

# Effective Parliament for Governance

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## Historical

A brief historical background is paramount to understand how the present Parliament has evolved over 69 years since the National Assembly was established in 1953 by the visionary Monarch, The Third Druk Gyalpo, Jigme Dorji Wangchuck, popularly known as “The Father of Modern Bhutan”. The noble objective was to separate the functions of the legislative, executive, and judiciary, and to devolve decision-making power to the people. Accordingly, the power of legislation, representation, and review of the national policy decisions of the government was devolved to the National Assembly (NA). The first NA sessions were held in Punakha, Paro, and later in Thimphu, twice a year.

Table: List of Speakers of the National Assembly<sup>1</sup>

Name	Entered Office	Left Office
Tshogpon Kesang Dawa	1953	1955
Tshogpon Thinley Dorji	1956	1963
Tshogpon Tamji Jagar	1964	1965
Tshogpon Nidup Yanglop	1966	1968
Tshogpon Kesang Dawa	1969	1971
Tshogpon Shingkar Lam	1971	1974
Tshogpon Nidup Yanglop	1974	1977
Tshogpon Tamji Jagar	1977	1988
Tshogpon Sangye Penjor	1988	1989
Tshogpon Passang Dorji	1989	1997
Tshogpon Kinzang Dorji	1997	2000
Tshogpon Ugyen Dorji	2000	2007
Tshogpon Jigme Tshultim	2008	2013
Tshogpon Jigme Zangpo	2013	2018
Tshogpon Wangchuk Namgyel	2018	Present

<sup>1</sup>“Past Speakers,” National Assembly of Bhutan, Speakers, accessed April 1st, 2022.

The NA was shifted to the present Parliament structure in 1992. Its members were ministers, clergy, selected government secretaries, dzongdas, head of armed forces and chimis, (the people's representatives). The Royal Advisory Council was established in 1965 with six people's representatives, two from the monk body and a government appointed Chairman. They were members of the NA.

## **Parliament before Democracy**

The members of the NA in the early 1950s and late 1960s were nominated by the people through consensus, until the NA Act was enacted. The government representatives were appointed by His Majesty The King. Most of the issues deliberated in the initial stage were gungdrang woola, (labour contribution) for road construction, and reduction of taxes in kind, such as collection of butter, bundles of hay and leather bags, etc, required for the officials' travel. The Thrimzhung Chhenmo took three years to be adopted, finally in 1959. The Citizenship Act, Inheritance Act, Marriage Act and Land Act were enacted. These Acts were drafted by experts working in various offices holding senior positions.

The Third Druk Gyalpo prioritised bilateral relations and international cooperation, as the nation introduced planned development. Under His Majesty's command, the NA discussed and resolved, in the 1958 and 1959 sessions, to join the United Nations to strengthen sovereignty and security of the country. Bhutan became the 128<sup>th</sup> member of the UN on 21<sup>st</sup> September, 1971, with the support of the government of India. The Paro Penlop, Prince Namgyel Wangchuck, Lyonpo Sangye Penjore, Lyonpo Dawa Tsering and Lyonpo Dago Tshering represented the country. The first Ambassador to the UN was Lyonpo Sangye Penjor, succeeded by Lyonpo Dago Tshering.

The NA members increased from about 100 to 150, comprising 50 government representatives, 99 people's representatives and one member from the business community. An unprecedented political change was initiated from the Throne when the Cabinet was dissolved in 1998 and the NA was empowered by Royal Kasho, to elect the Cabinet ministers. His Majesty nominated candidates, and six ministers were elected during the 76<sup>th</sup> Session of the NA. In an emotional moment for the NA, His

Majesty also decreed that the NA come up with a mechanism for a vote of confidence in the Druk Gyalpo.

For the first time, a record 13 women members were elected in 1998. The child allowance was revised because of repeated motions moved by women chimis while amending the Marriage Act. Out of 100 chimis, about 18 were very eloquent, and used to take the floor one after another to argue and oppose the government's taxation policies and programmes. One such was a motion moved by the government to construct an international standard Convention Hall in Thimphu, which was shelved by majority vote.

## **Parliament**

The Constitution of the Kingdom of Bhutan was adopted by the first democratically elected parliament in 2008. The NA Act and the National Council (NC) Act, Election Act, Anti- Corruption Act and a host of legislations were enacted simultaneously.

The first Parliament had an absolute majority, with 45 members in the ruling party and only two members making it the world's smallest Opposition. It meant that laws and policies could be easily passed. However, the Royal Civil Service Bill could not be passed because of several observations by the NC providing checks and balances. The Speaker had to submit a petition to His Majesty to grant permission for a special session to resolve the differences in a joint sitting. His Majesty The King commanded that it was not tenable to have special sessions for every deadlock between the two Houses. His Majesty commanded the constitution of a joint committee, with clear guidelines, to arrive at a consensus. The Bill was thus passed.

The first democratically elected government revised the vehicle import taxes without tabling the bill in Parliament. The Opposition filed the first constitutional case against the government, as the NC was neutral. The High Court awarded the judgement in favour of the Opposition. The government appealed to the Supreme Court, which not only upheld the judgement of the High Court, but issued directives for strict future compliance.

The action of the government was declared unconstitutional; it was ordered to refund the revenue collected to the affected parties. Another violation

was approval accorded by the Cabinet for time-bound financial incentives, which was corrected by the second Parliament as a Money Bill, to avoid possible policy corruption and conflict of interest. Taxes and financial incentives can be implemented only with the approval of the Parliament.

The 2<sup>nd</sup> Parliament had 34 members from the ruling party and 13 members in the Opposition. This may not be an ideal composition in terms of the ruling party versus the Opposition, but it was an appropriate number for healthy debate and to maintain checks and balances.

A total of 174 issues from dzongkhag tshogdu, audit reports, ACC reports, and 11 motions, mostly from the Opposition, were debated and recommendations adopted and followed up on actions taken by the government. Altogether, 483 written and oral questions were asked, mostly by the Opposition. Debates at times were tense but generally healthy, between the government and Opposition.

As a result, several long-term policies were initiated by the government, such as the debt policy, an upper limit of 35% to GDP non-hydro external loans, lowered interest on all types of loans, improved employment opportunities, doubled capital of Bhutan Health Trust Fund, the establishment of Bhutan for Life and the Rural Enterprise Development Corporation, and financial incentives for the hospitality sector.

This excludes questions raised by the NC to the Prime Minister and ministers. All Cabinet members and bureaucrats were kept busy during the sessions, which helped keep the Executive on its toes. The question hours were considered interesting, and watched live by people from all walks of life. At times, there were problems of deviations from the main questions, with Members of Parliament addressing the galleries.

In addition, Bhutan Broadcasting Service interviews, print, and social media coverage helped to improve decisions and the dissemination of information. Through such platforms, elected members were able to showcase their capabilities and leadership to electorates, besides visiting constituents. Also, social media guidelines and an annual tshogdu magazine ensured, to some extent, accountability and transparency of members of parliament.

During the second Parliament, a total of 23 laws, 11 conventions and 14 committees' rules and regulations were adopted. The RTI and Enterprise Registration Bills could not be passed because of objections by the National Council. Similarly, the European Investment Banks and the Motor Vehicle agreement between Bangladesh, Bhutan, India and Nepal (BBIN) could not be ratified despite several rounds of consultations and negotiations in a joint committee.

The NC's observations were many, and two pertinent issues were on sovereignty and our national laws becoming subservient to the Convention. In the end, the government had to withdraw the Conventions in the larger interests of the country. However, the third Parliament rectified the much-needed EIB without disagreement from the NC. This may be because of new members in the National Council, with different personalities involved. In a democratic set-up, diverse ideas and healthy debates are necessary to arrive at good decisions, based on democratic principles for the general welfare of the country without objections.

The Local Government (LG) Act 2010 was amended during the fifth session of the second Parliament on 10<sup>th</sup> June, 2015, as required by the Constitution, to establish thromdes with legal status in all dzongkhags. The Supreme Court issued a writ on 15<sup>th</sup> August, 2016, to the Election Commission of Bhutan, to defer implementation of the LG Act indefinitely until a high-level experts' commission came up with delimitation of constituencies. It is deemed unconstitutional to override a Parliamentary Act.

The sustainability and success of our young democracy will not only depend on the individual performances of the three branches of government, but also on how well the checks and balances function, and to what extent their independence and authority are respected in line with the Constitutional principles.

A government executive order authorised the government's duty-free shop to sell tobacco products without amendment of the existing Act, and the Attorney General issued a statement supporting the government's action contrary to the Constitution. The Supreme Court issued orders to all Courts to nullify the parliamentary Act, making it a non-bailable offence

bailable. Bhutan's Civil and Criminal Code provides discretion to the judge to grant bail or not, once the case is admitted, depending on its severity.

In a recent Parliament session, two bills passed by the NC were shot down by the NA without discussion. The two Houses have equal powers to originate bills from either of the Houses, except the Money Bill with the NA. The NA Act needs to be harmonised with the Constitution.

Anti-Corruption Commission (ACC) suspended civil servants during the investigation on corruption charges, and Royal Civil Service Commission (RCSC) revoked it, applying the existing RCSC rules. ACC also prosecuted a few cases which the Office of the Attorney General dismissed. Tussle and confusion between the Election Commission and the office of the Auditor General during the third LG election was another example of misunderstanding. Independent institutions are important but crossing Constitutional boundaries will undermine democratic values. The worst is that the general public will lose trust and confidence.

Such trends and practices not only set negative precedents, but affect relations between the three branches of government and constitutional institutions. It is a worrisome trend when laws are blatantly abused by agencies for their convenience. Many such abuses go unnoticed by the general public. Therefore, it is important that Constitutional experts, tertiary institutions, media, political parties, professionals and NGOs undertake in-depth studies on Constitutionalism, and inform the general public.

His Majesty commanded that there are too many Acts in a small country; it is expensive and unsustainable. Furthermore, His Majesty commanded the harmonisation of existing laws with the Constitution. Accordingly, the National Law Review Committee was constituted and it reviewed 126 Acts. The committee recommended amendment of 28 Acts, repeal of 15 Acts, improvement of eight Acts and the drafting of eight new laws. The Parliament needs to implement these recommendations on a priority basis.

The third government was overwhelmed by the spread of Covid-19 in border towns and the blackmarketing of tobacco products, which was one of the consequences. The Tobacco Act was implemented in a rush through an executive order without amending the Act. This was undemocratic and unconstitutional. In doing so, the supremacy of Parliament was undermined,

ill effects of tobacco ignored, and the international acclaim gained by Bhutan as a “tobacco free country” since 2000 was sadly tarnished.

The Money Bill is an annual agenda of the Parliament and, once passed, becomes an Act, and change and diversion of the budget by the government is illegal. Future governments need to avoid the mistakes of previous practices. In comparison to the past, the Opposition and the NC and some media appear to be compromising their responsibilities to hold the government accountable in accordance with the provisions of the Constitution.

The role of Parliamentarians and secretariat staff is fast changing in this digital age. A long-term strategy for human resources development is critical to develop capacity to analyse reports of the government agencies, including the Prime Minister’s annual report. The parliamentary committee’s work should be a continuous process, not only during the sessions.

The senior members of Parliament including the Cabinet ministers and Opposition, need to take serious leadership roles in the committee’s works, providing institutional memory, rather than taking back seats and pushing new members. Wrong parliamentary practices, lack of quorum, lack of preparation and reactionary debates definitely affect the credibility of the Parliament. English taking precedence over Dzongkha while Bills are presented and debated in the House is a serious concern.

The Parliament of Bhutan, comprising the Druk Gyalpo, the National Council and the National Assembly, is a sacred institution vested with all legislative powers by the Constitution. Once bills are passed and Assent granted by the Druk Gyalpo, it becomes a law and executive orders by the government will be governed by the laws. The elected members of Parliament should adhere to laws enacted by the Parliament.

The allegiance to the Constitution to serve the Tsawa Sum (King, country and people) and to inspire public trust and confidence, is the cornerstone for a strong and vibrant democracy. The leadership role, leading by example and matching actions, is crucial to take our Monarch’s visions to higher levels. His Majesty, during the Constitution consultation in dzongkhags, had said “democracy will only flourish if all Bhutanese respect the rule of law”. Let us remind ourselves of this golden wisdom of our beloved Monarch when we discharge our sacred duties.

Although chimis lacked academic qualifications and exposure, they served with utmost dedication and loyalty at difficult times, with limited renunciations and facilities. They were members of the National Assembly as well as members of Dzongkhag Yargye Tshogchung from 1981 to 2007. Their eloquence in Dzongkha, using popular proverbs during the debate, is still highly regarded. The present members of parliament are better in report writing, quality of debate, and representing the country outside. However, most of the decisions are based on party lines in the National Assembly. There appears to be internal divisions within the ruling Cabinet versus non-Cabinet members who are unaware of the Cabinet decisions.

## Reference

National Assembly of Bhutan. "Past Speakers." Speaker. Accessed April 1st, 2022. [https://www.nab.gov.bt/en/speaker/past\\_speakers](https://www.nab.gov.bt/en/speaker/past_speakers).