

CHECK AGAINST DELIVERY

Response on the questions and comments regarding the legislative framework for the protection and promotion of human rights by the Dy. Chief Attorney, Mr. Sonam Tashi, at the Human Rights Council on 30 April 2014 under the UPR mechanism

Thank You Your Excellency

In response to the queries and comments raised I would like to convey the following:

With regard to Child Justice

1. Bhutan is strongly committed to fulfilling its international treaty obligations. Article 9(24) of the Constitution provides that the state shall foster respect for international law and treaty obligations among other things.

Accordingly, the Child Care and Protection Act was enacted in the year 2011 which was drafted to harmonize domestic legislations and ensure conformity with the provisions of the CRC to which Bhutan is a party.

Though the Act provides for the establishment of a Child Justice Court or Bench, it has not been able to do so, mainly due to lack of infrastructure and resource constraints.

However a project on establishing and Strengthening Child Justice System in Bhutan has been initiated. Recently the first Consultative meeting with all the relevant stakeholders has been held, where all concerns and issues have been discussed. Thereafter a local legal expert in child justice has been hired as a consultant to work on the project.

Furthermore till the establishment of the Child Justice Court, Section 40 of the Act confers the power to the regular Courts to exercise powers and discharge its duties as per the Act. Therefore even without a Child Justice Court, all the provisions contained in the Act have to be followed while handling a child who is in conflict with the law.

2. As regards laws pertaining to anti-discrimination,

Article 7(15) which is a fundamental right provides that "all persons are equal before the law and are entitled to equal and effective protection of the law and shall not be discriminated against on the grounds of race, sex, language, religion, politics or other status."

Article 9 (18) which is a Principle of State Policy provides that the State shall endeavor to take appropriate measures to ensure that children are protected against all forms of discrimination and exploitation including trafficking, prostitution, abuse, violence, degrading treatment and economic exploitation.

Any laws which are inconsistent with the Constitution shall be null and void. Therefore any existing or new laws that are drafted must be in line with the provisions contained in the Constitution, in both letter and spirit. So if a person feels that his right under these Articles is breached, then he has the right to initiate proceedings before the Court for the enforcement of his right.

With regard to comments and questions on Religious Organization Act, I would like to state that:

3. The Religious Organization Act's main purpose is to facilitate the establishment of Religious Organizations in order to benefit all the religious institutions.

The Act does not discriminate between religions; this is clear from the very definition of "religious institutions" which is very inclusive. It includes Buddhist institutions, Hindu Mandirs or any other religious institutions.

It may be noted that any Bhutanese person can establish a Religious Organization by simply submitting the required documents and information. The Commission for Religious Organization has to then review and approve all applications for registration provided all the requirements are fulfilled. The Commission is mandated to approve or reject such applications within a time frame of six months. Reason(s) for rejecting any application must be provided in writing.

Bhutan is committed towards upholding the rule of law and ensuring due process of law and this is achieved through an independent judiciary. The Constitution under Article 1(13) provides for a separation of powers amongst the three arms of the government which ensures the independence of the Judiciary. Further, the judicial service is governed by the Judicial Service Act 2007 independent of any influence from the executive.

Therefore, if a person is not satisfied with the decision of the Commission regarding registration, an appeal to the court can be made whereby the authority has to abide by the decision of the court.

Thank You

