

Continuing Customs of Negotiation and Contestation in Bhutan

Adam Pain and Deki Pema*

Introduction

A concern for the maintenance of traditional values and customs in the processes of modernisation within Bhutan is evident in much of Bhutan's official documentation. The fundamental importance given to the maintenance and fostering of Buddhism, its beliefs and associated institutions reflected in Bhutan's rich culture, is constantly returned to and emphasized in commentary. Thus the establishment of the Special Commission for Cultural Affairs in 1985 "is seen as a reflection of the great importance placed upon the preservation of the country's unique and distinct religious and cultural traditions and values, expressed in the customs, manners, language, dress, arts and crafts which collectively define Bhutan's national identity" (Ministry of Planning, 1996, p.193). Equally the publication of a manual on Bhutanese Etiquette (*Driglam Namzhag*) by the National Library of Bhutan was hopeful that it "would serve as a significant foundation in the process of cultural preservation and cultural synthesis" (Publishers Forward, National Library, 1999).

One strand of analysis that could be pursued concerns the very construct of "traditional" and what is constituted as "within" or "without" that tradition. As Hobsbawm (1983) reminds us with respect to the British Monarchy, much of the ceremonial associated with it is of recent origin. Equally national flags, national anthems and even the nation state, are, as Hobsbawm would have it, "invented traditions" designed largely to "inculcate certain values and norms of behaviour by repetition, which automatically implies continuity with

*Research Fellow, School of Development Studies, University of East Anglia & Planning Officer, Policy & Planning Division, Ministry of Agriculture, Thimphu

the past” (*op. cit* p1). While it is clear that certain emblems of tradition within Bhutan are of relatively recent origin (e.g. the flag, the national anthem), there is also a strong core of traditional practices and cultural norms that stretch back into history although the use to which they have been put may have varied over time.

Much of the recent writing on Bhutan has focussed on the more formal and materially evident aspects of tradition and culture – the religious institutions and their ceremonies, the monarchy, architecture and textiles (see Aris, 1994; Myers & Bean, 1994; Schicklgruber & Pommaret). Aris’s paper of 1994 (Aris, 1994) on patterns of conflict, mediation and conciliation within Bhutan is possibly the only writing on Bhutan, which looks at patterns of social interaction, although primarily at the level of political (and military) conflict. His fascinating paper on negotiation and mediation as customary Bhutanese practices, and their embeddedness in Buddhist doctrine, theocratic, legal¹ and political institutions is the starting point of this paper.

Historical Evidence

While most of Aris’s examples relate to political and military disputes both between Tibet and Bhutan and within Bhutan, he cites one example (*op.cit.* p14) of dispute between two rural communities of Ura in Bumthang and Ngangla Kharchung in Mongar² over traditional grazing rights within Mongar. In this long running dispute, the litigants have been in and out of court and through various processes of conciliation, all of which had failed to provide judgements that stuck. While Aris used this case to illustrate the process of mediation, what is also revealing about the dispute has been the enduring capability of the people of Ngangla Kharchung to continue to protest and dispute a court judgement that found against them, a fact indicating ‘the relative impotency of the state in settling (the) conflict’ (*op.cit* p15). Other historical evidence supports an interpretation of the limits of state power (and historically fractionated nature of the state) and the ability of rural communities to protest and to find means of doing so in a political system that has often held by outside commentators to be rigidly feudal.

Karma Ura's book *The Hero With a Thousand Eyes* (Ura, 1995) while subtitled a historical novel is in reality a thinly disguised biography of *Dasho* Shingkar Lam. Shingkar Lam was conscripted as a court servant of the second King of Bhutan in 1944, rose to the rank of Deputy Minister and Speaker of the National Assembly of Bhutan under the third King and finally retired in 1985 during the reign of the fourth King. His involvement in the various stages of tax reform during both the reign of the second and third Kings provide the basis of details on taxation regimes in Chapter 8 of Ura's book. This chapter, so far the only recently published source³ to begin to look at Bhutan's rural economy prior to the 1950s provides evidence of aspects of social economic relations between rulers and the ruled for at least for the early part of the 20th century.

The detailing of the specifics (given by nature of the tax and by household type) of the taxes (primarily in kind and in labour) overlies two broader features. The first is the multiplicity of taxation regimes that could be imposed according to the relative strength or will of the local ruler or tax collector. Indeed part of the purpose of the tax reform exercise under the 3rd King was precisely to impose a uniform taxation regime across the country (*op.cit* p139) and reduce where possible the taxes paid. As we will see later in the discussion on the records of the early meetings of the National Assembly this did not serve to remove various anomalies in the taxes paid. The second feature concerns the tax status of individual households within a given taxation regime and whether they were regarded as full paying tax households (the *threlpa* or *khep* households whose tax (and social) status could be traced back to their ancestors role as patrons⁴ of the *Zhabdrung*), the *zurpa* households that were relatively young households that paid partial taxes and the *suma* households who had protection under one of the aristocratic families and paid lower taxes than the other two groups. In addition there were both *drab* households under the protection of religious establishments who paid no taxes and serfs who belonged to richer households.

What is revealing is the ability of households at times to contest and change their tax status by playing off one taxation centre against

another. For example Upper Kheng broke away from the *Dzongpon* of Zhemgang in the early part of the 20th century and sought protection under Wangdicholing Palace in Bumthang because of the labour burdens for *dzong* construction that were being imposed by the *Dzongpon* (Tenzin Rigden and Ugyen Pelgen, 1999 p47). Households might appeal over the head of their local lord in order to reduce tax demands, not always successfully. A number of *kashos* (written order) held by the descendants of the Chumi *Zhelngo*⁵ illustrate these various points (see Table 1).

The first three documents illustrate some of the circumstances under which taxation might be relieved either by the immediate point of taxation or by a higher authority. Documents (a) and (c) identify religious responsibilities or donations as grounds for tax relief. Document (b) is an agreement on gaining protection from the Chumi *Zhelngo*.

Table 1: *Kashos* held by Chumi *Zhelngo*²

<p>Tax Exemptions</p> <p>(a) <i>Kasho</i> issued by Uygen Wangchuk (1st King) exempting Dumdung households as <i>suma</i> households under the Chumi <i>Zhelngo</i>, from taxation on the wetland as the Chumi <i>Zhelngo</i> had contributed relics to Punakha Dzong after it had been burnt down. Undated</p> <p>(b) Informal agreement between households of Koshila and Dumdung for the acquisition of <i>suma</i> status; each gave two <i>langdos</i> of wetland to the Chumi <i>Zhelngo</i> in exchange for protection and because of the fame of Pema Lingpa's son and the many <i>kashos</i> from the <i>Zhabdrung</i>. Undated, possibly about 300 years ago during the time of Pema Lingpa's son</p> <p>(c) An exemption for Chumi <i>Zhelngo</i> and his <i>drabs</i> from paying butter tax on account of the three <i>lhakhangs</i> that he had to maintain. Male Wood Tiger Year (1914?). Authority unknown.</p> <p>Maintenance / Confirmation of Taxation</p> <p>(a) Year of the Fire Monkey 20th Day of the 1st Month, issued by <i>Desi</i> Jigme Singay (1896?)</p> <p>Each <i>khep</i> household in Dumdung must pay 20 <i>dreys</i> of paddy to the Chumi <i>Zhelngo</i>.</p> <p>(b) Iron Mouse Year (1840/1900?) (apparently to the <i>drabs</i> of Chumi <i>Zhelngo</i> who had complained of the services that they had to provide) - issued by a <i>Desi</i>?</p> <p>Chumi <i>Zhelngo</i> has been a very important seat of <i>Terton</i> Pema Lingpa's son Dawa. Therefore the people should continue to pay fodder and firewood taxes and also transport these loads to Tibet both in summer and winter. Similarly all other types of services that were offered to the <i>Zhelngo</i> are to be continued without raising any</p>
--

complaints.

- (c) Iron Pig Year, (1851?) issued by Jigme Wangchuk, *Desi* and also sent to 16 households in Tsampa in Tibet

Chumi Naktsang is allowed to carry out its salt trade in Tsampa and Langtad as this was the practice over the last many decades. Therefore the people of Tsampa should not create any sort of disturbances that could affect the salt trade of the *Zhelngo*. Moreover henceforth the *Zhelngo* should be allowed to trade with the people of Lhalung, Dojong and Nyidey.

- (d) Earth Bird Year (1909) issued by the first king

People of Chumi are responsible for transporting sixteen yak loads of Chumi *Zhelngo* to Tibet twice a year. They are also obliged to carry back whatever loads the *Zhelngo* wants to transport from Tibet. This responsibility was imposed by *Zhabdrung* Ngawang Namgyal himself and it to be continued without raising any objections.

- (e) Iron Monkey Year, (1920) issued from *Lame Gompa* and issued to the people of Upper Choekoer with regard to the transportation of Chumi *Zhelngo*'s loads to Tibet.

You have raised complaints and requested exemption. While you are exempted from the transportation of other types of loads you can never be exempted from the transportation of Chumi *Zhelngo*'s loads as there is a *kasho* from His Majesty commanding the continuation of this service to the *Zhelngo*.

The five documents listed under the Maintenance or Confirmation of Taxes indicates two aspects. First households could and did frequently raise requests (or "request exemption", a phrase that has continued in use) to be relieved of taxes and second, such requests or complaints could often be rejected. The grounds for rejection are revealing. Obligations on grounds of support for religious institutions or customary support to religious institutions were without question to be

maintained, although contributions to religious institutions could provide grounds for subsequent relief. In addition, practices that could claim tradition or custom (see (c) on the salt trade) or authority (a *kasho* from the King) could not be relieved.

If requests for the relief of taxation burdens were rejected, and the taxes were found to be intolerable, in extremis households or even whole villages could migrate. There are examples of households from central Bhutan migrated eastwards to Trashigang in order to escape taxation burdens from central and eastern Bhutan and gained *suma* status where they settled (Interview with *Dasho* Tenzin Dorji, Trashigang, September 21st. 1999). Van Driem (1992, p24) accounts for the settlement of *Monpas* in the village of Reti on the eastern slopes of the Black Mountains as an escape from Rukha on the western side of the Black mountains and corvee labour impositions of carrying tea from the south of Wangdi Phodrang during the time of the first King. The settlement of households from Kheng (Zhemgang) in Dagana during the early 20th century can also be partly accounted for by this (Adam Pain and Deki Pema, Field Notes, February 2000).

Evidence from the National Assembly Records

Debate and contestation over taxation continued into a more public forum once the National Assembly was established in 1952 and Annex 1 contains a selection of resolutions related to tax adopted by the National Assembly between 1952 and 1968. While the resolutions shed little direct light on the mode of bringing such items to the agenda, the conduct of the discussion and debate and the methods and protocol of resolution, the range and specificity of the topics and the fact that these issues were brought up for discussion at all is indicative of the fact that such matters were seen to be legitimate matters for debate.

The various resolutions shed light on the range of taxes that had been historically imposed and the variability of those taxes between locations. In addition to grain taxes (see Session (S) 19, resolution (R) 35) taxes were paid in the form of salt (S17, R35; S17, R11), grass (S1,R1c), labour (S1,R1d & e), butter (S16,R13), bamboo (S19,R10),

butter containers (S19,R9), incense (S19,R18), leather bags (S1,R6), paper (S14,R8), cloth (S14,R7), wool (S20,R13), baskets and buckets (S19,R24), shingles for roofing (S22, R2) and timber (S20,R21).

A number of the debates were concerned with the resolution of what were seen to be inequities in terms of tax payment. Thus in Session 1 (R1d) efforts were made to ensure that the labour for driving the Kings cattle during transhumance was distributed equally between communities. Butter taxes (S16, R13) were reformed so that taxes were not imposed on those who had no cattle and to ensure that cash payment in lieu of butter payment was standardised (S20, R23) between Thimphu and other *dzongkhags* (districts). Double taxation on grazing land (S26, R6) was raised (although it is not stated how this was resolved).

Many of the agenda items raised were concerned with gaining a reduction in the amount of taxes to be paid. Thus the amount of grass to be paid as tax was reduced for the people of Tongsa (S1, R1c), the amount of salt tax paid by the Layaps to Punakha and Gasa was reduced (S17, R11), the people of Phobji supplied a permanent box for butter storage instead of paying annually 120 butter containers (S19, R9), the supply of bamboo mats from two communities in Wangdi was reduced from 25 to 5 (S19, R10) and taxes on *Tseri* land were halved (S28, R17).

In other cases the payment of certain taxes was exempted altogether. Thus the people of Dagana were exempted from supplying the raw material for incense (S19, R18), the paddy tax paid on land belonging to the Central Monk Body in Gasa was abolished on the grounds that the land itself had been washed away more than 50 years ago (a revealing fact which does not explain why the tax continued to be paid) and farmers had still been paying the tax (S19, R35) and the obligation to supply planks by the people of Goen Shari to Punakha *Dzong* was abolished.

Request for relief of taxation burdens were not always met. The request to substitute a lower quality cloth as tax payment by the people of Tashigang was not agreed to (S14, R7); the attempt by the

people of Gasu to be excused the supply of shingles on the basis of *kashos* held from both the 2nd and 3rd King, was not agreed to on account of objections by the people of Shar and Punakha who argued that the shingle labour tax was being raised under a different taxation system (S22, R2). The initial refusal by the Assembly to accept a request for the exemption of a potato tax by the people of Chapcha, Kheng and Samdrup Jongkhar (S25, R6) was subsequently overturned when the matter was brought back to a later assembly (S26, R5) and the request brought by a wider constituency.

This latter debate on potato tax raises a number of broader issues. Prior to the National Assembly establishment negotiation on taxation had been very much a local debate carried on between the taxpayer and the local tax authority and the visibility of excess or exempted tax was limited. Once the debate was brought to a new and larger forum the knowledge base on which taxes could be compared was of course widened but equally the chances for individual negotiation reduced because there were others to ensure that equity was maintained.

Indeed with the introduction of a monetary form of taxation from the 1960s onwards the debates on taxes reduced substantially as other State interventions, most notably the Forest Act of 1969 and the Land Act of 1978 were introduced.⁶

The 1969 Forest Act and Debates in the National Assembly

The Bhutan Forest Act of 1969 was the first major act to be introduced after the creation of the Thrimzhung Chhenmo (Supreme Laws) of 1957. It in effect nationalised all forestland and restricted access to or regulated use of forest products such as timber, pasture and other forest produce.⁷ Further it reserved the right to the absolute ownership of trees, timber and other forest produce on private land (The Bhutan Forest Act 1969, Chapter III, Section 10).

From 1969 onwards it is evident from the National Assembly resolutions that the scope and restrictions of this Act were under constant debate. Thus in Session 31 (1969) resolution 2 established the rights of villagers to use lands within a radius of 2 miles of the

village for grazing (and re-debated in S32, R21). Rights of use on *sokshing* (land from which leaf litter is collected) that had been registered in individual *thrams* (land register) have been constantly contested in the National Assembly. The demands for the above article to be amended (to allow for the rights to fell timber without taxation on land registered in one's own *thram*) have been continually resisted (see S32, R18; S45, R3). Ultimately however (R48, S1) rights to the free use of timber from trees growing on registered land by the owner were gained and established through clauses 6 and 7 in Chapter III of the Land Act although the Forest Act continued to govern the access to trees on privately registered *tsamdo* (grazing land) and *sokshing*. This compromise did not stop further unsuccessful attempts to regain timber rights at a subsequent Assembly meeting (S49, R5).

Rights to other forest produce were reclaimed. Thus exemption from taxation from the use of bamboo growing on pasture land or *tseri* (land cultivated under fallowing systems) registered in the *sathram*, for feeding livestock was gained (S32, R20) although the right to levy tax on bamboo used for roofing was maintained at that time. However later the right to use bamboo for house construction and domestic purposes without taxation was also regained (S38, R6). Similarly the rights to extract tree juice for polishing and domestic purposes without taxation was regained, subject to the permit from the *Dzongda* (S32, R26).

More general dissatisfaction with the regulation of the use of pasture land on which owners paid taxes and costs by the Forest Department emerged later (S45, R4) where it was argued that the Forest Department had failed to recognize the rights of pasture owners on their own lands. The decision for an investigation to report back at the next session led to the establishment of a set of draft Rules and Regulations on pasture land which were then incorporated into the Land Act.

It is not the purpose of this paper to follow through the tangled history of debate and contention on the scope and remit of the Forest Act and access to and use of land covered both by this Act and the Land Act. The important point to be made is that even within a formal

institutional setting of the National Assembly rights to access and use of resources were continually being debated, renegotiated and contested.

The minutes of the National Assembly of course give no flavour of the debate or detail as to the positions adopted by contending interests in the discussion. Nor of course do formal agreements at this level necessarily reflect outcomes in the practice of resource use at the village level. But the National Assembly has not been the only recourse that the rural population has to renegotiate rights of use and access to resources and traditional avenues of recourse have also been maintained.

A reading of the Manual of Forest Orders (Department of Forestry, 1987) shows that direct appeal to the King could also establish (or re-establish) rights of use. Examples include the following:

- A Royal Command of 1975 to reduce by 50% the royalty on timber used for the construction of Wooden Bridges and Wooden Channels for Irrigation (Administrative Orders p.2)
- An Office Order of 1978 based on a Royal Command allowing villagers to collect bamboo and cane free of royalty for the purposes of handicraft production (Administrative Order p.16)
- A Sanction Order of 1979 allowing inhabitants of Laya, Lingshi and Lunana to collect incense free of royalty (Administrative Order p.26)
- A Sanction Order of 1980 waiving the forest royalty and sales tax on the collection and sale of lac (Administrative Order p.29)
- An Office Order of 1985 based on Royal approval for exemption of royalty on timber for house construction for the inhabitants of Lingshi Dungkha (Administrative Order p.103)

Space does not permit a detailed discussion of the 1978 land act and the negotiation that has arisen with respect to various categories of land use, inclusion of land within and outside land ceilings, taxation rates according to altitude and so forth. Suffice it to say that the National Assembly resolutions read in conjunction with the guidelines of the Ministry of Home Affairs (Procedures on the Land Registration

and Transaction System, 1998; Guidelines on the New *Sathram* Compilation, 1998) provide a similar picture of debate and negotiation over the meaning, interpretation and application of the Land Act.

Competing Authorities and Rights of Recourse

Reference back to Annex 1 (and discussed above) supplies a case where different views on the scope and jurisdiction of *kashos* were debated. In Session 22 under resolution 2, the jurisdiction of *kashos* issued by the 2nd and 3rd Kings and held by the public of Gasa was debated. While the *Gasaps* (people of Gasa) held that these *kashos* exempted them from the supply of shingles to Punakha Dzong, this interpretation was challenged by others on the grounds that new ground rules now governed the supply of shingles and that these superseded the application of the earlier *kashos*. The National Assembly upheld this challenge.

Elsewhere (1970) in the National Assembly the issue of different sources of authority in relation to *kashos* also emerged and was addressed:

‘It was observed that the practice of some rich people in certain *Dzongkhags* of producing *Kashos* from various dignitaries and thereby excusing themselves from *Dzong* renovation works was causing great problems to the people. As such it was decided that henceforth only those producing the *Kasho* of His Majesty the King would be exempted from such works. In this connection, His Majesty the King was pleased to issue a *Kasho* invalidating the other *Kashos* issued by various dignitaries. The Assembly endorsed the move’ (S23, R37).

Similarly it is evident from the Royal Command issued in 1984 (Manual of Forest Orders, 1987 p11) stating “that no land could be allocated by anybody except His Majesty” that prior to this date there had been various sources of authority for gaining access to land. Indeed (Interview, *Dasho* Tshewang Penjor, Paro, January 2000 - Adam Pain and Deki Pema) it appears that during the 1960 and

possibly into the 1970 during the whole process of land registration and taxation reform, district level officials primarily *gups* (elected representatives at the *geog* (block) level and *dzongdas* (district administrators) as well as central level officials had asserted rights (and thus authority) in the process of land allocation. Evidence therefore at least into the 1980s of multiple authorities with differing jurisdictions, all of which might provide room for manoeuvre for individual households.

The issuing of *kashos* is linked to a traditional right⁸ to seek protection, assistance and relief (*kidu*) whereby individual households could seek help from both government officials and the King. Indeed the Home Minister was until 1998 known as the *Kidu Lyonpo*. The seeking of *kidu* from the King is an established and commonly exercised right and in the matter of land allocation alone, substantial areas of land was given to individual households by the present king between during his reign (Land Records Office, Ministry of Home Affairs,) a tradition and exercise of right that can be traced back to the civil rulers (*Desi*) that predate the establishment of the monarchy. *Kidu* is also sought for assistance in matters of debt, particularly with formal institutions, and domestic disaster.

Summary Discussion

The emphasis of this paper in its description has been on the interactions between individual households or communities, and formal institutions in Bhutan, largely because that is where the written evidence lies. Fieldwork during the last year (Adam Pain and Deki Pema, Unpublished Field Notes) indicate that patterns of social interaction between rural households, within and between different villages as well as between community and local authority are unsurprisingly, deep in processes of negotiation and dispute. Evidence has been found of processes of renegotiation over access to common property resources of leaf litter, grazing and forest produce both between and within villages. Social networks that facilitate such interaction are dense and lengthy. Some are sufficiently formalised to have gained a recognised status, such as the *nep* system⁹, which is essentially a form of fictive kinship, which allows households to lay

claim or access to shelter, resources and other networks in different locations. Others, often mediated by kinship or community identity, allow households to lay claim to assistance or resources outside their immediate physical environment.

What does all this evidence of negotiation about resources amount to? The thread or patterns of negotiation that are evident from historical times to the present are a consistent representation of a distinctive pattern or custom of interaction. They are statements about rights and also about obligations. They are about cultural practices and power relations which as Berry (1993) puts it are neither separate, imitative or distortions of (as respectively structural and neo-classical economic theories would argue) economic activities but are a triad of closely interrelated dimensions of social processes.

The contract drawn between *Zhabdrung* Ngawang Namgyal and between those who provided offerings in the 17 century (Aris, 1986) and on which the taxation system was subsequently built was of a relationship between the patrons (the term used to describe those who supported the monastic institutions) whose material support to the religious and ultimately state institutions, was reciprocated with spiritual (and in times of individual need, material as well) guidance and support. While the contract was not one from which individuals could easily withdraw, and hence the instances of migration described earlier in the paper, details could clearly be discussed or contested if local authorities at times were seen to exert or place unreasonable demands. Land however as an asset related more to social and cultural position and was rarely an asset for accumulation. Indicative of this fact is that land ownership in Bhutan remains relatively egalitarian¹⁰ in terms of distribution of land ownership in contrast with other Asian countries (Ura, 1993).

But institutional settings within which negotiation has taken place have changed and influenced the substance of discussion, just as the debate has changed the institution itself. One cannot assume that negotiation about, for example, access to land and payment of taxes addresses the same substantive issues now as it did in the past. The institutional position and authority of the 3rd King was very different

from that of the 2nd King and new formal institutions such as the National Assembly came into existence in the 1950s. The National Assembly was used as a forum to negotiate and contest taxes in kind and its existence allowed a different scope to that debate than had existed previously. In turn the Forest Act of 1969 which emerged out of a modern government institution, and which probably owes much in objectives, style and content to Indian Forestry Acts was a step by government to redefine access to resources. That it was contested both within formal institutional settings and in practice is hardly surprising and is well documented and this has led to some extent to modifications. Indeed it remains one of the more contentious pieces of legislation and the mid-term review of the 8th Five Year Plan by the Planning Commission was critical of the way in which it had impinged on the livelihoods of individuals.

Equally the land act of 1979, coupled with the monetization of taxes and the gradual opening out of the economy to market forces, redefined both the social and economic nature of land as an asset. It has remained highly disputed although the nature of the disputes to do with land use and land area are different than from before, and in all probability will be subject to change in the near future.

Social networks then are a feature of Bhutanese society and unsurprisingly so, in such a small country. They permeate and fuse both the formal and informal institutions. They allow for constant transactions and manoeuvre, which are often open-ended; they are a key part of Bhutan's culture, of internal power relations and ultimately of economic activity as well.

Acknowledgements

It is our pleasure to acknowledge the interest, assistance and comments that have been made on earlier drafts of this paper by Françoise Pommaret, Nicholas Rhodes and Stefan Preisner. The authors are grateful to Lyonpo Kinzang Dorji, Ministry of Agriculture, Royal Government of Bhutan for his support and interest during the field research. The assistance of *Dasho* Tashi Phuntsog, Secretary of the National Assembly and the Secretariat in providing access to the resolutions of the National Assembly sessions was greatly

appreciated. We are pleased to acknowledge the formal approval for the research, on which the Royal Government of Bhutan bases this paper.

Adam Pain was assisted by a grant from the Frederick Williamson Memorial Trust Fund, University of Cambridge during this study. Deki Pema thanks the Bhutan Trust Fund for Environmental Conservation for a grant to cover time for data analysis and drafting in the UK. Both authors are grateful to Dr. Pema Gyamtsho, Head of the Policy and Planning Division, Ministry of Agriculture for his support to the research and providing assistance during the course of fieldwork.

Bibliography

Aris, M (1986). *Sources for the History of Bhutan. Bhutan Legal Code of 1729*, Part 5, Vienna. Arbeitsresl fur Tibetische und Buddhistidie Studien. Universidtat Wien.

-(1994). *Conflict and Conciliation in Traditional Bhutan*, Paper given to the Conference on Bhutan. pp. 21-42. In: Michael Hutt (ed.) *Bhutan: perspectives on conflict and dissent*, Kiscadale Asia Research Series, no. 4.

-(1994). *The Raven Crown: The Origins of Buddhist Monarchy in Bhutan*, London: Serindia.

Berry, S. (1993). *No Condition is Permanent. The Social Dynamics of Agrarian Change in Sub-Saharan Africa*, The University of Wisconsin Press.

Driem van, G. (1992). *The Grammar of Dzongkha*, Dzongkha Development Commission, Thimphu.

Dubgyur, Lungten (2000). *Alternative Dispute Resolution: The Legal Status of Arbitration in Bhutan*, Paper to the Seminar on 'Alternative Dispute Resolution in the SAARC Region, Thimphu, Bhutan.

Hobsbawm E. (1983) "Introduction: Inventing Traditions" in Hobsawm and Ranger (Eds), *The Invention of Tradition*, Canto, Cambridge 1992.

Ministry of Planning (1996). *8th Five-Year Plan. Volume 1. Main Document*, Thimphu: Royal Government of Bhutan

Myers, D.K and S.Bean (Eds) (1994). *From the Land of the Thunder Dragon: Textile Arts of Bhutan*, London: Serindia
National Assembly. Selected Resolutions from the 1st to 28th. National Assembly Sessions.

National Library. 1999. *Driglam Namzhag*. (Bhutanese Etiquette) A Manual. Thimphu, Bhutan.

Rigden, Tenzin and Pelgen, Ugyen (1999). *Khengrig Namsum: A Historical Profile of Zhemgang Dzongkhag*, Zhemgang: Integrated Sustainable Development Programme, Bhutan.

Schicklgruber, C and F. Pommaret (Eds) (1997). *Bhutan: Mountain Fortress of the Gods*, London: Serindia.

Scott, J.C (1998). *Seeing Like a State. How Certain Schemes to Improve the Human Condition Have Failed*. Yale.

Ura, Karma (1993). *Land Tenancy and Food Security*, Paper for the National Environmental Strategy. (Mimeo).

- (1995). *The Hero With a Thousand Eyes: A Historical Novel*, Karma Ura, Ministry of Planning, Thimphu.

Wangchuk, Tshering (2000). *Alternative Dispute Resolution Out of Court Settlement/Mediation – (Nangkha Nangdig)*, Paper to the Seminar on ‘ Alternative Dispute Resolution in the SAARC Region, Thimphu, Bhutan

Notes

¹ See the recent papers by Lungten Dubgyur and Tshering Wangchuk (2000) on alternative dispute resolution on legal traditions with respect to mediation

² Aris (1994) states that Ngangla Karchung is in Mongar. In fact the village is located in Jarey *Geog* in Lhuentse on the border with Mongar. It is unclear whether the disputed grazing lands are next to the village or are separate in Mongar.

³ There is in fact historical material on taxation to be found in various sources including the narratives of the early British visitors to Bhutan in the 17th Century (see for example Captain Pemberton's (1939) report on Bhutan) and in the Bhutan legal code of 1729 (Aris, 1986). In addition, taxation records compiled in the early part of the 20th Century have been found (Adam Pain & Deki Pema) during the course of fieldwork and are currently being analysed.

⁴ Interpretation of the precise meaning of *threp*, *khep*, *zurpa*, *suma* and *drabs* is complex and contextual. Originally a patron was a 'sbyin bdag' (master of offerings) a term, which carries religious meaning and implies a special relationship to that religious person (Pommaret, personal communication). It would appear that the origins of the later taxation system under the kings lies in the earlier patron relationship to the religious institutions, and although the term is still used in relation to describing the recent past (Pain & Pema, Field notes, Khangkhu, Paro) it defines a somewhat different economic relationship and at times appears to be synonymous with *trep*. Equally the term *drab* originally meant 'monks' (*grva pa*) in the Tibetan context but its meaning is different in Bhutan (Pommaret, personal communication). Fieldwork (Pain & Pema, Field notes) indicates that the economic status of *drabs* and how they saw themselves (and in relation to *threps*) varied considerably throughout the country.

⁵ The *Chumi Zhelngo* or *Dung* (the hereditary lord/ nobleman of Chumi) lives at Prakhar in the Chumi valley in Bumthang. Prakhar was the seat of 'thugsey' Dawa Gyeltshen who was Pema Lingpa's son and his *chorten* is there. The first of this religious lineage to have the title of Prakhar *Zhelngo/Dung* was Dawa Gyeltsen's son Tenpe Nyima. The Chumi *Zhelngo*' family have been guardians of the temple and local lords since that time. We are grateful to the descendant of the Chumi *Zhelngo*, *Dasho* Kinzang Dorji who gave us access

to the *kashos* held by his family and who provided the explanations and translations of the original documents described in Table 1. (Interview, Tashi Dinkha, Trongsa, December 1999). The advice of Françoise Pommaret with respect to explanation of the *Zhelgno* lineage is gratefully acknowledged.

⁶ One might speculate that the National Assembly debates during the 1950 and 1960's reflected negotiation between rural households and the monarchy with the newly established bureaucracy playing a very minor role. In fact very few interventions by civil servants are recorded in the minutes of these meetings, although this may be accounted for as much by style of reporting as well as by the participation in debate. Subsequently as the bureaucracy established itself and began to set its own agenda, the number of parties and therefore interests to the negotiation began to increase.

⁷ It is probable that this Act owes much to similar Indian legislation, the presence of Indian Civil Servants in the Bhutanese bureaucracy at that time and the training of Bhutanese in the Indian Forest College at Dhera Dun in Uttar Pradesh. The act clearly reflects the historical lineage of the parable between the State and Scientific Forestry (see Scott, 1998) in both its scope and intent and it is scarcely surprising that it has been so disputed.

⁸ 'Right' not as a legal claim but an entitlement claimed on moral grounds of a shared relationship, which can be vertical (as between sovereign and subject, authority and subordinate) or horizontal (kith and kin, same village etc.).

⁹ 'Nep' literally means 'host' and is a well-known system which existed through the Tibetan area (Françoise Pommaret, personal communication)

¹⁰ Land is no doubt an asset. However it was not acquired and claimed in the accumulative sense evidenced by the fact that except for few families of high social and cultural positions (in positions to command the labour required to cultivate) who owned large tracts of land, the size of land holdings are generally equal, modest and in keeping with domestic labour availability. Indeed after the abolishment of serfdom in the 1950's richer households in Paro who lost essential farm labour, gave up land which they could not cultivate (*Dasho* Tshewang Penjor, January 2000, Interview Notes)

Annex 1. Selected Resolutions adopted by the National Assembly of Bhutan between 1951 and 1968 relating to taxation.

1st Session of the National Assembly, Water Dragon Year (1952)

1.
 - (a) Earlier the people of Haa district were required to supply 16 he-calves to the Government livestock farm at Sambekha. During the current session it was decided that the cowherds be permitted to pay an amount of Nu.45 per calf in lieu of animals.
 - (b) Although the public of Tshochen (Thimphu) possessed large areas of land, they could not bring all of them under cultivation owing to the shortage of farm hands. Because of this, it has not always been possible for the people to pay taxes in kind for all the lands possessed by them. In view of this problem, it was decided to realize tax only for the actually cultivated lands. This would also apply in equal measure to the districts of Paro and Wangdiphodrang.
 - (c) It was reported that His Majesty the King was not residing at Mangdey (Tongsa) and as such, the number of horses stationed there for use of His Majesty was reduced considerably. In view of this, it was decided that the taxes being paid in the form of grass was also to be reduced as follows:-

The Assembly resolved that the blocks of Nupa, Tangbipa and Dragtempa under Tongsa district would henceforth have to supply only half of the earlier quantities, and in case of Wangthel block, the supply is to be limited to one load of grass from each household.

- d) While shifting the cattle belonging to His Majesty, Wangdicholing and *Lama* Gompa at Mangdey (Tongsa) and Bumthang to and from low lying areas, the number of labourers required for carrying loads and driving the cattle would be provided equally by all the concerned communities of Threlpa, Sumar and Dazur.

e) In the previous years, it was obligatory for the people to carry 280 loads for Tshongpon (Trade agent of Tongsa district). It was decided to reduce the same to 200 loads only.

6. Previously, the people of Sha (Wangdiphodrang) had to supply 59 leather bags to the store officer of Wangdi Dzong for packing of rice. Since His Majesty was pleased to exempt the collection of rice, the people of Sha requested that they be exempted from supplying leather bags unless and until it is required by the King.

14th Session of the National Assembly, Iron Mouse Year (1960)

7. Matter Relating to Acceptance of Tax in the Form of Cloth (Zong) From Tashigang

The representatives of Tashigang district proposed that tax in the form of cloth (*Chazong*) should be accepted by the government. However, it was decided to accept only *Marzong* and not *Chazong*.

8. Matter Relating to the Taxation of Dagana

The people of Dagana carried paper and rice to Punakha and Thimphu for religious offerings by way of tax. This practice should remain in force instead of introducing a cash payment system. However, since the people of Dagana had now been exempted from supplying salt and from paying entitlements to the mask dancers, taxes would be levied in cash in Dagana from this year onwards.

16th Session of the National Assembly Iron Ox Year (1961)

13. Matter Relating to Taxation in Kind

It was found that the collection of various taxes in the form of butter i.e. *Yarmar*, *Ginmar*, *Temar*, *Tshongjur*, *Bandakho-dup*, *Togmar*, *Selbom*, *Marphu*, *Tshamar* etc., irrespective of whether the concerned people owned cattle or not, had created disparities among the tax payers, and as such it was decided to discontinue the practice. In this context, the following resolutions were passed.

- No tax would be imposed on those people who did not own cattle and on cattle belonging to the government.
- The rest of the cattle, even those belonging to His Majesty, would be enlisted for taxation after conducting the necessary cattle census.
- Cows above three years of age would be taxed at 3 'sangs' per *Jatsham*, while other categories of cows and demo would be taxed at 2 sangs per *Jatsham*.
- As the previous system of collecting tax in the form of meat was abolished, it was decided to levy a sum of Nu.3 per *Jatsha* and Yak and of Nu. 2 per other category of Bulls.

17th Session of the National Assembly, Water Tiger Year (1962)

11. Matter Relating to Reduction in Supply of Salt to Punakha and Gasa Dzong

The public of Gyen, Laya, Shung Jasup supplied 130 bags of salt to Punakha Dzong and 51 bags to Gasa Dzong. This caused them great problems. Therefore, it was decided that they would be allowed to supply only half of the existing quantities.

12. Matter Relating to Tashigang Rabdey

The existing strength of monks at Tashigang Rabdey being only 38, numerous problems were encountered in conducting the Tshechhu and other festivals. As such, the Assembly decided that the strength of monks in Tashigang Rabdey be increased to 50 hereafter.

13. Matter Relating to Transmigration of Cattle

The people of Buso and Sephu who are responsible for the transmigration of His Majesty's cattle from Tongsa to Longtay in summer and for housing them in fresh cowsheds etc. had not yet been exempted from the other labour works (apart from Dudom) under Wangdiphodrang *Dzongkhag*. Therefore, it was decided that the labour provided by the people of Buso and Sephu should be adjusted against the labour to be provided for other government works under the *Dzongkhags*, as in the case of other *Dzongkhags*.

14. Matter Relating to Wood Tax (Shingthrel) for Punakha and Wangdi Dzongs

The public residing in the lower altitude of Wangdi were to provide rice in lieu of *Shingthrel* for the Punakha and Wangdi Dzongs, and the people residing in the high altitudes were to provide *Dey* and bamboo products in lieu of *Shingthrel*. The previous system whereby the people of both the higher and lower altitudes supplied rice and other products stood abolished, and was to be henceforth replaced by the supply of timber, dey and bamboo products under *Dudom*. This amendment would also apply to the people of Punakha district.

22. Matter Relating to the Thimphu Dzong Shingthrel

Some *Chimis* of Thimphu requested that *shingthrel* for the Thimphu Dzong be fixed at par with that of Wangdi. As the *chimis* of Gyen, Lingshi were not present, the Assembly directed them to report the matter in the next session of the National Assembly.

19th National Assembly Meeting, Water Rabbit Year (1963)

9. Matter Relating to Butter Container (Sipang)

The people of Phobji were required to supply 120 butter containers to the store officer of Wangdiphodrang Dzong annually. It was resolved that instead of the above practice, the people of La-Wogma would make a permanent box for keeping butter at Wangdiphodrang Dzong.

10. Matter Relating to Bamboo Mats (Rithey)

The people of Lagongsum used to supply 13 bamboo mats annually, and the people residing above Zamdong 12 bamboo mats biannually to the Store Officer, Wangdiphodrang. It was decided that henceforth only 5 bamboo mats would be jointly supplied by the above people every year.

18. Matter Relating to the Incense Sticks of Dagana

The people of Daga would be exempted from supplying raw materials for incense sticks as the incense sticks were being made available from the *Rabdey* of Dagana.

20. Matter Relating to the Paddy Loads for Chari

The Chari *Dzongpon* was entitled to 40 des of paddy from the people of Toep block. In case the people failed to reach the same to his residence, he himself came down to the village and collected an additional 20 (des) on the pretext of transportation charges. Further, he made the people of Toep/Tshochen carry his luggage to Chari without payment. Therefore, it was decided that if the people paid the additional 20 *deys*, they would not have to carry the loads; and that if they carried the loads, they would not have to pay the additional 20 *deys*.

21. Matter Relating to the Carriage of Luggages by the People of Chapcha

It was observed that the people of Chapcha were made responsible for the carriage of 120 luggages belonging to the officers residing in Thimphu including *Je Khenpo*. Since the motorable road had opened and government lorries were plying regularly, it was decided to exempt the people of Chapcha from the above. However, they would be required to repair the road whenever it was blocked.

23. Matter Relating to the Supply of Foodstuff to Cowherds

The public of Khen Gongdey used to supply foodstuff free of charge to the cowherds deputed for looking after the government livestock. It was decided that henceforth the cowherds would be required to pay for the government rate. Further, the cowherds were also required to pay transportation charges for luggages as per the tradition of the village concerned if they required labourers from the villagers.

24. Matter Relating to the Supply of Materials to Punakha Dzong

The public of Goen block under Punakha district used to supply 100 baskets (Tochung), 30 wooden buckets and 16 tea churners annually to Punakha Dzong. Since these items were not being properly made by the people, it was decided that the public of Goen would henceforth supply 12 wooden buckets and 6 tea churners to the lower *Dzong*, and one tea container made of good quality wood to the upper *Dzong* every four years. As it was observed that 100 baskets were not required, it was decided that only 20 would need to be supplied to the upper and lower *Dzong* annually.

35. Matter Relating to the Land of Central Monk Body at Gasa

The paddy field at Choishi Michen under Gasa Dzong belonging to the Monk Society was washed away by floods more than 50 years ago. However, the people tilling this land had since continued paying their share of 800 des of paddy annually. The authenticity of the fact was reported by the *Thrimpon* of Gasa Dzong. In view of this, it was decided to exempt the people from paying the above amount of paddy to the monk body.

20th Session of the National Assembly, Wood Dragon Year (1964)

13. Matter Relating to Wool

The people of Bumthang were required to supply wool to the store officer of Bumthang in excess of his legitimate needs. As such, the store officer greatly benefited from the wool. Therefore, the people of Bumthang requested the Assembly to exempt them from supplying wool to the store officer. The house resolved that the Ministry of Finance would investigate the matter.

21. Matter Relating to the Supply of Planks

The people of Goen Shari were required to supply 20 planks to the store officer of Punakha Dzong yearly. As the planks supplied were found to have remained unutilized for the *Dzong*, His Majesty was pleased to free the people of Goen Shari from the obligation of supplying the above planks.

23. Matter Relating to the Cost of Butter

It was observed that the people of Tshochens under Thimphu Dzong had been paying Nu. 3 in lieu of one sang of butter tax, whereas the people of Mongar, Punakha and Wangdiphodrang were understood to have been paying only Nu. 2 per *sang*. To introduce uniformity of taxation per sang of butter, it was decided that the price per *sang* would be Nu. 2.

28. Matter Relating to the Exemption of Tshochay

Because of cracked, uncultivable patches, the government land under Zomling block of Punakha Chesithang was causing a loss of 2,180 *deys* of grains to the public. As such the 'Tshoche' for 2,180 *pathis* was being exempted.

22nd Session of the National Assembly, Wood Dragon Year (1965)

2. Matter Relating to the Shingles for Punakha Dzong

The public of Gasa requested that in view of the fact that they were holding *Kashos* issued by the late King Ugen Wangchuck and His Majesty the King in the Iron Horse and Earth Pig years respectively, they be exempted from the supply of shingles to Punakha *Dzong*. The people of Shah and Punakha pointed out that such *Kashos* had been traditionally considered valid. However, they felt that since the present works were being carried out under chunidom, the people of Gasa should supply the shingles. The Assembly agreed, noting that the above mentioned *Kashos* did not specifically exempt the people of Gasa from the obligation of supplying shingles. However, it was also clarified that they would be exempted from the supply of labour for other works connected with the Punakha Dzong on the basis of the *Kashos*.

4. Matter Relating to Roof Drain

It was learnt that the public of Toep, who carried wooden roof drains for Punakha Dzong, were also required to carry shingles in the interests of uniformity. However, the Assembly decided to exempt

them from the supply of shingles in view of their involvement in the supply of wooden roof drains.

25th Session of the National Assembly, (1966)

6. Matter Relating to Exemption of Sales Tax on Potatoes

The public of Chapcha, Khen and Samdrupjongkhar requested that they be exempted from sales tax on potatoes. In view of the fact the sale tax levied on potatoes sold in the domestic market was only nominal, the Assembly resolved not to accord the said exemption.

26th Session of the National Assembly, Fire Sheep Year (1967)

5. Matter Relating to Exemption of Potato Taxes

Resolution No. 6 of the 25th session turned down the public request for exemption of tax on potatoes. However, the public of Mongar, Shemgang and Chapcha again requested for a reduction in the potato tax. The house therefore, decided that the existing tax rate of Nu.5 be reduced to Nu.2 per maund.

6. Matter Relating to the Double Taxation on Grazing Land

Some members informed the house that the pastures of Wangling and Pelri were lying vacant. At the same time, the people of Bumthang, Mongar and Tashigang were paying taxes for the use of pastures at Wangling and Pelri, thus, as per the survey report, subjecting them to double taxation, as they were paying to the Government also. Meanwhile, the controversy over the pastures in Dung Meta and Gaylegphug was also brought to the notice of the house. In this context, the house resolved that both the matter of double taxation and the above controversy should be investigated by the Royal Advisory Council as per *sathram*.

28th Session of the National Assembly, Earth Monkey Year (1968)

17. Matter Relating to the Payment of Taxes on Tseri Land

As the shifting (*tseri*) and dry lands could not be cultivated every year, it was decided to reduce the tax on such lands from 0.75 ch to 36 ch per *langdo*.

Annex 2: Transcription-Transliteration Table

Chumi zhelngo Chu smad zhal ngo	
Desi	sde srid
drap	grva pa
drey	bre
dzongda	rdzong bdag
dzongkhag	rdzong khag
dzongpon	dzong dpon
gup	rged po
kasho	bkha shog
kidu	skyid sdug
lhakhang	lha khang
lyonpo	blon po
monpa	mon pa
naktsang	sNgags tshang
nep	gnas po
sathram	sa khram
Zhabdrung	zhabs drung
sokshing	srog shing
suma	bsu ma
terton	gter ston
thram	khram
threlpa/khep khral pa	
thrimzhung chenmo	khriims gzhung chen mo
thuksey	thugs sras
tsamdo	rtsam 'brog
tseri	tse ri
zurpa	zurpa