings to 30 acres (except for royal family and religious institutional holdings) and opened 200 schools with Indian help. However, most of the land in central and eastern Bhutan still belongs to landlords closely related to the Wangchuk family.²⁰

In 1953 the Druk Gyalpo inaugurated the establishment of a unicameral representative body called the Bhutanese National Assembly (Tsongdu), at Punakha. The Tsongdu was later moved to Thimpu. The main executive and decision-making body is the Lhungye Shuntory which consists of the Council of Ministers and the Royal Advisory Council. The king presides over the Council of Ministers.

The old feudalistic order is almost non-existent these days at Thimphu, but there are disenchanted elements. In April 1964, a reform leader named Jigme Palden Dorji was murdered. In December 1964, an unsuccessful coup d'état was attempted. In July 1965, the Druk Gyalpo was fired upon by would-be assassins.²¹ As yet

¹⁷ Rahul, *Modern Bhutan*, p. 55.

¹⁸ *U. S. Dept. of State, Publication No. 8334, op. cit.*, p. 3.

¹⁹ "Bhutan and Sikkim" Published by the Information Service of India, Political Office, Gangtok, Sikkim, July 5, 1968, p. 4.

²⁰ Rahul, *Modern Bhutan, op. cit.*, p. 59.

²¹ *Ibid.*, pp. 62-63.

there is no written constitution in Bhutan although efforts are being made to draft one.

Tsongdu Membership

The total membership of the Tsongdu was first set at 130, then increased to 150 to incorporate 20 more officials. There are three categories of persons who hold office in this legislative institution. These include Peoples' Representatives, Monastic Representatives and Official Representatives.

The Peoples' Representatives constitute 110 of the total Assembly strength.²² Village headmen are elected for five-year terms from Tsongdu constituencies. Constituencies are made up of representatives from local villages elected for three-year terms.²³

Monastic Representatives are nominated by the monastic bodies located in the Thimbu, Paro, Wangdiphodrang and Tongsa dzongs. The central monk leader nominates one, eight regional monk bodies nominate one each and the Dorji Lupon (the number-two man in the Drukpa hierarchy) is the tenth member.

Official Representatives are nominated by the Druk Gyalpo on a functional basis. This group includes five ministers, the eight members of the Royal Advisory Council, a Deputy Chief Secretary, senior civil servants, the Thrimpons (civil administrators) of the Dzongs, Ramjams (sub-divisional officers) and assistant civil administrators.²⁴

The Kingdom is divided administratively into 15 districts and two sub-divisions in Southern Bhutan. Each district is headed by a civil administrator and a magistrate.²⁵ The king nominates the ministers who are approved, or disapproved, by the Tsongdu. In addition, all royal appointments must be approved by a majority vote of the Assembly. Appointed ministers and senior civil servants may be removed from office by a majority vote of the Tsongdu at any time. The term of office for all members of the Bhutanese National Assembly is three years. The organization meets twice annually — in the spring and in the fall — for three weeks each time.

²² "Tsongdu: The National Assembly of Bhutan," Information Service of India, Political Office, Gangtok, Sikkim, August, 1969, p. 3.

²³ "Bhutan and Sikkim," *op. cit.*, pp. 4-5.

²⁴ "Tsongdu: The National Assembly of Bhutan," *op. cit.*, p. 3

²⁵ Shasikant Jha, "The Kingdom of Bhutan," Published by His Majesty's Government of Bhutan, Printed at Calcutta, India, 1970, p. 19.

The Speaker has always been one of the Official Representatives in the Tsongdu. He is elected from among the membership by simple majority vote for a term of three years and officiates over the daily activities of the Assembly²⁶ The Speaker also presides over the Lhungye Shuntsory; his most important function. The Tsongdu enacts laws and advises the Druk Gyalpo on all matters of national importance.

Removal Powers

In 1969, King Wangchuk proposed to the Spring of the Tsongdu that it assume the power to remove the Bhutanese monarch at any time, by a two-thirds majority vote. This proposal was accepted by the Assembly in May, 1969, making that organization the ultimate sovereign body of the Bhutanese government. The king is now required to seek a vote of confidence every three years from the Tsongdu membership. A negative two-thirds ballot constitutes a vote of no confidence. In that event, the king must abdicate. However, the Wangchuk dynasty provides the new monarch in order of succession.²⁷

In May, 1970, the Druk Gyalpo presented a second resolution to the National Assembly which sought to empower the organization to terminate the rule of the monarch by a simple majority vote. The Assembly turned down the proposal, electing instead to retain the existing two-thirds requirements.²⁸

The Royal Advisory Council

A Royal Advisory Council, composed of eight members elected by the Tsongdu, examines foreign and domestic problems. The Council meets daily and makes recommendations to the king and his ministers, advising them on all matters of national importance. The group also arbitrates disputes between departments and ministries. Its decision is final in such cases.²⁹ The Council is composed of the people.³⁰

²⁶ "Tsongdu: The National Assembly of Bhutan," *op. cit.*, p. 10.

²⁷ *Ibid.*, pp. 9-10.

²⁸ *Hindustan Times* (New Delhi), May 30, 1970, p. 1.

²⁹ P. N. Sharma, *Glimpses of Bhutan* (New Delhi, India Press, 1969), pp. 29-30.

³⁰ Coelho, *Sikkim and Bhutan*, *op. cit.*, p. 87.

National Law-Making Authority

The Peoples' Representatives are responsive to their constituents, to whom they are responsible and depend upon for re-election. Villagers make demands upon their Tsongdu Representatives who in turn make known these demands before the Bhutanese National Assembly. After each legislative session, the Assemblymen are required to give a report of the proceedings to the villagers they are accountable to. The only free speech in Bhutan is in the Tsongdu itself. A Free Speech proposal by the king was rejected by the Tsongdu.³¹

Bhutan has no political parties. This eliminates controversial politics and forces the demands of villagers, religious, military and bureaucratic groups to be coordinated and compromised at the regular sessions of the Tsongdu, and at formal and informal meetings among Assembly members. The National Assembly has enacted many civil and criminal laws proposed by the government including those relating to taxation, compensation, property and the land tenure system.³²

At the opening of each legislative session of the Tsongdu, the king presents a state of the union message before the membership. In his speech, the monarch raises issues he would like the delegates to discuss.³³ The king continues to play an active role through his Chief Secretary who presents draft bills and proposals for the consideration of the Assembly during its regular sessions.³⁴

A Bill may be introduced by the king or a member of the Bhutanese National Assembly. It can be passed or defeated by a simple majority of the Tsongdu, voting by secret ballot. If the Bill receives a favorable endorsement from the legislature, it goes to the monarch for his signature. When he signs the measure it becomes law. However, the king may refer it back to the Assembly with his objections attached thereto. The Tsongdu then re-examines the Bill in the light of the king's comments. If the legislature again passes the proposal by a simple majority, the Bill becomes the law of the land.³⁵

Conclusion

Bhutan is currently a traditional conservative monarchy. However, under the leadership of King Jigme Dorji Wangchuk, the gov-

³¹ "Tsongdu: The National Assembly of Bhutan," *op. cit.*, pp. 5-6.

³² *Ibid.*, p. 4.

³³ *Ibid.*, p. 5.

³⁴ Coelho, *Sikkim and Bhutan*, *op. cit.*, p. 87.

³⁵ "Tsongdu. The National Assembly of Bhutan," *op. cit.*, pp. 9-10.

ernment of Bhutan in May, 1969, moved closer to becoming a democratic polyarchy. It is a polyarchy because political power is diffused among several autonomous groups. These include the village units, monastic bodies and agencies of the government bureaucracy. In addition, there is provision for an institutionalized accountability of the representatives of these entities to their respective constituents or superintendents. Open and aggressive debate takes place in the Bhutanese National Assembly.

The kingdom is now ruled oligarchically, and despite land reforms initiated by the king, its distribution of social and economic benefits remains uneven. However, Bhutan is not very authoritarian. Pressure to conform is internalized in members of the polity through the weight of tradition.

The national government is unitary yet the Bhutanese monarchy has not been characterized by personalized or "charismatic" leadership. The freedom of action of the Druk Gyalpo comes from, and is limited by, the origin of his position. He is free to act because the Bhutanese political system is based on limited participation, and the legitimacy of the king is high among the population as a whole.

Geographic, demographic and economic factors influence national rule-making in Bhutan. The Kingdom is a small state, relatively isolated from world events by the Himalayan mountains. The country has a population of only 1.1 million, and few concentrations of people living in urban areas. The per capita Gross National Product is less than \$250.00.

In Bhutan, individual political participation is uncommon, since the Kingdom's governmental institutions are appendages of family, village, religious and bureaucratic groups. The role of the Bhutanese National Assembly, Druk Gyalpo and other political structures is dependent upon the support of these communal groups and their leaders. Demands, or inputs into the rule-making process of Bhutan are injected by the communal groups. Each Bhutanese citizen is normally represented by only one of them.

The function of the Assemblymen is to formally and publicly convey the desires of the groups, and take part in the policy process that affect them. Because of strong legitimacy ties, Bhutan is able to maintain a National Assembly with powers to overthrow the monarch, without the need for political parties. The likelihood of such an overthrow, however, is remote.

The degree of politicization and participation is very limited. Slavery has been abolished, landholdings have been limited and a public education system has begun. Because of these changes, feudalism may eventually become less viable as an economic system in Bhutan. However, currently, the church and the military are still strong forces in the nation. Should the kingdom experience rapid urbanization, this could engender a bigger bureaucracy and military establishment. These institutions might then ultimately lead to a populist or authoritarian conservative regime unless they contained enough individuals from the communal groups to retain some of the traditional loyalties. This would also be true of any new educational classes that might develop.

The transition of the government of Bhutan from a pluralistic autocracy to a modern representative democracy had been a primary goal of the late king Jigme Wangchuk. The king had followed the example of democratic India, with whom his nation maintains close political and economic ties.

The dependence of Bhutan upon India is very apparent. Indian financial assistance to the Kingdom in 1973 totalled nine million dollars.³⁶ The national currency of Bhutan is the Indian rupee. Indian civil servants are entrenched at all levels of the government bureaucracy, and the only foreign mission in the Kingdom is an Indian Representative.

King Jigme Wangchuk realized the great political and economic advantages that might be obtained for his country by a democratization of the Bhutanese government. Late in 1969, in his last vote of confidence, only four Tsongdu members voted against the king, one abstained and 135 cast their ballots in favor of retaining him in office.³⁷ Whether this vote reflected the real views of the various members of the legislature is difficult to ascertain.

Nevertheless in Bhutan today, people are being given greater representation in the National Assembly than land or other resources. The supreme law-making authority of the nation is vested in the Tsongdu, an institution whose members are accountable to the will of the electorate as groups. Modern political parties may eventually

³⁶ Bernard Weinraub, "End of Isolation Brings New Problems for Bhutan." *New York Times*, January 1, 1974, p. 4.

³⁷ *Hindustan Times* (New Delhi), May 30, 1970, p. 13.

emerge from these powerful communal groups, if Bhutan continues to evolve into a democratic polyarchy.

With the death of King Jigme Dorji Wangchuk, Prince Singhye Wangchuk became the Druk Gyalpo of Bhutan in July 1972. When the young king was formally installed at a coronation ceremony at Thimphu on June 2, 1974, the rituals were watched by the representatives of twelve nations including Britain, the United States, France, China and the Soviet Union. The new king said that his kingdom had made good financial progress and that he was grateful for the increasing financial and technical assistance of other countries, especially India.³⁸

The new Druk Gyalpo promised to accelerate economic development of his nation. The start of tourism, school and hospital construction and a gradual flow of assistance from the United Nations and foreign countries are now planned.³⁹ The king appears to be carrying on with his late father's policies. He stated on June 13, 1974 that he was interested in developing the monarchy into a constitutional one. According to press reports, the Tsongdu has given up its right to hold a vote of confidence in the King every three years. Nevertheless, this Body has grown into a genuine consultative agency on issues of national importance.⁴⁰

Relations between Bhutan and India remain good and King Wangchuk asserts that there is no need to review the Indo-Bhutani treaty.⁴¹ With continuing economic, technical and educational development in Bhutan, an accompanying political awareness may evolve among the Bhutanese people. Some Bhutanese students are sent every year for short-term training to Australia, New Zealand, Japan, Singapore and Britain, with fellowship under the Colombo Plan. As Bhutan continues to expand its contacts with Western concepts and customs it may move swiftly towards a modern representative democracy.

³⁸ *Hindustan Times* (New Delhi), June 13, 1974, p. 13.

³⁹ Bernard Weinraub, "Bhutan King, 18, Crowned Amid Pageantry," *New York Times*, June 3, 1974, p. 10.

⁴⁰ *Hindustan Times* (New Delhi), July 11, 1974, p. 6.

⁴¹ *Hindustan Times* (New Delhi), June 20, 1974, p. 13.