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BHUTAN

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RELIGIOUS FREEDOM IN BHUTAN

I. LEGAL FRAMEWORK

Constitutional and Other Legal Provisions

Bhutan's new Constitution was first introduced in 2005 by the former monarch, King Jigme Singye Wangchuck.¹ His son Jigme Khesar Namgyel Wangchuck ratified the constitution in July of 2008, four months after Bhutan's first parliamentary elections.² This Constitution served as the law in Bhutan since 2005 through the end of the United States State Department reporting period.³ "The country's legal system is based on customary law and Buddhist precepts."⁴

In the Constitution, Article 7 contains the most progressive constitutional religious freedom provisions.⁵ It provides for the freedom of thought, conscience, and religion, and further requires that "[n]o person shall be compelled to belong to another faith by means of coercion or inducement."⁶ According to the Asian Centre for Human Rights, "[t]his effectively bans any religious activity inside Bhutan as followers of any other faith could well be prosecuted in the name of 'religious conversion' for teaching or propagating their religions."⁷ As reported by the United States State Department, while the constitution does not explicitly restrict proselytism, a Royal Government decision does prohibit it:

The National Security Act (NSA) prohibits "words either spoken or written, or by other means whatsoever, that promote or attempt to promote, on grounds of religion, race, language, caste or community, or on any other ground whatsoever, feelings of enmity or hatred between different religious, racial or language groups or castes and communities." Violating the NSA is punishable with up to 3 years'

¹ CENTRAL INTELLIGENCE AGENCY, THE WORLD FACTBOOK, BHUTAN [hereinafter, THE WORLD FACTBOOK], <https://www.cia.gov/library/publications/the-world-factbook/print/bt.html> (last visited Mar. 30, 2009).

² *Id.*

³ See U.S. DEP'T OF STATE, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2008, BHUTAN (2008) [hereinafter 2008 INT'L RELIGIOUS FREEDOM REPORT], available at <http://www.state.gov/g/drl/rls/irf/2008/108367.htm>. The Constitution was not fully ratified until after the end of the State Department's reporting period. *Id.*

⁴ *Id.*

⁵ CONSTITUTION OF THE KINGDOM OF BHUTAN, art. 7, available at [http://www.constitution.bt/TsaThrim%20Eng%20\(A5\).pdf](http://www.constitution.bt/TsaThrim%20Eng%20(A5).pdf).

⁶ *Id.* art 7, § 4.

⁷ Asian Centre for Human Rights, *South Asia Human Rights Index 2008*, 58 [hereinafter, Asian Center for Human Rights], available at <http://www.achrweb.org/reports/SAARC-2008.pdf>.

imprisonment although it is not clear that the Government has enforced this provision of the act.⁸

Although proselytism is restricted, Article 7 further defines political and civil rights to include, *inter alia*, “the right to freedom of speech, opinion and expression,”⁹ “the right to information,”¹⁰ and “freedom of the press.”¹¹ Article 7 also provides that citizens have freedom of peaceful assembly and association, but not in “associations that are harmful to the peace and unity of the country[.]”¹² Additionally, Section 15 provides that all citizens “shall not be discriminated against on the grounds of . . . religion.” However, the Constitution also provides that the State may restrict any of these rights to promote several general national aspirations, including, *inter alia*, the “unity and integrity of Bhutan,” the “well-being of the nation,” or to prevent “incitement to an offence.”¹³

Article 3 of the Constitution declares that Buddhism is the “*spiritual heritage* of Bhutan” and that the government must promote that heritage.¹⁴ Some have observed that this may require non-Buddhists to promote Buddhism even while they are prohibited from promoting their own beliefs.¹⁵ While Article 3 “ensures” the separation of church and politics,¹⁶ it also appoints the King of Bhutan as the “protector of all religions.”¹⁷ Article 3 further provides that the King will appoint the spiritual leaders of the top monastic body, which serves its function with the assistance of a high ranking civil servant.¹⁸ These bodies are funded by the State.¹⁹ Finally, the Constitution interferes with the religious beliefs of political candidates and parties: Article 15, sec. 3 commands that “[c]andidates and political parties shall not resort to . . . religion to incite voters for electoral gain.”²⁰

⁸ U.S. DEP’T OF STATE, 2008 HUMAN RIGHTS REPORT: BHUTAN, § II, Legal/Policy Framework [hereinafter 2008 HUMAN RIGHTS REPORT: BHUTAN], available at <http://www.state.gov/g/drl/rls/irf/2007/90227.htm>; see also National Security Act of Bhutan, 1992 § 9(a), available at <http://www.oag.gov.bt/images/acts/National%20Security%20Act.pdf>.

⁹ CONSTITUTION OF THE KINGDOM OF BHUTAN, *supra* note 5, at art. 7, § 2.

¹⁰ *Id.* § 3.

¹¹ *Id.* § 5.

¹² *Id.* § 12.

¹³ *Id.* § 22. Section 22 is quoted in full below:

Notwithstanding the rights conferred by this Constitution, nothing in this Article shall prevent the State from subjecting reasonable restriction by law, when it concerns:

- (a) The interests of the sovereignty, security, unity and integrity of Bhutan;
 - (b) The interests of peace, stability and well-being of the nation;
 - (c) The interests of family friendly relations with foreign States;
 - (d) Incitement to an offence on the grounds of race, sex, language, religion or region;
 - (e) The disclosure of information received in regard to the affairs of the State or in discharge of official duties;
- or
- (f) The rights and freedom of others.

Id.

¹⁴ *Id.* art. 3, §§ 1, 3 (emphasis added).

¹⁵ Asian Center for Human Rights, *supra* note 7.

¹⁶ CONSTITUTION OF THE KINGDOM OF BHUTAN, *supra* note 5, art. 3, § 3.

¹⁷ *Id.* art. 3, § 2.

¹⁸ *Id.* art. 3, §§ 4–6.

¹⁹ *Id.* art. 3, § 7.

²⁰ *Id.* art. 15, § 3.

II. RELIGIOUS PERSECUTION AND DISCRIMINATION IN BHUTAN

Christians comprise a very small minority in Bhutan. Christians, both Protestant and Roman Catholic, combined with completely non-religious groups, comprise less than 1% of the population. The majority of the country's population—approximately seventy-five percent—practices Lamaistic Buddhism.²¹ The other approximate twenty-five percent practice Hinduism.²² The annual World Watch List for 2009 produced by Open Doors, which ranks “countries where Christians suffer the greatest persecution,” currently places Bhutan in eleventh place.²³ This is a marked improvement from the 2008 list, wherein Bhutan ranked the fifth worst persecutor of Christians.²⁴ However, despite improvements, Bhutan remains a place of discrimination both socially and institutionally:

Officially, the Christian faith does not exist in Bhutan and Christians are not allowed to pray or celebrate in public. Openly, Christians can meet as a family but not collectively with other Christian families. Religious workers are denied visas to enter the country. Christian children are accepted in schools, but some face discrimination if known to be a Christian and they face the constant pressure to attend Buddhist religious festivals. It is almost impossible for Christian students to get to university level. For Christians with government jobs, discrimination is also an issue. There have been cases of believers being deprived of promotion simply because of their faith. The import of printed religious matter is banned, and only Buddhist religious texts are allowed in the country. Persecution mainly comes from the family, the community, and the monks who yield a strong influence in the society. Cases of atrocities (i.e., beatings) are sporadic.²⁵

One specific example of persecution was reported on April 11, 2004, when police raided three Protestant house churches in southern Bhutan following Easter Sunday services.²⁶ The police arrested no one, but they warned the church members not to meet together, and the elders and pastors were told to report daily to the police station.²⁷ The police told the members that their meetings constituted “terrorist activity.”²⁸ Starting in 2000, Catholic churches experienced

²¹ THE WORLD FACTBOOK, BHUTAN, *supra* note 1. *See also* 2008 INT’L RELIGIOUS FREEDOM REPORT, *supra* note 3, Sec. I.

²² *Id.*

²³ OPEN DOORS, WORLD WATCH 2009: THE COUNTRIES WHERE CHRISTIANS SUFFER THE GREATEST PERSECUTION, 2, *available at*

<http://www.opendoorsusa.org/UserFiles/File/Open%20Doors%20World%20Watch%20List%202009.pdf> (last visited Mar. 30, 2009).

²⁴ Press Release, Open Doors, N. Korea Top Persecutor Again (Feb. 3, 2009) *available at*

<http://www.opendoorsusa.org/content/view/916/139/> (last visited Mar. 30, 2009).

²⁵ OPEN DOORS, *supra* note 23, at 11.

²⁶ *Bhutan: House Churches Raided After Easter Services*, COMPASS DIRECT NEWS, Apr. 23, 2004,

<http://www.compassdirect.org/en/display.php?page=news&idelement=3024&lang=en&length=short&backpage=archives&critere=bhutan&countryname=&rowcur=0> (last visited April 7, 2009).

²⁷ *Id.*

²⁸ *Id.*

greater restrictions when the government outlawed “public non-Buddhist religious services, and imprisoned those who violate the law.”²⁹

Although no real societal pressure to practice Buddhism was reported in the U.S. Department of State Human Rights Report of 2008, it was noted that “the government required permission to build religious temples but rarely granted it for non-Buddhist buildings. Followers of religions other than Buddhism and Hinduism were free to worship in private homes but could not erect religious buildings or congregate in public.”³⁰ Moreover, there were allegations that “the government permitted only Drukpa Kagyupa and Ningmapa Buddhist religious teaching in schools. Some dissidents claimed that Buddhist prayer was compulsory in all government-run schools; however, the government contended that Buddhist teaching was permitted only in monastic schools and that religious teaching was forbidden in other schools.”³¹

Bhutan has recently made efforts to demonstrate a lack of hostility toward Christians, specifically missionaries. In February of 2009, the Education Minister requested that Bibles for the World send five hundred teachers to Bhutan to instruct students in English, Math, and Science.³² Improvements in religious tolerance in the last year are credited in part to the new constitution. Open Doors observed, “2008 was a year of major changes in Bhutan: the first-ever elections for parliament were held; a new constitution which guarantees more religious liberty was implemented[,] and a new king was crowned.”³³ According to one Bhutan news source, various young converts to Christianity claim that the level of hostility they have experienced is minimal.³⁴ Most of these converts claim that their families objected initially but came to accept their decision and that any persecution “does not come from the government” but from “mid-level officials” with “personal prejudices”; they are “really experiencing no major difficulties”³⁵ This article cited the Bhutan’s history of Christianity, the newly ratified constitution, and the parliamentary elections as the reasons behind the lack of severe governmental religious persecution in Bhutan.³⁶

²⁹ *Id.*

³⁰ 2008 HUMAN RIGHTS REPORT: BHUTAN, *supra* note 8, § II, Restrictions on Religious Freedom, *available at* <http://www.state.gov/g/drl/rls/irf/2007/90227.htm>.

³¹ *Id.*

³² *Bhutan Invites Christian Leaders*, APFNEWS.COM, Apr. 2, 2009, <http://www.apfanews.com/stories/bhutan-invites-christian-teachers/>.

³³ *Id.* Other forms of persecution in Bhutan continue, however: the government expelled over 100,000 ethnic Nepalese and Hindu practitioners during the 1980s and 1990s; as of 2008, none of these stateless refugees has been granted reentry into Bhutan. Human Rights Watch, *Bhutan’s ethnic cleansing*, Jan. 31, 2008, *available at* <http://www.hrw.org/en/news/2008/01/31/bhutans-ethnic-cleansing> (last visited Apr. 2, 2009).

³⁴ Gyalsten K Dorji, *Bhutan: Christians in Bhutan*, KUENSEL ONLINE, Feb. 14, 2009, <http://www.kuenselonline.com/modules.php?name=News&file=article&sid=11988> (last visited Apr. 3, 2009).

³⁵ *Id.*

³⁶ *Id.*