

**PROCEEDINGS AND RESOLUTIONS (TRANSLATION)  
OF THE NINTH SESSION OF NATIONAL  
COUNCIL OF BHUTAN**

*(19<sup>th</sup> Day of the 4<sup>th</sup> Month of the Water Male Dragon Year  
corresponding to Friday, 8<sup>th</sup> June 2012)*

**A Proceedings of the Opening Ceremony**

The Ninth Session of the National Council of Bhutan commenced on the 19<sup>th</sup> Day of the 4<sup>th</sup> Month of the Water Male Dragon Year with *Marchang* ceremony. The Session was presided over by the Hon'ble Chairperson.

**B Hon'ble Chairperson's Address**

The Hon'ble Chairperson welcomed the Hon'ble Members, representatives from the media, other guests, and in particular, the people of Bhutan living across different regions of the kingdom watching television and listening to the radio on the proceedings of the 9<sup>th</sup> Session of the National Council. He expressed his appreciation to His Majesty the Druk Gyalpo for following in the visionary footsteps of His Father in solving the problems of poor citizens, enhancing international relations and promoting socio-economic development in the country.

He said that during the coronation address in 2008, one of the main issues highlighted by His Majesty the King was regarding the Bhutanese youth. He said that in order to solve youth related problems, His Majesty the King had personally visited numerous schools to advise and guide the students along the right path. He expressed his appreciation to His Majesty the King for taking special initiatives to guide the members of the

school management boards on ways and means to deal with youth related issues.

The Hon'ble Chairperson also expressed his profound appreciation to His Majesty the King for conferring *Kabney* and *Tashi Khhadar* to the remaining local leaders last year, who were elected at later dates due to problems during local government elections. He said that the initiative taken by His Majesty the King was indicative of the importance His Majesty the King attached to the role of local governments in a democratic system. The Chairperson also highlighted the audience His Majesty the king had granted to 160 religious leaders from across the country during the annual religious council meeting on 28<sup>th</sup> March last year and guiding them on their roles and responsibilities in instilling spiritual values in the hearts and minds of the Bhutanese people.

Likewise, the Executive had continued its efforts towards socio-economic development of the country in accordance with the plans and programs that were wisely framed. Moreover, the country's reputation had been enhanced throughout the world due to His Excellency the Prime Minister's report on Bhutan's socio-economic development philosophy to the UN General Assembly on 2<sup>nd</sup> April 2012, which was based on Their Majesties' vision of Gross National Happiness. The Hon'ble Chairperson thanked the Royal Government for putting Bhutan on the world stage. He also thanked the government and other institutions for recognizing, assisting and supporting the National Council in its endeavor to function as one of the highest legislative and review bodies in the country under the Constitution of Bhutan and provisions of other relevant acts.

With regard to the session itself, the Chairperson said that the issues that were to be discussed under legislation during the 9<sup>th</sup> session were the Druk Gyalpo's Relief Fund Bill 2011, the Education City Bill of Bhutan 2011 and the Disaster Management Bill of Bhutan 2011 that was passed by and received from the National Assembly. The new bills to be deliberated upon were the Contract Bill of Bhutan 2011, the Alternative Dispute Settlement Bill of Bhutan 2011, re-deliberation on the National Flag Bill of Bhutan 2011, and the Parliamentary Entitlement (Amendment) Bill of Bhutan 2011. He said that conventions to be ratified were Cape Town Convention along with its Protocol and Nagoya Protocol to the Convention on Biological Diversity.

He said that the issues under review of policies were the shortage of Indian Rupee in Bhutan, matters pertaining to land, inability to implement the Local Government Act properly and submission of recommendation and reminder to the government to come up with a viable policy on income tax. He said that business and question time should be conducted as done during the earlier sessions. The Hon'ble Chairperson also expressed his hope for active, wise and sincere participation in the session by all Hon'ble Members for its successful completion.

Lastly, he offered his prayers for the blessings of *Kon-Chog-Sum* and the country's *Ka-Sung Damchen* for the peace and prosperity of the country, for the long lives of His Majesty the King, Her Majesty the Queen, His Majesty the Fourth *Druk Gyalpo* and members of the Royal Family and for their accomplishments to flourish like an overflowing lake in summer.

*(22<sup>nd</sup> Day of the 4<sup>th</sup> Month of the Water Male Dragon Year  
corresponding to Monday, 11<sup>th</sup> June 2012)*

**C Legislative Issues (Adoption of Bills and  
Amendment of Acts)**

**1 Introduction of the Druk Gyalpo's Relief Fund  
Bill 2011**

The Member-in-charge of the Druk Gyalpo's Relief Fund Bill, Hon'ble Finance Minister said that the Bill had been drafted by the Ministry of Finance as directed by Parliament under the power conferred by the Article 14.12 of the Constitution of Bhutan which stated that the Druk Gyalpo's Relief Fund should be established. The Bill was discussed during the 8<sup>th</sup> Session of the National Assembly and after amendments and changes were made, it was introduced to the National Council for its deliberation and adoption.

Discussions were held during the past sessions for the Druk Gyalpo's Relief Fund to be established under a resolution. Later, however, the Parliament and, in particular, the National Council recognizing the importance of the Fund, resolved that it should be established under a Bill. The Bill thus submitted had 7 chapters, which included Preliminary, Establishment, Fund Replenishment, Investments, Operation and Accounting, which were explained sequentially.

On the relief fund, the Hon'ble Member of Lhuentse Dzongkhag said that while the management and operation of the Fund were clearly stated under sections 14 and 15 of chapter 5, but as to who would audit the fund once it was put under operation was not clearly provided. The Deputy Chairperson said that the Bill was

introduced based on the draft that had been received earlier, and asked whether the discussions should be based on the draft received from the National Assembly or on the draft that was introduced.

The Hon'ble Finance Minister said that though auditing had not been included in the Bill, all audits in the country were done by the Royal Audit Authority. Similarly, the Fund would be audited by the Audit Authority. However, for the sake of clarity, he submitted that it was alright if the National Council added it in the Bill. The Hon'ble Minister submitted for the National Council to decide whether to base its discussions on the draft that he had submitted or on the draft received from the National Assembly.

### **1.1 Debate regarding amendments and changes to the Bill**

The National Council thoroughly deliberated on the Druk Gyalpo's Relief Fund Bill 2011 on 11/6/2012, 12/6/2012 and 15/6/2012 and made the following amendments and changes. The revised bill would be sent back to the National Assembly for re-deliberation.

#### **Title**

*Accepts NA's amendment in Dzongkha, but to retain English as in the draft*

#### **Preamble**

**Whereas Article 14**, Section 12, ~~Article 14~~ of the Constitution mandates the establishment of a Relief Fund;

**Whereas** the Druk Gyalpo has the prerogative to use this Fund for urgent and unforeseen humanitarian relief; and

**Whereas** ~~His Majesty~~ the Druk Gyalpo may be pleased to grant urgent relief to the people of Bhutan in times of unforeseen calamities;

### **Section 1**

*Amended in Dzongkha, Accepts NA's amendment in English except Title of the Bill*

### **Section 4**

*Accepts NA's amendment in Dzongkha, but to retain English as in the draft*

### **New Section after Section 4**

**The Druk Gyalpo's Relief Fund shall consist of the following:**

- a) **Government deposits;**
- b) **Donations from Bhutanese individuals and entities;**
- c) **Donations from foreign individuals and entities; and**
- d) **Interest and other incomes that may be accrued from the investments made under Section 11.**

### **Section 7**

~~If needs arises to further increase in the required maximum ceiling of Nu. 100 million, to be maintained in the fund, it shall be done on approval of the Parliament.~~ **Further increase in the government deposits beyond Nu. 100 million shall be subject to the approval of Parliament.**

## **Section 8**

~~The ceiling of the amount to be replenished for the any expenditure incurred from the Fund shall be by an equal amount subject to the maximum ceiling of the fund, Nu. 100 million required to be maintained, which shall be done in the following financial year immediately upon the approval of the national budget. Any expenditure from the Fund shall be replenished by an amount required to maintain the Fund at Nu. 100 million in the following financial year immediately upon the approval of the national budget.~~

## **Section 14**

The Fund shall be used on **the** command of ~~His Majesty the Druk Gyalpo.~~

## **Section 16**

The **audited annual** accounts of the Fund shall be prepared **and submitted to His Majesty the Druk Gyalpo and the Ministry of Finance.** ~~at the end of each financial year.~~

*(23<sup>rd</sup> Day of the 4<sup>th</sup> Month of the Water Male Dragon Year corresponding to Tuesday, 12<sup>th</sup> June 2012)*

## **2 Introduction of the Education City Bill of Bhutan 2011**

The Member-in-charge of the Education City Bill of Bhutan, Hon'ble Minister for Works and Human Settlement said that peace, prosperity and socio-economic development of the country depended on the improvement of education in the country. In the past years, education in the country had developed greatly, and it was important to keep improving the quality of

education in the country in accordance with the education policy. However, due to funding problems, it became imperative for the government to allow private entities with the support of FDI to establish educational institutions in the country.

He said that Bhutan was a peaceful and happy country with pristine environment and good climatic conditions. The non existence of internal strife, peace and tranquility and having a stable government had resulted in several foreign private agencies exploring for possible foreign direct investment in Bhutan. Bhutanese officials had visited some countries and held direct consultations with relevant private agencies, and two private parties agreed to jointly invest in the Education City project. He said that the government had identified 1000 acres of land at *Wangsisina* in Thimphu for the establishment of the proposed education city.

He said that the establishment of the Education City of Bhutan would be based on public private partnership model and relevant policies and discussions were held towards that end. However, in the absence of policies to guide the implementation of such a project, an act became necessary. Moreover, there was a general requirement that establishment of any colleges in the country had to be one under an act passed by the Parliament. He said that the existence of such a law would give the foreign private agencies more confidence to invest in Bhutan.

Lyonpo said that the foreign direct investors would, according to their own policies and in line with the right to education, allow students to avail education of their choices. He also said that religion based schools would also be permitted to be opened in the education city.

The education city would benefit the youth of our country in the sense that our children need not go to foreign countries to pursue their education. The education city would also provide more employment opportunities and contribute to socio-economic development of the country.

The Hon'ble Member of Dagana Dzongkhag pointed out that many countries in the world faced immense problems because of religion and, therefore, expressed his doubts on establishing schools based on right to religion. Likewise, he said that in keeping with the national policy of equitable and balanced regional development, such big projects should not be limited to Thimphu but established in remote Dzongkhags as well. The Hon'ble Member of Lhuentse Dzongkhag said that according to the provisions of the Education City Bill, relevant sections from the existing acts had to be repealed and, hence, he expressed his doubts on the kinds of problems it might lead to.

The Hon'ble Minister for Works and Human Settlement said that while it was important for equitable development of the country, the establishment of such a big project depended on the convenience of the investors. For example, he said that the location of the place, proximity to airport and motor road, and being within the vicinity of commercial areas had to be considered. As *Wangsisina* was a suitable location, the area was identified for the establishment of the education city. He said that for the purpose of establishing such a big project, the sections of other Acts might be contravened but since the changes were made under a law passed by the Parliament, the contradictions were not major.

The Hon'ble Member of Zhemgang Dzongkhag said that considering the socio-economic development of the country, if a lot of foreigners were allowed to come to pursue their education in Bhutan, it might disturb the country's peace, and asked the government's stand on creating such a situation. The Hon'ble Member of Gasa Dzongkhag said that the admission fees in the Education City to be established would be as high as that of other regular colleges, and would not prevent Bhutanese youth from going elsewhere to pursue their education, and therefore, enquired about government plans for the establishment of other colleges. He also asked whether the Education City Act would cover similar projects to be initiated in future. The Hon'ble Member of Chukha Dzongkhag said that tax exemption was not clearly provided under section 34.

The Hon'ble Minister for Works and Human Settlement responded by saying that one should look at the overall development of the country though minor problems might arise and that rate of admission fees would be determined by the investors themselves. He said that establishment of other colleges and institutions would be carried out in accordance with the other government policies and acts and that the Education City Bill would not cover similar projects to be initiated in future.

*(26<sup>th</sup> Day of the 4<sup>th</sup> Month of the Water Male Dragon Year  
corresponding to Friday, 15<sup>th</sup> June 2012)*

## **2.1 Debate regarding amendments and changes to the Bill**

The National Council thoroughly deliberated on the Education City Bill of Bhutan 2011 on 12/6/2012, 15/6/2012 and 22/6/2012 and made the following

amendments and changes which shall be sent back to the National Assembly for re-deliberation.

**Preamble (Third Paragraph)**

Convinced that the presence of high quality Educational Institutions in Bhutan would ~~improve~~ **contribute to the improvement of the** overall quality of the Bhutanese education system; and

**Preamble (Fifth Paragraph)**

Parliament of the Kingdom of Bhutan do hereby enact the Bhutan Education City Act ~~2011~~ **2012** on the \_\_Day of \_\_Month of the ~~Iron Female Rabbit~~ **Water Male Dragon** Year of the Bhutanese Calendar corresponding to the \_\_Day of \_\_~~2011~~**2012** at its \_\_Session as follows:

**Section 3 (1)**

The Royal University **of Bhutan** except to its Knowledge Centres it may establish in the City; and

**Section 5**

*Delete the section.*

**Section 6**

*Delete the section.*

**Section 10 (2)**

Acquire, hold and dispose of property, whether movable or immovable and to pledge and mortgage the same **in keeping with the laws of Bhutan;**

**Section 12**

The ex-officio members of the Board ~~are the~~ **shall comprise of the** following:

## **Section 12 (2)**

Vice-chancellor, Royal University **of Bhutan**;

## **Section 12 (9)**

Dzongdag of **Thimphu** the Dzongkhag where the Site is located;

## **New sub-section under Section 12**

**Gup(s) of the relevant Gewog(s).**

## **Section 13**

~~The Cabinet may appoint such other permanent or temporary members~~ **The Board may invite special invitees to the Board Meeting** from time to time as it may deem fit.

## **Title before Section 15**

Procedures **Quorum**

## **Section 16**

*Accepts NA's amendments, but move the Section under "Miscellaneous" chapter.*

## **Section 28**

In case any Competent Authority fails to process or dispose of any application within the prescribed time frame **set by the Competent Authority**, the Board may place the application before the Cabinet for consideration and the Cabinet shall, after due consideration, reject the application or may direct the Competent Authority to grant or issue the Permission on such terms and condition as the Cabinet may direct.

## **Section 34(1)**

~~Exemptions from any tax, levy or likes~~ **Provision of fiscal incentives;**

### **Section 34(5)**

Part or full exemption from applicable ~~Laws and Policies~~; and

### **Section 42**

~~Notwithstanding anything contained in the Laws or Policies:~~

- ~~(1) The Government shall~~ **may** lease the Site to the Concessionaire in accordance with the **Land Act. Agreement** for a maximum period of 90 years; and
- ~~(2) The Concessionaire may sublease any part of the Site or any building on the Site subject to the Agreement. Such sublease may include the right to further subleasing.~~

### **Section 56**

~~Notwithstanding any other Laws or Policies to the contrary~~ **The Education City may permit the establishment of:**

- (1) Knowledge Centres affiliated to religion are ~~permitted~~ on equal terms and subject to the same requirements as other Knowledge Centres, provided that they offer secular Academic Courses; and
- (2) Knowledge Centres affiliated to Buddhism, as recognized in the Constitution of Bhutan, ~~shall be permitted~~ to offer Academic Course on Buddhism in the City.

### **Section 74**

~~In any instance of a difference in meaning between the Dzongkha and the English texts of this Act each text shall be regarded as equally authoritative and the two texts shall be reconciled.~~ **The Dzongkha text shall be the authoritative text, if there exists any difference**

**in meaning between the Dzongkha and the English texts.**

## **Section 75 (24)**

*Delete this Subsection.*

## **General**

*Proposed amendments in Dzongkha text.*

**Note:** *The National Council has accepted all the 21 amendments made by the National Assembly with a minor amendment in section 28.*

*(22<sup>nd</sup> Day of the 4<sup>th</sup> Month of the Water Male Dragon Year corresponding to Monday, 11<sup>th</sup> June 2012)*

## **3 Introduction of the Disaster Management Bill of Bhutan 2011**

The Member-in-charge of the Disaster Management Bill of Bhutan 2011, Hon'ble Minister for Home and Cultural Affairs, said that with the changing times, the country was facing many natural disasters every year causing grief and suffering to the people. He thanked His Majesty the King, the Royal Family, the Hon'ble Prime Minister and Cabinet Ministers, Members of Parliament, Local Government Officials and the Armed Forces for their assistance and support during such times.

He said that due to Bhutan's geographic conditions, it was prone to natural disasters such as earthquakes, landslides, soil erosions, wind storms, fire and glacial lake outburst floods. Moreover, scientific research had identified Bhutan as being within the high earthquake and soil erosion zone. Therefore, during the occurrence

of disaster related emergencies; remedial measures were taken according to the National Disaster Guidelines 2006. However, the past experiences had shown that numerous problems were faced in dealing with emergencies due to absence of a specific law to deal with and manage disasters.

Therefore, the government had started drafting the Bill from 2007 which was based on the National Disaster Management Guidelines 2006. Consultation meetings were held in different places for 4 years and the Bill had been reviewed many times with relevant ministries, agencies and international experts. Thereafter, it was submitted three times to the Cabinet following which it was endorsed during the 114<sup>th</sup> Cabinet meeting. The Bill was subsequently deliberated in the National Assembly during its 8<sup>th</sup> session, and then introduced to the National Council for deliberation and adoption.

He said that the main aim of the Bill was to identify measures to deal with disasters, establishment of a Disaster Management Authority and its administrative office; delegation of authority to associated bodies, establishment of emergency operation centres, formation of emergency medical services and search and rescue teams; identifying funding sources, ensuring prevention and mitigation of disasters; and solving the problems currently faced by the Department of Disaster Management.

*(24<sup>th</sup> Day of the 4<sup>th</sup> Month of the Water Male Dragon Year  
corresponding to Wednesday, 13<sup>th</sup> June 2012)*

### **3.1 Debate regarding amendments and changes to the Bill**

The National Council thoroughly deliberated on the Disaster Management Bill of Bhutan 2011 on 11/6/2012, 13/6/2012, 14/6/2012 and 19/6/2012 and made the following amendments and changes which shall be sent to the National Assembly for re-deliberation.

#### **Section 6**

*Delete the section*

#### **Section 9(5)**

~~Dasho Zimpon, Office of the Gyalpoi Zimpon.~~

#### **New sub-section after Section 9(7)**

**President of Bhutan Chamber of Commerce and Industry**

#### **Section 12(5)**

approve national standard, guideline and standard operating procedure for effective disaster management **including but not limited to objective assessment tool.**

#### **Section 19**

Subject to agreements entered between the **Royal** Government and Governments of other countries or legitimate international organizations, the National Disaster Management Authority may, **in accordance with the** ~~frame~~ rules and regulations **framed** under this Act, ~~to~~ regulate:

- 1) Procedure for initiating and terminating international disaster response, relief and recovery assistance;
- 2) Procedure for accepting international disaster response, relief and recovery assistance; and
- 3) Conduct of international disaster response, relief and recovery operation.

#### **Section 24**

The National Disaster Management Authority **shall conduct its meetings in accordance with the** ~~may~~ frame rules and regulations **framed under this Act.** ~~concerning conduct of its meeting.~~

#### **Section 26(2)**

**A Dzongkhag Welfare Officer** ~~An official~~ from the ~~Regional Office~~ of His Majesty's Representative for People's Welfare.

#### **New Sections after Section 26**

**26A. On the expiry of the term of the Gup/Thrompon/Thromde Thuemi or in the event of resignation, the Chairperson of the Dzongkhag Disaster Management Committee shall designate the most appropriate official in the Gewog/Thromde who shall represent in the Dzongkhag Disaster Management during the interim period.**

**26B. Composition of the Dzongkhag Disaster Management Committee shall not exceed 25 including compulsory members.**

#### **New sub-sections after Section 30(7)**

**30(7A) ensure that the damage assessments in the field are carried out professionally and efficiently without fear or favour**

**30(7B) coordinate and support disaster response and relief operation including recovery and reconstruction**

**New Section after Section 37**

**On the expiry of the term of the Gup/Thrompon/Thromde Thuemi or in the event of resignation, an appropriate official designated by the Chairperson of the Dzongkhag Disaster Management Committee to the represent the Gewog/Thromde in the Dzongkhag Disaster Management Committee shall carry out the functions of the Gup/Thrompon/Thromde Thuemi.**

**Section 38**

*Retain as in the draft.*

**Section 40**

*Retain as in the draft.*

**Section 44(1)**

*Retain as in the draft.*

**New sub-section under Section 57**

*Accepts NA new sub-section, and inserts additional new sub-section as follows:*

**Ensure that agencies mainstream disaster risk reduction into their development plans, policies, programmes and projects.**

**Section 59**

The Government shall recruit or ~~designate~~ a Dzongkhag Disaster Management Officer in all **the** every Dzongkhags ~~, as the case may be.~~

## **Section 60**

Subject to the direction ~~and control~~ of the Department of Disaster Management/Secretariat of National Disaster Management Authority, the Dzongkhag Disaster Management Officer shall:

## **Section 72**

*Accepts NA's amendments, but to put under section 57 as a subsection.*

## **Section 79**

*Retain as in the draft.*

## **Title before Section 89**

**Classification** Types of Disaster

## **New Section before Section 89**

**The classification of disaster is for the purpose of immediate and effective response and relief measures.**

## **Section 89**

A disaster shall be classified as Type I, if it:

- ~~1) affects a single Thromde or Gewog or any part thereof;~~
- ~~2) causes casualties of less than 50 people or affects less than 10 households or both;~~
- ~~3) causes loss to property and damage to the environment; and~~
- 4) can be managed with available resources and is within the coping capacity of the Gewog concerned.

## **Section 90**

A disaster shall be classified as Type II, if it:

- ~~1) affects a Dzongkhag or more than one Dzongkhag;~~
- ~~2) causes casualties of more than 50 and less than 500 people or affects more than 10 and less than 100 households or both;~~
- ~~3) causes substantial loss to property and damage to the environment; and~~
- ~~4) can be managed with available resources and is within the coping capacity of the Dzongkhag concerned.~~

### **Section 91**

A disaster shall be classified as Type III, if:

- ~~1) it affects the nation as a whole or in part;~~
- ~~2) it causes casualties of more than 500 people or affects more than 100 households or both;~~
- ~~3) causes major loss to property and damage to the environment;~~
- ~~4) severity and magnitude is so great that it is beyond available resources and the coping capacity of the Dzongkhag concerned; and~~
- ~~5) other special circumstances warrant such classification.~~

### **Section 96**

Parliament may extend or disapprove the continuance in force of a proclamation for type III disaster ~~in accordance with the provisions of the Constitution.~~

### **Section 101**

*Retain as in the draft.*

### **Section 116**

The compensation under section ~~113~~ and 115 of this Act shall be paid as per the guideline and standard formulated under this Act.

### **Section 120**

The National Disaster Management Authority shall institute a Grievance Redressal System to redress grievance of any person **affected during Response and Relief Operation** ~~arising out of performance of duty under this Act.~~

### **Section 122**

A person who obstructs any authorized person in the discharge of functions under this Act shall, on conviction, be ~~guilty of the offence~~ **liable for** petty misdemeanor ~~unless the person has a reasonable excuse.~~

### **Section 123**

A person who fails to comply with the directives given under this Act shall, on conviction, be ~~guilty of the offence of~~ **liable for** petty misdemeanor ~~unless the person has a reasonable excuse.~~

### **Section 125**

If a person entrusted with or having custody over any resources under this Act, misappropriates such resources, or any part thereof, or willfully compels any other person to do so shall, on conviction, be guilty of the offence of embezzlement under the **relevant laws of the kingdom** ~~Penal Code of Bhutan, 2004.~~

### **Section 131**

Special care shall be taken of children, women, elderly persons and persons with disability during rescue, **response and relief operations.**

### **Section 135**

A person performing a duty under the provisions of this

Act shall not be liable for anything done or omitted to be done in good faith and in the due course of duty. **Such immunity does not cover corrupt acts committed by such persons.**

### **New Section after Section 137**

**The Department of Disaster Management and the Disaster Management Authority shall maintain proper records of all actions during management of disaster. Further all these information shall be open to public access.**

### **General**

*Recommendations in Dzongkha.*

*(22<sup>nd</sup> Day of the 4<sup>th</sup> Month of the Water Male Dragon Year corresponding to Monday, 11<sup>th</sup> June 2012)*

## **4 Introduction of the Contract Bill of Bhutan 2011**

The Member-in-charge of the Contract Bill of Bhutan 2011, Hon'ble Minister for Works and Human Settlement said that due to globalization and rapid development of countries around the world, interactions between countries were rapidly growing as compared to the past, which necessitated increase in the number of verbal and written agreements for proper discharge of activities and programs. He said that for such agreements to be successfully carried out, a contract law that would benefit every community in the country was essential, and therefore, the government had drafted the Bill and was introducing it to the National Council for deliberations.

Lyonpo said that a group of contractors had submitted the need for a law related to contracts to the Ministry of Works and Human Settlement in 2000. The matter was discussed by the Cabinet and the Office of the Attorney General and the Ministry of Works and Human Settlement was given the responsibility to draft the Contract Bill. He said that the draft bill, that was reviewed many times by national and international experts and discussed and endorsed by the Cabinet, was submitted to the National Council for deliberation and adoption.

Lyonpo said that the main purpose of the Bill was to define contracts and types of contracts, the need for entering into contracts, who can enter into contracts, how contracts should be made, responsibilities of parties to a contract and to identify the sections related to contracts under other Acts that were needed to be repealed. Besides that, the Bill provided details on procurement procedures for both the government and the private sector.

*(29<sup>th</sup> Day of the 4<sup>th</sup> Month of the Water Male Dragon Year corresponding to Monday, 18<sup>th</sup> June 2012)*

#### **4.1 Debate regarding amendments and changes to the Bill**

The National Council thoroughly deliberated on the Contract Bill of Bhutan 2011 on 11/6/2012, 18/6/2012 and 22/6/2012 and made the following amendments and changes which shall be sent to the National Assembly for adoption in accordance with Article 13.5 of the Constitution of Bhutan.

## **Section 2**

This Act shall supersede **sections 285 and 286 of the Penal Code of Bhutan, 2004 and the Penal Code of Bhutan Amendment Act 2011, and** any custom or usage of trade relating to contracts in the Kingdom of Bhutan to the extent that such custom or usage is inconsistent with this Act. This Act, shall not, however, affect any right, title or interest accrued or any liability, obligation or responsibility incurred under such custom or usage prior to the coming into force of this Act.

## **Section 3**

Subject to section 2 of this Act, if any other law in force in the Kingdom of Bhutan is, in any way, inconsistent with this Act, the provisions of this Act ~~and not those of such other law,~~ shall prevail.

## **Section 4**

*Delete the section.*

## **Sections 5, 36, 37, 38 and 39**

*A new section under the title “**Definition**” shall be added and the above sections shall be put as subsections under the new section.*

## **Section 226**

No person shall be entitled to commence proceedings for any relief or remedy for breach of contract if ~~one year~~ **three years** has elapsed from the date on which the breach was committed or from the date on which such person became aware of such breach, whichever is later. The burden of proving that a person became aware of the breach of a contract, not when such breach occurred, but at a later date, shall be on the person who so claims

## **Section 228**

~~Any amendment of this Act by way of addition, variation or repeal shall be made only by Parliament. The amendment of this Act by way of addition, variation or repeal shall be effected by a simple majority of the respective Houses or vote of no less than two-thirds of the total members of Parliament present and voting on a motion submitted by one-third of the members of either House.~~

## **Section 229**

~~In case of any difference in meaning between the Dzongkha and the English texts of this Act, each text shall be regarded as equally authoritative and courts shall reconcile the two texts. The Dzongkha text shall be the authoritative text, if there exists any difference in meaning between the Dzongkha and the English texts.~~

## **New Section after Section 229**

### **Definition**

#### **230**

*(Sections 5, 36, 37, 38 and 39 of the draft shall be put as subsections 1 to 5)*

- (6) The term “principal” describes one who has permitted or directed another (i.e. agent) to act for his/her benefit and subject to his/her direction and control, such that the acts of the agent become binding on the principal.**
- (7) An “agent” is a person authorized by another (“principal”) to act for or in place of him/her.**

*(24<sup>th</sup> Day of the 4<sup>th</sup> Month of the Water Male Dragon Year  
corresponding to Wednesday, 13<sup>th</sup> June 2012)*

## **5 Introduction of the Alternative Dispute Settlement Bill of Bhutan 2011**

The Member-in-charge of the Alternative Dispute Settlement Bill of Bhutan 2011, Hon'ble Minister for Economic Affairs, said that Article 21.16 of the Constitution of Bhutan required the Parliament of Bhutan to establish impartial and independent Administrative Tribunals as well as Alternative Dispute Settlement Centres. He said that the Cabinet directed the Office of the Attorney General in 2010 to draft such a Bill within July 2011 bearing in mind the existing government policies and relevant international laws. He pointed out that numerous consultations were held on the draft Bill involving international and national experts and relevant agencies before it was endorsed by the Cabinet and introduced to the National Council for deliberation.

The Bill was mainly in line with the government's prioritized plans such as the policies of economic development, foreign direct investment and establishment of institutions where foreign agencies investing in Bhutan could easily settle small matters through arbitration without going to courts. Moreover, the country already has a system of negotiated settlement, and the Bill sought to make the system certain by legalizing it.

The main clauses of the Bill were the application of the Bill, waiver of one's rights, establishment of the Alternative Dispute Settlement Centre of Bhutan, investment and sustainability of such a centre. The

characteristics of the Bill were specifying the types of arbitration, procedures for arbitration, its costs, rights of parties, national and international negotiated settlement, involvement of courts, appeals, subjects of arbitration and negotiated settlement.

*(30<sup>th</sup> Day of the 4<sup>th</sup> Month of the Water Male Dragon Year  
corresponding to Tuesday, 19<sup>th</sup> June 2012)*

## **5.1 Debate regarding amendments and changes to the Bill**

The National Council thoroughly deliberated on the Alternative Dispute Settlement Bill of Bhutan 2011 on 13/6/2012, 19/6/2012 and 22/6/2012 and made the following amendments and changes which shall be sent to the National Assembly for adoption in accordance with Article 13.5 of the Constitution of Bhutan.

### **Preamble**

~~In order to encourage alternative resolution of disputes through arbitration and negotiated settlement; to establish institutions and procedures for arbitration and negotiated settlement; to ensure that arbitration and negotiated settlements are conducted in accordance with the wills of the parties; to create certainty amongst the parties engaging in alternative dispute resolution; and, to provide for the recognition and enforcement of arbitral awards and outcomes of negotiated settlements; Parliament of Bhutan during its ..... Session, do hereby enact the Alternative Dispute Resolution Bill on..... Day of the .....Month of ...Year corresponding to the.....Day of the .....Month of the year 2011 as follows:~~

**Whereas, the Constitution of the Kingdom of Bhutan stipulates that the Parliament may, by law,**

**establish impartial and independent Administrative Tribunals as well as Alternative Dispute Resolution Centres;**

***Whereas, there is a need to encourage alternative resolution of disputes through arbitration and negotiated settlement through establishment of institutions and procedures; and***

***Whereas, it is important to enforce and recognize the arbitral awards and outcomes of negotiated settlements.***

**Parliament of Bhutan during its Ninth Session, hereby, enact the Alternative Dispute Resolution Act 2012 on.....Day of the .....Month of .....Year corresponding to the .....Day of the .....Month of the Male Water Dragon Year.**

### **Section 1(3)**

Extend to the whole of the Kingdom of Bhutan ~~or otherwise within the jurisdiction of Bhutan.~~

### **Section 4**

*Delete the section.*

### **Sections 5**

There shall be a Centre established in the name as Bhutan Alternative Dispute Resolution Centre, which is an independent ~~and non-governmental~~ body, having a distinct legal personality, and capable of doing all such things and entering into all transactions as are incidental or conducive to the exercise or performance of its functions under this Act.

### **Section 6**

*Delete the section.*

**New Subsection under Section 11  
Has been declared insolvent.**

**New Subsection under Section 16  
Liaise with International Alternative Dispute  
Resolution bodies.**

**Section 22 (3)**

Grant from the government, ~~as may be made.~~

**Section 23**

*Delete the section.*

**Section 33**

A party who knows that any provision or requirement under this ~~Chapter~~ **Act or arbitration agreement** has not been complied with by the other party, the Centre or arbitral tribunal and yet proceeds with the arbitration without promptly stating his or her objection to such non-compliance, shall be deemed to have waived **the** right to object.

**Section 34**

For the purpose of this ~~Chapter~~ **Act**:

**Section 34 (3) (a)**

Contained in a document signed by the parties **with legal stamp**;

**Section 36**

In an action before court which is subject to an arbitration agreement, if a party applies for arbitration not later than when submitting his or her opening statement, the court shall direct the parties to arbitrate,

unless it finds that the agreement is null and void, **inoperative** or incapable of being performed.

### **Section 37**

If any party files petition before the court after commencement of the arbitration proceedings, the court before which an action is brought shall dismiss the petition and direct the parties to continue with the arbitration, unless it finds that the agreement is null and void, **inoperative** or incapable of being performed.

### **Section 38**

If the court finds that arbitration agreement is null and void, **inoperative** or incapable of being performed under section 37 of this Act, it shall continue with the hearing and direct the parties to discontinue arbitration proceeding.

### **Section 54**

The parties are free to agree on the procedures for the appointment of the arbitrator or arbitrators, **other than sitting judges**, in accordance with this Act.

### **Section 75**

The mandate of an arbitrator may be terminated if:

- (1) ~~He or she is unable to perform functions;~~ **Upon finding inefficient or incapable of performing his or her duty; or**
- (2) ~~He or she is unable to perform functions without delay~~ **Upon finding misbehavior or irregularity in the discharge of his or her functions.**

### **Section 93**

Unless otherwise provided in this Chapter, the arbitral tribunal may not be bound by the Civil and Criminal Procedure Code of the Kingdom of Bhutan ~~and the Evidence Act of the Kingdom of Bhutan.~~

## **Title before Section 97**

Seat **Venue** of arbitration

### **Section 97**

Unless otherwise agreed by the parties, the seat **venue** of arbitration shall be at the premises determined having regard to the circumstances of the arbitration by the Centre.

### **Section 128**

An appeal against a decision on recognition or enforcement of interim measure by a competent court may be submitted to the High Court within 10 **working** days from the delivery of such decision on recognition or enforcement.

## **Title before Section 164**

*Amended in Dzongkha*

### **Section 180**

~~The amendment of this Act by way of addition, variation or repeal may be effected by Parliament, subject to the requirement that any amendment shall not undermine the effectiveness of the alternative dispute resolution.~~

**The amendment of this Act by way of addition, variation or repeal shall be effected by a simple majority of the respective Houses or vote of not less than two-thirds of the total members of Parliament present and voting on a motion submitted by one-third of the members of either House.**

### **Section 182**

~~In instances of a difference in the meaning between the Dzongkha and English text of this Bill, each text shall be regarded as equally authoritative.~~ **The Dzongkha**

**text shall be the authoritative text, if there exists any difference in meaning between the Dzongkha and the English text.**

*(18<sup>th</sup> Day of the 5<sup>th</sup> Month of the Water Male Dragon Year corresponding to Friday, 6<sup>th</sup> July 2012)*

## **6 Re-deliberation on the Parliamentary Entitlement (Amendment) Bill of Bhutan 2011**

After the National Council had thoroughly deliberated on the amendments and changes to the Parliamentary Entitlement Amendment Bill of Bhutan 2011 during its 8<sup>th</sup> session, 7 sections comprising of amendments and new additions had been sent to the National Assembly for adoption. However, the National Assembly had withdrawn the Bill based on the following reasons which were received by the National Council:

1. It was done in contravention with section 4 of the Parliamentary Entitlement Act of Bhutan 2008 which provided that “the entitlement of Members of Parliament shall be as per the recommendations submitted by the National Committee to the Pay Commission.”
2. It had been done in contravention with section 7 of the Act which provided that “no law shall vary the scales and structure of the salary, allowances, benefits and other emoluments for the services of the members of Parliament unless the proposal is tabled by the Pay Commission.”
3. Though the Act affects the members of the National Assembly as well, the amendments were made without consulting the National Assembly.
4. If the entitlements of members provided under the Annexure of the Act must be amended, that would

be from the Consolidated Fund and therefore, considered as a Money Bill. Since only the National Assembly had the power to introduce Money or Financial Bills, the introduction by the National Council had been done in contravention with Article 13, section 2 of the Constitution of Bhutan and section 234 of the National Assembly Act 2008.

5. There were many other sections of the Act that needed amendment and addition. In order that the Act need not be amended again and again, and for the amendment do be carried out as per the prescribed procedure, it was submitted that the Bill be withdrawn.
6. When members from both the houses met to discuss the amendment, it was decided that since the Amendment Bill had already been passed by the National Council, the National Assembly should act in accordance with the Legislative Rules of Procedure. Therefore, based on the above points, the Bill was withdrawn as per the provisions of the Legislative Rules of Procedure.

The Hon'ble Member of Pemagatshel Dzongkhag said that while the National Assembly held that the amendment was in contravention with the provisions of section 4 of the Parliamentary Entitlement Act 2008, the proposals to the Pay Commission was not regarding increase or decrease of salary, allowances, benefits and other emoluments but on general amendments, and limits and guidelines for those had not been separately stated in the Act. As far as consulting the National Assembly was concerned, the issues were discussed during the joint Committee meeting on Financial Services Bill, where the National Assembly members had also proposed for amendments regarding the

transport entitlement and addition of new sections on the need of office and support staff for the members of Parliament. Therefore, while formal consultations had not been carried out with the members of the National Assembly, informal consultations were held.

He also said that the National Assembly's assertion that the Bill was a Money Bill since changes to the entitlements of members provided under the Annexure of the Parliamentary Entitlement Act had to be met from the Consolidated Fund was not acceptable. He pointed out that deliberations on the Bill was related to policies in general and that the amendments in the Bill had nothing to do with the increase or decrease in the limits of entitlements. Hon'ble Member Kuenlay Tshering said that since it was not a Money Bill, either of the houses could introduce the amendments.

Hon'ble Deputy Chairperson said that although the National Assembly had withdrawn the Bill on the grounds of non-conformity with the procedures, non-consultation with the National Assembly and the Bill being a Money Bill, he said that the National Council had justified that procedures were followed, the National Assembly had been consulted and the Bill was not a Money Bill. He said that since the day the deliberations on the Bill started, the general public and the media had raised their doubts and expressed their concerns that the amendments were for the benefit of the present members of the Parliament and not for the future. He, therefore, proposed that the Bill be withdrawn out of respect, trust and regard for the general public and in acknowledgment of their opinions.

The Hon'ble Member Kuenlay Tshering and Hon'ble Members of Lhuentse and Dagana Dzongkhags said that

while the withdrawal of the Bill was not in contravention with the system and legal procedures; the media and public had received misinformation on the Bill which had given rise to concerns and doubts in their minds, hence, in support of the proposal submitted by the Deputy Chairperson, the Hon'ble members submitted that the Bill be withdrawn.

The Hon'ble Member of Thimphu Dzongkhag however, said that since the systems and legal procedures had not been violated in any way for the Parliamentary Entitlement Amendment Bill to be deliberated in Parliament, it should not be withdrawn but settled in a Joint Sitting of Parliament in accordance with the Parliamentary Legislative Rules of Procedure.

The House was of the view that it had reviewed the Parliamentary Entitlement Amendment Bill of Bhutan 2011 without contravening the system or legal procedures, but to withdraw the bill out of acknowledgement and respect for the concerns, doubts and suspicions raised by the media and the public.

## **7 Re-deliberation on the National Flag Bill of Bhutan 2011**

The National Flag Bill of Bhutan 2011 was introduced as a Private Member's Bill in the 8<sup>th</sup> Session of the National Council, and after thorough deliberation, sent to the National Assembly for adoption. During its deliberation in the 9<sup>th</sup> Session, the National Assembly held that if a Private Member's Bill was adopted without following proper procedure and understanding of its background details before being introduced to the Parliament, there was the danger of adopting bills that might benefit an individual person or a member and not

the country and its people. To prevent use of words that showed conflict of interest, it was seen that detailed procedures should be framed. Therefore, in accordance with the provisions of Chapters 17 to 22 of the Legislative Rules of Procedure 2011, the Bill was withdrawn and received back by the National Council.

The Hon'ble Member Kuenlay Tshering said that he did not accept the withdrawal of the National Flag Bill of Bhutan 2011 by the National Assembly based on the provisions of Articles 10.11, 11.2 and 13.2 of the Constitution of Bhutan, Section 102 and Sections 103 to 111 of the National Council Act, Sections 122 to 125 and Sections 140 to 149 of the Rules of Procedure of the National Council, and Sections 2 and 3 of the Legislative Rules of Procedure. Moreover, the Bill was in line with Section 4 of the Legislative Rules of Procedure which provided that the procedures for Government as well as Private Member's Bills should be the same as per the provisions of the Constitution of Bhutan and other related laws. The National Council was of the view that numerous consultation meetings on the Bill were held with different agencies, while a separate meeting was held with the Office of the Attorney General, during which no views were expressed regarding the breach of procedures. However, the National Assembly had not consulted the National Council prior to the Bill being withdrawn and, as such; the withdrawal of the Bill was without reasonable justifications.

The Hon'ble Member of Pemagatshel Dzongkhag said that the members had discussed the need for a National Flag Bill since 2010 based on the submissions made the people during visits to the constituencies that the system on the requirement or otherwise to hoist the national flag had been of great inconvenience in the

society. He said that the Bill was drafted with the initiatives of the Hon'ble Members of Wangdiphodrang and Lhuentse Dzongkhags. Although the National Assembly held that the introduction of the National Flag Bill of Bhutan 2011 was in violation established norms and procedure, the Bill had not directly contravened any of the established systems in place. Moreover, he said that the Bill was to solve the inconveniences in society, and as such he did not support the withdrawal of the Bill.

The Hon'ble Member of Trongsa Dzongkhag said that that he was disappointed by the National Assembly's lack of respect and confidence in the high position of the National Council by stating that the Bill was in contravention of the established systems and it would benefit individual persons and members and not the country and people. He said that numerous Bills and amendments to the Acts were adopted in accordance with the Constitution of Bhutan and other relevant laws. Since the National Flag Bill was in accordance with the provisions of those laws, he said that he did not support its withdrawal.

The National Council, after a thorough discussion, held that the National Flag Bill of Bhutan 2011 was not in contravention to the Constitution of Bhutan, the National Council Act of Bhutan and the Parliamentary Legislative Rules of Procedure and decided that it should not support the withdrawal of the Bill. Therefore, National Council resolved to discuss the Bill in a Joint Sitting of Parliament in accordance with the provisions of Article 13.8 of the Constitution of Bhutan and Section 23 of the Parliamentary Legislative Rules of Procedure.

*(9<sup>th</sup> Day of the 5<sup>th</sup> Month of the Water Male Dragon Year  
corresponding to Thursday, 28<sup>th</sup> June 2012)*

## **8 Introduction of the Report on the National Budget and Appropriation Bill for the Financial Year 2012-2013, Supplementary Budget Appropriation Bill for the Financial Year 2011-2012 and Tax Revision Bill 2012**

The Hon'ble Finance Minister said that from the government's side, the National Budget for the Financial Year 2012-13 was framed within reasonable limits to bridge the gap between actual revenue earned and total fund shortage and was prepared, bearing in mind, the shortage of Indian Rupee in the country. The total annual budget estimated was Nu. 31,891.042 million based on internal revenue amounting to Nu. 21,157.457 million and foreign grant amounting to Nu. 10,691.241 million.

The projected budget was mainly to prioritize and complete the ongoing activities under the 10<sup>th</sup> Plan and not for starting new activities that would spill over to the 11<sup>th</sup> Plan. He submitted that the proposed budget would have provisions for procurement of furniture and computers only for schools under RGOB funding; mandatory regional, multilateral and international meetings and for office maintenance. He said that the budget entailed for reduction of hospitality and entertainment budget by 20%, reducing in-country travel and advertisement by 10% and withdrawal of budget for purchase of vehicles, construction and annual conferences.

He said that for sustainable fiscal balance, current operating deficits should be avoided, and fiscal deficit

maintained below 5% of gross domestic product. He emphasized that in order to maintain sustainable resource gap, it was good to ensure that the government's internal borrowings did not crowd out private sector and external borrowings to be availed for economically and socially viable projects and not for purchase of vehicles, capacity building including trainings, study visits, road shows and so on. He said that to promote sustainable socio-economic development, investments must be made in industries with potential for export, revenue and employment generation, and agriculture production, distribution and marketing.

The Hon'ble Minister reported on the actual outcome of the approved budget of Nu. 31,586.779 million for the Financial Year 2010-11, and sought the approval of the House for the supplementary budget of Nu. 3,819.897 million which comprised of Nu. 3,129.838 million from external revenue and Nu. 690.095 from RGOB based on the Supplementary Budget for the Financial Year 2011-12.

The Hon'ble Minister said that with the aim of conserving the natural environment, it was important to limit the import of vehicles in the country, for which, a Green Tax of 40% was proposed on luxury vehicles with engine capacities of 1,800 cc and above excluding buses used for general public transport, utility vehicles such as pick-ups and trucks. In order to control the outflow and to control the overall import of fuel, a 5% Green Tax was proposed on petrol, diesel, lubricants, kerosene and LPG. A 10% Green Tax was also proposed on refrigerators, freezers and air conditioners.

Similarly, other taxes such as 50% Excise Duty and 100% Sales Tax on alcohol, 5% Sales Tax on meat, fish and egg, 15% Sales Tax and 50% Customs Duty on silk fabrics, 15% Sales Tax on furniture, and 20% Sales Tax and 30% Customs Duty on power chainsaw were proposed.

### **8.1 Deliberation on the National Budget and Appropriation Bill for the Financial Year 2012-2013, Supplementary Budget Appropriation Bill for the Financial Year 2011-2012 and Tax Revision Bill 2012**

The National Council deliberated on the Supplementary Budget Appropriation Bill for the Financial Year 2011-2012, the Budget Appropriation Bill for the Financial Year 2012-2013 and the Tax Revision Bill 2012 on 28/6/2012 and 2/7/2012 and made the following amendments, changes and recommendations.

#### **A Deliberation on the Supplementary Budget Appropriation Bill for the Financial Year 2011-2012**

The National Council deliberated on the Supplementary Budget Appropriation Bill for the Financial Year 2011-12 on 28/6/2012 and the proposal submitted by the Hon'ble Finance Minister was adopted. In addition, the National Council resolved to submit the following recommendations and uncertainties to the government.

1. While capital expenditure in all the agencies and Dzongkhags had gone down in the National Budget for the Financial Year 2012-13 compared to the previous Budget, current expenditure had gone up. While capital expenditure had gone down

in all the Dzongkhags except for Thimphu Dzongkhag where it had gone up. Recognizing the goal of equitable development, it was resolved that the appropriation of budgets should be reasonably equivalent in all the Dzongkhags.

2. While only Nu. 15 million was spent for the construction of Udorong Middle Secondary School in Trashigang under serial number 31 in table 3.2 under Estimates for Supplementary Budget for the Financial Year 2011-12 under Chapter 3 of the National Budget for the Financial Year 2012-13, the Ministry of Foreign Affairs had spent Nu. 15 million for participation in the 2<sup>nd</sup> Happiness Meeting in New York, which was felt to be excessive. It was resolved that the government should be reminded to cut down expenditure on such programs in the future.
3. The submission of the Supplementary Budget and Appropriation by the government during the summer session results in different amounts between the National Budget and the Supplementary Bill, which made it difficult for them to be adopted. In addition to the recommendation made to the government by the National Council in its 7<sup>th</sup> session for submission of the Supplementary Budget and Appropriation during the winter sessions in future, it was resolved that a reminder should be submitted to the government.

## **B Deliberation on the Budget Appropriation Bill for the Financial Year 2012-2013**

While the National Council thoroughly deliberated and adopted the Budget Appropriation Bill for the Financial Year 2012-13 on 2/7/2012, it was resolved that the

following clarifications and recommendations should be submitted for discussion in the National Assembly.

#### **Section 4**

The government had adopted four policy measures in order not to exceed the appropriation ceiling of Nu. 38,044.196 in the Financial Year 2012-13, of which, one initiative under Expenditure Rationalization Measures was to prioritize the completion of on-going works and not to start new activities that would spill over to the 11<sup>th</sup> Plan. While the National Council accepted the measure, it was resolved that works that were already included in the Plan, although new, should not be left aside but taken up during the last financial year of the 10<sup>th</sup> Five Year Plan for the development of the country and fulfilling the wishes of the people.

#### **Section 6, Schedule of Budget Appropriation for Financial Year 2012-13 No. 4**

1. Under the Budget for the National Assembly, Nu. 6 million had been kept in last year's budget for constituency consultation meetings which had not been properly utilized. Therefore, it was resolved that similar budget kept for the current fiscal year (2012-2013) be removed from the budget.

#### **No. 5**

While a lot of financial proposals had been submitted under National Council for institutional development, current expenditure and security related activities, most of those proposals had been omitted keeping in line with the government's budget cutback policy. Since the

following budgets were essential to the National Council, it was resolved that those should be reinstated.

1. In accordance with the provisions of the National Council Act, all the National Council sessions should be recorded and maintained in verbatim. While the Council Secretariat transcribed the verbatim of the proceedings of the sessions, quality equipments were required. Therefore, it was resolved that the capital expenditure budget of Nu. 0.250 million for purchase of recording equipments should be reinstated as proposed.
2. The National Council, as one of the highest legislative bodies in the country, could be subject to possible security threats, it was resolved that the budget of Nu. 0.147 million for purchase of CCTV parts for security reasons should be reinstated in the budget as proposed.
3. The National Council Secretariat was an important office for the National Council to carry out its mandates under the provisions of the Constitution of Bhutan and the National Council Act and in rendering support to the members of the National Council. The Secretariat did not have a permanent office to carry out their day to day functions, and the ones that existed were old houses constructed as residences way back in 1960. It was resolved that though the proposed budget of Nu. 0.480 for renovation had been removed by the governments, it should be reinstated.
4. Due to shortage of manpower in the National Council Secretariat, the Royal Civil Service Commission had recently approved the Organizational Development Plan and approved the recruitment of 16 additional officers. For the

purchase of furniture, computers and items that were necessary for office maintenance, it was resolved that budget should be provided.

## **No. 7**

1. While the allocation of budget for cultural activities under the Ministry of Home and Cultural Affairs for renovation of Dzongs, Lhakhangs and Chortens affected by natural disasters was appreciated, similar budget appropriation had not been made in the Budget for the Financial Year 2012-13 for renovation of Trashigang Dzong which was affected by earthquake in 2009 though the National Council had recommended keeping such a provision during its 7<sup>th</sup> session. Moreover, separate provision had not been made for Trashigang Dzong in the present budget as well. Therefore, it was resolved that recommendation for provision of budget should be submitted to the government again.
2. To aid the renovation of Dzongs, Lhankangs, Chortens and Government Institutions after being affected by the numerous natural disasters in the country, the National Council posed questions to the Ministry of Home and Cultural Affairs with regard to the need to insure Dzongs, Lhakhangs, Chortens and large government institutions. However, since no response was forthcoming, it was resolved that the government should consider insuring such structures.
3. The purchase of machineries and infrastructure through the government bidding system towards protection of large Dzongs, Lhakhangs, Chortens and other structures had resulted in extra

expenditure and low quality works which not only posed danger to life but also in saving sacred Kutens. Therefore, it was resolved that the government should directly purchase those equipments from their place of origin.

4. Recently, the important and historic Wangdiphodrang Dzong had been completely destroyed by fire. While there was assistance and support for its reconstruction from both inside and outside the country, it was resolved that the government should keep a separate budget for the Dzong reconstruction.
5. Not only was Samdrup Chholing Drungkhag under Samdrupjongkhar Dzongkhag was located along the border, but it was also an area where people from different parts of Bhutan lived. The Ministry of Home and Cultural Affairs and the Royal Bhutan Police were requested during the past year to open a police station and post police personnel for security reasons. While it was accepted that the police post would be established as soon as possible, there was still no security police in the area mainly due to lack of living quarters for police personnel. Therefore, it was resolved that the government should prioritize the issue and allocate budget for construction of residential buildings and put in place needed infrastructure for the police.

## **No. 10**

1. With regard to farm roads under the Renewable Natural Resources under the Ministry of Agriculture and Forests, huge budget was kept every year for construction and renovation of farm roads. While a lot of farm roads were constructed

to reach the intended destinations, the quality were poor and thus the farm roads were not useable for long period of time. Therefore, it was resolved that, henceforth, the government should not prioritize the constructions of a lot of farm roads, but instead find measures to construct quality farm roads.

2. The total coverage of the budget related to farm roads for the Financial Year 2012-13 was about 95%. The road under Merak Gewog did not reach the Gewog centre, but the Gewog was considered being under road coverage. While the government justified not constructing the road till the Gewog centre for tourism purposes, the people of Merak felt that construction of the road till the Gewog centre would not harm tourism. Therefore, it was resolved to propose the construction of the road till the Gewog centre.
3. The shortage of Rupee in the Bhutanese economy had provided opportunities to the people within the country who depended on agriculture for their livelihood in terms of vegetable related businesses. The government also prioritized the development of agriculture related industries and had started framing budget policies for such undertakings aimed at the development of agricultural production, distribution and trade. However, the allocation of 12% under the budget was 1% less than the allocated budget last year, which was equivalent to Nu. 840 million. The intent of the policy and allocation of budget were contradictory, which made the development of agricultural industry doubtful. Therefore, it was resolved that the government should provide adequate budget for activities related to agricultural development.

## **No. 11**

1. It was resolved that the allocation of budget and policies regarding trade and industry under the Ministry of Economic Affairs and mining activities under the private sector development should be further discussed and recommendations submitted.
2. Under the tourism sector, activities and programs for tourism development had been outlined for every Dzongkhag, but there was nothing specific for Dagana Dzongkhag. For fulfilling the policy objective of equitable development, it was resolved that the government should allocate appropriate budget.
3. Under Energy sector, the National Council appreciated the government's efforts toward rural electrification which had resulted in many rural areas being provided with electricity. However, the electric poles were very small which could be destroyed during soil and water erosion. Therefore, it was submitted that quality electric poles should be used. It was also resolved that while beginning Institutional Co-operation for development of energy, the Institution's Foundation Fund or the Balance Sheet of the Foundation Fund should be used as the basis or whichever was convenient.

## **No. 12**

1. One of the budget heads under the Ministry of Works and Human Settlement was for urban development and housing public amenities. The government should be providing loans without

interest to the National Construction Development Corporation for construction of houses for public servants with low level income in three of the four A category towns, namely Thimphu, Phuentsholing and Samdrupjongkhar. Since Gelephu was also under Town A category, with lots of public servants living in that town, it was resolved that in accordance with the objective of equitable development, such housing colony should be constructed in Gelephu as well.

### **No 13**

1. While there was budget support for the construction and repair of airports under Civil Aviation, Ministry of Information and Communication, there was lack of quality in the construction of airports. The House emphasized that measures should be taken to ensure that constructions were of high quality and sustainable. While it was not long since the renovation of Yongpghula airport, the condition of the runway had deteriorated in no time and flights had to be suspended. The budget for repairing the airport was not clearly provided in the budget. Therefore, it was resolved that adequate budget should be provided for renovation of the airport prior to the upcoming tourist season.

### **No. 14**

1. Under the Ministry of Health, while the National Council acknowledged the goal of reducing infant mortality rate to 41.1 deaths per 1000 infants, it was doubtful whether the millennium development goal of reducing infant mortality rate

to 30 deaths per 1000 infants by the year 2015 could be achieved. This was mainly because the target set for 2012 – 2013 was same as last year’s goal of reducing infant mortality to 41.1 deaths per 1000 births. Therefore, it was resolved that the government should provide additional budget for the purpose and take measures for achieving the goal.

## **General views**

1. The government’s aim was for the development of all 20 Dzongkhags in the country based on equity and justice. Therefore, it was resolved that the government should initiate development activities and programs not only in the capital but in all the twenty Dzongkhags as well.

## **C Deliberation on the Tax Revision Bill 2012**

The National Council thoroughly deliberated on the Tax Revision Bill 2012 on 2/7/2012, but did not support the tax revision proposals of the government. The main reason for the government’s proposal for tax revision was towards conservation of the environment through levy of Green tax on vehicles, fuel, refrigerators, freezers and air conditioners, and therefore, the title of the tax was inconsistent with the intent of tax revision.

The first issue under tax revision was named Green Tax, while the main objective was to control import of vehicles into the country. While this would enhance internal revenue earning for the country, it would have negative impact on the weaker sections of the Bhutanese society. Moreover, tax had been raised by a huge percentage last year to curb vehicle import, but

instead of seeing decrease in the import, there was actually rise in import of vehicles. Looking at such a scenario, the present Green Tax would also not be of any help. Therefore, it was resolved not to support the 40% Green Tax on vehicles with engine capacity of 1,800 and above.

Likewise, under the proposed Green Tax, with the intention of preventing rupee outflow and controlling import of fuel, the 5% Green Tax had been proposed on fuels such as petrol, diesel, lubricants, kerosene and LPG. Since that measure too would not make sense, the National Council resolved not to endorse the proposal.

The National Council was of the view that the proposed 10% Green Tax on refrigerators, freezers and air conditioners would cause setbacks on the weaker sections of the society. Other taxes like sales tax and excise duty on alcohol had been raised tremendously last year which had neither resulted in decrease of alcohol import into the country nor decrease in alcohol consumption, and was not helpful to the people. Imposing additional tax would contribute towards poverty related problems. In view of the negative impact of levying additional taxes, the National Council resolved not to support the tax revision proposal on alcohol and other items.

The National Council resolved not to support the government's recommendations for tax revision as given in the following tables.

**Table 1: Green Tax Rates 2012**

<b>Items</b>	<b>Green Tax: Government's Recommendations</b>	<b>National Assembly's Recommendations</b>	<b>National Council's Recommendations</b>
Passenger vehicles with engine capacity of 1,800 cc and above	40%	20%	Does not accept both the Government and National Assembly's recommendations
In general vehicles with engine capacity of 1,800 and below, public transport vehicles such as bus, utility vehicles such as pickups that's ply on rural roads, trucks and other equivalent vehicles	-	5%	Does not accept the National Assembly's recommendations
Kerosene and LPG	5%	Does not accept the Government recommendations	Accepts the National Assembly's recommendations
Petrol, Diesel and Lubricants	5%		
Refrigerators, freezers and air conditioners	10%		

Note:

- i) ~~Light vehicles that are pickup type shall be exempted from the levy of Green Tax irrespective of the engine capacity.~~
- ii) Electric cars and hybrid cars shall not be subject to Green Tax.
- iii) The Bhutan Trade Classification 2012 shall be used for the purpose of the Green Tax levy.

**Table 2: Revised Excise Duty on Alcohol 2012**

Alcohol		Sale s Tax	Custo ms Duty	Exci se Dut y	National Assembly's Recommend ations	National Council's Recommend ations
Dome stic alcohol produ cts exclud ing beer	Pres ent			30% to 75%	Does not accept Government' s recommenda tions	Accepts National Assembly' recommenda tions
	Revi sed	100 %	-	50%		
Dome stic Beer	Pres ent	100 %	-			
	Revi sed	No cha nge	-	50%		
Impor ted Alcohol includ ing beer (from India)	Pres ent	100 %				
	Revi sed	No cha nge		50%		
Impor ted Alcohol	Pres ent	100 %	100%			

ol includ ing beer (from COTI)	Revi sed	No cha nge	No chang e	50%		
-----------------------------------------------	-------------	------------------	------------------	-----	--	--

Note: The revised Excise Duty shall be inserted in the Existing Excise Tariff schedule, which is Annexure IV of the Rules on Sales Tax, Customs and Excise Act of the Kingdom of Bhutan 2000.

**Table 3: Changes to the Sales Tax and Customs Duty rates 2012**

<b>Product</b>	<b>Sale s Tax</b>	<b>Custom s Duty</b>	<b>National Assembly's Recommendatio ns</b>	<b>National Council's Recommendatio ns</b>
Meat, Fish, Egg	5%	No change	Does not accept Government's recommendations	Accepts National Assembly's recommendations
Silk Fabrics	15%	No change		
Furnitur e	15%	No change		
Power chainsa w	20%	No change		

Note: The revised rates shall be inserted in the existing Customs Tariff and sales Tax Schedule 2012

*(16<sup>th</sup> Day of the 5<sup>th</sup> Month of the Water Male Dragon Year  
corresponding to Wednesday, 4<sup>th</sup> July 2012)*

## **D Legislative Issues (Ratification of International Conventions and Protocols)**

### **1 Introduction of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits from their Utilization to the Convention on Biological Diversity**

The Member-in-charge of the Nagoya Protocol, the Hon'ble Minister for Forest and Agriculture said that the Protocol was necessary mainly for the purpose of having access to genetic resources and fair and equitable sharing of benefits from their utilization as well as for the protection of and sustainable benefit from biological diversity. In addition, the protocol was a transparent legal framework that provided for proper utilization.

The protocol was adopted on 29<sup>th</sup> October 2010 at Nagoya, Japan during the 10<sup>th</sup> Conference of Parties to the Convention. Bhutan became a signatory to the protocol in September 2011 during the 66<sup>th</sup> General Assembly Session of the United Nations. The protocol extends to the genetic resources under the Convention on Biological Diversity and equitable sharing of benefits arising from these genetic resources, as well as indigenous knowledge related to biodiversity and benefits therein.

By becoming a member of the Nagoya Protocol, it would help to improve the situation for utilization of genetic resources, equitable sharing of benefits arising from export of genetic resources for utilization by member

countries, conservation and sustainable use of genetic resources, and enhancing the role of biodiversity in contributing towards development and benefit of human beings. The responsibilities under the Protocol were to be fulfilled at bilateral levels, which would serve as guidelines for putting in place necessary legal frameworks and administrative policy measures, classification and prioritizing capacity development and coming up with measures for national responsibilities and procedures.

Therefore, as the Nagoya Protocol was a necessary and important for Bhutan, it was being introduced to the National Council for ratification.

On this, Hon'ble Member Kuenlay Tshering said that since the protocol was a useful one for the country and had his support, however, certain wording in the translation needed to be changed. The Hon'ble Member of Trongsa Dzongkha after supporting the protocol said that a research must be carried out to know more about the use of herbal medicine against snake bites. He pointed out that a person in Tsirang carried out such a study but it was not shared with others. The Hon'ble Minister for Forest and Agriculture said that he would look into the possibility of conducting such a study.

### **1.1 Changes and Amendments to the Protocol**

The National Council thoroughly deliberated on the Nagoya Protocol on 04/07/2012. While there were no changes that would affect the nuances; changes in the wording of the translation (Dzongkha text) had been made as provided in the Dzongkha version of the resolution of the 9<sup>th</sup> Session.

*(17<sup>th</sup> Day of the 5<sup>th</sup> Month of the Water Male Dragon Year  
corresponding to Thursday, 5<sup>th</sup> July 2012)*

## **2 Introduction of the Cape Town Convention on Mobile Equipment and its Protocol**

The Member-in-charge of the Cape Town Convention and its Protocol, Hon'ble Minister for Information and Communications said that the Convention and its Protocol were aimed at ensuring that the quality of mobile equipment related to aircrafts, civil aviation authorities and private aircraft agencies were at par with international standards, and served as legal framework for provision of financial assistance and loans to these agencies for purchase of aircrafts and their equipment.

Under the Convention, the beneficiaries were the government, aircraft employees, businesses that produced aircrafts and distributed equipments, civil aviation businesses, air travelers, and, in particular, those who utilized such services. In Bhutan for instance, there would be huge benefits related to loan opportunities, civil aviation security, decrease in loans related to aircraft expenditure based on independent undertakings, and in accordance with the times, adherence with the due process of law. Another benefit was towards the policy of uniformity and facilitation for aviation development and private use.

However, the Convention was slightly not in line with domestic laws. For instance, it was somewhat in contravention of the Bankruptcy Act of Bhutan 1999, although the Act had not been implemented. Even if it was implemented, there were amendment procedures

and, as such, the Convention would not greatly violate the Act.

The responsibilities under the Convention were streamlining bureaucratic and administrative procedures, solving problems during transitional periods, and ratification of the Convention by Parliament. The Convention was signed to reduce pollution and encourage more tourists who were conscious about conservation of natural environment and in keeping with the development philosophy of Gross National Happiness.

It was seen that the Convention opened up two-fold avenues for availing external loans for the country's economy - first through independent undertaking by the Royal Government and the other by becoming a member of the Convention. The independent undertaking by the government would have to be in keeping with the economic strength of the country, therefore, seeing greater benefits by becoming a signatory to the Convention, the Convention was introduced to the National Council for ratification.

The Convention and its Protocol were supported by all the Hon'ble Members, however, Hon'ble Member Karma Yezer Raydi and the Hon'ble Member of Gasa Dzongkhag said that although the ideology and intention of the Convention were beneficial to the country, they expressed certain reservations since the Convention was contradicting some sections of the Bankruptcy Act of Bhutan. The Hon'ble Minister for Information and Communications said that the contradiction was with only one section of the Act. He said that since the Act itself was not properly

implemented, with proper amendments made to the Act, the stated problems would not arise.

## **2.1 Debate regarding ratification of the Convention**

The National Council deliberated on the Cape Town Convention on Mobile Equipment, section by section, on 05/07/2012. While there were no changes that would affect their meanings, changes in the wording of the translation (Dzongkha text) had been made as provided in the Dzongkha version of the resolution of the 9<sup>th</sup> Session.

Similarly, the National Council thoroughly deliberated on the Protocol on 05/07/2012. While there were no changes that would affect their meanings, changes in the wording of the translation (Dzongkha text) had been made as provided in the Dzongkha version of the resolution of the 9<sup>th</sup> Session.

*(3<sup>rd</sup> Day of the 5<sup>th</sup> Month of the Water Male Dragon Year  
corresponding to Friday, 22<sup>nd</sup> June 2012)*

## **E Other Legislative Issues**

### **1 Reminder for Introduction of the Local Government Entitlement Bill during the 10<sup>th</sup> session**

The Hon'ble Member of Lhuentse Dzongkhag said that the need for a Local Government Entitlement Act was necessary for local government members to carry out their functions after the local government elections were held upon the adoption of the Local Government Act. He reminded that the National Council, during its 5<sup>th</sup>

session, had submitted for holding local government elections to complete the democratic processes once the Local Government Act 2010 was adopted by Parliament and Assent granted by the Druk Gyalpo.

The need for Local Government Entitlement Act for members of the Local Government was because the members of local government were neither civil servants, nor constitutional post holders, nor members of Parliament and, as such, could not be covered under Entitlement Acts of other institutions. If the entitlements of local governments were clearly specified, not only would there be interest in participation in future local government elections, but capable candidates would participate in them. Therefore, the National Council had reminded the government on the need to introduce a Local Government Entitlement Bill.

Although nearly two and half years had passed since such a reminder was submitted to the government, there was neither an acknowledgement nor any action taken by the government. When verbal questions were raised to the government during the 8<sup>th</sup> Session, the Hon'ble Minister for Home and Cultural Affairs had not only acknowledged the concern, but read out sections that had been drafted by the Ministry, and assured that the Bill would be submitted during the 9<sup>th</sup> session for deliberation. However, it was found that the Bill had not been included in the agenda of the current session of the National Assembly for deliberation. The members of local governments from different areas had lodged complaints since their entitlements were not fixed. The entitlements given at present were generally based on the entitlements of civil servants and since members of the local governments were not civil servants, there were great deal of confusion regarding their entitlements thus

making Local Government Entitlement Act absolutely essential.

With regard to the proposed Act, the Hon'ble Members of Samdrupjongkhar, Haa, Dagana, Zhemgang, Paro, Mongar and Thimphu Dzongkhags said that local governments were essential institutions in a democracy. Under the provisions of the Constitution of Bhutan, the Local Government Act and other relevant Acts; the responsibilities of local government members had increased by many folds compared to the past. Therefore, specifying their entitlements under a law would not only motivate them in carrying out their functions but do away with the prevailing confusions.

It was pointed out that clarity was needed on other entitlements such as leave entitlement and other allowances, and hence, the introduction of Local Government Entitlement Bill in the 10<sup>th</sup> session, as an urgent Bill, was fully supported. While the Hon'ble Member of Sarpang Dzongkhag supported the need for the Bill, he said that the prerogative for introduction of urgent Bills to Parliament was with the Speaker and Chairperson of the respective Houses. He said that the reminder to the government should not be for the Bill to be introduced as an urgent Bill, but that the Bill needed to be deliberated and adopted by Parliament during the 10<sup>th</sup> session.

The Hon'ble Chairperson said that the need for a Local Government Entitlement Bill had been deliberated in the National Council during its 5<sup>th</sup> session and a reminder was submitted to the government. In addition, while oral question was asked to the Hon'ble Minister for Home and Cultural Affairs during the 8<sup>th</sup> Session, sections of the drafted Bill been read out and assured

that the Bill would be submitted during the 9<sup>th</sup> session for deliberation. The Ministry of Home and Cultural Affairs had sent the draft to the Ministry of Finance for finalization, which had been looked into by the Secretariat. Since the Bill had to be thoroughly reviewed, it could not be deliberated during the present session. Since the Bill had to be adopted during the term of the present Parliament, and the 10<sup>th</sup> session was the last session, the Bill had to be adopted during that session itself. Therefore, the Bill had to be introduced as an urgent Bill.

The National Council further reaffirmed the need for a Local Government Entitlement Bill as acknowledged and thoroughly discussed during the 5<sup>th</sup> and 8<sup>th</sup> sessions. As the Bill was essential to motivate the members of the local governments to carry out their functions and for making the system clear, it was resolved that a reminder should be submitted to the government on the need to introduce and adopt the Bill during the 10 session as an urgent Bill.

*(8<sup>rd</sup> Day of the 5<sup>th</sup> Month of the Water Male Dragon Year  
corresponding to Wednesday, 27<sup>th</sup> June 2012)*

## **2      Need to Rationalize Policies on Income Tax**

The Hon'ble Member of Lhuentse Dzongkhag said that during the past decade, the entitlements and salaries of public servants had been increased a few times keeping with the rapid economic development of the country. However, the increase had not benefitted or made much difference to the public servants, since the price of goods and services had increased drastically over the years. With the aim of benefitting the public servants through review of taxable income, the National Council

had, during its 5<sup>th</sup> session, submitted four recommendations to the government, in addition to which, questions had been submitted to the government for consideration during the 7<sup>th</sup> session. The government had refused to accept the recommendations on grounds of fiscal considerations.

Nevertheless, since the issue was important, and for economic upliftment of the people, the government should reduce the taxes levied despite the cost on the national exchequer. The tax measures proposed were increase in basic net taxable amount from Nu. 100,001 per annum to Nu. 200,001 per annum and two-fold increase of the existing basic tax exemptions on educational expenses up to Nu. 50,000.

Likewise, with regard to Business Income Tax, the current practice of levying taxes on small businesses which were unable to maintain stocks and sales records should be rationalized. There should be policies in place to provide business tax waiver for those businesses that deal solely in locally produced arts and crafts and increase in business tax on those businesses that import non essential items.

In addition, the Hon'ble Member of Haa Dzongkhag said that the government had been waiving business tax for foreign agencies like IMTRAT which had been doing business in the country till now. He proposed levying uniform business tax on everyone engaged in business in Bhutan.

The Hon'ble Member of Pemagatshel Dzongkhag said that the government should revise tax from time to time based on existing expenditure, and supported the principles behind the submissions. However, the

recommendations should not contain numbers on tax limits, but ask for reasonable tax revision and be submitted to the government. While the Hon'ble Member of Sarpang Dzongkhag supported the submissions on the personal income tax and tax waiver on educational expenses, he also submitted that measures should be sought not only to reduce the tax levied on small businesses but for such taxes to be waived.

While the Hon'ble Member of Thimphu Dzongkhag supported the reduction of taxes levied on small businesses, she said that other measures should be adopted instead of increasing the taxes on big businesses. The Hon'ble Member of Dagana Dzongkhag did not support the idea and said that for the reduction of the gap between the haves and have-nots in the country, and ensuring balanced development should be based on laws and policies higher taxes should be levied on big businesses. Therefore, he said that he supported the increase in business and corporate income taxes.

On the issue, the National Council resolved to submit the following reminders to the government.

1. Revisit the Income Tax Act 2001 and amend the following at the earliest;
  - a) Increase the basic net taxable amount from Nu. 100,001 per annum.
  - b) Increase the highest taxable income slab of Nu. 1,000,001 and above in accordance with the economic situation of the country, rate of inflation, income and expenditure of the people, and other relevant factors.
  - c) Explore the possibility of increasing the current tax rate of 25% for the highest income slab as per their income.

- d) Increase the basic tax exemptions on educational expenses from Nu. 50,000 per child per annum in accordance with the latest educational expenses.
2. Revisit the current practice of levying Business Income Taxes on fixed annual increment rate basis to business, small shops and in particular those who are unable to maintain stocks and sales records, and develop a more rational practice.
3. Develop policy interventions to provide some form of business tax waiver for those businesses that deals solely in locally produced arts and crafts and increase Business Income Tax on those businesses that import non essential items.
4. Levy uniform business tax on everyone engaged in business including foreign agencies with different mandates.

### **3 Reminder on the need for the Right to Information Bill**

The Hon'ble Member of Gasa Dzongkhag said that as per the vision of Their Majesties the Druk Gyalpos, and after thorough consultation with the people of the 20 Dzongkhags, the Constitution of Bhutan had been adopted by the first Parliament. Article 7.3 of this Constitution provided that "a Bhutanese citizen shall have the right to information." According to this provision, the right to information was a fundamental right of every Bhutanese citizen, but the absence of a relevant law was not only violating the Constitution, but could potentially give rise to problems in the society. Therefore, the Hon'ble Member had himself drafted a Right to Information Bill as a Private Member's Bill.

The main reasons cited for the need of such a Bill in the country were to solve information related problems in a fast developing country, enable ministries and agencies to provide efficient service to the people, administer proper systems of public registration, and prevention and eradication of corruption related to improper use of public property.

The discussions on right to information had started on 28<sup>th</sup> May 2009, and the government had initiated consultation meetings, in which the members of the National Council had participated. In addition, during the 5<sup>th</sup> session of the National Council, when the government was asked on the status of the law on right to information, it was responded that the draft Bill prepared by the government could be introduced before the expiry of the term of the government. However, Parliament had not been able to discuss the Bill although the need to deliberate on such a Bill had become urgent in order to serve the interest of the people in the country.

Therefore, in keeping with the provisions of the Constitution, for enhancing good governance and in recognition of the country's aspiration for eradication of corruption; the National Council decided to call upon the government to start creating awareness about the right to information by holding workshops not only with urban elites but also with rural people so that the Parliament is able to deliberate on the Bill during the 10<sup>th</sup> session as an urgent Bill. The absence of a separate law on the right to information would make it difficult for Bhutanese citizens to get information from the authorities and prevent them from getting access to information.

The Deputy Chairperson said that it was not the first discussion on the Right to Information Bill. He said that since the National Council was deeply concerned, the Bill was discussed during the 5<sup>th</sup> session and asked the government to prioritize and introduce the Bill to the Parliament. Later, when the Minister for Information and Communications was questioned, it was reported that the government had recognized the need for the Bill as a priority and that there was the need to review certain issues in the draft Bill. Of the two recommendations submitted by the Hon'ble Member of Gasa Dzongkhag, the Deputy Chairperson said that while he supported the idea for creating awareness on the right to information, he did not support the idea of the Bill being submitted to Parliament as an urgent Bill.

Most of the Hon'ble Members supported the principles behind the need for the Right to Information Bill and the need to create public awareness on the subject. However, some of the Hon'ble Members said that in other countries, the adoption of such an Act even after democracy was long established had not resulted in free flow of information to the extent desired. It was, therefore, proposed that the draft bill be thoroughly reviewed prior to its adoption.

Further, whenever the Parliament of Bhutan had discussions on laws and policies, not only immediate needs for such laws and policies were considered but adopted them only after thorough reviews and discussions keeping in mind the interest of the country and its people and sustainability of benefits arising from such laws and policies. Likewise, the Right to Information Bill should be thoroughly reviewed before it was adopted taking into consideration its immediate and long term benefits. Since time was required for such

a review, the Hon'ble members could not support the second recommendation to discuss the Bill as an urgent Bill during the 10<sup>th</sup> session of Parliament.

The Hon'ble Member of Gasa Dzongkhag said that although the House supported the principles behind the need for a Right to Information Bill, but its lack of support for his submission that the government should be reminded to discuss the Bill as an urgent bill was unacceptable. He said that the main reason why the government should be asked to introduce the Bill as an urgent Bill was to serve as a reminder since the 10<sup>th</sup> session marked the end of the first Parliament.

However, the Hon'ble Member of Haa Dzongkhag said that the main reason why the government need not introduce the Bill as an urgent Bill to the Parliament was because enough time was required to research on the principles and coverage of any law during the drafting period. Likewise, the drafting of the Right to Information Bill would require adequate time. Moreover, one should consider how ready was the government to implement the Bill once it became an Act. If the government was not ready, problems would be encountered during the implementation of the law. This would be harmful to the principles of democracy as well as to individual rights of the people. In the present scenario, there should be concern in the National Council asking that the Bill be introduced as an urgent Bill knowing that the government was not ready to implement such an Act. The Deputy Chairperson supported the submission and added that since the government had many priorities, it could not work on it within the desired time frame. It was not that the government had not worked on the Bill as such, but it

was not appropriate to ask for the Bill to be introduced as an urgent Bill.

The National Council, recognizing the need for a Right to Information Bill as per the provisions of the Constitution of Bhutan, for enhancing good governance, and in recognition of the country's aspiration for eradication of corruption, resolved that the National Council should call upon the government to come up with measures and begin programs for creating awareness about the right to information by holding workshops not only with the educated urban lot but also with rural folks in order that the Right to Information Act became fully functional once it was enacted in the near future.

*(18<sup>th</sup> Day of the 5<sup>th</sup> Month of the Water Male Dragon Year  
corresponding to Friday, 6<sup>th</sup> July 2012)*

## **F Policy Issues**

### **1 Shortage of Indian Rupee and review of Policy**

The Chairperson of the Economic Affairs Committee, Hon'ble Member of Lhuentse Dzongkhag said that the shortage of Indian Rupee in the country had become a cause for concern as it had given rise to increase in price of goods, impeded economic growth and adversely affected the general public. He said that India was one of Bhutan's biggest trade partners as well as one of the biggest loan providers. Recognizing the shortage of Rupee as an important issue, he said that appropriate measures should be adopted to resolve the problem.

Concerned about the Rupee shortage, the government had, in the beginning of 2012, established a working committee, which in its review report stated that while

total Rupee demand in the country had increased, the distribution of goods and export remained limited. Moreover, when foreign economic experts were invited in May 2012 for the workshop on Macroeconomic Challenges and Policy Choice in Bhutan, it was stated that the problem was due to mismanagement of foreign currency reserve with the Royal Monetary Authority.

Recognizing the Rupee crunch as an important national issue, the National Council during its 8<sup>th</sup> session, discussed the need to review the issue and entrusted the work to the Economic Affairs Committee. Moreover, in accordance with the provisions of Articles 10.2 and 11.2 of the Constitution of Bhutan and, in particular, Section 10 of the National Council Act of Bhutan, the areas that the Economic Affairs Committee would review were identified as - laws related to economic management and governance, government policies related to fiscal delivery, minutes of Board Meetings, meetings held with relevant agencies, review of documents produced by foreign experts and committee hearings.

Realizing the need for a thorough review of the government's fiscal policies and institutional and administrative resolutions over the past decade to permanently solve the problem; the Economic Affairs Committee held consultation meetings with the Bhutan Chamber of Commerce and Industry, Financial Institutions and the Ministry of Finance, and managed to gather most of the required information. However, the Royal Monetary Authority had refused to provide all the required information and documents that were requested. Moreover, the Governor had not participated in any consultation meetings, as such; the Committee could not carry out the review thoroughly.

In accordance with the provisions of the Constitution and the National Council Act of Bhutan, the National Council had until now not only carried out its legislative mandates, but also its review functions. The Prime Minister, Cabinet Ministers and heads of institutions had all acted in response of the Rupee crunch while the National Council carried out reviews and consultation meetings. Wherever necessary, the required information and documents had always been received on time. The Economic Affairs Committee could not review the issue due to the failure on the part of the Royal Monetary Authority to respond properly. Therefore, a proposal was submitted to the House to come up with measures to circumvent the problem.

Most of the Hon'ble Members said that the shortage of Rupee had become a big concern in the country, which was also harmful to the country's independence and security, and supported the need to solve the issue as soon as possible. It was seen that the main cause of Rupee crunch in the country was due to limited export and excessive import. The House suggested a thorough review of the matter and those institutions that had failed and contributed to the problem should be held responsible.

The Deputy Chairperson said that the discussion on the shortage of Rupee was an important one in the country and one of the most important institutions to deal with the matter was the Royal Monetary Authority. However, the Governor of RMA had not responded to the requests made by the Economic Affairs Committee. The Dy. Chairperson said that despite writing numerous letters to the RMA, there was no response at all. The only action that the National Council could take would be for

the Chairperson to summon the Governor to the National Council session to provide the documents and clarifications in accordance with Section 59 of the National Council Act 2008.

The Hon'ble Members of Bumthang, Pemagatshel Dzongkhags and Hon'ble Member Tashi Wangmo supported the submissions, and said that the National Council was a House of Review, and in carrying out their review functions, everyone responsible acted in accordance with the provisions of the National Council Act. If RMA had created that sort of impediments, the review functions would be undermined in the future and, as such, the above measures suggested should be put into practice.

However, the Hon'ble Members of Thimphu and Trongsa Dzongkhags expressed their doubts whether summoning the Governor to the proceedings in accordance with the provisions of the National Council Act would make any difference in solving the Rupee crunch and economic downturn in the country. Therefore, they submitted that the Committee members should come up with measures after thoroughly discussing the matter among themselves. However, the Hon'ble Member of Dagana said that whatever may be the inconvenience faced by the National Council, resorting to the use of Parliamentary devices was needed to achieve results.

The Hon'ble Chairperson said that although he had the authority to summon any person to give evidence, provide information or produce documents in that person's custody or control in accordance with the National Council Act, there was no time to utilize such a prerogative during the current session, and suggested

that the members should resort to other measures to solve the problem. He also suggested having an extraordinary sitting of the House to discuss the matter in accordance with the provision of Section 65 of the National Council Act.

After thorough deliberation on the procedures for review of Rupee Shortage by the Economic Affairs Committee, the National Council resolved to summon the Governor of the Royal Monetary Authority to attend the proceedings of the National Council on 10/7/2012 and asking him to produce all relevant documents in accordance with the provision of Section 59 of the National Council Act.

*(22<sup>nd</sup> Day of the 5<sup>th</sup> Month of the Water Male Dragon Year corresponding to Tuesday, 10<sup>th</sup> July 2012)*

### **1.1 Proceeding under Summons issued under Section 59 of the National Council Act 2008**

Since the Governor of the Royal Monetary Authority was on medical leave, the Deputy Governor represented on his behalf to attend the proceedings of the National Council and submitted the relevant documents to the National Council in accordance with the National Council's resolution on 6/7/2012.

The Governor's representative said that the Governor of the Royal Monetary Authority could not participate in the consultation meetings as directed by the Economic Affairs Committee since he was not physically well and also because it coincided with his participation in a meeting in Nepal. The Deputy Governor on behalf of the Governor had attended the proceedings of the National

Council twice and other economic experts from RMA who accompanied him provided further clarifications.

The RMA submitted some of the relevant documents that the Economic Affairs Committee and the National Council had asked for; however, it failed to submit those minutes of the Board meetings which contained not only the problems related to rupee shortage but also other economic related issues in the country. The problem cited in the inability to submit the documents from 2007 was mainly due to bulk and difficulty in sorting out the relevant documents.

Nevertheless, since the issue was important, the RMA invited the National Council and the Economic Affairs Committee members to visit the office of the Royal Monetary Authority to refer to the required documents during the course of their review. The RMA assured that it would assist the National Council members in accessing the required information and providing necessary clarifications whenever sought although the documents would not be permitted to be taken out of the RMA premises.

The Chairperson of the Economic Affairs Committee said that while some might feel that such summon procedures were in violation of the law, it was in accordance with the provisions of the National Council Act and was, therefore, not in violation of the law. He thanked the Royal Monetary Authority for acknowledging the National Council's resolution by attending the proceeding, submitting the documents and providing clarifications.

Since the Economic Affairs Committee was still reviewing the problems related to rupee shortage, a

meeting was to be scheduled with Governor himself whenever he was physically well. The pledge to provide the necessary documents and clarifications by the Deputy Governor was found agreeable and hence accepted by the House.

The National Council concluded that the Economic Affairs Committee could not continue its review work on the Rupee shortage with the support of the Royal Monetary Authority. The RMA was, therefore, asked to submit the documents required by the Committee and its Governor to extend his full cooperation by participating in consultation meetings. The House decided to submit a report to the 10<sup>th</sup> session of the National Council after carrying out a thorough review of the problem of Rupee shortage.

*(22<sup>nd</sup> Day of the 5<sup>th</sup> Month of the Water Male Dragon Year  
corresponding to Tuesday, 10<sup>th</sup> July 2012)*

## **2 Social problems related to Land**

Recognizing the prevalence of numerous problems in the society arising from land issues, the Good Governance Committee, as directed by the National Council during its plenary meeting, had thoroughly reviewed the land issues. The Chairperson of the Good Governance Committee, the Hon'ble Member of Zhemgang Dzongkhag, introduced the issues relating to *Tsamdro* and *Sokshing*, non-payment of compensation after acquisition of private land, non-payment of reasonable compensation once land was identified as green area, excess land during re-survey, and dumping of earth and stones on farm lands during construction of farm roads and highways in rural areas for deliberation.

## 2.1 Issues related to *Tsamdro*

The Hon'ble Member of Zhemgang Dzongkhag said that the problem related to use of *Tsamdro* existed in all the Dzongkhags in the country. In Zhemgang Dzongkhag, dispute regarding use of *Tsamdro* and boundary existed between *Bardo* village of *Bardo* Gewog and *Tsesa* village of *Shingkhar* Gewog since 2005 which had gone to the District Court, the High Court and the Royal Advisory Council. While the Dzongkhag administration tried to implement the Judgment that was rendered, the problem, however, could not be resolved since the Land Act itself had not been properly enforced.

The problem of ownership of *Tsamdro* arose mainly after the Ministry of Home and Cultural Affairs changed the boundary between those two Gewogs from the old to a new one in 1992. The people were not aware of the new boundary till 2007 as they had not been consulted during the time the change of boundary. In accordance with the existing problems, the public request was to revert to the old boundary.

Moreover, the ownership of *Tsamdro* was taken over by the government from the people under chapter 10 of the Land Act 2007 and such lands, in turn, were leased to the public. However, the government had not paid compensation for those *Tsamdro* in the first place, and secondly, rent had not been collected if at all the *Tsamdro* had been leased. It was submitted that the Act should be properly implemented in order to solve the problems that resulted from its improper implementation. Since the boundary fixed between *Bardo* and *Tsesa* Gewogs by the Ministry of Home and Cultural Affairs had inconvenienced people of the two Gewogs, review and research should be carried out on

the repeated reports submitted by the public to the Delimitation Committee and appropriate decision should be taken.

On this, the Hon'ble Member of Bumthang Dzongkhag said that many similar problems were prevailing under Bumthang Dzongkhag. One of the biggest problems was the continued use of *Tsamdro* by the cattle of Bumthang Dzongkhag in neighboring Dzongkhags such as Mongar, Lhuentse and Zhemgang as had been the practice in the past. Therefore, he submitted his support for proper implementation of the Land Act.

The Deputy Chairperson supported the submissions made by the Hon'ble Member of Zhemgang Dzongkhag and said that though the government had taken over *Tsamdro* in accordance with the provisions of the Land Act 2007, people had not been paid compensation. He said that since the system for lease of *Tsamdro* was not clearly established in the Land Act, the government should compensate the affected people.

The National Council resolved to submit the following reminders to the government and relevant institutions.

1. The problem related to *Tsamdro* between *Bardo* and *Shingkhar* Gewogs under Zhemgang Dzongkhag existed since 2005 and the Dzongkhag was not able to properly implement the verdict of the High Court issued in 2007. The Gewog boundary that had been altered by the Ministry of Home and Cultural Affairs in 1992 had created problems to the people. Since the people had requested for the reinstatement of the old boundary, the government and the Delimitation

Commission should take appropriate actions to solve boundary related problems.

2. When *Tsamdro* was leased to the people, the judgments of courts relating to right of usage should be recognized. Therefore, the right of *Tsamdro* usage should be allocated as per the verdicts of the courts.
3. Though *Tsamdro* had been taken over by the government, the people had not been paid compensation. Moreover, since the system for the lease of *Tsamdro* was not clearly established, the government should pay appropriate compensation to the people.

## **2.2 Issues related to *Sokshing***

The Deputy Chairperson said that though *Sokshing* had been removed from the *Lagthram* of the people, it was still registered in the actual *Thram*, and the people still had hope that these would be registered in their *Thram* again. However, the Land Act provided that *Sokshing* should be leased, and the National Council had submitted to the Minister for Agriculture and Forest that *Sokshing* should be leased as per law. The Hon'ble Minister for Agriculture and Forest said that the authority to lease *Sokshing* was with the National Land Commission. Accordingly, when the National Land Commission was consulted, it was said that the authority was with the Ministry of Agriculture and Forest. The lack of clarity between the two agencies as to who was responsible for leasing of *Sokshing* land had been going on for many years creating inconvenience to the people.

However, in a recent broadcast program, the secretariat of the National Land Commission had stated that the

lease of *Sokshing* had been started in the Gewogs under Mongar Dzongkhag which would similarly be carried out in other Dzongkhags. While leasing of *Sokshing* had started, the government had converted some *Sokshing* into community forests after the government had taken over them. Some had been used for infrastructure development such as construction of schools, hospitals and motor roads. The owners of converted *Sokshing* lands did not have the opportunity to take back their land on lease, as such, it was deemed unfair.

The Ministry of Agriculture and Forest had drafted a Land Amendment Bill, but the National Assembly had deferred its deliberation. Under the Bill, *Sokshings* would be reverted back to one's *Thram* and ownership would be given back to the people. However, *Sokshing* of some people had been converted to community forests, while some had been used for infrastructure development such as construction of schools, hospitals and motor roads, and the system for compensation or substitute *Sokshing* had not been provided. The government should look into such situations and provide appropriate and fair compensation to the affected people.

The Hon'ble Member of Paro Dzongkhag supported the submissions made on the issues related to *Sokshing*. He said that people under Paro Dzongkhag used to plant willow and sallow trees along the borders of their fields to prevent soil erosion for paddy cultivation, for which they paid *Pangzhing* tax. He said that for the good of the people, they should be allowed to continue with the time honored practices.

The National Council resolved to submit the following reminders to the government and relevant institutions.

1. While the National Land Commission would be leasing *Sokshing* to their previous owners in accordance with the land Act 2007, the *Sokshing* of some of the people had been converted to community forests, while some had been used for infrastructure development such as construction of schools, hospitals and motor roads. Since the system for compensation or substitute *Sokshing* had not been provided, the government should look into such issues and start providing appropriate and fair compensation.
2. Planting of willow and sallow trees along the borders of paddy fields to prevent soil erosion under Paro Dzongkhag by paying *Pangzhing* tax should be allowed again for the interest of the people.

### **2.3 Issues related to Non-payment of Land Compensation where Compensation was due.**

The Deputy Chairperson said that while the government had acquired land for the development of new infrastructure for the public; compensation in the form of land substitution, cash or a combination of cash and land substitution had not been given in accordance with the Land Act, thus placing huge burden on the people. Recognizing the issue, the National Council had, during its plenary meeting discussed the issue, and the Good Governance Committee had taken over the responsibility of conducting a review. For the review, information had been collected from different Dzongkhags. While response had not been received from Paro, Tsirang, Sarpang, Wangdiphodrang, Samtse, Dagana, Haa, Samdrupjongkhar, Thimphu and Punakha Dzongkhags, it was possible that

compensation had not been paid in those Dzongkhags as well.

In the Dzongkhags from where information had been received, land compensation had not been paid to 6 households in Bumthang, 8 households in Chhukha, 27 households in Mongar, 70 households in Pemagatshel, 71 households in Trashigang, 12 households in Trongsa and many households in Zhemgang. It was reported that all households in Lhuentse and Tashigang Dzongkhags had been paid land compensations. Investigation was still being carried out in Gasa Dzongkhag by the National Land Commission.

Land compensation had not been paid for a long time since 1995 causing inconvenience to the people. The government should pay the land compensation without further delay, and the relevant agency should amend and review the Acts and Rules related to land compensation. For example, while the list received from the Dzongkhag Administration of Tashigang Dzongkhag showed that there was not a single household to whom land compensation had to be paid, land compensation had not yet been paid in *Samkhar* Gewog where new road was built on the paddy fields of the people when the Dzongkhag road was washed away a few years back. Similar cases could possibly exist in other Dzongkhags. The National Land Commission should put in place a system whereby people were given opportunities to file reports with the local government or the Dzongkhag.

The Hon'ble Member of Trongsa Dzongkhag said that the delay in payment of land compensation to the people should take into account the continual increase in the price of land, and therefore, compensation should be paid expeditiously and before the expiry of term of the

first Parliament. When the government acquired land in the Dzongkhags for infrastructure development, responsibility should be thrust upon the complainants to ensure that land transactions and payment were completed during the tenure of the participating officials. Likewise, uniform land compensation should be paid where different rates of compensation had been paid for lands acquired for similar purposes.

The Hon'ble Member of Chhukha Dzongkhag said that while looking for substitute land to compensate for those land acquired by the government, it was found that most available land were either forested or rocky. Moreover, acquiring such land would be in violation of the environmental law thereby making the search for substitute land impossible. The relevant agencies should assist in these situations, and the government should carry out research to determine from where substitute land could be given while planning hydro-electric projects in areas inhabited by people.

The Hon'ble Member of Gasa Dzongkhag said that as per the National Land Commission, Dzongkhags should be paying only cash compensation for land below 10 decimals. He submitted that compensation should not be only in cash but substitute land should also be provided. The Hon'ble Member of Bumthang Dzongkhag supported the view and added that if land compensation was paid only in cash, it should be based on the price of land at the time compensation was paid.

The Hon'ble Member of Wangdiphodrang Dzongkhag said that providing *Kamzhing* as substitute land for *Chhuzhing* that the government had acquired from the people affected the livelihood of the people. Compensation should be paid as per section 151 of the

Land Act 2007 for *Kamzhing* that had been converted to *Chhuzhing* in line with the traditional system of *Pangped Losum*. He said that the stipulation under the Land Act that *Thram* shall not be transferred to the government after the land had been acquired till compensation had been fully paid should be enforced properly.

On the issue of land compensation, the National Council resolved to submit the following reminders to the government and relevant institutions.

1. Land compensation had not been paid for a long time since 1995 causing inconvenience to the people. The government should pay land compensation without further delay and within the term of the first Parliament. The relevant agencies should amend and review the Acts and Rules related to land compensation.
2. The National Land Commission should start a system whereby people who had been omitted from the list for payment of compensation were given opportunities to file reports with the local government or the Dzongkhags and such initiatives should be started.
3. Direct responsibilities should be given to participating Land Officers to settle all issues pertaining to acquiring land for infrastructure development during their tenure in that specific location.
4. Uniform compensation should be paid where different rates of compensation had been paid for land acquired for similar purposes, and concerned agencies should provide assistance in looking for substitute land since searching for substitute land was almost impossible.

5. The government should carry out a study to determine from where substitute land could be given while planning projects like hydro-electric projects in areas inhabited by people.
6. According to the National Land Commission, Dzongkhags should be paying cash compensation only for land acquired below 10 decimals. The compensation should not only be in cash, but substitute land should also be considered. If land compensation was paid only in cash, it should be based on the price of land at the time compensation was paid.
7. Providing *Kamzhing* as substitute land for *Chhuzhing* that the government had acquired from the people affected the livelihood of the people, and therefore, compensation should be paid as per section 151 of the Land Act 2007 for *Kamzhing* that had been converted to *Chhuzhing* in line with traditional practices.
8. The stipulation under the Land Act that *Thram* should not be transferred to the government after the land had been acquired till compensation had been paid should be enforced properly.

#### **2.4 Issues related to need for payment of reasonable compensation once land was identified as Green Area**

The Hon'ble Member of Thimphu Dzongkhag said that the government had identified the *Chhuzhing* near the Thimphu Tashichhodzong as Green Area and had prevented the land owners from carrying out any construction activities which had adversely affected them. Further, after the land in the area was acquired by the government, neither reasonable land substitution had been provided nor appropriate compensation given.

The provisions of the Land Act also do not have sections clearly defining Green Area, and thus, there was no reasonable rate for such areas. Therefore, the government should give substitute land to the affected land owners of that locality within Thimphu itself. In case substitute land could not be given, appropriate compensation should be given at par with the existing price of the land in Thimphu.

The Hon'ble Member of Sarpang Dzongkhag said that Gelephu had similar areas identified as Green Area which had caused inconvenience to the people. He submitted that a clear policy guideline should be framed for proper identification and use of Green Area. The Hon'ble Member of Samtse Dzongkhag said that for security reasons, areas along the border in Samtse had been identified as Green Area where construction activities were not allowed. He said that for such land maintained for security reasons, the compensation should be given at par with the rates applied in the capital.

The Hon'ble Member of Thimphu Dzongkhag said that the area near Thimphu Tashichhodzong where the buildings of the Supreme Court were currently being constructed had been previously identified as Green Area and the people were paid compensation based on the rate for land on which construction was not allowed. At present, the government was constructing the Supreme Court buildings, which meant that compensation paid by the government was not appropriate, and, as such, appropriate compensation should be paid to the affected people. The Hon'ble Member of Zhemgang Dzongkhag supported the submission and added that in line with the current practices, the entitlement of compensation should be

appropriate and paid on the basis of the land rate in Thimphu city. He suggested that the government should frame clear system for payment of compensation for land to be maintained as Green Zones.

The National Council resolved to submit the following reminders to the government and relevant institutions.

1. Where the government had identified land as Green Area, substitute land should be given. In case substitute land could not be given, appropriate compensation should be given at par with the existing price of land. A clear policy guideline should be framed for proper identification and use of Green Area.
2. The government should pay appropriate compensation where appropriate compensation had not been paid for the areas that had been acquired by the government for the construction of the offices of the Supreme Court.

## **2.5 Issues related to Urban Land**

The Hon'ble Member of Dagana Dzongkhag said that while the town in Dagana Dzongkhag fell under the category of Town B, infrastructure development had not been significant. While the construction of buildings was in full swing, the plots allotted were very small causing inconvenience to the people. The reason for the inconvenience was mainly because while the required size of a plot for construction of a building was generally between 10 and 13 decimals, the size of construction plots allotted in Dagana Dzongkhag was kept at 2.71 decimals due to insufficient land which lead to construction of very small buildings.

Though the area of the town was small, there were private *Chhuzning* near the town. The government could convert the *Chhuzhing* into construction land and allow the owners to sell their land. Further, the government could acquire the *Chhuzhings* and then distribute the land to the shop owners in the town which could solve the problem. The government and the Ministry of Works and Human Settlement should recognize the problem as a major one and consult the people of the Dzongkhag and the town in order to solve the problem as soon as possible.

The National Council resolved to submit the following reminders to the government and relevant institutions.

1. Though the area of the town in Dagana Dzongkhag was small, there were private *Chhuzhings* near the town. The government could convert the *Chhuzhings* into construction land and allow the owners to sell their land. Alternately, the government could acquire the *Chhuzhings* and then distribute the land to the shop owners in the town which could solve the problem. Therefore, the government and the Ministry of Works and Human Settlement should recognize the problem as a major one and consult the people of the Dzongkhag and the town in order to solve the problem as soon as possible.

## **2.6 Issues related to Excess Land as a Result of Cadastral Survey**

The Hon'ble Member of Haa Dzongkhag said that having land was a source of comfort for the present and a real asset for the future. He said that having land considered the *Phazhing* by all the Bhutanese people, it remained

the most important asset of the people in rural areas. During the survey of land using modern equipments from 1998, excess land was recorded even on the land that was passed down and cultivated from generation to generation, and payment had to be made to the government for such excess land. Where the people could not pay, the land was ordered to be acquisitioned by the government, which had caused huge difficulties to the poor people. The excess land had been recorded mainly because in the past, land survey was done manually by using chains while later surveys were carried out by using precision gadgets.

The main problem for the people was that the very land that they had in their record and been cultivating over the last many years was suddenly declared by the government as having access land after the last survey using modern gadgets. During the 80<sup>th</sup>, 81<sup>st</sup> and 84<sup>th</sup> sessions of the erstwhile National Assembly, resolutions had been passed as per the submissions made during those sessions. Moreover, the National Council had, during its 2<sup>nd</sup> session, discussed the matter thoroughly and resolved that the people should be allowed to cultivate again on the excess land. In addition, the National Council had held meetings with the National Land Commission during which it was informed that the problem could be resolved during the current re-survey. Instead of the problem getting solved, additional problems had risen.

The real grievance of those people whose land had been surveyed before 2003 was the need for payment for excess land, failing which the excess land was ordered to be surrendered to the government. Moreover, the excess land was recorded from *Bukzhing*, and the definition of *Bukzhing* was problematic. Cultivation was

not allowed on land that had been recorded as excess land. Excess land removed from the *Thram* was not being recognized during the present survey using modern equipments. The National Land Commission should review those issues again and try to solve the problems. Secondly, the survey programs in some rural areas had not been done as rural survey but as part of the areas identified for new townships where urban facilities and infrastructure were lacking even now. The people still depend on agriculture for their livelihood and maintain rural lifestyles. The payment for excess land, however, was at the rate of urban land which was not fair. Review should be done and payment for excess land should be as per rural rates.

Some of the Hon'ble Members said that though it might appear a little late for holding discussions to solve such problems, the massive problem faced by the people was mainly due to the inability to pay for excess land after the survey using modern equipments was carried out in 1999 and the subsequent acquisition of land by the government. The Hon'ble Member of Trongsa Dzongkhag said that in such situations, the earlier *Thram* should be held valid. The Hon'ble Member of Lhuentse Dzongkhag said that the review should not be carried out by the National Land Commission, but instead the *Thsogpas* of different *Chiwogs* should review the problem and report at the Gewog, Dzongkhag and national levels so that measures could be adopted to solve the problems.

The National Council resolved to submit the following reminders to the government and relevant institutions.

1. Calls upon the attention of Land Commission and the relevant agency to re-examine the excess land issue particularly for Dzongkhag where the

cadastral survey was carried out before 2003 after the resolution of National Assembly was passed. So that all the aforementioned issues are adequately taken care of and people are given the opportunity to inherit their ancestral land.

2. Calls upon the attention of the land Commission to consider the payment of excess land in the village declared as part of town at the rural rate.

## **2.7 Issues related to Change in Land Type and Transfer of *Thram***

The Hon'ble Member of Thimphu Dzongkhag said that while the procedures for conversion of *Chhuzhing* to residential land was clearly provided under sections 167 and 168 of the Land Act 2007, the provisions of those sections had not been enforced which had caused difficulties to the people. According to the law, if a land owner had only *Chhuzhing* but no residential land, 50 decimals of *Chhuzhing* could be converted as residential land upon approval by the leaders of the concerned local government, after which the matter was submitted to the Land Commission for transfer of *Thram* only.

However, in certain villages, conversion of *Chhuzhing* to residential land was approved by the Gups and Dzongdags, then submitted to the Land Commission for transfer of *Thram*. However, there were cases where the Land Commission had not based the transfer of *Thram* on the report submitted by the local government, but made changes on its own, whereby causing difficulties to the people. The government, the National Land Commission and local governments should properly implement the provisions of the present law for conversion of land till the Land Act was amended.

The National Council resolved to submit the following reminders to the government and relevant institutions.

1. Since people were facing problems related to conversion of land and transfer of *Thram*, it was resolved that the government, the National Land Commission and the local governments should implement the provisions of the present law till the time the Land Act was amended.

## **2.8 Issues related to Compensation for Destruction of Fields due to Construction of Motor Roads**

The Hon'ble Member of Chhukha Dzongkhag said that when highways, Dzongkhag roads and farm roads were constructed through the middle of the farms, in order to complete works on time, the earth and stones were disposed off in the nearby *Chhuzhings*, *Kamzhings* and vegetable gardens thus making them uncultivable. Since such practices were not favorable to the people, the road builder should get rid of the earth and stones and clear the fields. Alternately, appropriate compensation should be paid to affected farmers.

The Hon'ble Members of Gasa and Dagana Dzongkhags said that while the completion of such development works would benefit all the people in a given locality, the construction of road through the middle of the farm and disposal of earth and stones on either side of the road would only affect few farmers, as such, appropriate compensation should be paid to the few affected farmers. The Deputy Chairperson supported the submission and added that the government should review the issue and proper compensation should be paid as suggested.

The National Council resolved to submit the following reminders to the government and relevant institutions.

1. When highways, Dzongkhag roads and farm roads were constructed through the middle of the fields, it affects only one or two individual farmers. The earth and stones were disposed off in the nearby *Chhuzhings*, *Kamzhings* and vegetable gardens thus making them uncultivable. The responsible local government should ensure that the road builders get rid of such dirt, or alternately, pay appropriate compensation to the affected farmers.

*(15<sup>th</sup> Day of the 5<sup>th</sup> Month of the Water Male Dragon Year corresponding to Tuesday, 3<sup>rd</sup> July 2012)*

## **G Issues related to Review of Reports**

### **1 Annual Anti-Corruption Commission Report 2011**

In accordance with the provisions of Article 27.4 of the Constitution of Bhutan, the Good Governance Committee of the National Council submitted the Annual Anti-Corruption Commission Report 2011 which was divided into progress made during the previous year and observations and recommendations of the Anti-Corruption Commission.

The Chairperson of the Good Governance Committee, Hon'ble Memembr of Zhemgang Dzongkhag in her submission on prevention of corruption under progress of the past one year, focused on public education services, status of rules and laws, system for submission of recommendations, and the national anti-corruption implementation status.

On the public education services, it was submitted that the prevention and eradication of corruption in the country was not only the responsibility of the Anti-Corruption Commission, but the responsibility of each and every Bhutanese citizen. In order for citizens and public servants to shoulder the responsibilities to prevent and eradicate corruption, the Commission had conducted awareness programmes for the local governments and conducted workshops for procurement officers, armed force officers, and college and high school students. In addition, the RCSC, RIM and ACC had jointly organized trainings on ethics and integrity in management for civil servants and corruption risk management in eight government agencies.

To make the works of prevention and eradication of corruption easy for the Commission, the Asset Declaration Rules 2012 had been reviewed while final revision had been done on the Debarment Rules 2012. As the Gift Rules had not been properly enforced, it was currently under review.

The Commission had submitted systematic recommendations to agencies generally through engagement processes. Detailed submissions were made on the national anti-corruption strategy, promotion of leadership skills, review and refinement of systems, building of awakened citizenry, long term education strategy and promotion of partnership based on the principle of zero tolerance towards corruption.

Hon'ble Member Tashi Wangmo reported on complaint management, profile of complaints, corruption related to public procurement and personnel management, complaints related to agencies, complaints and

investigation results, cases under investigation and investigation related activities. Most of the complaints during the past year were related to resources, land, management of employees, construction and procurement. The number of complaints related to misuse of resources was 114 which was 25% and had been identified as one of the highest instances of complaints.

Of the complaints registered, the investigable complaints had risen to 123. The number of complaints had risen to 424 by March 2012. With regard to investigation, the Commission had investigated around 113 complaints since 2006. The Commission was currently investigating the Gyalpoizhing land case, procurement fraud in the Ministry of Health, bribery in construction, and complains of excess funds.

The Hon'ble Member of Gasa Dzongkhag said that though the Anti-Corruption Commission was combating in a big way towards prevention and eradication of corruption in the country, corruption in the country had risen by 21% during the past year compared to 2010. As per the findings of Transparency International's Corruption Perception Index, Bhutan's listing had dropped to 39<sup>th</sup> from the 37<sup>th</sup> position in the previous year.

Therefore, the Commission, despite its works towards prevention and eradication of corruption, needed to come up with other measures, and for its activities to be properly achieved, the relevant rules should be reviewed and enforced. The Corruption Risk Management systems should be initiated in all the agencies, and the cases disposed off through timely investigation.

The Deputy Chairperson submitted the recommendations of the Good Governance Committee based on various measures and ideas with the objective to prevent and eradicate corruption in the country which was supported by the Hon'ble Members. The Hon'ble Members of Trongsa and Haa Dzongkhags said that penalties for similar acts of corruption should be uniform throughout the country, and a report on the implementation status of the national anti-corruption strategies by the different agencies should be submitted during the next session.

The Hon'ble Member of Lhuentse Dzongkhag said that though the rate of increase in corruption in the country was based only on the number of complaints and the Transparency International's approach, he submitted that in future, the quality of complaints should be improved, corruption index should be rationalized and various methods of determining corruption rate should be adopted. The submission was supported by the Hon'ble Member of Sarpang Dzongkhag.

The Hon'ble Member of Pemagatshel Dzongkhag said that as seen in the international policy to reduce corruption, in our country too, the names of those involved in corruption should be clearly listed in the reports to prevent and reduce corruption. The Hon'ble Member of Sarpang Dzongkhag said that the name list of those who had been charged with corruption, though subsequently acquitted, should also be proclaimed. Most of the Hon'ble Members supported the proposal, but added that before the name list was proclaimed, it was important to correctly determine whether the accused were actually involved in corrupt activities or not, after which a copy of the list should be submitted to the relevant institutions. However, some other Hon'ble

Members did not support the listing of names of those charged with corruption since it would create problems within that person's family and community.

The Hon'ble Member of Gasar Dzongkhag said that in order for a civil servant to get promoted, audit clearance from the Royal Audit Authority was a requirement. He said that audit clearance letter should reflect whether the person concerned had any adverse record relating to corruption. Hon'ble Member of Mongar Dzongkhag said that while the Commission carried out public awareness programmes, it should conduct such programmes for the *Gweog Tshogpas* since they bear important responsibilities in the local governments.

The National Council, after thorough deliberation on the Annual Anti-Corruption Report 2011 on 3/7/2012 and 5/7/2012, resolved to submit the following recommendations to the government and relevant agencies.

1. The Royal Government should ensure to implement of National Anti-Corruption Strategies (NACS) considering that it had taken ownership of the important strategy in order to curb corruption through both preventive and investigative measures.
2. The Good Governance Committee, in collaboration with the Anti-Corruption Commission (ACC), should study factors that determine sluggish implementation of NACS and report to the National Council during the 10<sup>th</sup> session.
3. The ACC to expedite the formulation of Debarment Rules and its implementation in order to address issues of high degree of corruption in public procurement and construction sectors.

4. The ACC to review the Gift Rules 2009 to ensure it was implementable.
5. Oversight agencies such as Royal Civil Service Commission, Druk Holdings and Investments and Bhutan Chamber of Commerce and Industry should closely review prevailing system of selection, recruitment and nominations for trainings/studies in agencies within their jurisdiction and accordingly amend related policies to ensure transparency and fairness in the system.
6. The Royal Government should ensure that leadership development programmes were instituted in all agencies and the RCSC as an oversight body should monitor its implementation.
7. The Royal Government should ensure transparent and robust internal control mechanisms including grievance redressal so that megaprojects are not mired in mega corruption.
8. The ACC should expedite Corruption Risk Management exercise across all agencies beginning with those which are highly vulnerable to corruption.
9. Oversight body like the RCSC should ensure and monitor application of uniform administrative actions on civil servants in corruption cases of similar nature.
10. The ACC should consider instituting a channel for relaying actions taken on non-anonymous complainants received.
11. The ACC should enhance its efforts on proactive investigations.
12. The ACC should include in its annual report Case Log Sheets and Assets Declarations of the Commission.

13. The ACC should include local government *Tshogpas/Thromde Thuemis* in its public education and advocacy programme.

*(16<sup>th</sup> Day of the 5<sup>th</sup> Month of the Water Male Dragon Year corresponding to Wednesday, 4<sup>th</sup> July 2012)*

## **2 Annual Public Accounts Committee Report 2011**

In accordance with Article 25.6 of the Constitution of Bhutan, the Hon'ble Members of Zhemgang and Pemagatshel Dzongkhags submitted the Annual Public Accounts Committee Report 2011. The report was divided into the Annual Audit Report 2011, review of past Annual Audit Reports, and review of the implementation status of the resolution of the 7<sup>th</sup> Session and committee recommendations.

The Deputy Chairperson of the Public Accounts Committee, the Hon'ble Member of Zhemgang Dzongkhag said that as per the Annual Audit Report, the Authority had carried out a total of 743 audits in 2011, during which Nu. 87.411 million was recovered which was an increase of 39.21% compared to the previous year. This was mainly due to the vigorous follow up done by the Authority and the responsive actions taken by the agencies, as well as the Parliamentary directive to impose 24% penal interest on overdue outstanding advances and recoverable amounts.

The report contained detailed issues pertaining to all the Ministries, 14 Dzongkhags, 21 Gewogs under 11 Dzongkhags, 8 autonomous agencies, 7 corporations, 2

financial institutions, 1 non-government organization and 1 political party.

The member of the Public Accounts Committee, Hon'ble Member of Pemagatshel Dzongkhag said that the while misuse of funds had fallen slightly compared to the previous two years, the underutilization of the funds was mainly due to shortage of manpower, disputes related to procurement of land, shortage of contractors, non receipt of funds from donors on time and disputes between implementation agencies and contractors, which should be reviewed based on consultation between the relevant ministries and agencies.

Total irregularities reported in the Annual Audit Report 2011 was Nu. 770.141 million which was one of the highest in the past years. Of that, shortfalls, lapses and deficiencies was Nu. 358.208 million which was 46.51%. It was followed by mismanagement which was Nu. 285.113 million which was 37.02%. Violation of laws, rules and regulations came to Nu. 113.446 million which was 14.73% and fraud, corruption and embezzlement came to Nu. 13.353 million which was 1.74%.

On the irregularities of Nu. 13.353 million related to fraud, corruption and embezzlement, there were 39 disputes involving 18 agencies, of which the highest was in the Ministry of Foreign Affairs with Nu. 7.181 million which was 53.79%, followed by Punakha Dzongkhag with Nu. 3.291 million which was 24.65%.

On the irregularities of Nu. 898.617 in the annual reports till 2006 and between 2007 till 2010, 42.45% amounting to Nu. 318.454 million was settled within 30/4/2012. Of the balance amount of Nu. 517.16

million, the irregularities of Nu. 5.13 million till 2006 and Nu. 4.397 till 2007 had been recently settled. The unsettled irregularities that were currently submitted to the courts, the Anti-Corruption Commission and the Office of the Attorney General should also be settled as soon as possible.

The Hon'ble Member of Zhemgang Dzongkhag said that during the 7<sup>th</sup> session of Parliament, the Annual Royal Audit Authority Report had been deliberated and resolutions no. 15(1) to 15(6.7) were passed which had been followed up by the Royal Audit Authority and relevant agencies. However, some of them were still being followed up, while some issues had not been properly followed up. The follow up on the lease of the Changjiji *Trowa* cinema hall area under resolution no. 15(6.1) was not done properly and was also in violation of the law. Supply of drinking water, sanitation and environmental issues related to forestry under the Royal Audit Authority Report were submitted in detail.

The Public Accounts Committee, after thorough review of the report, submitted its recommendations for revision of the Royal Government's annual financial statement format. It also submitted its observations and recommendations on the underutilization of budget, on the need for political parties to observe compliance with financial procedures, need for issuance of directives to initiate the system of fixing oversight responsibilities, and recommendations regarding the lease of the *Trowa* cinema hall area. In addition, the 6 recommendations of the Royal Audit Authority were also submitted in detail to the House.

Some of the Hon'ble Members said that shortage of manpower and unavailability of contractors were

identified as reasons for underutilization of funds every year. How to circumvent those deficiencies should also be identified. The system for applying penalties for similar cases should be streamlined. In accordance with the resolution of the 7<sup>th</sup> Session, the need for the ministries and agencies to assign responsibilities and accountability on all their officers was not implemented. Therefore, it was decided that the same recommendation should be re-submitted. A report should also be submitted on cases that had been settled for the sake of transparency.

The Hon'ble Member of Wangdiphodrang Dzongkhag said that though the government had leased the *Trowa* cinema hall area in *Changjiji* under Thimphu Dzongkhag, rent for lease had not been paid. In addition, the government had proposed to the Land Commission to sell the land to a private individual, which was in violation of the provisions of sections 189, 190 and 193 of the Land Act.

The Deputy Chairperson said that the issue had been discussed during the 7<sup>th</sup> session and it was resolved that recommendations should be submitted for urgent decision to be taken in accordance with relevant laws. However, the resolution had not been acknowledged and the Ministry of Works and Human Settlement and instead it had proposed for sale of the land which was in violation with section 307 of the Land Act. Moreover, while the land was leased, the lease agreement had not been signed, and the Ministry and relevant agencies had also not sent notifications to the lease holder to sign the lease agreement. Allowing the business to run without paying rent to the government, and the proposal to transfer government land to private ownership in violation with the law was a huge policy level corruption.

To prevent such kind of corruption, the Anti-Corruption Commission should investigate the matter as soon as possible. The Hon'ble Member of Dagana Dzongkhag said that Parliament should fix the time for the lease holder to pay the rent.

The National Council thoroughly deliberated on the Public Accounts Committee Report 2011 on 4/7/2012 and 5/7/2012 and resolved to make the following recommendations based on the submissions made by the Public Accounts Committee.

1. **Annual Financial Statement:** The Ministry of Finance should review the adequacy of information and appropriateness of AFS presentation and take appropriate measures to develop one inclusive RGoB's AFS so that complete and full information about the nation's financial operations were disclosed as recommended by the Royal Audit Authority.
2. **Underutilization of budget:** The Public Accounts Committee should further review and submit a report to the 10<sup>th</sup> Session on the amount of capital budget not utilized to the tune of Nu. 5,693.737 million to ascertain whether:
  - a. The budget was already released by the Ministry of Finance to the implementing agencies;
  - b. The budget amount so released were from any loan component;
  - c. The budget was met from internal revenue if it was not from any loan component;
  - d. The budget was a mere allocation and the fund not released at all from the Ministry of Finance though the budget had been approved; and

- e. The budget was just a commitment from the donor but the fund not received by RGoB.
3. **Political Parties to observe compliance:** The political parties should view the RAA's observations and reminders seriously and ensure due compliance. The Election Commission on the other hand should monitor compliance by the political parties to affect its directives to administer their finances and book keeping in line with the GAAP and electoral laws.
  4. **Issue directives to initiate the system of fixing the oversight responsibility:** The RAA should include oversight responsibilities as stipulated in section 183 of the public Finance Act 2007 in addition to supervisory and direct responsibilities in conformation with audit observations and recommendations.
  5. **Unresolved irregularities outside of ACC and court prosecution:**
    - a. The RAA, RCSC, Ministries and agencies should initiate action to settle the unresolved irregularities which fall outside of the ACC and court prosecution. Further, it should be ensured that uniform actions were applied to cases of similar nature.
    - b. Accountability should be fixed wherever applicable to cases that were resolved through recovery and write off.
  6. **The Royal Audit Authority should ensure:**
    - a. That observation categorization was uniform and conforming to its guidelines;
    - b. That its report fixed direct, supervisory oversight accountability;
    - c. That its observations contain full details of amounts; and

- d. The RAA should include all relevant documents received from the concerned ministries and agencies with the RAA report.

**7. Pending issue on government land leased to private individual (*Changjiji Trowa* cinema hall)**

- a. The land should not be sold to the private individuals as it violates section 307 of the Land Act 2007.
- b. The Ministry of Works and Human Settlement should provide an explanation to Parliament on why it had ignored a standing resolution of Parliament (Resolution 15) which required the government to resolve the issue as per the relevant laws.
- c. The ACC should conduct an early investigation on the case and submit a report before the 10<sup>th</sup> session of Parliament since the issue qualified as a policy corruption based on the following findings:
  - i. The Ministry proposed to sell the land by violating the Land Act by disregarding a standing resolution of Parliament;
  - ii. Writing/requesting occasionally to the owner of *Trowa* theatre to sign the lease agreement without any statement of consequences; and
  - iii. Allowing the issue to prolong for more than six years during which the owner was permitted to operate a business entity on government land without collecting any rental dues.
- d. The government should fix accountability on all responsible officials.

## **2.1 National Council's Deliberations and Resolutions on the Recommendations of the Royal Audit Authority**

In accordance with section 44 of the Royal Audit Authority Act for improving accounts, operations and financial management system so as to achieve economy, efficiency and effectiveness in the use of public resources, the RAA submitted 6 recommendations as follows which should be looked into by the government:

- 1. Need to achieve value for money in consultancy services:** Government incurs billions of expenditure in consultancy contracts which include ICT and designing and supervision of construction works. The RAA came across many flaws in such works including contract agreements. Many works executed were found to be deficient and there was no real value for money in such expenditure. A separate study on the consultancy services was currently being carried out by the Royal Audit Authority and a report would be submitted to the government and the parliament. However, the study should not deter timely interventions of the government on the issue.
- 2. Ensuring full functionality and compatibility of IT Systems:** Most of the audited agencies were working towards automation of their business operations to enhance effectiveness and efficiency in service delivery.

Therefore, to realize the full benefit of computerization and ensuring compatibility and cost effectiveness, it was important to conduct

proper and complete feasibility studies and carry out adequate consultations with the stakeholders by following standard processes in developing the systems. The Department of Information Technology and telecom (DITT) should provide guidance and technical advice to the procuring agencies. The new system should be adequately tested and pilot run before it was made operational to ensure that the system was fully functional, compatible and user friendly.

3. **Ensuring compliance with government norms in execution of agreements with donors:** In the execution of agreements with the donors and the agencies receiving the assistance, instances of certain clauses of the agreements not being in conformity with the principles of standing government norms, rules and regulations were observed. In the interest of promoting consistent and uniform application of norms and rules by the agencies, and to rule out anomaly of its applications, it was imperative that agreements with donors were drawn broadly in line with the standing norms of the Government.
4. **Enhancing supervision and monitoring mechanism in the constructions:** The irregularities in the constructions mainly consisting of excess payments, payments made for works not executed, execution of defective works, use of inferior quality of materials, etc. were regular issues noted every year in almost every audited agency which had taken up the constructions.

Therefore, on account of repeated lapses occurring in most of the agencies, immediate action by the executing agencies should be taken to enhance monitoring mechanisms so that such lapses do not occur.

5. **Adequate guidelines to be issued for proper implementation of framework contracting process:** The Procurement Rules and Regulations 2009 allow procuring agencies to enter into framework contracting for some supplies contracts for a maximum period not exceeding one year. However, the procedures and processes of procurement prescribed under the given method were brief and not exhaustive. As a result there were varied practices adopted in various audited agencies. Therefore, the RAA had urged the relevant authorities to develop adequate guidelines and Standard Bidding Documents for framework contracting in the procurement to facilitate effective implementation of framework contracting method.
  
6. **Deposit work should also have timeline established for completion of the work:** The present system of entrusting deposit works did not prescribe any timeframe for completion of work. As a result, progress and timely completion of work was impeded besides non adjustment of huge advances lying with the entrusted agencies. Proper review and appropriate directives from the government was required in the matter.

(29<sup>th</sup> Day of the 4<sup>th</sup> Month of the Water Male Dragon Year  
corresponding to Monday, 18<sup>th</sup> June 2012)

## **H Any Other Business**

### **1 Deliberation on His Majesty's *Kasho***

Though there was the Land Act 2007, the discussion on the Land Act 2012 was included in the National Assembly's agenda for the 9<sup>th</sup> Session which was scheduled to be held on 3/7/2012. His Majesty had issued a *Kasho* with His views and advice to both the Houses of Parliament. In order for the public to be informed, and for the Hon'ble Members to submit their opinions, the Secretary General of the National Council read out the *Kasho* to the House as follows:

*Should the Houses of Parliament deliberate the merits and demerits of the Land Bill of Bhutan 2012, it is my hope that Parliament will arrive at a resolution that is in keeping with the aspirations of our people in civil service, private sector, civil society and in the 205 gewogs of our 20 dzongkhags.*

*Irrespective of whether a new Act is found necessary or not, it is my duty as the Druk Gyalpo to ensure that State Land and Assets are preserved in the interest of the Bhutanese citizens – present and future generations – so that our people's aspiration to own land and home may be fulfilled, while their right to share in the wealth and progress of our nation is protected – for all time.*

*Thus, as a matter of principle, I, the Druk Gyalpo, must state that in this modern time, in a small nation where land is scarce and the value of urban land continues to rise along with the possibility of ownership of land and*

*wealth being concentrated in the hands of a few, there is no justification for exempting particular persons, whether royal family members or wealthy individuals, from the land ceiling. Except for institutions of State, no individual should be exempt from the land ceiling and other provisions that apply to the general public of Bhutan.*

*Thus, as I have not perused the Land Bill of Bhutan 2012 – that draft may need to be edited to reflect my views stated above, if they are not already contained in the Bill.*

*This Message is hereby granted on the 15<sup>th</sup> of June 2012 to the Speaker and Chair of the respective Houses of Parliament, the Prime Minister and Leader of the Opposition.*

*(Signed)*

*His Majesty the Druk Gyalpo*

### **1.1 Opinions of Hon’ble Members on the *Kasho***

The Hon’ble Chairperson said that His Majesty’s *Kasho* made it clear that Parliamentary discussions should arrive at a resolution that was in keeping with the aspirations of our people in civil service, private sector, civil society and in the 205 Gewogs of 20 dzongkhags.

The Chairperson expressed his appreciation to His Majesty the Druk Gyalpo for the Royal *Kasho* which showed the responsibilities assumed and tasks undertaken by His Majesty the King irrespective of whether a Land Act existed or not. He said that the *Kasho* was meant to ensure that the ownership of the scarce land in the country should not be concentrated in the hands of a wealthy few rather it should be distributed equitably.

He said that if the Land Act 2007 was hugely problematic, then there was no choice but to deliberate on its amendment. Otherwise, in accordance with His Majesty's *Kasho*, Parliament should seriously consider whether to deliberate on the amendment of the Land Act or not. He said that if the Land Bill really needed deliberation, then His Majesty's directives should be clearly included in the Bill during the discussion.

The Hon'ble Members of Haa, Trongsa and Thimphu Dzongkhags expressed their appreciation to His Majesty for issuing such a meaningful *Kasho* for the immediate and future interest of the people of Bhutan. On his own behalf and on behalf of the people of Haa Dzongkhag, the Hon'ble Member of Haa Dzongkhag added that the submission was not for transfer of power of the existing institutions under the Land Act 2007, but on the problems related to *Tsamdro* since most of the people in Haa depended on cattle for their livelihood.

Hon'ble Member Kuenlay Tshering said that he saw the issuance of such a *Kasho* from His Majesty as guidance to the people to be more concerned while serving the country. He said that when the National Assembly deliberated on the Land Bill as included in its agenda, the issue on whether a new Act was necessary or not should also be covered, and His Majesty's directives should be kept in mind while resolutions were passed.

The Deputy Chairperson said that His Majesty's *Kasho* would guide the members of Parliament to act without biases irrespective of wealth, position or rank in society in fulfilling His Majesty's expectations, and expressed his appreciation to His Majesty for His guidance. He said that the stipulation in the Royal *Kasho* that except for institutions of the State, no individuals including

members of the royal family, wealthy individuals and private businesses should be exempt from the land ceiling was to benefit the immediate and future interest of the nation.

Similarly, while the National Council had, during its past sessions, repeatedly deliberated on issues related to land, it had not directly held a separate discussion on the need to amend the Act. However, the problems related to *Tsamdro* and *Sokshing* under chapters 10 and 11 of the Land Act 2007 were due to improper implementation of the Act. Therefore, most of the problems related to land could be solved if the Act was properly implemented. If the problems still arose even when the Act was properly implemented, then it should be amended after 3 to 4 years.

The National Council endorsed the *Kasho* issued by His Majesty the Druk Gyalpo keeping in mind the immediate and future interest of the nation. In accordance with the advice of His Majesty the Druk Gyalpo, the members of the National Council committed themselves to think deeply and engage in beneficial discussions on whether there was a need to deliberate on the new Land Bill without violating His Majesty's *Kasho*.

*(22<sup>nd</sup> Day of the 5<sup>th</sup> Month of the Water Male Dragon Year  
corresponding to Tuesday, 10<sup>th</sup> July 2012)*

## **2 Deliberation on issues related to Celebration of Gross National Happiness Day and appointment of Gross National Happiness Representative for Life**

The National Assembly had thoroughly discussed on identifying the day for celebration of Gross National

Happiness and appointment of His Excellency the Prime Minister, Jigmi Yoser Thinley as the Gross National Happiness representative for life. The Hon'ble Speaker's letter no. NAB-4/2012/214 dated 6/7/2012 which was received by the National Council was read out to the House by the Secretary General of the National Council as follows:

*The Hon'ble Chairperson of the National Council,*

*On 05/07/2012, the Environment, Land and Urban development Committee of the National Assembly submitted a motion on the United Nations' resolution to celebrate 20<sup>th</sup> March as World Happiness Day. The Hon'ble Members during their deliberation on the motion agreed that the United Nations had passed the resolution based mainly on the concept of Gross National Happiness expounded by His Majesty the Fourth Druk Gyalpo through his exceptional reflections and insightful wisdom, and to commemorate, recognize and appreciate this, the day shall be celebrated as the Gross National Happiness Day.*

*In January 2013, during the final (10<sup>th</sup>) session of the first Parliament, homage shall be paid to His Majesty the Fourth Druk Gyalpo as a leader of the modern era worth being thankful for. Likewise, the main person responsible for spreading His Majesty the Fourth Druk Gyalpo's wisdom of Gross National Happiness throughout the world was the first elected Prime Minister under the democratic system of governance, Jigmi Yoser Thinley, and discussions arose that he should be appointed as the Gross National Happiness representative for life.*

*Therefore, for the first Parliament to pay homage to His Majesty the Fourth Druk Gyalpo and the Hon'ble Prime*

*Minister, Jigmi Yozer Thinley during the 10<sup>th</sup> session, the National Council's acknowledgement and support was hopefully expected.*

*(Jigme Tshultrim)  
Speaker*

The Deputy Speaker said that the development philosophy of Gross National Happiness was born as a result of His Majesty the Fourth Druk Gyalpo's insightful wisdom and that he supported the idea of celebrating the day to pay homage to His Majesty the Fourth Druk Gyalpo. However, with regard to the appointment of the Hon'ble Prime Minister as the Gross National Happiness representative for life, he said that it was the prerogative of His Majesty the Druk Gyalpo to confer such awards and not a task to be undertaken by the Parliament.

It was decided that the issue would be discussed during the 10<sup>th</sup> session of the First Parliament as proposed in the letter.

*(8<sup>th</sup> Day of the 5<sup>th</sup> Month of the Water Male Dragon Year  
corresponding to Wednesday, 27<sup>th</sup> June 2012)*

### **3 Destruction of Wangdiphodrang Dzong by Fire**

The Hon'ble Member of Wangdiphodrang Dzongkhag said at around 4 p.m. on 24/6/2012, the important and historic Wangdiphodrang Dzong was unexpectedly destroyed by fire. In expressing her deep felt sorrow, she said that the loss of the national treasure had saddened the Bhutanese people in general and the people of *Sha-Dagay* in particular.

She said that His Majesty the King, Her Majesty the Queen, members of the royal family and the Royal Government had always provided assistance, support and condolences whenever natural disasters occurred in the country. She expressed her appreciation to Their Majesties the Druk Gyalpos and Her Majesty the Queen for visiting Wangdiphodrang Dzong as soon as information regarding the fire incidence was received and being among the people trying to control the fire as well as consoling the affected people.

She also expressed her appreciation to His Holiness the *Je Khenpo* for his guidance and conducting *Thrisoel* on the sacred relics that were saved. She expressed her appreciation for the assistance and support rendered by the Hon'ble Prime Minister, other senior government officials and all those who assisted and supported in containing the fire.

She said that while the physical structure of the Dzong was completely destroyed by the fire, most of the Nangtens were recovered due to the blessings of *Kon-chog-sum*, the protection of *Choe-chong-sung-ma*, the merits of His Majesty the Druk Gyalpos and His Holiness the *Je Khenpo*; and fortune of all the Bhutanese people. She, therefore, said that the people of Bhutan should not be too saddened. She said that not only the Dzong should be restored back to its former glory but safety measures against fire hazards should be put in place during the reconstruction of the Dzong.

Hon'ble Member Kuenlay Tshering and the Hon'ble Member of Haa Dzongkhag expressed their sadness on such massive loss for the country, and thanked His Majesty the Druk Gyalpo, His Holiness the *Je Khenpo*, government officials and everyone involved during the

disaster. In order to prevent such disasters in future, it was suggested that proper measures such as construction of water reservoirs surrounding the Dzongs, *Lhakhangs* and public buildings, installation of public warning equipments, use of quality electric wires should be put in place.

The Deputy Chairperson thanked His Majesty the Druk Gyalpo who had personally visited the site and provided condolences and assistance not only during the destruction of Wangdiphodrang Dzong by fire but also whenever the country was affected by manmade and other natural disasters. He also expressed his appreciation to His Holiness the *Je Khenpo* who had conducted *Thrisoel* on the Nangtens that were saved so that they did not lose their sacredness. He also expressed his profound appreciation to the people who were selfless and involved in heroic feats in trying to contain the fire and saving the Nangtens. He said that the National Council's recommendations and questions to the government to insure Dzongs, Lhakhangs and large public buildings would help during such disasters and suggested that the government should seriously consider the Council's submissions.

As commanded by His Majesty the Druk Gyalpo, the National Council commended the efforts by the Royal Government to reconstruct the Dzong as soon as possible. The National Council also expressed its gratitude and appreciation to the Government of India for pledging to support the reconstruction of Wangdi Dzong. It was suggested that all safety measures should be put in place during the reconstruction of the Dzong.

*(17<sup>th</sup> Day of the 5<sup>th</sup> Month of the Water Male Dragon Year  
corresponding to Thursday, 5<sup>th</sup> July June 2012)*

#### **4 Issues related to Potato Business**

The Hon'ble Member of Wangdiphodrang Dzongkhag said that of the various cash crops in the country, potato business was done on a big scale and had become the main source of revenue for the people living in certain areas of Bumthang, Chhukha, Paro, Thimphu, Tashigang and Wangdiphodrang Dzongkhags.

However, when farmers take their products for auction, they face the problem of not having adequate warehouses to store their goods as well as declining rates due to less number of people participating in such auctions. Further, there was no fixed minimum price, no standard service charges and no uniform packaging materials at the auction yards. The farmers also find it difficult to maintain the quality of potatoes during transportation of their harvest in summer due to bad road conditions.

During the presentation of the National Budget and Appropriation Bill for the Financial Year 2012-13 by the Hon'ble Finance Minister, it was reported that extra efforts would be made to enhance agricultural production in the country. Export of agricultural products by enhancing their production could be one of the measures to solve the present problem of rupee shortage. Measures should also be adopted not only to ease the sale of potatoes but other agricultural products in general.

Likewise, the Hon'ble Member of Chhukha Dzongkhag said that to solve the problems of people whose only

source of revenue and livelihood depended on the sale of potatoes, more warehouses should be built in the auction yards, fix base auction price, determine service charges and standardize packaging materials and maintain uniformity of prices for each grade of potatoes. He suggested that relevant agencies should be informed to do the needful.

The Hon'ble Memembr of Bumthang Dzongkhag, in addition to the above recommendations, proposed for urgent construction of cold storages in the auction yards as submitted by the Hon'ble Minister for Agriculture and Forest during the question time.

The Hon'ble Member of Mongar, Pemagatshel and Lhuentse Dzongkhags said that in keeping with the overall development of the country, many construction development activities relating to mining were taking place in the bordering areas including cement and other projects in *Nganglam* under Pemagatshel. They opined that once the construction of *Gyelposhing-Nganglam* highway was completed, most of the eastern Dzongkhags would be connected, therefore, it was appropriate to establish an Auction Yard at Nganglam which would immensely benefit the people of Eastern Dzongkhags.

Recognizing that potato was a profitable cash crop in the country and one of the highest revenue sources for the livelihood of most people, the National Council resolved to submit the following reminders to the government and the relevant ministry.

1. Provide additional warehouses at the Auction Yards or make necessary arrangements so that farmers could either sell their potatoes or unload

- and store their produce in the warehouses upon reaching the Auction yards;
2. Set base auction price for potatoes at the Auction Yards based on the cost of production from time to time;
  3. Revisit FCB's recent notification of charging different service charges based on different months of the year, and formulate a fair and uniform service charges;
  4. Facilitate potato growers to have ready access to standardized potato packaging materials;
  5. Provide further technical assistance to farmers on potato grading;
  6. Provide technical assistance to farmers on maintaining and distribution of quality potato seeds.
  7. Construct cold storage as soon as possible to store potatoes till auction time or till the potatoes were sold within the country; and
  8. Since business opportunity for the farmers to sell their potatoes and other cash crops were limited, possibilities for auction yards to be opened at *Nganglam* and other bordering areas should be explored.

## **5 Need for proportionate Gewog Boundaries**

The Hon'ble Member of Haa Dzongkhag said that the need to bifurcate larger Gewogs was discussed during the 7<sup>th</sup> session and the recommendations containing details of Gewog population and reasons for bifurcation were submitted to the government so that action could be taken before the start of the 11<sup>th</sup> Five Year Plan. However, the National Assembly deferred the discussion during the current session, since increase in the

number of Gewogs would give rise to problems of budget shortage and lessened population.

He said that the issue was not necessarily on bifurcation of Gewogs. He cited the cases where one village was closer to another Gewog and therefore the transfer of such a village to its nearest Gewog would enable the people to easily and conveniently avail the services provided by that Gewog Centre. He said that while preparing for democracy in 2008, *Sengtengna* and *Phentengna* villages of *Moeyoena* Gewog under Samtse Dzongkhag were clubbed under *Gakiling* Gewog under Haa Dzongkhag. However, traveling from the two villages to the Gewog centre took 3 to 4 days on foot through forests and difficult mountain terrains which was deeply inconvenient to the concerned people. The services from the Gewog centre were also never delivered on time. If those villages were clubbed with the nearer *Samar* Gewog, the distance would be shorter, and Gewog services could be provided efficiently and on time. As submitted by the people to the previous government, order was issued for the two villages to be clubbed under *Samar* Gewog and budget had been allocated for the 10 Plan. However, while the people of *Sengtengna* and *Phentengna* villages assumed they were under *Samar* Gewog, they found out that they were still under *Gakiling* Gewog, that too, only during 2010 local government elections.

He said that considering the plight of people living in such villages and in order to help them receive the benefits of services extended by the Gewogs efficiently and on time; the government should consider transferring the villages from one Gewog to another as such transfers would not result in any loss to the government.

The Hon'ble Member of Samdrupjongkhar Dzongkhag said that the two villages of *Wangphu* and *Tshotsalu* in *Martsala* Gewog under Samdrupjongkhar Dzongkhag were not only nearer to *Pemathang* Gewog, but the farm roads were constructed through *Pemathang* along which businesses were carried out. If the two *Chiwogs* were clubbed under *Pemathang* Gewog, it would greatly benefit the people.

The Hon'ble Member of Bumthang Dzongkhag said that it was not just the boundaries between *Chiwogs* and *Gewogs*, but the boundaries between towns and *Gewogs* should also be finalized. While demarcating the boundary between Bumthang Town B and *Chhoekhor* Gewog, some of the villages of *Chhoekhor* Gewog were included under the town. As a result, rural services were stopped for those villages, while they had not received urban facilities which had caused problems. He said that if the town's boundary towards the north was demarcated till *Menchugang* below *Jampa Lhakhag* instead of till *Kujedozam*, it would have benefitted the people more.

The Hon'ble Member of Thimphu Dzongkhag said that since *Soe* Gewog was near Paro Dzongkhag, the construction of mule tracts had to be done by the villages of Paro Dzongkhag that were located along the route to *Soe*. He, therefore, suggested that either *Soe* Gewog should be clubbed under Paro Dzongkhag, or the villages of Paro Dzongkhag which lay along the route be clubbed under Thimphu Dzongkhag. *Tsalunang* village was currently under *Mewang* Gewog, and did not have proper development activities or services till now. He, therefore, suggested that a separate Gewog should be established in *Tsalunang*.

The Hon'ble Member of Sarpang Dzongkhag said that the two villages of *Gongtsekha* and *Gongduegang* in *Jigmechholing* Gewog under Sarpang Dzongkhag faced the problem of being too far from the Gewog centre. The government and Election Commission should be asked to submit a report to review the delimitation of the area.

The Hon'ble Member of Mongar Dzongkhag said that while *Tongkangla* village of *Kengkhar* Gewog under Mongar Dzongkhag was one of the most distant villages from the Gewog centre, but it was just 2 hours from the nearby *Drepung* Gewog, and thus, the possibility of transferring the village under the nearby Gewog needed to be studied. *Pangtoe* village under Monger Gewog was nearer *Ngatsang* Gewog, and therefore, while delimitation was carried out, it should not be based on the maps but through actual consultation with the people.

The Hon'ble Member of Lhuentse Dzongkhag said that due to uncertain boundaries between towns and Gewogs, there were lots of administrative and management problems. While delimitation was carried out, revision should be done through proper consultation with the people to solve the pervading national problem.

The Hon'ble Member of Pemagatshel Dzongkhag supported the transfer of *Chiwogs* and Gewogs, and added that some of the *Chiwogs* under Pemagatshel Dzongkhag had household numbers equivalent to a Gewog which was a problem while initiating activities related to Chiwog services. Therefore, he proposed that *Nangkor* and *Tsatse* *Chiwogs* be divided into two *Chiwogs*.

The Hon'ble Member of Trashigang Dzongkhag said that the two villages of *Gangardung* and *Tsaling* of Bumdeling Gewog under Trashigang Dzongkhag were far from the Gewog centres but near *Yangtse* Gewog. *Womainang* village was also far from *Bumdeling* Gewog, and such problems should be reviewed and solved.

The Deputy Chairperson said that the issue of bifurcation of Gewogs had been discussed during the 7<sup>th</sup> session and reminders were submitted to the government. The present issue was mainly the problems related to delimitation in certain villages of certain Gewogs since those villages were far from the Gewog centres and not on bifurcation of Gewogs. Therefore, such problems should be identified, and reminders should be submitted to the government and Election Commission along with reasons and lists of affected areas.

On the bifurcation of Gewogs and merger of villages based on proximity to the nearest Gewog centre, the National Council:

- Recalling the discussions held during the 7<sup>th</sup> session of the National Council concerning bifurcation and establishment of new Gewogs as well as merging of *Chiwogs* from one Gewog to another;
- Taking note of the resolutions of Dzongkhag *Tshogdus* and Gewog *Thsogdes*;
- Recalling the resolution of the Joint Session of Parliament held during the 3<sup>rd</sup> Session concerning demarcation of *Thromde* boundaries;

- Convinced that merging of some *Chiwogs* located far away from Gewog centres to nearby Gewogs would benefit in the delivery of efficient services with minimal cost implications; and
- Recognizing the Royal Government's responsibility to propose the alterations in Gewog boundaries to the Parliament;

Hereinafter, before finalizing the 11 Five Year Plan:

1. Call upon the government and Election Commission to carry out delimitation to merge the two villages of *Phentengna* and *Sengtengna* of *Gakiling* Gewog with the nearby *Samar* Gewog;
2. Further urge the government to merge *Tshotsalu* and *Wangphu Chiwogs* of *Matshsala* Gewog under *Pemagatshel Dzongkhag* with *Pemathang* Gewog, and similarly work towards merger and bifurcation of *Chiwogs* of other Dzongkhags; and
3. Notify concerned ministries to hold thorough public consultations while demarcating *Thromde* boundaries.

*(18<sup>th</sup> Day of the 5<sup>th</sup> Month of the Water Male Dragon Year corresponding to Friday, 6<sup>th</sup> July 2012)*

## **6 Need for review of Electricity Tariff to ease the problem of Rupee Shortage**

Hon'ble Member Karma Yezer Raydi said that the country was faced with the problem of rupee crunch. The government and Royal Monetary Authority had adopted various measures to solve the problem. One such measure was the establishment of a working committee which had carried out reviews and researches and came up with immediate and long term

measures for a sustainable economy and submitted various recommendations to the government, some of which the government had already started implementing.

However, one of the issues not included in the recommendations was the need to review the tariff of electricity exported to India. One of the reasons for shortage of rupee as per the report was due to lesser export and higher import. If the tariff of electricity that was exported to India was revised, it could be one of the measures to solve the problem.

Construction of 4 hydroelectric projects were completed and were commissioned in the country, of which *Basachhu* hydroelectric project was being used within the country and as such revision of tariff was not necessary. *Kurichhu* and *Tala* hydroelectric projects had been merged through an agreement signed in 2008. As per the agreement, tariff had to be revised by 10% every 5 years till the loans were repaid, and by 5% every 5 years once the loans were repaid. Later in 2011, tariff was revised by 10% for these two projects which was not correct. However, the revision of tariff was highly necessary for electricity exported from *Chhukha* Hydroelectric Project.

The Hon'ble Member of Wangdiphodrang Dzongkhag said that the reason for the need to revise electricity tariff of *Chhukha* hydroelectric project was because most of the electricity was exported to India on the basis of the agreement signed between India and Bhutan on 23/3/1974. When the project was later commissioned in 1986, tariff was fixed at Nu. 0.19 per unit which had been revised about 9 times till date.

According to the principles of the agreement, tariff revision was due in 2009, but since the previous revisions had affected the Indian government, the revision was deferred till 2014. However, while the Royal Government had proposed discussions on tariff revision with India, discussions could not be held till now. The Druk Green Power Corporation had also submitted its proposal to revise the tariff to Nu. 3.25 per unit.

The Hon'ble Member of Gasa Dzongkhag said that while India required 861,591 units of electricity, it currently gets only 788,335 units and faces acute problem of electricity shortage. Even if the Royal Government, upon completion of all the hydroelectric projects exported all the electricity to India, it was only 6971.71 units which came to just 9.5%. Therefore, the tariff of electricity exported from *Chhukha* hydroelectric project should be exported at a standard rate of Nu. 3.25 per unit.

Hon'ble Member Kuenlay Tshering supported the above submissions and added that while setting the limit for tariff revision, the rate of import from India during winter should also be considered. The Hon'ble Member of Chhukha Dzongkhag said that *Chhukha* hydroelectric project had completed the repayment of its loans and was an independent body, and therefore, should revise its tariff independently. The Hon'ble Member of Haa Dzongkhag said that during discussion on such revisions, the objective should not only be focused on business, but must respect the principles, sentiments and the spirit cooperation that existed between the two friendly neighbours.

The National Council held that the government had adopted significant measures in order to solve the problem of rupee shortage in the country. Since export

of electricity from hydroelectric projects was huge, it was resolved that recommendations should be submitted to the Royal Government for the need discuss with the Government of India to revise the tariff of electricity exported from *Chhukha* hydroelectric project as soon as possible based on the following points.

1. The two countries have always conducted their relations in the spirit of trust, understanding and cooperation which was expected to continue through, among others, mutual respect for the various bi-lateral treaties and agreements, of which one was the 1974 “Agreement between the Government of India and the Royal Government of Bhutan regarding the Chhukha Hydroelectric Project in Bhutan”;
2. Bhutan at this time was facing rupee crunch that might impact on its economy and the increase in power tariff would greatly ease the problem;
3. There was a huge shortage of power in India and hydropower from new plants were very costly and Bhutan’s power generation would bring a high degree of stability and reliability to the Indian grid;
4. Bhutan paid more for import of power from India than it charges for the power that was exported; and
5. The proposed revised tariff of Nu. 3.25 per unit was still lower than the tariff paid for purchase of power by India through other internal sources and, by comparison, the amount paid for purchase of power from Bhutan was miniscule fraction of India’s total expenditure on electricity.

*(22<sup>nd</sup> Day of the 5<sup>th</sup> Month of the Water Male Dragon Year  
corresponding to Tuesday, 10<sup>th</sup> July 2012)*

**7 Motions on Amendment of the National Assembly Committee Act 2004 and submission of Public Accounts Committee Reports during both Summer and Winter Sessions**

The Hon'ble Member of Pemagatshel Dzongkhag said that for the convenience of the working of the Parliamentary Public Accounts Committee, the Public Accounts Committee had submitted 17 recommendations to the 7<sup>th</sup> session of Parliament. One of the recommendations was to amend the National Assembly Committee Act since the provisions of the Constitution and the provisions related to Public Accounts Committee under the National Assembly Committee Act were not consistent. Parliament had resolved that the issue should be reviewed by the two Legislative Committees of Parliament and deliberated during the next session, but there was no visible result in that regard. Recommendations were also made for possible submission of the Public Accounts Committee's review report on the Royal Audit's Annual Reports not just during the summer session but during the winter session as well for the convenience of carrying out the review.

The Royal Audit's Annual Report contained the Royal Government's annual consolidated financial statement acknowledgements. Since the annual report was submitted during the 4<sup>th</sup> quarter of the financial year, the Public Accounts Committee did not get adequate time to review and submit its report to Parliament. Therefore, the issues related to financial statement acknowledgements could be reported during the winter

session of Parliament and not in the annual report. Should such a change be effected, amendments were recommended to sections 69, 70, 72 and 74 of the Audit Act 2006.

Hon'ble Member Kuenlay Tshering said that as per Parliament's resolution to review the need to amend the National Assembly Committee Act 2004, the Legislative Committee of the National Council had carried out a thorough review. Five recommendations which included amendment of number of committees since the number of committees at present were more; entrusting more responsibilities to the committees, provision of adequate staff including appointment of committee secretaries and Public Accounts Committee to carry out its functions under the present Committee Act until the National Assembly Committee Act was amended. The recommendations were submitted to the Chairperson of the Legislative Committee of the National Assembly via email to which there was neither acknowledgement nor further action.

Hon'ble Member Karma Yezer Raydi said that while the Legislative Committee of the National Council had submitted such recommendations, no acknowledgement had been received which could be due to the title of the Act itself which was the National Assembly Committee Act. He, therefore, suggested that the National Council should not be reviewing the National Assembly Committee Act, rather it should be done by the National Assembly's Legislative Committee, or the Public Accounts Committee could itself initiate the review which would be much better.

The National Council thoroughly deliberated the issue and resolved to submit the following recommendations to the National Assembly.

1. In accordance with the resolution of Parliament during its 7<sup>th</sup> Session on the need to review the National Assembly Committee Act, the Legislative Committee of the National Council had reviewed the Act and submitted five recommendations which should be acknowledged by the National Assembly and acted upon.
2. The National Assembly Committee Act 2004 should be amended to make it consistent with the provisions of the Constitution of Bhutan.
3. The rules and regulations of the Public Accounts Committee based on the National Assembly Committee Act should be amended.
4. Section 69 of the Audit Act 2006 should be amended so that Royal Audit Authority's financial statement acknowledgements could be reported separately and not with the annual report.
5. The financial statement acknowledgement report might be submitted by the Public Accounts Committee during winter session of Parliament.

## **8 Proposal for Conducting Research on issues related to Mining**

The Hon'ble Member of Gasa Dzongkhag said that due to increase in export and higher demand for minerals from industries within the country and increased construction activities, the number of drilled mining had been going up in the country. According to a report from the Department of Geology and Mines, direct tax and business revenue from mining totaled Nu. 377 million which was one of the highest source of revenue for the

country. However, mining and stone quarries were harmful to the fragile ecosystem of the country.

According to a report from the National Environment Commission, most of the mining activities had not been done as per the provisions of the relevant rules and regulations. When the environment was harmed through mining activities; the pattern of the country's beautiful environment, landscape, water system, plant variety, animal species and socio-economic development could be greatly damaged.

The Ministry of Economic Affairs had drafted a mining development policy with the object of identifying mining and stone quarry areas, framing proper plans, efficient implementation and expert management of mines. However, the policy had not been approved till now. While miners had profited, the inhabitants of the mining areas were faced with environmental problems. Moreover, those inhabitants had been victimized instead of profiting from the mining activities.

Therefore, the National Council decided to identify a committee to review the affects of mining and mineral extraction within Bhutan, and comparison could be drawn between the revenue of mining within the country and revenue accrued as a result of mining in neighbouring countries. Since the mines operated at present by private parties were public resources, the government should take them over and manage them in order that the nation benefited from such mines. The merits and demerits of government taking over the mines should be researched and could be reported to the 10<sup>th</sup> session.

The Hon'ble Member of Dagana Dzongkhag said that such review should not look just at the immediate revenue, but should be aimed at the long term environmental sustainability for which it was time to make procedural changes. The Hon'ble Member of Lhuentse Dzongkhag said that crops and animals in the communities were affected due to mining activities, and as such, cost benefit analysis should be done to see which one was greater. He said that if mining activities were taken over by the government, the benefits would be greater. The Hon'ble Member of Trashigang Dzongkhag supported the submissions.

However, the Hon'ble Member of Thimphu Dzongkhag said that while she agreed with the above submissions, business in the country would be greatly affected if government took over such activities despite the country's policy of private sector development. She said that the private sector had incurred huge expenditure when mining industries were established which might be a loss for them. Therefore, review should be done taking those into consideration.

The National Council, after thorough deliberation on the issue, resolved to entrust the Environment and Natural Resource Committee to initiate the engagement of a consultant to thoroughly review and research the affects of mining on the environment and conduct cost benefit analysis if such activities were to be taken over by the government from the private sector. The Environment and Natural Resource Committee would be required to prepare the terms of reference for the engagement of a consultant and the report had to be submitted to the 10<sup>th</sup> Session for further deliberation.

## **I Concluding Ceremony**

### **1 Hon'ble Chairperson's Closing Address**

The Hon'ble Chairperson said that the 9<sup>th</sup> session of the National Council commenced on the 19<sup>th</sup> Day of the 4<sup>th</sup> Month and successfully ended on the 22<sup>nd</sup> Day of the 5<sup>th</sup> Month due to the unwavering efforts of each and every Hon'ble Member, permanent committees and ad-hoc committees, and the assistance and support of the staff of the National Council Secretariat. He expressed his hope that till the term of the first Parliament expired, proceedings of the house could be held smoothly for the benefit the people and the country, and that the National Council would become a historic institution.

He expressed his condolences for the loss of historic Wangdiphodrang Dzong which was destroyed by fire on 24<sup>th</sup> June 2012. He said that the government should be prepared to prevent such disasters in future. He said that the government, relevant ministries, agencies and general public should adopt safety measures as soon as possible for the immediate and long term interest of protecting such historic monuments from disasters.

He also expressed his condolences for the death of one soldier and injury to another caused by a group of terrorists in Gelephu.

Summarizing the resolutions of the 9<sup>th</sup> session, he said that under legislative issues, the Druk Gyalpo's Relief Fund Bill, the Education City Bill of Bhutan, the Disaster Management Bill of Bhutan, the Contract Bill of Bhutan, and the Alternative Dispute Settlement Bill of Bhutan had been deliberated and sent to the National Assembly for adoption while the Cape Town Convention

and the Nagoya Protocol had been deliberated and ratified.

While there was no violation of legislative procedures, he said that the Parliamentary Entitlement Amendment Bill of Bhutan had been withdrawn from deliberation based on the motion submitted by the National Assembly and the opinions expressed by the general public and the media. He said that since there was no violation of the system, the deliberation on the National Flag Bill would take place in future according to the procedures for Joint Sitting of Parliament and other relevant laws. Under other legislative issues, the National Council had deliberated on the introduction of the Local Government Entitlement Bill during the 10<sup>th</sup> Session, rationalization of Income Tax policy and Right to Information Bill, and resolved to submit reminders to the government.

Under Policy issues and any other business, he said that shortage of Indian rupee in the country, land issues, potato business, finalization of Gewog boundaries and increase of tariff from Chhukha Hydro Project and resolved that reminders should be submitted to the government and relevant agencies. He said that the Annual Report of the Anti-Corruption Commission and Public Accounts Committee were deliberated and recommendations should be submitted accordingly. He also pointed out that the Question Hour was held in keeping with earlier practices.

He expressed his appreciation for the Prime Minister's Annual State of the Nation Report which was based on the four pillars of Gross National Happiness. He said that the National Council should carry out appropriate reviews on the Prime Minister's report and the annual reports of the different ministries. The Hon'ble Members

should conduct consultation meetings and hearings with the people of their respective constituencies and different institutions in preparation for the 10<sup>th</sup> session.

Finally, the Session was concluded with prayers for the blessings of the *Lha-Lama-Kon-Chog-Sum* and graces of Their Majesties the Druk Gyalpos for peace and prosperity in the country, and for the long lives and greater accomplishments of His Majesty the Druk Gyalpo, His Majesty the Fourth Druk Gyalpo and the Royal Family.

The 9<sup>th</sup> Session of the National Council concluded on the 22<sup>nd</sup> Day of the 5<sup>th</sup> Month of the Water Male Dragon Year.

(Namgye Penjore)  
**Chairperson**  
**National Council of Bhutan**

**List of Hon'ble Members who participated in the 9<sup>th</sup> Session of the National Council**

1. Hon'ble Member of Punakha Dzongkhag, Chairperson Namgye Penjore
2. Hon'ble Member of Tashigang Dzongkhag, Deputy Chairperson Dr. Sonam Kinga
3. Hon'ble Kuenlay Tshering, Eminent Member
4. Hon'ble Karma Yezer Raydi, Eminent Member
5. Hon'ble Tashi Wangmo, Eminent Member
6. Hon'ble Karma Damcho Nidup, Eminent Member
7. Hon'ble Tashi Wangyal, Eminent Member
8. Hon'ble Member of Bumthang Dzongkhag, Tshewang Jurmi
9. Hon'ble Member of Chhukha Dzongkhag, Tshewang Lhamo
10. Hon'ble Member of Dagana Dzongkhag, Sonam Dorji
11. Hon'ble Member of Gasa Dzongkhag, Sangay Khandu
12. Hon'ble Member of Haa Dzongkhag, Tshering Dorji
13. Hon'ble Member of Lhuentse Dzongkhag, Rinzin Rinzin
14. Hon'ble Member of Mongar, Naichu
15. Hon'ble Member of Paro, Ugyen Tshering
16. Hon'ble Member of Pemagatshel Dzongkhag, Jigmi Rinzin
17. Hon'ble Member of Samdrupjongkhar, Jigme Wangchuk
18. Hon'ble Member of Samtse Dzongkhag, (Dr.) Mani Kumar Rai
19. Hon'ble Member of Sarpang Dzongkhag, Karma Donnen Wangdi

20. Hon'ble Member of Thimphu Dzongkhag, Sangay Zam
21. Hon'ble Member of Trsahi Yangtse Dzongkhag, Kesang Namgyal
22. Hon'ble Member of Trongsa Dzongkhag, Dr. Jagar Dorji
23. Hon'ble Member of Tsirang Dzongkhag, Justin Gurung
24. Hon'ble Member of Wangdiphodrang Dzongkhag, Sonam Yangchen
25. Hon'ble Member of Zhemgang Dzongkhag, Pema Lhamo