

On the Nepali Question: Buddhism's Role in Framing the Bhutanese Constitution

Jamie Poskin

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Religious Studies, Drama

The Kingdom of Bhutan has created an international buzz with its rejection of Gross Domestic Product (GDP) and subsequent adoption of Gross National Happiness (GNH) as the means by which to measure the country's "development." The policy challenges the powerful force of global capitalism and serves as a revolutionary way in which to consider the economy of microstates; rather than viewing "development" as an end in itself, GNH tries to orient the country's economy toward higher ends. The entire GNH project rests, importantly, on the distinctly Buddhist mental culture and values of Bhutan. Currently, Bhutan is drafting its first constitution, in which GNH precepts are to be codified. This paper will consider GNH from the perspective of ethnic pluralism, and argues for a greater emphasis on the Buddhist ethical foundation of the Bhutanese constitution, while arguing that explicitly Bhutanese-Buddhist cultural elements of the constitution should be more broadly construed to ensure the inclusion of the Nepalese and other minority groups in the political and cultural life of Bhutan.

Given that any constitution is inherently an ideological text, the unavoidable consequence of framing a constitution is that whatever ideology the constitution is based upon becomes the point of agreement between all the constituents of the state upon ratification. While the idea of building a constitution on a "religious" ideology may seem inconsistent with modern, secular notions about the nature of democracy or the proper role for religion in the state, in actuality, no state is free from an ideological position that runs the risk of excluding members of its state that hold close a conflicting ideology. Labeling an ideology "religious" because of the scriptural, cultural, or historical origins of its precepts does not change this basic tension. For example, article I, section xiii of the U.S. constitution, granting congress the right to lay and collect taxes, might conflict

with one who holds the ideological position of total laissez-faire capitalism. This individual might have voted against ratifying the U.S. constitution, but the reality is that an individual with this ideology may be forced – by birth or by being a minority voter in ratification – either to accept this tension or emigrant. A constitution cannot be a purely pluralistic document from an ideological standpoint.

The Kingdom of Bhutan's new constitution seeks, in part, to solidify the country's commitment to the GNH (Gross National Happiness) ideology – rather than any other strategy or value-set – in its movement toward becoming a modern state. By way of contrast, since the start of the Cold War, both the capitalist West and the Communists clung to very similar strategies in closing the gap between "developed" and "underdeveloped" countries. The underlying ideology was to organize

and concentrate a country's resources on economic *development*, rather than any competing objective.¹ Gross Domestic Product (GDP) or Gross National Product (GNP) emerged as means of measuring economic development. What distinguishes the GNH *Weltanschauung* from the development-for-development's-sake model is its commitment to a different fundamental objective – happiness – and consequently an attitude that development is not necessarily good for its own sake but only insofar as it promotes happiness.

While this idea of Gross National Happiness as a guiding principle in the foundation of a state could be derived from a variety of religious traditions, philosophical schools, or mental cultures, in Bhutan, the implementation of GNH takes a distinctively Buddhist character.

1. Mancall, Mark. *Gross National Happiness and Development: An Essay*, p27.

Thus the Buddhist foundation for the new Bhutanese constitution could, hypothetically, take a variety of forms. The framers could, in theory, draw solely upon the ethical precepts of Mahayana Buddhism, or they could extract only the cultural elements of Bhutanese Buddhism and incorporate these into the document. In reality, however, the distinction between the “cultural” and “ethical” aspects of Bhutanese Buddhism is less pronounced in the life of Bhutanese Buddhists, and this reality is reflected in the current draft of the constitution.

The Buddhist precepts informing GNH are primarily *ethical* ideas about the priorities a state should have with regard to its citizens and their well-being. Creating conditions for the flourishing of culture is certainly an integral part of promoting GNH, but striving to promote happiness in a population (rather than, say, “economic growth” or “development”) does not have to be tied to any particular cultural norms, any specific language, or any ritual practices of Bhutanese Buddhism. It does, however, need to be tied to the primary ethical directives of Mahayana Buddhism (for example, not harming others, or creating the conditions most suitable for reaching enlightenment, i.e. the elimination of the three poisons of greed, hatred, and delusion). In the current draft of the constitution, a cultural privilege is given to the Ngalong and central Bhutanese Buddhists of the country in an effort to promote a national culture, which is clearly a priority of GNH. But the Bhutanese constitution, in its assertion of a ‘nation culture,’ runs the risk of assuming a single, unified Bhutanese heritage.² This in some instances could marginalize other ethnic groups in the country, particularly the Nepalese in the south. Clearly, it is in the interest of Bhutan’s GNH to avoid discriminatory practices and ethnic and cultural tensions, as these conditions can quite directly impede one’s path to enlightenment by fostering hatred and delusion on both sides of ethnic divides.

2. Reinfield, Marti Ann. 2002. *Tourism and the Politics of Cultural Preservation: A Case Study of Bhutan*.

This paper argues for a greater emphasis on the Buddhist ethical foundation of the Bhutanese constitution, while arguing that explicitly Bhutanese-Buddhist cultural elements of the constitution should be more broadly construed to ensure the inclusion of the Nepalese and other minority groups in the political and cultural life of Bhutan.

The promotion of a national culture in Bhutan is certainly essential to the flourishing of its citizens. But this poses a difficult problem for the constitution’s framers, for on the one hand, the document must attempt to include all Bhutanese cultures in the political life of the state in order that GNH is truly concerned with the happiness of *all* of Bhutan’s citizens, while on the other hand, the overwhelming force of the modern, global world continually threatens the existence of Bhutanese culture, and a pluralism too generally delineated could jeopardize the very cultures the state should be trying to protect. I will examine three articles in particular (article 2 on the monarchy, article 3 on spiritual heritage, and article 6 on citizenship) and assess how well each promotes GNH in terms of this problem. I will also determine how consistent they are with other elements of the constitution that demonstrate a sound Buddhist ethical base.

Article 2:

The Institution of Monarchy

The king himself wishes to transition the monarch to more of a figurehead, cultural-fixture type of role with limited or generally unused political power. Why, then, is the monarch granted such unbridled power³ in the constitution? It may be somewhat ironic, but the answer seems to be that the current monarch, as the enlightened proponent of the GNH mentality and the transition to democracy, will much better serve the people of Bhutan

3. For example, in article 2, section 19, the king is given power to appoint – without parliamentary approval – the entire supreme court, among other important offices. Since the supreme court is the sole interpreter and defender of the constitution, the constitution itself could easily be rendered an inadequate protector of the citizens of Bhutan against a corrupt or irresponsible monarch.

than a potentially corrupt, but democratically elected, legislature and executive, who would very likely have their own interests in front of their constituents. The large majority that supports the king legitimates his current and continued authority, but the king recognizes that monarchy is generally a hit or miss endeavor, and that future generations cannot depend on an enlightened monarch to protect their interest, thus the king’s desire for further democratization.

Many Nepalese groups are anti-monarchical. In fact, the ethnic tension between western and central Bhutanese and the southern, ethnically Nepali Bhutanese is to some extent fueled by the government’s repression of these political factions in the south because of their demand for greater democratic representation and the abolition of the monarchy. Groups like the Bhutan People’s Party and the Bhutan National Democratic Party, which are comprised primarily of ethnic Nepalese exiles from Bhutan, have been regarded by the government as “terrorist and anti-national.”⁴

If the current constitution were to write in a procedure for decreasing the king’s political power through democratic means, this would enable the transition away from monarchy to continue beyond the lifetime of the current king and his son. Such a measure – in which parliament would be able to transfer *permanently* certain appointment powers to, for example, the elected executive – would increase the country’s commitment to GNH in two important ways.

First of all, it would demonstrate a greater commitment to democratic reform, which, while not necessarily translating into a higher GNH now, would certainly benefit the people of Bhutan greatly if a future monarch did not uphold the precepts of the constitution and appointed judges who served simply as an extension of his power. Second, the prospective elimination of the monarch as a highly influential political power into a more

4. U.S. Bureau of Democracy, Human Rights, and Labor. 2003. *Bhutan: Country Reports on Human Rights Practices*.

cultural role would also have a positive impact on the ethnic tensions currently present in the country. If Bhutan is truly committed to freedom of political expression, as stated not only in article 7 of the constitution⁵ but also by the very fact that the new constitution is based on a multi-party system,⁶ then it eventually must face the reality of the anti-monarchical political parties of the ethnic Nepalese. If these parties are truly practicing terrorist activities – a claim contested by human rights groups⁷ – then other aspects of the constitution provide the state with the power to defend itself. But if Bhutan takes seriously its commitment to the happiness of *all* its citizens, it must allow the members of the state who do not support the monarchy a legitimate chance to achieve their goal – a goal, by the way, which does not necessarily totally clash with the desires of the king himself. A provision allowing for the king's eventual withdrawal from the political process would help include a potentially marginalized minority in the political life of Bhutan.

As a side point, if it is in the interests of GNH to combat income disparity and concentration of wealth⁸, then the drafting committee should seriously consider section 13 of article 2, in which the royal family is granted continued state annuities, the provision of palaces, and an exemption from taxes. Because the king and his family serve as an important cultural symbol for the Bhutanese people, perhaps this article could be revised to allow for the king to set a positive example as regards concentration of wealth in Bhutan. Is supporting a monarch the best use of the state's coffers, particularly when that state claims to be committed to minimizing inequalities of income and equitable

5. Article 7, section 15: "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" [my italics].

6. Political parties, as of 2003, were illegal under the law.⁷

7. U.S. Bureau of Democracy, Human Rights, and Labor. 2002. *International Religious Freedom Report*.

8. Article 9, section 7.

distributing of public facilities? The king, as a Buddhist, should serve as an example of, and not as an exception to, this rule. Granted, there certainly exists an argument that supporting and preserving the royal family monetarily is in the interest of GNH because it promotes culture and a longstanding tradition in Bhutan. But the monarch does not need to be exempt from taxation or live in a palace to continue this tradition. The idea of a "palace" is inconsistent with GNH, and, as a symbolic gesture if nothing else, these palaces could be transformed into museums or other publicly used centerpieces of Bhutanese culture to doubly promote GNH (that is, by both promoting culture and eliminating concentrations of wealth). In general, it may be a good idea to incorporate into the constitution provisions that ensure that wealth of Bhutan is not concentrated in its political leaders, who should instead serve as examples of the GNH state's commitment to reduce income inequality. The king would be an important symbolic starting point.

Article 3: Spiritual Heritage

Section 1 of this article serves as an important articulation of Buddhism's commitment to GNH as regards religious matters.⁹ In the spirit of this commitment not only to tolerance but to compassion, the framers must rethink this article in an important respect.

While it is certainly essential to demonstrate Buddhism's role in the "spiritual heritage" of the country and to express Bhutan's commitment to Buddhist values, the primarily Nepalese Hindu minority in the country must also be considered a part of the spiritual heritage of the country. To this effect, the ensured state funding – laid out in section 7 – of certain Buddhist schools¹⁰ should be accompanied by

9. "Buddhism is the spiritual heritage of Bhutan, which promotes among others the principles and values of peace, non-violence, compassion, and tolerance."

10. "The Zhung Dratshang and Rabdeys shall continue to receive adequate funds and other facilities from the State."

a similar article ensuring the state funding of other religious institutions, including the Hindus in the south as well as the Sharchop Buddhists in the east. Furthermore, the article should guarantee that the government will not distribute funding unequally based on racial, religious, or cultural qualifications.

If this is not an economically feasible option, then the framers must reconsider the current privileged position given to the dominant religious tradition because of the discriminatory practice this promotes. Inequalities in a society are the quickest way to foster the three poisons that inhibit a person's path to enlightenment. Bhutan's commitment to these Buddhist precepts means it must avoid establishing a state religion, and this article, as it stands, comes very close to doing so.

Granting proportionately equal funding to all religious traditions would enhance the country's GNH by including all citizens in the cultural promotion efforts of this article. Furthermore, this more tolerant option would help resolve ethnic tensions that could diminish GNH by creating an atmosphere of minority resentment toward majority cultural privilege.¹¹

Article 6: Citizenship

Perhaps the most significant effort the framer's of the Bhutanese constitution can make in promoting GNH would involve reconsidering its citizenship regulations. The current citizenship requirements in the constitution reflect changes in the citizenship laws instituted in the late 1980s and early 1990s, where requirements became more strict in order to limit the amount of Nepalese immigrants residing in Bhutan.¹² During the census at this time, citizenship cards that had been issued to all Bhutanese in the years lead-

11. It might also be important, for the same reasons, to include a provision that reverses the fact that Buddhist texts are currently the only printed religious materials permitted to enter the country (according to U.S. Bureau of Democracy, Human Rights, and Labor. 2002. *International Religious Freedom Report*).

12. U.S. Bureau of Democracy, Human Rights, and Labor. 2003. *Bhutan: Country Reports on Human Rights Practices*.

ing up to 1998 were no longer accepted as proof of Bhutanese citizenship. Instead, a tax receipt from the first Nationality Law of 1958 was required for the ethnic Nepalese to prove that they had lived in Bhutan prior to that year.¹³ This stipulation lives in section 2 on this article.

Section 3(c) of the article requires all applicants for citizenship to speak and write Dzongkha, the national language of the country as laid out in article 1, section 8. In the early 1990s, it is estimated that Bhutan was populated by 160,000 speakers of Dzongkha, 138,000 speakers of Tshangla, the language of the Sharchops in the east, and 156,000 speakers of Nepali. This gives the three major non-English languages a 26.5%, 22.9%, and 25.9% speaking rate, respectively, out of a total population of 602,800 at that time.¹⁴ Given this diversity of language in the country, it seems inconsistent with other articles in the constitution not only that Dzongkha should be considered the “national language,” but more importantly that citizenship in Bhutan would depend upon an applicant knowing Dzongkha. If “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” as in article 7, section 15, and if “a Bhutanese citizen shall foster tolerance, mutual respect, and spirit of brotherhood amongst all the peoples of Bhutan transcending religious, *linguistic*, regional, or sectional diversities” as in article 8 section 3 [my italics], then the lan-

guage requirement for citizenship does not seem to belong in the constitution. Both of these articles represent core values of the GNH state because they promote equality among Bhutanese people, which, in turn, creates the society whose conditions are best for reaching enlightenment.

Both section 2 and section 3(c) in article 6 aim at restricting Bhutanese citizenship in the name of preserving national culture, and also in order to avoid the devastating economic burden a massive influx of immigrants could put on the Bhutanese economy. Presumably, these same concerns are what motivated the state’s policies in the late 80s and early 90s when tens of thousands of Nepalese immigrants left the country, supposedly, in many cases, by force.¹⁵ The status of these people – currently residing in refugee camps and desiring to return to their homes – remains a contentious issue.¹⁶

The threat the ethnic Nepalese can pose to Bhutan is not imagined. To a great extent, the Nepalese immigrant population’s marginalization of the once-dominant nationals in Sikkim is what caused the disintegration of the state of Sikkim into India, the precise destiny Bhutan is, naturally, trying to avoid.¹⁷ However, a greater threat is posed to Bhutan as a GNH state if it is to compromise its commitment to the welfare and well-being of its Nepalese people, and by excluding Nepalese people who either live in Bhutan or have lived in Bhutan from gaining citizenship, the state

is practicing the very discriminatory practices it claims to oppose in articles 7.15 and 8.3.

Instead, the citizenship article should be an important step in bridging this ethnic divide, and the constitution should make generous concessions to the Nepali-Bhutanese in particular as regards citizenship. The issue of repatriation of the roughly 100,000 Bhutanese refugees in conjunction with the changed citizenship requirements have resulted, in the past, in political protests and ethnic conflicts in the southern, primarily Nepalese districts in Bhutan.¹⁸ These sorts of conflicts are clearly against the interests of GNH, and harmonizing them remains a priority in the current constitution. Thus the broadening of the citizenship requirements in the constitution – perhaps even including a provision concerning people exiled from Bhutan in the past, and their right to Bhutanese citizenship – could help resolve a long standing ethnic conflict.

Deciding to measure one’s state on a basis Gross National Happiness rather than Gross Domestic Product is a lofty ethical ambition. While the king admits that Bhutan is not currently a “GNH state” but rather aspires to be one, the demands of working from a GNH mentality remain uncompromising. As Bhutan frames its first constitution, it has strived to place GNH at the center of the document, and to an overwhelming extent it appears to have done so. As this draft of the constitution is revisited, particular attention should be paid to the Nepali question – particularly to these three articles – if Bhutan’s aspiration to become a GNH state has any hopes of undisputed success.

13. Hutt, Michael. 2005. *The Bhutanese Refugees: Between Verification, Repatriation, and Royal Realpolitik*. Peace and Democracy in South Asia, Volume 1.

14. Van Driem, George. 1994. Language policy in Bhutan. In Michael Aris and Michael Hutt (ed) *Bhutan: Aspects of Culture and Development*. Gartmore: Kiscadale Publications.

15. U.S. Bureau of Democracy, Human Rights, and Labor. 2003. *Bhutan: Country Reports on Human Rights Practices*.

16. Hutt, Michael. 2005. *The Bhutanese Refugees: Between Verification, Repatriation, and Royal Realpolitik*. Peace and Democracy in South Asia, Volume 1.

17. Rahul, Ram. 1997. *Royal Bhutan: A Political History*. Bangalore: Vikas Publishing House Pvt Ltd.

18. U.S. Bureau of Democracy, Human Rights, and Labor. 2003. *Bhutan: Country Reports on Human Rights Practices*.

Jamie Poskin*Class of 2006**Religious Studies, Drama*

Jamie Poskin has served as both a writer and an icon throughout the human history of the Americas. Originally unique to the Western Hemisphere, he was a literary favorite of the fierce Carib Indians who lived on islands in the sea that still bears their name. Over the course of time, Jamie naturally came to symbolize the high spirits of social events, his image coming to express the sense of welcome, good cheer, human warmth, and family affection inherent to gracious home gatherings. A Delicious Treat by Any Standard, Jamie Poskin has become a ubiquitous form for tabletop whimsy throughout the world.