

Comprehensive Review of the Land Act of Bhutan, 2007 for Revision

**Dr. Dasho Kinzang Dorji (Former
Minister)**



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The Centre for Bhutan Studies & GNH Research

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for Revision**

By *Dr. Dasho Kinzang Dorji (Former Minister)*

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Research

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In this regard, I had been fortunate to be involved in the drafting of our national legislation since 1979 when I assisted an International Consultant in the drafting of the Livestock Act of Bhutan, 1980. Since then I had been directly or indirectly involved in drafting the following national legislations:

1. Plant Quarantine Act, 1993,
2. Lhengye Zhungtshog Act, 1999 (as the Speaker of the National Assembly, I was the chairperson of the 37-member drafting committee),

3. Mechanism for Vote of Confidence in the Druk Gyalpo, 1999 (I was the chairman of the 37-member drafting committee as the Speaker of the National Assembly),
4. Seeds Act, 2000,
5. Pesticides Act, 2000,
6. Livestock Act, 2001,
7. Cooperatives Act, 2001,
8. Biodiversity Act, 2003,
9. Tenancy Act, 2004,
10. Road Act, 2004,
11. Thromde Act, 2007, and
12. Land Act, 2007.

I had the great honour of being a Member of the erstwhile National Assembly of Bhutan for 19 years starting from 1989, when I was appointed the Zonal Administrator for East-Central Bhutan, until 2007 when the National Assembly was dissolved in November 2007 to usher in a new era of Democratic Constitutional Monarchy form of Government in the country. So, I had the privilege and responsibility of introducing and defending the following acts in the National Assembly of Bhutan:

1. The Plant Quarantine Act, 1993,
2. Forest & Nature Conservation Act, 1995,
3. Lhengye Zhungtshog Act, 1999,
4. Mechanism for Vote of Confidence in the Druk Gyalpo, 1999,
5. Livestock Act, 2001,
6. Cooperatives Act, 2001,
7. Biodiversity Act, 2003,
8. Tenancy Act, 2004,
9. Road Act, 2004,
10. Thromde Act, 2007

In addition, I had also introduced a number of International Treaties, Protocols and Conventions for adoption by our Parliament.

I was elected the Speaker of the National Assembly on 19th June 1997, a day before the inauguration of its 75th session, and relinquished the post on 27th July 2000, on conclusion of the 78th session, thereby giving me the opportunity to preside over four longest and most historic sessions of the National Assembly of Bhutan when the country was passing through an unprecedented period of political change as well as facing serious challenges to its national security and sovereignty. In spite of the National Assembly having to deliberate and decide on very important issues of national security and sovereignty during this crucial period, some 16 national legislations were passed. Further, as a Cabinet Minister for 10 years, I had the privilege of being involved in the validation and endorsement of all the legislations that were submitted by the *Lhengye Zhungtshog* for enactment by the National Assembly of Bhutan during the period.

While browsing through the list of national laws enacted by the former National Assembly of Bhutan on the websites of the two houses of Parliament, I noticed that out of some 100 national legislations enacted till 2007, about 63 were enacted during the period between 1989 and 2007 when I was a Member of this august House.

I was greatly honoured by the Royal Command of His Majesty the King to lead the Simplification of Dzongkha Text of the Draft Constitution of Bhutan in 2005, which I did with the able support of our most learned Dzongkha language experts in the country. Prior to that, I was privileged to be identified by the Council of Ministers as one of the potential candidates to chair the Constitution Drafting Committee in 2001. Earlier, I was also involved in the translation of the proceedings and

resolutions of the National Assembly from Dzongkha to English over a number of years just preceding my election as the Speaker of the house. I was also a member of the Resettlement Committee, which drafted the criteria, terms and conditions for re-settlers and oversaw the resettlement process based on the resolution of the 75th session of the National Assembly of Bhutan held in June-July 1997.

The task of revision of the Land Act has indeed been a very challenging one as land is an important and emotive topic for the Bhutanese, and almost every Bhutanese has some opinion on it. Hence, the wide consultations with various stakeholders were most useful and very relevant. The recommendations that I have made in this report are based on what I perceived as majority and important views expressed in the consultation meetings, which I had tried to record as sincerely and correctly as possible.

I would like to acknowledge the kind cooperation, support and guidance received from Dasho Sangay Khandu, Secretary of the National Land Commission, and his colleagues in carrying out this important task, which allowed me to have several meetings with them. I would like to express my sincere appreciation to the following individuals for their valuable time and contributions:

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- Dasho Sherub Gyeltshen, Agriculture Secretary
- Dasho Dr. Ugyen Tshewang, Secretary, National Environment Commission
- Dasho Rinchen Dorji, Director, DUDES, Ministry of Works and Human Settlement
- Dasho Sonam Yangley, Director General of Department of Geology and Mines

- Dasho Ugyen Tshering, Chairman of Natural Resources and Environment Committee of the National Council of Bhutan
- Phub Tshering, Secretary General of Bhutan Chamber of Commerce and Industry

My sincere appreciation is due to all those Hon'ble Members of the National Council of Bhutan who attended the consultation meeting with the Chairman, Hon'ble Ugyen Tshering, and members of the Natural Resources and Environment Committee for their valuable comments and suggestions. Similarly, the valuable contributions made by the Chairperson of Environment/Land/Urban Development Committee, Hon'ble Ugyen Tenzin, the Chairperson of the Legislative Committee of the National Assembly of Bhutan, Hon'ble Ugyen Wangdi, and the Chairpersons of twenty Dzongkhag Tshogdus and the Gups/Chairpersons of 205 Gewogs/Gewog Tshogdes have added immense value to the output of my work, and in the revision of the Land Act of Bhutan, 2007.

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- Ugyen Tshering, Legal Officer, PPD
- Sangay Chhophel, Planning Officer, PPD
- Karma Geley, Land Management Officer of Department of Agriculture

Ugyen was my focal point in the Policy and Planning Division of the Ministry of Agriculture and Forests and facilitator of this important undertaking.

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And finally, to all those who I might have missed above to acknowledge their share of support, I offer my appreciation and gratitude.

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GLOSSARY OF DZONGKHA TERMS USED IN THE REPORT

<i>Kidu</i>	Welfare
<i>Thrimshung Chenmo</i>	Supreme law
<i>Kasho</i>	Royal Edict
<i>Soelra</i>	Reward
<i>Tsamdro/Tsamdog</i>	Rangeland/native grassland/pastureland
<i>Sokshing</i>	Woodlot for collection of leaf litter to be used as bedding for livestock and as a source of organic manure
<i>Chhuzhing</i>	Irrigated land for rice cultivation
<i>Tseree/Tseri</i>	Land for slash and burn agriculture
<i>Thram</i>	Land records
<i>Thrimshung</i>	Same as <i>Thrimshung Chenmo</i>
<i>Toshing</i>	Land given by the family for an individual member's subsistence
<i>Phazhing</i>	Inherited land
<i>Zurkhyim</i>	A house other than a parental or main house
<i>Yojed</i>	Donated to a monastery or temple
<i>Jashing</i>	Another name for <i>Sokshing</i>
<i>Tsatong</i>	Land vacated by the owner after one's death without heirs or due to other reasons

<i>Dzongkhag</i>	Province/District
<i>Gewog</i>	Block/cluster of villages
<i>Thromde</i>	Municipality
<i>Thromde Tshogde</i>	Municipal committee
<i>Kamzhing</i>	Dry land
<i>Gup</i>	Head of a Geog elected democratically
<i>Dzongkhag Tshogdu</i>	District Council
<i>Chimi</i>	People's representative elected to the former National Assembly of Bhutan
<i>Lagthram</i>	Land ownership certificate
<i>Chhazhag Sathram</i>	Central Land Register
<i>Druk Gyalpo</i>	King of the Dragon Kingdom
<i>Pangzhing</i>	Slash and burn agriculture practiced in the higher elevations with less vegetation and shorter cycles
<i>Thrimthue</i>	Fine in lieu of imprisonment
<i>Chathrim</i>	Act
<i>Yargey Tshogdu</i>	Development Council
<i>Yargay Tshogchung</i>	Development Committee
<i>Dzongkhag Tshogdu</i>	Dzongkhag Council
<i>Gewog Tshogde</i>	Gewog Committee

1 Introduction and Background

Land is the most basic and important resource for any country. Land is one of the three basic factors of production under “land, labour and capital”. It is the platform for all human activities. Land is necessary to all production, no matter what the kind or form; land is the standing-place, the workshop, the storehouse of labor; it is to the human being the only means by which he can obtain access to the material universe or utilize its powers. Without land man cannot exist. To whom the ownership of land is given, to him is given the virtual ownership of the men who must live upon it. No man created the earth, but to a large extent all take from the earth a portion of it and mould it into useful things for the use of man. Without land man cannot live; without access to it man cannot labor. Historically, wars were fought mainly to gain control over land or territory.

Land is the most basic of all economic resources, fundamental to the form that the economic development takes. Its use for agricultural purposes is integral to the production of the means of our subsistence. Its use in an urban context is crucial in shaping how effectively cities function and who gets the principal benefits from urban economic growth. Its ownership is a major determinant of the degree of economic inequality as surges of land prices cause major redistributions of wealth. In both an urban and rural context the use of land – and nature more generally – is

central to the possibility of ecological sustainability. Contemporary social concerns about problems of housing affordability and environmental quality necessarily focus our attention on ‘the land question.’

Georgist analysis strongly emphasizes landownership as a principal source of inequality. Because land is a strictly limited resource, its private ownership necessarily excludes large sections of the community from its benefits. A landowning class thereby gains political and economic power. In George’s own time the social identity and power of this landowning class was distinctive. Those who could not afford to buy land were forced to pay rent to the wealthier few, who could. By taxing the value of land, George posited that publicly created wealth could be recouped from the private landowners and redistributed throughout the community more equitably in order to address social goals.

Land is the principal source of livelihood and material wealth and invariably carries cultural significance for the Bhutanese. Before the advent of modern development when Bhutan was under so-called self-imposed isolation, the country was not only self-sufficient in food it used to export a surplus to the north for barter trade. During that period almost every Bhutanese household was more or less self-contained and self-sufficient. Of course there were those who were considered better off and others who were considered worse off. So, one’s status of wealth used to be measured in terms of area of agricultural land and number of livestock ownership. With the abolition of serfdom and introduction of land reform through redistribution of land and imposition of a land ceiling by His Late Majesty Jigme Dorji Wangchuck, the Third King of Bhutan, Bhutan’s society became truly egalitarian. This reform was further broadened by His Majesty Jigme Singye Wangchuck, the Fourth King of Bhutan, through introduction of a system of granting land on *Kidu* to those who were either

landless or did not own adequate land. This wise and profound legacy has been given a new meaning and dimension by His Majesty the King by taking the actual delivery of land *Kidu* to the doorsteps of the deserving beneficiaries. Hence, land has to be very dear to the Bhutanese. As a result, there should be very few landless people in Bhutan, and the law on land has a direct bearing on almost every Bhutanese citizen. The legislation on land can, therefore, be considered as the most important legal framework second only to the Constitution of Bhutan.

It is extremely important to have a wise and realistic national land policy, which should be backed by a fair and just land law to provide efficient and effective land administration and management in the country. Proper registration of private land in the *Thram* is necessary to protect and provide land ownership security to land owners. Equitable access to land particularly to those dependent on land is equally important.

Since land is also the main source of social and economic security to majority population in the country, but with land resource being finite, effort to ensure equitable distribution through various policy and legal measures may be in the long-term interest of the nation. The Constitution of Bhutan has adequate provisions to address this issue.

Prior to 1953, customary law regulated land use in Bhutan (Ura, 1995). With the passage of *Thrimshung Chenmo* or Supreme Laws of Bhutan in 1953, land use was governed by the first national legislation. The section on land was superseded by the Land Act of 1979 that lasted for 28 years although numerous resolutions adopted subsequently by the National Assembly of Bhutan became part of this national land legislation. Various Resolutions on land adopted by the 1st to 87th sessions of the National Assembly of Bhutan, which

was painstakingly compiled by the Consultant, is attached as Annexure I.

The need for revision of the 1979 land legislation was being felt for a long time and hence the then Ministry of Agriculture started the work on it with the formation of a multi-sector committee in 2004. The bill was submitted to the 87th session of the erstwhile National Assembly of Bhutan in July 2007 and adopted as the Land Act of Bhutan, 2007, for enforcement with effect from 1 January 2008. However, with the change in the governance system in the country, and establishment of the new Parliament in May 2008, issues on land were discussed frequently in both the houses of Parliament. It was decided by the 7th session of the first Parliament in June 2011 that work on the amendments to the Land Act of Bhutan, 2007, should be taken up by the Ministry of Agriculture and Forests and submitted to its subsequent session.

Before going into the policy and legal analyses, it is felt necessary to get a clear definition of the word, “land”, and its different connotations vis-à-vis the Land Act of Bhutan.

According to Webster’s New World Dictionary, the word, “land” means:

1. the solid part of the earth’s surface not covered by water
2. A specific part of the earth’s surface
3. a) a country, region, etc. (a distant *land*, one’s native *land*)
b) the inhabitants of such an area; nation’s people
4. ground or soil in terms of its quality, location, etc. (rich *land*, high *land*)
5. a) ground considered as property, estate (to invest in *land*)
b) Specific holdings in land

6. rural or farming regions as distinguished from urban regions (to return to the land)
7. that part of a grooved surface which is not indented, as any of the ridges between the grooves in the bore of a rifle
8. natural resources

In the context of the Land Act of Bhutan, land is to be understood to include fixtures or structures on it unless otherwise specified. The following new terminologies used in the new land policy document also need to be understood clearly:

1. alienable land: land under state ownership such as forest land delineated and demarcated for disposal area for development purposes
2. freehold land: a state of tenure that confers full right of use, management, transaction and control over the land; an estate held in fee simple or for life
3. leasehold land: state of tenure that confers only a right of use of land for defined period of time and purpose; land or property held under lease

2 Policy analysis

2.1 Draft Land Policy

It seems we did not have a written policy document on land perhaps as it was indirectly addressed through various other sector policies such as the agriculture, forest, industrial and municipal policies. Hence, the present Government decided to fill this gap by drafting a comprehensive policy document and the task for drafting it was entrusted to the National Land Commission. A multi-sector task force was formed to prepare the Draft Land Policy with the help of external consultants brought under a donor-assisted project. It is understood that this draft was revised as many as six times during the life of the project. However, the earlier draft was rejected and a new draft prepared with the help of a local Consultant, and finally endorsed by the National Land Commission for submission to the GNH Commission. At the time of writing this report, the Draft Land Policy document had been submitted to the *Lhengye Zhungtshog* by the Gross National Happiness Commission for approval. A copy of the *Final Draft National Land Policy* as submitted by the GNH Commission to the Cabinet Secretariat is attached as Annexure II.

The Draft Land Policy document seems to be a bit too broad for such an important topic as land. This was probably the reason why it has taken so long for finalization. Some of the important issues highlighted in the earlier draft should have found a place in the final draft. References have been found made to current policies on economic development, water and forest but not agriculture, biodiversity, industries, urban development, etc. perhaps because of the economic development policy, which says that it “shall be the apex policy for economic development of the country and shall be the guiding document for all ministries and agencies to stimulate economic growth and more importantly, to ensure that growth takes place in consonance with the principles of GNH”. Similarly, references have been made to some of the national legislations but not all those, which have direct relevance to land such as the Local Government Act, the Road Act, the Telecommunications Act, etc.

Although new elements in the Draft Land Policy include spatial planning, identification of state forest land as alienable land for leasing and allotment, zoning of land based on capability and use, land swapping, protection and conservation of ecology, other important elements such as strategic land use planning, rehabilitation of marginal farmers, rationalization of land for housing, agricultural land protection for food self-sufficiency, right of ways for vital infrastructure, spatial planning for rural areas, etc. could be either incorporated or further elaborated. While adequate importance seems to have been given to agriculture and industries, the reality of rapid urbanization taking place in the country and its consequent need for proper planning and development of urban settlements seems to have been lost. With more than 50% of the population expected to be living in the urban centres within the next decade or so, this requires wise, visionary and pro-active measures if we want to reflect

the best of Bhutanese values and architecture while ensuring that we benefit from concentration of population but without unnecessary congestion or compromise of aesthetics.

The areas, which may require further review and reconsideration are as follows:

1. “Eminent domain: Power of the Sate to extinguish or acquire any title or other interest in land for a public purpose subject to payment of compensation”, seems to be inconsistent with Article 7, Section 14 of the Constitution of the Kingdom of Bhutan as the doctrine of “eminent domain” does not find a mention in the Constitution of Bhutan,
2. “Green belt”: The definition seems to be too narrow, so, if it could be broadened to include riverside buffers, international border buffers, etc.,
3. “State forests”: This term is inconsistent with the term used in the Forest and Nature Conservation Act of Bhutan, 1995; hence it should be reconciled.
4. “Nye”: The definition should include sites of “historical” significance as well in line with Article 4, Section 1 of the Constitution,
5. The Telecommunications Act, the Inheritance Act, the Moveable and Immovable Property Act, the Local Government Act, the Loan Act, the Road Act and the Water Act should also be mentioned as they contain provisions on land acquisition and land use,
6. Section 10: There is no need to mention “Royal” as *Kasho* has already been defined under Glossary,

7. Section 13 may change based on the adoption of the new Land Bill 2012,
8. Section 23 should also include Civil Society Organizations and corporations,
9. Section 28 may be inconsistent with the Constitution of Bhutan as the phrase “eminent domain” does not feature in the Constitution,
10. Section 30 should include “historical” monuments as well,
11. Section 32 should perhaps mention Property Assessment and Valuation Agency (PAVA) as contained in the Land Act instead of National Land Commission, and
12. There is a need to define *Kasho* and *Kidu* land separately so as to remove confusion between land received as *Soetra* and land received as *Kidu* both of which are received under a *Kasho* from His Majesty the King.
13. Strategic land use planning, rehabilitation of marginal farmers, rationalization of land for housing, agricultural land protection, right of ways and spatial planning should be incorporated or further elaborated.

2.2 The Economic Development Policy (EDP) 2010

The Economic Development Policy is the overarching policy document, which cuts across all sectors and which will contribute towards achieving sustainable economic development in the country. It contains, among others, the

following specific provisions on land, which should be taken into consideration in revising the Land Act:

1. Section 1: “Access to land is considered as one of the constraints for sustainable economic development”.
2. Section 4: “Wherever necessary, policies, laws, rules and regulations shall be harmonized or amended in line with the provisions of the Economic Development Policy”.
3. Section 6: “The southern region shall be promoted as the main economic hub for trade, transport, storage and manufacturing through creation of industrial estates, dry ports and SEZs. In the interior, focus will be on the promotion of services, cultural and high value products”.
4. Section 7.1: “A comprehensive land use policy with clear zoning for industrial, tourism, environment conservation, prime agriculture land for agricultural and horticultural use shall be developed by 2011”.
5. Section 7.1: “As provided in the Land Act of 2007, businesses shall be allowed to register land in the name of the company. In case of FDI, this will enable the local investors/promoters to put land as equity component”.
6. Section 7.3: “Designated areas shall be identified and developed for establishment of industries. Location of industries in all areas outside the designated industrial areas shall be allowed based on the land use plan and/or environmental clearance”.

7. Section 7.5: “Areas that have tourism potential including protected areas shall be identified and developed nationwide”.
8. Section 7.11: “Facilitate availability of land for large scale commercial farming where sustainable”.
9. Section 7.11: “Identify prime agricultural land and preserve it”.
10. Section 8: “All Acts, Policies, Rules and Regulations of all sectors shall be reviewed to create an enabling environment”.
11. Section 9: “Long term land lease shall be provided to businesses based on the type of activity”.

2.3 Other Relevant Policies

The National Forest Policy, 2011, Food and Nutrition Security Policy, 2010, National Irrigation Policy, 2011, Strategy for Protection of Agricultural Areas and National Urbanization Policy, 2008, were also examined with an aim to find inconsistencies if any with the National Land Policy and the Land Act. It is the understanding of this Consultant that the Economic Development Policy, as the apex policy document, overrides all other policies and hence, no attempts have been made to undertake a critical review of these policy documents. Besides, most of these documents were in draft form when made available to the Consultant.

The National Irrigation Policy should include the objective of bringing more land under irrigation to support the food self-sufficiency policy as well as providing irrigation for horticulture and cash crops. The Forest Policy document does not seem to recognize *Tsamdro* and *Sokshing* rights of

Bhutanese citizens since there is no mention of these words in the document. This, the Consultant feels, is a major flaw when most of the Government Reserved Forest Land is used for grazing throughout the country and is also acknowledged in the Forest and Nature Conservation Act of Bhutan, 1995. *Sokshing* forms a major part of the forest cover that Bhutan boasts of. The provisions contained in the National Land Policy will also have implications on the forests as it will come under zoning for different uses and further demarcation of alienable land.

A few comments on the Strategy for Protection of Agriculture Areas are provided below:

1. There seems to be some serious error in the projected rice demand figure for 2020 (refer Figure 5 and 6),
2. Increasing yield per unit area of land, crop intensification and double, even triple, cropping of paddy, as was successfully done in the past, could be other potential strategies to increase rice production.
3. Thousands of acres of *Chhuzhing* (Gelephu, Samdrupchholing, Langchenphu) are being left fallow by absentee landowners every year, as reported by the *Gups* and most of it happens to be large holdings. A strategy to bring these valuable *Chhuzhing* under rice cultivation needs to be put in place.
4. It is felt that the area of *Chhuzhing* can be increased but not necessarily by sacrificing forest land. One possibility is through reclamation of large tracts of agricultural land, which have been affected by floods in places like Gelephu and Samtse. The other possibility is through provision for irrigation in places where large areas of land can be brought under rice cultivation.

5. While trying to protect *Kamzhing*, aiming at producing more maize is likely to be self-defeating unless alternative use or market for surplus maize is found. One option may be to take into account the need for diversification of the food basket in keeping with changing food habit of the Bhutanese people as well as emergence of modern lifestyle diseases among the population.
6. Just providing subsidy and tax exemption are not going to be adequate to encourage farmers to continue to grow rice. It definitely needs more than that which the Government should be able to provide now than ever before given the national objective of food self-sufficiency.
7. In spite of our harping so much on promotion of commercial agriculture, the Government has little or no experience of running any commercial agriculture or farm enterprise. But, it has to take the lead role nevertheless. In this regard, the de-corporatization of Druk Seed Corporation was perhaps a step in the wrong direction.
8. Labour shortage is quoted as one of the major constraining factors in the rural areas in spite of emphasis and huge investments made in farm mechanization. A realistic strategy to overcome this problem needs to be put in place.
9. With the very fast urbanization and hence diversification of food basket of the Bhutanese, a 50 per cent rice self-sufficiency may be more realistic in view of the additional cost burden that the Government will have to bear through additional

infrastructure such as irrigation, subsidies, tax exemption, direct support price for rice, etc.

10. Is food self-sufficiency more important or promotion of commercial agriculture assuming that growing rice as a commercial crop is neither attractive nor feasible? But hundreds and perhaps thousands of acres of Government Reserved Forest Land (GRFL) have already been committed for commercial agriculture without really knowing the larger benefits to the people and the country. Are we getting our priorities right?

So, there is a clear need to improve some of the policy documents and at the same time to harmonize them with each other and consequently with the respective national legislations.

3

Analysis of legal provisions

3.1 The Constitution of the Kingdom of Bhutan

The Constitution of the Kingdom of Bhutan, which is the Supreme Law of the State, has the following provisions on land and issues related to land and the Land Act:

1. “Article 1, Section 3: The international territorial boundary of Bhutan is inviolable and any alteration of areas and boundaries thereof shall be done only with the consent of not less than three-fourths of the total number of members of Parliament.”
2. “Article 1, Section 4: The territory of Bhutan shall comprise twenty Dzongkhags with each Dzongkhag consisting of Gewogs and Thromdes. Alteration of areas and boundaries of any Dzongkhag or Gewog shall be done only with the consent of not less than three-fourths of the total number of members of Parliament.”
3. “Article 1, Section 12: The rights over mineral resources, rivers, lakes and forests shall vest in the

State and are the properties of the State, which shall be regulated by law.”

4. “Article 2, Section 16: The Druk Gyalpo, in exercise of His Royal Prerogatives, may: (b) Grant land Kidu and other Kidus;”
5. ‘Article 5, Section 2: The Royal Government shall: (a) Protect, conserve and improve the pristine environment and safeguard the biodiversity of the country;”
6. “Article 5, Section 3: The Government shall ensure that, in order to conserve the country’s natural resources and to prevent degradation of the ecosystem, a minimum of sixty per percent of Bhutan’s total land shall be maintained under forest cover for all time.”
7. “Article 5, Section 4: Parliament may enact environmental legislation to ensure sustainable use of natural resources and maintain intergenerational equity and reaffirm the sovereign rights of the State over its own biological resources.
8. Article 7, Section 9: A Bhutanese citizen shall have rights to own property, but shall not have the right to sell or transfer land and any immovable property to a person who is not a citizen of Bhutan, except in keeping with laws enacted by Parliament.”
9. “Article 7, Section 14: A person shall not be deprived of property by acquisition or requisition, except for public purpose and on payment of fair compensation in accordance with the provisions of the law.”

10. “Article 9, Section 7: The State shall endeavour to develop and execute policies to minimize inequalities of income, concentration of wealth, and promote equitable distribution of public facilities among individuals and people living in different parts of the Kingdom.”
11. “Article 9, Section 11: The State shall endeavour to promote those circumstances that would enable the citizens to secure an adequate livelihood.”

The provisions of the Constitution of Bhutan, with regard to its citizen’s rights vis-à-vis land are profound and generous, and therefore, the Land Act has to be consistent with it. The Consultant feels that some of the provisions of the current Land Act are not consistent with the provisions of the Constitution of Bhutan probably because the Constitution was adopted later than the Land Act, 2007.

3.2 The Forest and Nature Conservation Act of Bhutan, 1995

The Forest and Nature Conservation Act of Bhutan (1995) contains the following provisions some of which may seem to be inconsistent with the Constitution of Bhutan as well as the Land Act of Bhutan, 2007:

1. “Section 3. Definitions

In this Act, and in all rules made hereunder:

(e). “Forest” means any land and water body, whether or not under vegetative cover, in which no person has acquired a permanent and transferable right of use and occupancy, whether such land is located inside or outside the forest boundary pillars, and includes land registered in a person’s name as

Tsamdog (grazing land) or *Sokshing* (woodlot for collection of leaf litter).”

This definition may be inconsistent with the provisions of the Constitution of Bhutan because the forest cover in Article 5, Section, 3 of the Constitution has to be understood as real forest or tree cover and not just any land and water body, whether or not under vegetative cover.

“(g). “Forest Produce” includes the following whether or not found in the Forests:

(ii) Wild plants and parts or products of wild plants including flowers, seeds, bulbs, roots, fruits, leaves, grasses, creepers, reeds, orchids, bamboo, cane, fungi, moss, medicinal plants, herbs, leaf mould, or other vegetative growth, whether alive or dead.

(iv) boulders, stone, sand, gravel, rocks, peat, surface soil.

(j). “Livestock” means any domestic or domesticated animals and birds.

(p). “Shifting Cultivation” means *tseree* and *pangzhing*.

(q). “Social Forestry” means planting of trees and/or other forest crops on private registered lands, within the 25 acre land ceiling, such as *kamzhing*, *tseree* and *pangzhing* lands and registered under the social forestry rules.”

2. “Section 8. Government Reserved Forests

(a). All Forests are declared to be Government Reserved Forests.

(b). A community forest established under Section 17 shall cease to be Government Reserved Forest, but if it shall cease to be a community forest, it shall automatically revert as Government Reserved Forest.

(c). The National Assembly or His Majesty the King may direct that all or part of land declared as Government Reserved Forest shall cease to be a Government Reserved Forest.”

The definition of “**Forest**” itself needs to be reconciled as it is all-encompassing at present and may even be inconsistent with other laws and even with Article 5, Section 3, of the Constitution of Bhutan. Also, going by the above provisions of the Forest and Nature Conservation Act of Bhutan, the large areas of Government Reserved Forests so far declared as Community Forests may seem to be illegal as no approval of the National Assembly or His Majesty the King seems to have been sought in handing over these areas to the people for management as Community Forests.

3. “Section 9. Compensation and Alternative Land Rights

The Royal Government may declare any private registered land to be Government Reserved Forest, in accordance with Sections 6.8 and 6.9 of the Land Act of 1979, where it considers such action necessary to protect public health and safety, to prevent land slides on highways, to maintain critical watersheds, to conserve wild animals and plants, to preserve scenic areas and for related purposes. For all such cases of a declaration, the Royal Government shall provide monetary compensation or alternative land rights.”

This Section has already been repealed with the revision of the 1979 Land Act.

4. “Section 10. Prohibited Acts in Government Reserved Forests

(a) Except pursuant to a permit or rules issued by the Ministry, the following acts are prohibited in Government Reserved Forests:

(i) clearing or breaking up of any land for cultivation or any other purpose;

(ii) setting fire, except controlled campfires, or leaving any fire including a campfire burning in such manner as to destroy, damage, or endanger trees, any forest produce or wildlife;

(iii) felling, girdling, lopping, tapping, uprooting, or injuring any tree and removing any timber or other forest produce or quarrying;

(iv) blocking, storing or diverting any river, stream, irrigation channel, waterfall, underground water source or any other water source or water course;

(viii) habitation, either permanent or temporary;

(ix) constructing or placing any permanent or temporary structure, fence, marker or other device;”

This Section has been superseded by Section 247 of the Land Act by which pasture development on *Tsamdro*, based on a *Tsamdro* management plan, is now allowed.

5. “Section 12. Taking Forest Produce from Government Reserved Forests for Domestic Use

- (a) In addition to the collection of leaf mould, fodder and improvement of *Sokshing* as provided in the Sections Ka 3.5 and 8.5 of the Land Act, the Ministry may make rules to allow taking of forest produce without a permit.”

6. “Section 14. Permits under this Chapter

- (a) No permit shall be issued under this chapter to fell and take any timber:
- (i) Within 600 feet uphill or 300 feet downhill of a motorable road except forest roads;
 - (ii) Within 100 feet of the bank or edge of any river, stream, water course, or water source, or;
 - (iii) On any place where the slope is greater than 45 degrees unless authorized under an approved management plan or by the head of the Department.”

This is a very important provision, which should have found a place in the National Environment Protection Act of Bhutan, 2007, but has not. Hence, it is felt that it should be incorporated in the revised Land Act in some form.

7. “Section 15. Forestry Leases

- (a) The Head of the Ministry or his authorized representative may lease Government Reserved Forest to any person for improvement, protection and sustainable use in accordance with the applicable management plan.”

As the main custodian of the Government Reserved Forest land in the country, the Ministry of Agriculture and Forests was the only authority so far empowered by law to lease Government land in the country. But with incorporation of land lease provision in the Land Act of 2007, it is presumed to be superseded.

8. “Section 16. Taking Forest Produce from Registered Private Land

(a) The Ministry may issue Social Forestry Rules to encourage any person to grow or nurture forest crops on his own registered private land, excluding Tsamdrog and Sokshing.

(b) The Ministry may issue rules allowing any person to take forest produce on his own registered private land excluding Tsamdrog and Sokshing, with or without a permit or payment of royalty, subject to such conditions as may be prescribed in such rules.”

9. “Section 29. Private Lands

(a) The Ministry may make rules to control breaking or clearing of land in private registered lands including *tserree* to protect soil, water, and wildlife resources.

(b) The Ministry may make rules regarding conversion of *tserree* lands to other forms of land use as per Ka 3.10 of the Land Act and set a timeframe after which, *tserree* cultivation may be prohibited.”

This Section has become void with the ban on *Tseri* cultivation imposed by the National Assembly of Bhutan, vide Resolution No. XVI of the 72nd session of the National Assembly of Bhutan held in 1993. According to this decision, *Tseri* cultivation should

have been completely phased out by end of 7th 5-Year Plan, i.e., 1997. Accordingly, the practice of *Tseri* cultivation has by and large stopped as it is now considered illegal to practice it.

10. “Section 30. Grazing

- (a) The Ministry may issue rules regulating grazing in Government reserved Forests, subject to such conditions as may be prescribed.
- (b) Where the head of department determines that land located in Government Reserved Forests is suffering from soil erosion or other environmental degradation, he may, after consulting with the appropriate local authority, order that grazing on such land be stopped for a specific time or be permitted only under such specified conditions.
- (c) Cattle trespassing in a Reserved Forest which has been lawfully closed to grazing shall be deemed to be doing damage to plantations, regeneration and catchment areas and may be seized and a suitable fine as prescribed by the Ministry will be levied.”

All *Tsamdro* land overlap with Government Reserved Forests, and by extension any grazing of livestock on the *Tsamdro* will have to be regulated by the provisions of the Act and Rules and Regulations issued under it. The most restrictive provisions are:

1. clearing or breaking up land for cultivation of improved fodder species;
2. using fire in the sub-alpine areas for burning shrubs for the purpose of pasture improvement which has been practiced traditionally; and

3. felling, lopping, tapping or uprooting any tree which is required for pasture management and improvement purposes.

The restriction mentioned at (1) above will now be addressed by Section 247 of the Land Act 2007 under which pasture development on *Tsamdro* will be allowed based on a *Tsamdro* management plan.

11. “Section 31. Fire Protection

1. The Ministry may issue rules governing the use of fire in Government Reserved Forests, including requiring permits for all fires (except controlled campfires) in Government Reserved Forests and requiring that permits be obtained for setting of fires near Government Reserved Forests in areas and in seasons where fire is particularly dangerous. Violation of such rules shall be punishable as an offence under Section 10(b).”

This Section has relevance to controlled burning of weeds and shrubs particularly in the high altitude *Tsamdro* which are being overtaken by dwarf Rhododendrons and other shrubs.

3.3 The Inheritance Act of Bhutan, 1980

The Inheritance Act of Bhutan, 1980, applies mainly to land and property, and therefore, has the following specific provisions:

1. “Ga 1-9. Necessity of registering land inherited by the legates in the Government *Thram*

After execution of the written document in accordance with the provisions of Section Ga 1-8 above, or in accordance with the inheritance as bequeathed in the last will and testament in accordance with the

provisions of Chapter IV of this Act, or in accordance with the oral declaration made before witnesses, the legates shall himself or herself proceed to a Court of law and have such land and estate registered in his or her name in the *THRAM* (Refer to Section Ka 6-1 of *Thrimshung*, 1957).”

2. “Ga 1-10. Land inherited but not registered in *Thram* to be declared as *Toshing*.

If the land and estate received by inheritance is not registered in the name of the person receiving the same through inheritance in the *THRAM*, then such land shall be declared *TOSHING* and shall not be deemed to be land received by inheritance (Refer Section Ka 6-2 of *Thrimshung*, 1957).”

3. “Ga 1-11. Rules governing transactions of *Toshing* lands.

If any transaction relating to land and estate declared as *TOSHING* has to be done, then the same shall be processed in accordance with the provisions of Chapter III of this Act relating to *TOSHING* properties.”

4. “Ga 2-2. DEFINITION OF THE TRUE MEMBER OF A JOINT FAMILY

The mother and father of the main house, their sons and daughters, the collateral of the said mother and father and the children who are direct descendants from that family shall be deemed to be the members of that main house.”

This is the definition of a Bhutanese extended family based on our social structure. But apparently, this definition is not respected under the sales tax rules of the Department of Revenue and Customs, Ministry of Finance, which allows exemption of property transfer

tax from parents to direct descendants only although such a condition was not found mentioned specifically in their tax laws.

5. “Ga 2-3. DEFINITION OF MEMBER OF A JOINT FAMILY.

In addition to the persons mentioned in the preceding Section Ga 2-2, but excluding those persons who are living apart from the main house as mentioned in the following Section Ga 2-4, the other members who are staying with the joint family and those daughters-and-sons-in-law who have lived with the joint family for more than ten years shall be deemed to be the members of that joint family.”

3.4 The Moveable and Immovable Property Act of the Kingdom of Bhutan

The Moveable and Immovable Property Act of the Kingdom of Bhutan, 1999, covers the issue of land very widely, and has the following specific provisions relating to land:

1. **“Section 6: Effectiveness of Agreement:** Except as otherwise provided by this or any other Act, a security, loan or mortgage agreement is effective according to its terms between the parties to it and against third parties;”
2. **“Section 57(b): “land”** includes houses and buildings, whether used as a dwelling or not, and also an undivided share in land;”
3. **“Section 57(c): “mortgage”** means any charge on any immovable property for receiving money or money’s worth;”

4. **“Section 57(e): “mortgager”** includes any person deriving title under the original mortgage or entitled to redeem a mortgage, according to the person’s estate, interest or right in the mortgaged property;”
5. “Section 57(f): **“mortgagee”** includes any person deriving title under the original mortgage;”
6. **“Section 58: Application of this Part.** - This part applies only to charges on immovable property, including land;”
7. **“Section 61: Covenants to be implied:** - Where one or more persons conveys by way of mortgage, each such person shall be deemed to covenant as set out in (a) to (f) below, and such covenants shall be deemed to be included and implied to the persons to whom the conveyance is made. Where the conveyance is to more than one person, such covenants shall be deemed to have included and implied to each of the persons to whom the conveyance is made:
 - (a) for payment of the mortgage money and interest, and observance in other respects of the terms and conditions of the mortgage;
 - (b) for good title;
 - (c) for the right to convey;
 - (d) that on default, the mortgagor shall have quiet possession of the land, free from all encumbrances,
 - (e) that the mortgagor will execute such further documents regarding the lands being conveyed as may be required, and
 - (f) that the mortgagor has done no act to encumber the land mortgaged.”

This Section seems to imply that if a debtor defaults on the mortgage deed, the mortgagee will have automatic possession of the mortgaged property in contrast to Section 80 of the Land Act under which the case has to be decided by a court of law.

(The Consultant felt that there was a slight problem with the translation of this Section between the Dzongkha and the English versions).

8. **“Section 68: Notice of power of sale:** - A mortgagee shall not exercise a power of sale unless a notice of exercising the power of the sale in the prescribed form has been given by the mortgagee to the following,
- (a) persons having an interest in the mortgaged property prior to that of the mortgagee;
 - (b) any other persons subject to whose rights the mortgagee proposes to sell the mortgaged property;
 - (c) every person appearing in the register of title;
 - (d) where there is a lien against the mortgaged property in favor of the Royal Government or any other public authority, and the mortgagee has written notice of the lien to the agency or department of the Royal Government claiming the lien;
 - (e) to any person who has provided the mortgagee with notice in writing of any other interest, provided the notice is received by the mortgagee prior to the giving of notice exercising the power of sale.”

9. **“Section 64(2) Agriculture Land**

Despite any agreement to the contrary, where the mortgaged property is agricultural land and the balance of such lands remaining in the possession of

the mortgager is less than five acres, and the default has been made in making any payment of principal or interest due under the mortgage agreement, or in the observance of any covenant in a mortgage agreement, no rights of a mortgagee under the mortgage agreement or this Part are enforceable without prior permission of the Court;”

With the revision of the 1979 Land Act and the minimum land ceiling of 5 acres having been done away with in the 2007 Land Act, this provision has become redundant.

10. **“Section 82(2)** Purchaser entitled to registration
A person who purchases land from a person exercising a power of sale, including the cost of insurance and payment of taxes and other charges incurred in retaking, holding, repairing, processing and preparing for disposition and disposing of the mortgaged property, and to the extent provided for in the mortgage agreement, any other reasonable expenses incurred by the mortgagee;”
11. **“Section 95(a)** The Dzongkhag or City Corporation Land Records Office registers a conveyance of mortgaged property in violation of Subsection 94(2) without obtaining a certificate of the registrar issued immediately prior to the conveyance, and indicating that no mortgage is registered, it shall be liable for the mortgage secured by such property;”
12. **“Section 108** Where owner of land not found. – If the rightful owner, or his successors and assigns of land which is subject of a mortgage cannot be located, then upon payment by the Government of all outstanding obligations under the mortgage, the land will be forfeit

to the Government. If the owner, or his rightful successors or assigns subsequently make a claim on the land, the Government shall return the land to the claimant upon payment of all amounts disbursed by the Government in satisfaction of the mortgage.”

3.5 The Loan Act of Bhutan, 1980

The Loan Act of Bhutan (1980) has the following relevant provisions (Note: unofficial translation by the Consultant from the Dzongkha text as the Loan Act is available only in Dzongkha version).

1. **“Section NGA2-9:** Except for one’s *Phazhing* and residential house, other category of land, *Zurkhyim*, livestock shed, shops and houses meant for rental income can be included as mortgage when availing a loan”,

The Consultant has a feeling that this provision is no longer enforced in view of the current socio-economic scenario particularly in the urban setting.

2. **“NGA 2-10:** In case of mortgage of land and valuable property which accrue regular income, and if the said property is kept under the custody of the creditor, the loan agreement shall specifically mention the amount of income accrued on daily, monthly or yearly basis which shall be deducted against the loan amount.”
3. **“NGA 2-14:** In case of mortgaged land being kept under the custody of the creditor, irrespective of whether the principal and interest on the loan are completely liquidate or not, the mortgaged land shall revert back to the debtor and the loan shall be considered fully repaid after 10 years of availing the

loan, and irrespective of whether there is a written agreement or not, the creditor cannot demand for the balance amount of the loan or for any produce from the said land. Any violation of this provision shall require the return of the excess amount or property to the concerned in addition to appropriate penalty.”

4. **“NGA 2-15:** Any land mortgaged against a loan shall not be sold or be offered as *Yojed* or be given as inheritance or be used for construction, and *Chhuzhing* shall not be converted to *Kamzhing*, trees on *Jashing* shall not be cut, no fire shall be set on the land or surrounding forests and any other activity by the creditor which is likely to damage the land are prohibited. In case of any violation of this provision, in addition to the land being reverted back to the debtor, appropriate compensation shall be realized from the creditor by the court and granted to the owner of the land besides imposing a fine of Nu 10 to 300. The principal and interest of the loan shall be repaid as per timeframe mentioned in the loan agreement.”
5. **“NGA 2-16:** The taxes for the mortgaged land shall be paid by the person in whose name the said land is registered in the government *Thram*.”
6. **“NGA 2-17:** The ownership of the mortgaged land in the *Thram* shall not be changed from that of the debtor to that of the creditor. In case of any violation of this provision, in addition to the reversion of the said land to the mortgager, the creditor shall be liable to get only half the amount of the principal and interest due to him, and he shall be penalized with half the existing value of the land.”

This provision is again inconsistent with Section 80 of the Land Act as well as Section 61(d) of the Moveable and Immovable Property Act.

7. **“NGA 2-18:** In case the mortgaged land becomes *Tsatong*, the mortgagee shall be paid the remaining amount of the loan according to the loan agreement by the government and the *Tsatong* land shall be taken over by the government.”

3.6 The Bhutan Telecommunications Act, 1999

The Bhutan Telecommunications Act, 1999 contains the following provisions relating to land:

“Entry upon and construction of telecommunication apparatus across any land”

1. **“Section 52(1):** An operator may, for the purposes of providing its telecommunication service, enter upon any land, including any street, road, footpath or land reserved for public purposes and construct and maintain telecommunication apparatus upon, under, over, along or across any land, street, road, footpath or waterway and alter, remove or replace the same, and may for that purpose attach wires, stays or any other kind of support to any building or other structure.”
2. **“Section 52(2):** In taking any action in terms of subsection (1), due regard must be had to the environmental policy of the Government, the Bhutan Municipal Act and any other laws of the country.”

“Compulsory purchase of land”

3. **“Section 53(1):** Subject to subsection (2) below, the Minister may authorize a public telecommunications

operator to purchase compulsorily any land in Bhutan which is required by the operator for, or in connection with, the establishment or running of the operator's system or as to which it can reasonably be foreseen that it will be so required; and the Land Act shall apply to any compulsory purchase under this section."

4. **"Section 53(3):** The power of purchasing land compulsorily under this section includes power to acquire an easement or other right over land by the creation of a new right."

"Fences"

5. **"Section 57(1):** If any fence erected or to be erected on land over which any telecommunication apparatus is constructed or is to be constructed by an operator, renders or would render it impossible or inconvenient for the operator to obtain access to that land the operator may at its own expense erect and maintain gates in that fence and shall provide duplicate keys thereof, one of which shall be handed over to the owner or occupier of the land."

"Trees obstructing telecommunication apparatus"

6. **Section 58(1):** Conflicts with the Forest and nature Conservation Act, 1995.

3.7 The Electricity Act of Bhutan, 2001

The Electricity Act of Bhutan, 2001 contains the following provisions relating to land:

"Section 51: Rights to acquire land"

1. **"Section 51.1** Where any land under private ownership is required to be acquired for setting up a project under license pursuant to Part 3, the land may be acquired under the prevailing Land Act on approval

of the Minister and such acquisition shall be deemed for a public or national purpose.”

2. **“Section 51.2** Where the Minister is satisfied that the land under subsection 51.1 is required for the purpose of providing or maintaining electricity supply services to the public, and that it is required in the public or national interest, regardless of whether the Licensee is a public or private entity, the Minister shall pursue the acquisition of the land on behalf of the Licensee in accordance with the Land Act.”
3. **“Section 51.5** Once a right of way has been granted to a Licensee by the Authority, no person shall build any structures or do any activity on land within the proximity of the area covered under the right of way without the prior approval of the Authority.”
4. **“Section 52: Right over public, private and government land and premises”**
“Section 52.1 A Licensee has the right over private, public and government land and premises:
 - i. to enter upon any lands and sink bores and make surveys and do any other acts or things necessary for sinking bores or making surveys;
 - ii. to draw, erect and maintain power lines and clearances on either side;
 - iii. to enter with any equipment or devices, receive, store, transmit, or supply electricity, water, on, near or under, any land and may enter any land and fell or remove any tree or part of a tree or any obstruction which in the opinion of the Licensee is necessary to fell or remove;”

3.8 Mines and Minerals Management Act of Bhutan, 1995

The Mines and Minerals Management Act of Bhutan, 1995, contains the following relevant provisions:

1. “Section 4(k): Mine: when used as a noun means an opening or an excavation in the ground for the purpose of mining, opening up or proving a mineral bearing substance or ore deposit, and includes the place where a mining operation is carried on together with buildings, premises, machinery, plants, roads, and any other access above and below the ground used in connection with a mine”.
2. “Section 4(n): Mining area: means land covered under a mining lease.”
3. “Section 4(q): Mining Lease Agreement: means a document containing additional terms and conditions relating to a specific mining area, signed by the lessee and executed on behalf of the Government by the lessor, and attached to each mining lease.”
4. “Section 4(w); Surface rights: means right to ownership of land as per Land of the Kingdom.”
5. “Section 18. The mining area covered under the mining lease shall be for a definite area as demarcated by the division.”
6. “Section 19. A mining lease shall be granted for a mining area only after clearance of such area has been received from all concerned authorities of the Government by the Head of Division.”

3.9 The Road Act of Bhutan, 2004

The Road Act of Bhutan, 2004, contains the following relevant provisions:

1. “Section 4(1)

The Department is the authority for the development of the national road network and shall have the following powers and functions.-

(n) enter private lands for the inspection of road location/alignment with the owner’s consent as per the procedures specified in the rules and regulations issued under this Act and other relevant legislation;

(q) demolish unauthorized structures within the road right of way and road control area and recover the cost of such demolition from the concerned owners of the unauthorized structures;

(s) acquire land for the purposes of road construction or widening based on the provisions of the Land Act, 1979 and as amended from time to time;”

2. “Section 5.2 The Dzongkhag Administration shall have the following powers and responsibilities within their areas of jurisdiction.-

(f) acquire land for the purposes of road construction or widening based on the provisions of the land Act, 1979 and as amended from time to time;

(g) prevent construction of structures within the road right of way of national highways, district roads and feeder roads falling within the Dzongkhag and take measures such as cessation of construction and

demolition of the structures. The road right of way shall be 100 feet wide for national highways, district roads and feeder roads except within the designated municipal boundary. The horizontal distance between the edge of carriageway and the boundary of the road right of way shall be 50 feet from both sides.”

3. **“Section 5.3** The Gewogs shall have the following powers and responsibilities within their areas of jurisdiction,-

(d) prevent construction of structures within the road right of way of national highways, district roads and feeder roads falling within the Geog, and take measures such as cessation of construction and demolition of the structures. The road right of way shall be 100 feet wide for national highways, district roads and feeder roads except within the designated municipal boundary. The horizontal distance between the edge of carriageway and the boundary of the road right of way shall be 50 feet on both sides.”

4. **“Section 8(1)** The Department and other road agencies shall have priority for the use of natural resources available within the road right of way and road control area over other organizations for road related purposes. The Department of Forests and the Department of Mines and Minerals shall not issue any clearance to other organizations for collection of resources within the road right of way and road control area without the express written consent of the Department and other road agencies.”
5. **“Section 14(1)** Regulation of roadside constructions and management of resources within road right of way and road control area such as quarrying, logging or

any other activity detrimental to the stability of road shall be carried out by the Department or other road agencies under their jurisdiction.”

6. **“Section 14(2)** Construction of temporary, semi-permanent and permanent structures shall not be permitted within the road right of way and road control area except for the purposes of road construction and maintenance. The road right of way shall be 100 feet wide for national highways, district roads and feeder roads except within the designated municipal boundary. The horizontal distance between the edge of carriageway and the boundary of the road right of way shall be 50 feet on both sides.”

3.10 The National Environment Protection Act of Bhutan, 2007

The National Environment Protection Act of Bhutan, 2007, has the following relevant provisions:

1. **“Section 2.** All other Acts and regulations governing the use of land, water, forests, minerals and other natural resources shall be consistent with this Act. The provisions of all existing laws relating to environment, which are inconsistent with this Act, are hereby repealed.”
2. **“Section 111(30)** Land means and includes messuages, buildings and any easements relating thereto.”

3.11 The Local Government Act of Bhutan, 2009

The Local Government Act of Bhutan, 2009, has the following provisions on land:

1. **“Section 13 Declaration of Thromde**

The Parliament shall, from time to time, declare a certain geographical or administrative or economic area of the country as Thromde based on the criteria prescribed in this Act. The demarcation of Thromde boundary shall be carried out in consultation with the National Land Commission Secretariat and local authority.”

The Land Act of Bhutan, 2007, however states that, “302. Based on the recommendation of the Commission, the Government may declare any area in the country as Thromde including buffer zone, industrial, and protected agricultural areas as well as de-regulate Thromde to rural areas.” Assuming that the provision in the Local Government Act of 2009 supersedes the provision in the Land Act, it has to be understood that the National Land Commission cannot be the mover of the proposal and hence, it will be consulted during the demarcation of the *Thromde* boundary only.

2. **“Section 61. Thromde Tshogde shall:**

e) Approve land use and development plans in accordance with the laws made by Parliament and rules and regulations made there under;

f) Approve local area plan including land pooling schemes and any other relevant planning techniques;

g) Administer and manage all government land falling within the jurisdiction of Thromde and register in the name of concerned Thromdes in accordance with the Land act and approved local area plan;

h) Purchase, lease, or otherwise acquire land and property or dispose it off in the interest of the Thromde in accordance with the policies of the government;”

3. **“Section 63** Thromde Thsogde shall:

c) Approve purchase, lease, or otherwise acquire land and property or dispose it off in the interest of the Thromde in accordance with the policies of the Royal Government;”

The most significant part of Section 61 and Section 63 of the Local Government Act is that the *Thromde Thsogde* can purchase, lease, or otherwise acquire land and property or dispose it off without having to consult leave alone seeking approval of the National Land Commission, superseding Section 197 to 202 of the Land Act. But the current practice is actually based on the provisions of the Land Act about which the officials of the Ministry of Works and Human Settlement and Thimphu Thromde had apprised this Consultant.

4. **“Section 64** *Thromde Thsogde* may levy the following in a manner, and at such rates as may be approved by it as per laws in force:

- (a) Land tax;
- (b) Property tax;
- (c) Property transfer tax;
- (d) Betterment charges; and

(e) Vacant land and underdevelopment tax.”

3.12 The Water Act of Bhutan, 2011

The Water Act of Bhutan, 2011, has the following provisions:

1. **“Section 15.** Specific responsibility for implementation including submission of the periodical report to the Secretariat shall vest with the following agencies or any others as may be determined by the Commission:
 - d) The Ministry of Agriculture, for land-use and irrigation, watershed management, water resources in forests, wetlands and protection of catchment areas;”
2. **“Section 26 a)** No person shall develop or otherwise encroach upon bed and banks of watercourses and a strip of land the width thereof as determined in Regulations under this Act except for operation and implementation of activities with an environment Clearance.”
3. **“Section 40.** Customary practices of water allocation may continue provided that these are fair and equitable and do not result in denial of water to any individual or community, including downstream and upstream needs, and are acknowledged by a Water Users’ Association or other local beneficiaries’ groups in the area.”
4. **“Section 44(a)** Water from an irrigation channel shall be allocated either through mutual understanding or in accordance with existing practices, depending on the size of land holdings and the quantity of water in the channel, and subject to the constitution and bye-laws of the relevant Water Users’ Association.”

5. **“Section 44(b)** Labour contribution by the beneficiaries of an irrigation channel shall depend on the size of their land holding.”
6. **“Section 44(c)** Alignment of an irrigation channel for a newly terraced plot shall be made in such a manner as not to affect or harm other plots.”
7. **“Section 44(d)** Water shall flow in adjacent plots as per established practice. If a new plot is terraced nearer to the water source, water for the old plot shall flow through the new plot provided there is no other way of bringing water to the old plot. If the water is not sufficient, the new plot shall not get water.”
8. **“Section 44(e)** Blocking or otherwise altering an irrigation channel flowing through one’s property shall not be allowed without the consent of the users of that channel, even where the channel is not required by the property owner.”
9. **“Section 44(f)** If there is sufficient water and capacity in the irrigation channels, the existing beneficiaries shall provide access to a new user or to an existing user that requires additional water, including a user who wants to convert *kamzhing* to *chhuzhing*.”
10. **“Section 44(g)** A new user of an irrigation channel shall enter into an agreement with the beneficiaries of the channel before taking water from the channel. In the absence of such an agreement, a new user cannot claim water from the channel.”
11. **“Section 44(h)** A new user shall compensate the former beneficiaries for the private investments made,

if any for water infrastructure and shall also contribute towards the maintenance costs of the infrastructure.”

12. **“Section 44(i)** If the water resource for irrigation is deemed insufficient, a water user shall not initiate any activities that would require additional water, including conversion of *kamzhing* to *chhuzhing*.”
13. **“Section 44(j)** A water user acting in contravention of sub section shall have no right to claim compensation for non-availability of water.”
14. **“Section 44(k)** For the benefit of landed property, renovation of existing irrigation channels and embankments can be done on existing alignment in consultation with Water Users Associations.”
15. **“Section 44(l)** Existing irrigation channels passing through one’s landed property cannot be made small and blocked even if not required by the owner.”
16. **“Section 44(m)** If water has not flown through old irrigation channels and no repair has been done on the embankments for the last five years then renovation and repairs on the existing alignment will be treated as new construction.”
17. **“Section 48(a)** Water related infrastructure may be constructed on or through other’s property, in consultation with the affected parties, subject to approval from the Commission. In the event, where the affected parties do not allow the construction of water related infrastructure on or through their property on baseless ground, the Commission shall have the authority to approve the construction of

water related infrastructure after investigating the matter thoroughly.”

18. “Section 48(b) Compensation shall be paid by the beneficiaries, for the damages incurred on other’s property as a result of construction or renovation activities. When land is acquired by the Government for activities pursuant to sub section (a), compensation shall be paid as per the Land Act.”

19. “Section 48(c) The water users shall ensure that their waste water does not cause inconvenience within the locality.”

20. “Section 83(n) *Kamzhing* means agricultural land other than *chhuzhing* and orchards. Agricultural land shall mean *kamzhing*, *chhuzhing* and cash crops land.”

The 87th session of the National Assembly of Bhutan in 2007 adopted the following resolution with regard to urban plots not meeting the minimum required size of 13 decimals:

1. **“Resolution No. IV (8)/Nga-8:** With regard to the plots below the minimum size owned by individuals which are not permissible for construction purposes, such individuals should be allowed to purchase the Government land adjacent to their land or the Government should acquire the adjacent private plot at the standing market rate through joint discussion between the Ministry of Works and Human Settlement and the *Thromde Tshogde*.”

3.13 The Penal Code of Bhutan, 2004

The Penal Code of Bhutan, 2004, contains the following provisions which have relevance to the Land Act:

“Thrimthue”

1. “Section 28: Except for the recidivist and accustomed or habitual offender, the Court may make an order to pay fine in lieu of imprisonment, if the offence is not a felony.”

“Non-compoundable and compoundable offences”

2. “Section 70: The offences of first, second, third and fourth degree felonies shall be non-compoundable offences.”
3. “Section 71: Except for the recidivist or habitual offenders, the Court may compound any other offence not otherwise prohibited by this Penal Code.”

“Illegal transfer of immovable property”

4. “Section 251: A defendant is guilty of the offence of the illegal transfer of immovable property, if the defendant unlawfully transfers title or ownership of immovable property of another person or a public property or any interest therein to a third person.”

“Grading of illegal transfer of immovable property”

5. “Section 252: The offence of illegal transfer of immovable property shall be a value-based sentencing.”

“Unauthorized use of property”

6. “Section 262: A defendant is guilty of the offence of unauthorized use of property, if the defendant

operates or uses another person's property without consent of the owner.”

“Grading of unauthorized use of property”

7. “Section 264: The offence of unauthorized use of property shall be:
 2. A petty dismeanour, or
 3. A dismeanour, if the property is damaged during the unauthorized use except for trivial damage.”

“Criminal misappropriation of property”

1. “Section 267: The defendant shall be guilty of the offence of criminal misappropriation of property, if the defendant dishonestly misappropriates or converts of others to his own use.”

“Grading of Criminal misappropriation of property”

2. “Section 268: The offence of the criminal misappropriation of property shall be value-based sentencing.”

The following provisions of the **Constitution of Bhutan** govern taxation on land:

1. “Article 14, Section 1: Taxes, fees and other forms of levies shall not be imposed or altered except by law.”
2. “Article 22, Section 18(b): The Local Governments shall be, “Entitled to levy, collect and appropriate taxes, duties, tolls and fees in accordance with such procedure and subject to limitations as may be provided by Parliament by law.”

While Section 2 of the Land Act of Bhutan, 2007, states that, **“This Act shall supersede the Land Act, 1979, except provisions pertaining to water channel and embankments**

and compensation on the crop damaged by cattle. Any provisions of any law, by-law, rules or regulations that are inconsistent with this Act, unless otherwise specified shall be superseded” there is serious problem on the ground in that various government agencies responsible for enforcement of respective laws, including the judiciary, hardly seem to refer to the provisions contained in other laws which may have been superseded. So, the net result is apparent miscarriage of justice.

Similarly, Section 2 of the Local Government Act of Bhutan, 2009, states that, **“Upon enactment of this Act, the Local Government Act, 2007, and the Thromde Act, 2007, Dzongkhag Yargay Tshogdu Chathrim, 2002, Gewog Yargay Tshogchung Chathrim, 2002, and the provisions of any law, bye-law, regulations, circular and order that is inconsistent with this Act shall be repealed”**. Which means that the provisions regarding urban land management and administration contained in the Land Act, 2007, have been superseded by the provisions of the Local Government Act of 2009.

Having highlighted above the provisions of various national legislations which have a bearing on land, an attempt will be made to harmonize the inconsistent clauses in the revised Land Bill. If not, clauses to repeal such inconsistent and in some cases outdated provisions will be incorporated.

4 Stakeholder consultations

Wide consultations with various stakeholders were held both extensively and intensively spread over a period of six months. The summary record of the meetings held with the stakeholders are attached as **Annexures III** and **IV**, list of people met for consultations as **Annexure VI**, and written comments received from Ministry of Works and Human Settlement and Bhutan Chamber of Commerce and Industry are attached as **Annexures VII** and **VIII**.

It was perhaps for the first time that such a nation-wide consultation was held in the process of drafting/revision of a national legislation. Besides the central agencies directly dealing with land such as the Ministry of Agriculture and Forests, Ministry of Economic Affairs, National Environment Commission, National Land Commission, consultations were held with the respective committees of the National Council and National Assembly of Bhutan, Bhutan Chamber of Commerce and Industry and various private sector associations under it, some individual members of the National Land Commission, the Chairpersons of the 20 *Dzongkhag Tshogdus* and the *Gups* of 205 *Geogs* in the country. The consultation meetings with the Chairpersons of

Dzongkhag Tshogdus and the *Gups*, who are also the chairpersons of *Gewog Tshogdes*, were held in Thimphu, Lobeysa, Paro, Gelephu, Trashigang, Mongar and Phuentsholing. During the consultation meetings with the *Gups*, the Land Record Officer, the Legal Officer, the Agriculture Officer, the Livestock Officer, the Forest Officer of the *Dzongkhags* and the Territorial Forest Officers of the Department of Forest and Park Services also participated and took active part in the discussions.

The outcome of the stakeholder consultations can be briefly summarized as follows:

1. Organization of land administration

There was unanimous view that the present structure of National Land Commission was not conducive for efficient and effective decision-making and delivery of services on land, which affected not only individual landowners but also development activities.

The reasons cited were that with a very large membership, the Commission could not meet regularly due to lack of quorum, very senior and important officials being ex-officio members could not only attend the Commission meetings regularly but also could not devote the kind of time and attention required of them to do justice to such an important and sensitive matter as land.

In fact, some of the former *Chimis*, who had strongly supported the establishment of a National Land Commission in the National Assembly and who are now elected as *Gups*, admitted that they were very disappointed because their expectations and confidence were misplaced. In its place, it has been

proposed for a smaller commission with full-time members similar to the Royal Civil Service Commission. The issue of centralization of authority with National Land Commission was also raised by both the central government officials and local leaders, and some of their actions were alleged to be inconsistent with the provisions of the Land Act.

It was felt that the National Land Commission had become self-regulating with no mechanism for independent check of its technical and legal activities. There may also be conflict between the executive functions of land administration and surveying and mapping and the regulatory functions undertaken by it without the support of technical departments, which used to exist in the past. This needs to be rectified with clear delineation and decentralization of responsibilities among the various functionaries with the clear objective of efficient and effective decision-making and delivery of services on one hand and providing a check and balance mechanism on the other on as sensitive a matter as land. Accountability clauses for various functionaries should also be clearly reflected.

2. Issuance of *Lagthram*

The main issue raised was the centralized issuance of *Lagthram* at present with people from all over the country having to come to the National Land Commission office in Thimphu to get their *Lagthrams*. Certain changes and improvements were also suggested such as the clause on correction of errors in the *Thram*. With the recent introduction of online issuance of *Thram* by the National Land Commission, this seems to be possible very soon. The officials of the

National Land Commission had planned to decentralize the issuance of *Thram* after completion of the National Cadastral Resurvey Programme (NRCP) anyway. Request was also made to allow retention of the old *Lagthram* as in many cases the land owners were able to substantiate their claim on the boundary of their land with the help of old *Thrams* only as it contained more details than the current *Lagthram*.

3. **Land ceiling - maximum and minimum**

The majority view was that the current maximum ceiling of 25 acres should be maintained. Removal of land ceiling was felt to be against the spirit behind Article 9, Section 7 of the Constitution of Bhutan. Some felt that the maximum land ceiling should be linked to number of members of a family. There were few others who suggested that there should also be a minimum ceiling but the acreage suggested differed from individual to individual. Many had also misunderstood the minimum of 10-decimal requirement for registration as the minimum ceiling.

4. ***Kidu* and rehabilitation land**

While granting land *Kidu* was the Royal Prerogative of His Majesty the King in accordance with the provisions of the Constitution of Bhutan, the point to be discussed was whether the current restrictions on rehabilitation land should be relaxed in the light of many re-settlers already having sold their land before completion of the 10-year restriction on land transaction. The Consultant took the opportunity to explain the background behind the restrictions on land transaction and census for re-settlers initially put in place by the Resettlement Committee, of which

the Consultant was a member. It was the general view that certain percentage of such land should be barred from transaction for all time to come in keeping with the spirit behind granting *Kidu* land while allowing certain percentage to be transacted without any time bar to enable the new settlers to construct living houses with the proceeds of the sale. It was, however, informed that new yardsticks and conditions were being applied in case of a newly started rehabilitation programme in Pemagatshel Dzongkhag, which may become the norm in the future. There was no doubt in the mind of anyone that land granted through *Kasho* should be governed by the content of the *Kasho* issued to individuals.

5. Conversion of *Chhuzhing* to other uses

It was pointed out that the procedure was cumbersome and lengthy, and implementation sometimes not fair as ordinary peasants faced the maximum difficulty while influential people managed to get it done easily. As a result, there were large areas of so-called *Chhuzhing* which was not only not cultivated but some had even turned into forests. While on the other hand, there were areas which were reflected as *Kamzhing* but being cultivated with rice every year. Some even suggested that the authority for approval of *Chhuzhing* conversion be decentralized.

6. Conversion of *Chhuzhing* as residential land

This was one of the intensely debated issues. Majority of the stakeholders felt that the conversion procedure was cumbersome and the process took a long time while some even felt that such restriction should be done away with. Those who had either *Kamzhing* far

away from the village or even few decimals of *Kamzhing* were not eligible for conversion even though everyone knew that they could not construct their houses on such land. It was also pointed out that this restriction was not imposed uniformly across the country as large tracts of most productive *Chhuzhing* were being converted in Thimphu, Wangdue and Punakha. It was reported that although the Land Act allowed conversion of 50 decimals, the actual approval accorded was much lower and done on an ad hoc basis. The people also complained about the fine of Nu 36,000 being imposed on illegal constructions on *Chhuzhing* without proper verification and merit of the case. Some of these constructions were supposed to have taken place well before this restriction was imposed while some were constructed on *Kamzhing*. There were many poor households who could not afford to pay such huge amounts as fines and thus were put into a very desperate situation. The weak enforcement of the law by the government agencies was blamed for this predicament of the poor villagers. Questions were also raised as to the legality of the fines being imposed and regularization of the illegal constructions on *Chhuzhing* as the provision on this in the Land Act called for harsher penalty. The new proposal of the Ministry of Agriculture and Forests to provide government land in lieu of conversion wherever possible and other measures to overcome the problem currently faced by the people was appreciated.

7. Exchange of private registered land with GRFL

It was strongly felt that the procedure was cumbersome and lengthy, and the authority for approval not clearly defined which further delayed the

process. So, it was suggested that a clear and transparent system along with a definite timeframe to process such cases should be put in place. It was also suggested that priority should be accorded to those land affected by natural calamities.

8. **Encroachment on government land and private registered land**

It was pointed out that the enforcement mechanism was weak as influential people continued to occupy government land with impunity as the government machinery responsible for enforcement of the law stood as silent spectators. It was, therefore, suggested that accountability should be fixed and, the penalty for such illegal acts enhanced.

9. **Under-utilization and under development of land/fallow land management**

It was felt that this should be addressed through policies and programmes of the Ministry of Agriculture and Forests. It was reported that the land belonging to the people of Bumthang in other Dzongkhags had to be left fallow as there were no share-croppers. They wanted the Government to take over the land either by providing substitute land or through payment of fair compensation. In Sarpang, hundreds of acres of land were left fallow by absentee landlords most of who had received the land under *Kasho*. In Samdrup Jongkhar, large areas of land left behind by those who emigrated had turned into wildlife habitats. It was suggested that the Government should consider taking over such land and redistribution to the landless and near landless people whereas re-settlement programmes could be implemented on vacant government land.

Some pointed out that it was not the small holders who left their land fallow after fragmentation but mostly the larger holdings whose owners did not live in the Gewogs anymore which were left fallow.

10. Land fragmentation

It was the general view that there was nothing much one could do to address this issue through the legislation as it was a natural process which could not be prevented. Inheritance of land, which cannot be stopped, was the main cause for fragmentation in the rural areas while in the urban areas and its vicinity land transaction was the main cause. If at all, this concern should be addressed through various policies and programmes of the Ministry of Agriculture and Forests, and advanced planning of urban settlements. It was also suggested that the Royal Government consider allotting additional land to those who were dependent on land but did not have adequate land holding.

11. Land acquisition - land substitute and land compensation

This was another hotly debated issue. Serious concern was expressed on the cumbersome procedure and lengthy time taken to provide land substitute to the land owners whose land was acquired by the Govt., some of which have taken more than 30 years. One of the issues highlighted was the difficulty in finding the substitute land and so the time taken to get substitute land allotted. A clear procedure along with a definite timeline was required to be reflected in the law. The issue of fair compensation was also raised. It was noted that in future private land will be surrendered

only after registration of substitute land in the name of the owner as provided in Section 158 of the Land Act. It was also noted that in future the responsibility to find substitute land will fall on the acquiring agency. The issue of private land falling under farm roads currently not being eligible for compensation or substitute land was raised. It was felt that such cases were eligible for compensation/substitute as per existing provisions of the law, and therefore, substitute land should be provided particularly to those whose holdings were small. It was also suggested that acquisition of *Chhuzhing* should in future be prohibited by law, and service centers should be sited on government land as far as possible as it was becoming more and more difficult to find appropriate substitute land.

12. Valuation of land and property

The importance of fair compensation was stressed for which the revision of compensation rate by Property Assessment and Valuation Agency should be done every year as against every 3 years prescribed in the current Act.

13. Land transaction/conveyance

A number of suggestions to improve the current provisions of the Land Act were proposed so as to ensure efficient service delivery as well as to avoid misuse and problems later. A strict provision to prevent multiple transaction of the same piece of land was suggested. It was suggested that there should be some restriction on transaction of *Chhuzhing* in keeping with the provision for restriction on its conversion as the main reason for conversion was

rampant transaction. It was also felt that a piece of land should be amenable for transaction only once in a year.

14. Lease of government land and GRFL

It was felt that besides requiring further clarity, less cumbersome procedure to cut down the long time taken to deal with such issues was required to be incorporated. There was also a need to have a clear clause on the authority for approval of such cases as it was not clear at present. There was no support to increase the lease period beyond 30 years as proposed by the private sector.

15. Use of *Tsamdro*

There was no objection to the provisions of the Land Act 2007 on *Tsamdro* if implemented except by a few who spoke for the highlanders. *Tsamdro* has already been deleted from the *Thram* of individuals in all those Dzongkhags where cadastral re-survey has been completed. In some Dzongkhags *Tsamdro* lease has already been implemented although on community basis. In some places, misuse of *Tsamdro* through transaction, which is not allowed by law, and rampant conversion to orchards and now exchange with better, more accessible and land of higher value was being pursued were reported. It was suggested that there should be strict penalty for illegal conversion of *Tsamdro*. It was suggested that if a piece of *Tsamdro*, although leased to an individual, is required for development purposes, the lessee should willingly surrender it for the larger benefit of the community as this was one constraint faced in many places.

16. Use of Sokshing

In general, it was suggested that the status of *Sokshing* should be reverted back to pre 2007 Land Act as it was not only looked after well by the owners but also contributed to forest cover and general environment although *Sokshing* has also been deleted from the *Thram* of those *Dzongkhags* where National Cadastral resurvey Programme (NCRP) has been completed. Should this be accepted, a clear mechanism for joint ownership between the Government and individual *Sokshing* rights holders has to be put in place as well as preventive measures for possible misuse which has taken place in the past. But there should severe penalty for misuse and illegal conversion.

17. Easements

Additional clauses, on top of the provisions in the Water Act, 2011, were proposed. It was suggested that the provisions of 1979 Act should be restored in the Act.

18. Spatial planning and rural infrastructure

The initiative of the Government was appreciated but felt that it would take considerable time to bring it to fruition.

19. Land dispute resolution

A clear mechanism along with authority to the officials of the National Land Commission and Local Governments to summon parties to the dispute and to penalize those found guilty as well as some kind of

remuneration for the committee members was suggested. It was also suggested that to reduce too many paperwork and to make land transaction deeds legally acceptable, the 2 forms required to be filled up now should be improved to make it legally acceptable thereby doing away with the requirement of a separate sale deed.

20. Share cropping

Share cropping is not practiced in majority of the Dzongkhags any more. Yet, where such practice is still in vogue, it was suggested that suitable provision should be reflected in the Land Act based on the 1979 Act.

21. Urban land – urban planning, urban land record & urban land administration

With the nullification of the Thromde Act, 2007, urban planning and urban land administration became a major bone of contention between the Ministry of Works and Human Settlement and the National Land Commission. While certain elements of the *Thromde* Act were incorporated in the Local Government Act, 2009, these provisions were apparently ignored by the National Land Commission according to the officials of the Ministry of Works and Human Settlement and Thimphu *Thromde*. Besides addressing this important issue, it was also suggested that pending enactment of a Building Act as well as an Urban Planning Act, appropriate provisions to address these issues should also find a place in the revised Land Act.

22. Land survey

This was another issue discussed extensively based particularly on the experiences of the recent NCRP. Numerous complaints were made such as the NCRP being no different from the earlier cadastral survey in that whatever land was declared as excess earlier due to lack of capacity to pay for it at that time was not allowed to be restored and land shortfalls were not addressed. Private land with overgrown trees, which were excluded in the earlier cadastral survey were also not reinstated. There was lack of uniformity as some surveyors were generous while others were very strict, influential people were supposed to have benefitted the most, there were numerous mistakes in the names of owners and location of land in the new *Thram* and many litigation cases had to be filed after the survey. People were exasperated with every survey producing different areas of the same piece of land. It was also felt that the current provision on cadastral survey covers only the on-going cadastral re-survey. In fact, pending enactment of a Survey Act, a separate chapter on Survey of Land was proposed by the officials of the National Land Commission Secretariat which should include provisions on survey coordinates, establishment and maintenance of geodetic/geophysical and topographic reference stations, licensing of private surveyors, tolerance limit, hierarchy of boundary evidence, standardization of geographical names, strata and community title, liability of surveyors, etc.

23. Training

It was suggested that the *Gups* should be thoroughly educated on the provisions of the Act and procedures

to be followed as well as training them in filling up various land related forms.

24. Registration of apartments

It was strongly recommended to incorporate appropriate provisions to address the issue of registration of apartments in the urban areas.

25. Peri-urban areas

It was proposed that a provision on peri-urban or urban buffer areas should be included to address the challenges posed by such areas since pro-active measures are required to be taken keeping in mind the natural expansion of the existing urban areas which is going to take place. It was also suggested that there should be a different tax structure for such areas.

5

Conclusions and recommendations

Based on the review and analysis of policy documents and national legislations concerning land, and after pooling the views and concerns of the various stakeholders, the following conclusions have been drawn:

1. Chapter 2 of the Land Act, on Organization of Land Administration, needs to be revised completely by restructuring the membership of the National Land Commission, redefining the role and functions of the National Land Commission, the concerned ministries, Dzongkhag and Gewog Administration respectively, so as to ensure that services regarding land can be delivered efficiently and effectively at the same time making sure that the law is enforced effectively through a proper check and balance mechanism.
2. Chapter 3 of the Land Act, on *Chhazhag Sathram*, requires little elaboration and reorganization here and there with additional clauses on land dispute resolution and moving the clauses on survey under a new chapter.

3. Chapter 4, on Entitlement and Grant of Land, needs further clarity and elaboration on some of the provisions while moving the provision on granting of land under a separate chapter.
4. Chapter 5, on Registration of Land in *Chhazhag Sathram*, requires some additional clauses on the issue of mortgage of land as well as harmonization with provisions of the Loan Act and Moveable and Immovable Property Act besides moving the clause on *Kidu* and rehabilitation land under a separate chapter.
5. Chapter 6, on Rights and Obligations of Landowners, needs major changes, improvements as well as additional clauses particularly on the issues of conversion of *Chhuzhing*, transaction of land, inheritance procedure, encroachment, etc., in addition to moving the clause on exchange of land under a separate chapter.
6. Chapter 7, on Acquisition of Registered Land, requires additional clauses to bring in more clarity and some changes in the existing provisions.
7. Chapter 8, on Procedures on Land Conveyance, requires additional clauses to be incorporated as well as further modification of certain provisions. In addition, clauses on exchange, lease, grant of *Kidu* and rehabilitation and allotment of land under a separate chapter to make it more coherent.
8. Chapter 9, on Annulment of Land Ownership, requires minor changes only.

9. Chapter 10, on Use of *Tsamdro*, requires some changes such as deletion of Section 239, and incorporation of clear mechanism for lease, development and management of *Tsamdro*.
10. Chapter 11, on Use of *Sokshing*, requires major changes with the proposed reversion of *Sokshing* to pre-2007 Land Act status.
11. Chapter 12, on Easements, requires additional clauses to be incorporated.
12. Chapter 13, on Offenses and Penalties, requires major changes particularly with regard to enhancement of penalties and incorporation of new clauses.
13. Chapter 14, on Miscellaneous, requires minor changes with few additional clauses.
14. A new chapter bringing all elements on land grant, land allotment to government agencies, land lease and exchange of Government land, which were all mixed up with other important elements and also spread under many chapters in the current Act, has to be created to provide more clarity as well as coherence.
15. A new chapter on Land Survey by incorporating the existing provisions relating to survey of land and additional clauses provided by the National Land Commission Secretariat has to be created.

So, a draft Revised Land Bill 2012 has been prepared as the final output of this short consultancy, although it was not specifically required under the Terms of Reference of the Consultant, which is attached as **Annexure V**. The Consultant would like to qualify that the revised Draft Land

Bill 2012 may look prescriptive and instructive deviating from the conventional wisdom that laws should be broad and not detailed. But since land is such an important and emotive issue for the Bhutanese as well as the future peace and stability of the nation may depend upon how this scarce and finite land resource is managed, details were unavoidable so that ambiguities pointed out in the current Act were removed, current deficiencies were addressed and decision making process on land was fair and transparent on one hand and service delivery efficient and effective on the other.

The Consultant would like to underline a few comments on a number issues relating to the Revised Land Act and its implementation:

1. The maximum land ceiling has been maintained at 25 acres as it exists at present based on the majority view expressed both in Thimphu as well as in the *Dzongkhags*. With regard to minimum ceiling, there was general lack of consensus. The Consultant is also of the view that any change or removal of the maximum ceiling may not be in the long term interest of the country, and may even be inconsistent with some of the provisions of the Constitution of Bhutan.
2. Land lease period has been maintained at 30 years since this was the majority view expressed during the consultation meetings. This obviously will have implication on investments required to be made for infrastructure which will have longer life than 30 years such as permanent buildings. The Consultant's personal view is it should be enhanced up to 50 years as is the current practice in Thailand, recently increased from 30 years, where land ownership by foreigners is also restricted by law. In spite of this, they had no difficulty in attracting FDI. This duration

is also felt to be reasonable for investments on permanent structures such as housing. Should this be considered in the revised Land Act, this will be an added reassurance to the Highlanders that they will be eligible to lease the *Tsamdro* also up to 50 years from the current provision of just 30 years, and renewable on request.

3. With legal restriction on construction of houses on *Chhuzhing*, a clear criteria and authority for according approval for house construction in the rural areas, if it does not exist already, should be put in place. The Consultant was given to understand that the National Land Commission had centralized the authority so far vested in the *Gups* with the *Dzongdas*, which has not been received well by the local authorities.
4. Suggestions were made to ban acquisition of *Chhuzhing* for development purposes as well as to avoid siting development centres on Government land as far as possible. The Government may like to reflect on it and see if it is practical before any decision is taken.
5. Suggestion was also made to restrict *Chhuzhing* transaction, which will be consistent with the strict provisions on *Chhuzhing* conversion. It was argued that if *Chhuzhing* transaction was allowed freely particularly fragmentation in the peri-urban areas, conversion could not be stopped. This was also the cause for delay in delivery of land services as well as reason for disputes. The Consultant could not incorporate this in the revised Land Act as it seems to be too restrictive although the argument in favour of it merits consideration.

6. The issue of land substitute or compensation for private land falling under farm roads has been raised in almost every consultation meeting. This requires reconsideration of the current Government policy since it may be inconsistent with the provisions of the Constitution.
7. The issue of land falling under Road Right of Way and for that matter land falling under power transmission lines was raised many a time. Apparently, the provisions of the Road Act the Bhutan Electricity Act are not being enforced. This should be looked into. There are also inconsistencies between these legislations. The Consultant has tried to incorporate these elements as well as harmonize the inconsistent clauses in the revised Land Act.
8. Regarding the issue of compensation for nationalization of *Tsamdro*, it is estimated that Nu 242.00 will be required for about 1.236 million acres if Nu 200.00 per acre is to be paid. Transaction of *Tsamdro* was frozen or not allowed after enactment of the Land Act of 1979. Yet, transactions are alleged to have taken place, besides acquisition of large areas by the Government for development purposes. Therefore, it is extremely important to try to get correct acreage for which compensation is eligible. The comprehensive recommendations made by this Consultant last year in his report, Rangeland Tenure Transfer – An Analysis of Policy and Legal Issues in Bhutan, may also be considered.
9. While some suggestion has been made to increase the compensation, it has to be noted that the compensation at whatever rate it is paid can not to be compared with land compensation rate as the

compensation is only for grazing rights and not for the land on which no development or investment has been made by the rights holders which was also not allowed under the Forest and Nature Conservation Act, 1995. In fact, most of the *Tsamdro* areas are not even being used by the former *Thram* holders for a long time now.

10. There is no exclusive area as *Tsamdro* as it overlaps with Government Reserved Forest Land by definition as well as physically. That is why it is also the most preferred area for location of development infrastructure and allotment to government institutions for siting development centres and individuals under *Kidu*. This changing dynamic should be taken into account while leasing the *Tsamdro* under the new system or law. Some even suggested for incorporation of a clause in the new Land Act to facilitate acquisition of leased *Tsamdro* if required for public interest. This was however not felt necessary for various obvious reasons.
11. The Consultant has tried to find a middle path to addressing the issue of *Sokshing* ownership by recommending registration of *Sokshing* in the joint ownership of the rights holders and the Department of Forest and Park Services. This seems to be a plausible approach both technically and legally since *Sokshing* serves the purpose of forest first and leaf litter collection is a consequential event or by-product of forest. Without forest or trees, there cannot be leaf litter collection. If full ownership were to be given, it will have serious implication vis-à-vis land ceiling as it was reported that large areas of *Sokshing* are also held by those who owned large land-holdings.

12. It seems some *Sokshing* areas have been converted to community forests already and some even to private forests. The latter is not legal as the *Sokshing Thram* holder does not have full ownership right over the land and the trees on it. It is alleged that the actual area of *Sokshing* is many more times than what is recorded in the *Thram*. So, before reinstating the usufruct rights, a thorough and proper verification of the area seems extremely important which will also help to determine the actual tree cover on the ground and conversions which may have taken place so far.
13. We seem to welcome with open arms any proposal for lease of any amount of land from the GRFL whether for commercial agriculture, industries or other uses with the least regard or concern for loss of forest cover. Yet, our restrictive policy on felling of trees on private land seems to be a major contradiction and may even amount to infringement of the right of the private land owners. Earlier, the Government had reverted to forests any private land, which was not cultivated for more than 12 consecutive years, *Tseri* cultivation was banned and also private land which was found covered with full grown trees during the earlier cadastral survey was not allowed to be retained in the *Thram*. Planting trees on private land should be treated in the same manner as growing any other crop, and in fact, further encouraged without making it too restrictive.
14. The Consultant has incorporated a clause requiring the Royal Government to try to recover the cost of allotment of land from its GRFL to Government institutions and *Gerab Dratshang* so that the requisition for land becomes more judicious and what is allotted is not only put to productive use but also

looked after well which cannot be said to be the case in most instances at present.

15. In a democracy, rule of law is most important for peace and stability. Any lack of will at any level, more so, at the local level to enforce laws effectively could cost the nation dearly in the long run. This has special implication with regard to land as historically a large percentage of court cases pertain to land and this is one of the main causes of social and communal disharmony.
16. The suggestion made by the *Gups* of Mongar and Sarpang to identify and demarcate sites for *Gewog Throms* and *Chiwog* centres requires serious consideration of the Government. This is foreseen in the National Urbanization Strategy document. Identification and demarcation of alienable land for such purposes is foreseen in the National Land Policy and should include areas for village expansion. Since this will bring flexibility and predictability into land use, this should be pursued at the earliest. An additional benefit will be reduction of multiple approvals and clearances.
17. The Consultant has recommended the revival/reinstatement of the Department of Survey and the Department of Land Registration based on a number of reasons, one being for checks and balance mechanism. The fact that these departments had existed before when the issue of land was being dealt by a Government Ministry as well as the Judiciary seems more than justified for the recommendation.
18. The issue of land fragmentation and fallow land management has to be tackled through rules and

regulations issued under this Act as well as through policy and programme interventions of the Government particularly that of the Ministry of Agriculture and Forests. Even the imposition of progressive taxation with age on fallow land has to be addressed through other mechanisms.

19. Suggestion was made that for crimes committed during the currency of the past law, the provisions of the old Act should be made applicable. However, the Consultant could not confirm whether such provision could be incorporated in the Act due to time constraint. The Consultant was also not comfortable with incorporation of such a clause in the Revised Land Act as the issue, while pertinent, cuts across all other legislations as well

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Annexure I: Resolutions of the 1st to 87th Sessions of the National Assembly of Bhutan on Land and Land related issues

1st SESSION OF THE NATIONAL ASSEMBLY:

1-1(b): TAX ON CULTIVABLE LAND

Although the public of Tschochen (Thimphu) possessed large areas of land, they could not bring all of them under cultivation owing to the shortage of farm hands. Because of this, it has not always been possible for the people to pay taxes in kind for all the lands possessed by them. In view of this problem, it was decided to realize tax only for the actually cultivated lands. This would apply in equal to the districts of Paro and Wangdiphodrang.

1-3: RESETTLEMENT OF LANDLESS PEOPLE IN EASTERN BHUTAN

The government desired to bring interested landless people of the eastern province to settle in the western province. Despite the existence of a bond agreement restricting the people of eastern province to migrate to the west, his Majesty the King was pleased to observe that, whereas the eastern province was suffering from scarcity of land, there were large areas of uncultivated land in the western province. As such, the existing restriction on the migration of eastern people to the western province had now been lifted and they were hereafter permitted to migrate to the western province and settle at Punakha, Thimphu and Wangdiphodrang.

Further, they would be exempted from the payment of tax for certain years during the settlement. Consequently, necessary assistance required for house construction and land

development would be available to them by the Royal Government. However, the Assembly suggested that the issue of a circular (Kasho) to this effect had to be considered by His Majesty the King.

11th SESSION OF THE NATIONAL ASSEMBLY:

11-9. MATTER RELATING TO CEILING OF LAND

A household possessing 25 acres of land or land yielding 400 x 40 des or more annually or registered in the land records would neither be permitted to purchase more land nor to receive additional land as gift. In case of households with a single son or daughter possessing more than 25 acres all the land in excess of 25 acres would be confiscated by the government after the decease of the parents.

14th SESSION OF THE NATIONAL ASSEMBLY:

PART II (1): TAX ON WET LAND

a. Tax on wet land (Chhuzhing or paddy field)

It was decided to levy a sum of Nu. 6/- for class 1, Nu.5 /- for class II, and Nu. 4/- for class III per langdos.

b. Tax on dry land

- i. a. Nu. 4/- per langdo of maize and millet field.
- ii. a. Nu. 2/- per langdo of wheat field at high altitudes.
b. Nu. 3/- per langdo of wheat field at low altitudes.

c. Tax on shifting cultivation land

Cheltrum 0.75/- per langdo.

d. Tax on kitchen garden

Nu. 1/- per langdo.

e. Tax on domestic animals

It was decided not to levy tax on calves and colts of less than three years. However, taxes would be levied on them as follows as soon as they attained the age of three years:

- i. Nu. 3/- per Jatsha, Jatsham and Mule.
- ii. Nu. 2/- per male Horse, Mare, Donkey, Yanku, Yangum, Thabum, Oxen and Bajo.
- iii. Nu. 2.50 per yak.

It was decided to exempt the following from tax.

- iv. Mithuns/Male Donkeys.
- v. To prevent the spread of low quality cattle, all male cattle within the country, including horses, must be castrated. It was decided to levy a sum of Nu. 0.25 per goat and sheep which were more than one year old.

f. Tax on House

The Houses would be categorized into three classes and taxes would be levied as given below:

Class I	- Nu. 21/-
Class II	- Nu. 14/-
Class III	- Nu. 7/-

16thSESSION OF THE NATIONAL ASSEMBLY:

MATTER RELATING TO TAXES

16-7. In view of the fact that the people had refused to pay the prescribed taxes in kind, it was decided that they could pay the taxes in other items (kamtcha) in lieu of the prescribed government taxes. However, the items would be taken at par with the prevailing market rate.

16-8. As regards the imposition of taxes on orchards, His Majesty was pleased to command the annulment of the same for the time being.

16-10. No tax would be levied on Sokshing and trees located in and around the vicinity in keeping with the government's forest conservation policy.

16-12. MATTER RELATING TO ABANDONED AND UNCULTIVATED LAND

Any abandoned land (chatong) or uncultivated land including pasture land would be confiscated by the government and tax levied on these would be written off. However, anyone interested in cultivating these would be considered on production of permits from the respective Dzongdags. They would be required to pay three out of every twenty des of produce to the government. If, owing to exigency, the government required public land for developmental activities, no tax would be imposed on the same. Likewise the land at Jarok and Gangtey thanka under Wangdiphodrang district occupied and used by the army would be exempted from the tax usually payable by the public.

16-13. MATTER RELATING TO TAXATION IN KIND

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

- No tax would be imposed on those people who did not own cattle and on cattle belonging to the government.

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- The rest of the cattle, even those belonging to His Majesty, would be enlisted for taxation after conducting the necessary cattle census.
- Cows above three years of age would be taxed at 3 'sangs' per Jatsham, while other categories of cows and demo would be taxed at 2 sangs per Jatsham.
- As the previous system of collecting tax in the form of meat was abolished, it was decided to levy a sum of Nu.3/- per Jatsha and Yak and of Nu. 2/- per other category of Bulls.

His Majesty was pleased to command that henceforth the supply of cattle and hogs for meat to the officials of the Dzong and Monk Body would be abolished. Since the meat was required by the Monks for liturgic purposes, it was decided that the monk bodies in different places would be allowed to rear cattle in the following manner.

- Central Monk Body - 540 cattle and 350 yaks.
- Rabdeys of Paro, Wangdiphodrang and Tongsa - 150 cattle each and 100 yaks each.
- Rabdeys of Tashigang, Daga, Lhuntshi - a total of 100 cattle including yaks.

No cattle tax would be levied on the above. However, in the event that it was discovered that any Monk Body was keeping cattle belonging to the public to fulfil the above required numbers, the same would be confiscated by the government.

16-15. MATTER RELATING TO HOUSEHOLD TAX

In order to impose tax on households they were classified into three categories, on which taxes were to be levied in the following manner.

Class I - Nu. 21/-

Class II	- Nu. 14/-
Class III	- Nu. 7/-
Class IV	- Nu. 3/-

Further, it was decided that the people living in huts with minor children and in wretched conditions would be classified as Class IV after a personal appraisal by the respective Thrimpon and Gup.

16-16. MATTER RELATING TO GRAZING LAND

It was pointed out in the Assembly that there were instances of grazing land being unusable because of inaccessible terrain. Therefore, it was decided to survey the accessible and inaccessible grazing lands and levy a tax of 0.6 ch. per acre on the accessible ones.

16-17. MATTER RELATING TO REDUCTION OF TAXES

The representatives of Kheng and Bumthang appealed to the Assembly that the previous tax of Nu.0.75 ch. per langdo of Pangshing be reduced. It was then resolved that a sum of Nu.0.75 ch.would be levied on one langdo of Pangshing land at lower altitudes and a sum of Nu. 0.50 ch. at higher altitudes.

17th SESSION OF THE NATIONAL ASSEMBLY:

17-1. MATTER RELATING TO TRANSMIGRATION OF CATTLE

The people of Buso and Sephu who are responsible for the transmigration of His Majesty's cattle from Tongsa to Longtay in Summer and for housing them in fresh cowsheds etc. had not yet been exempted from the other labour works (apart from Dudom) under Wangdiphodrang Dzongkhag.

Therefore, it was decided that the labour provided by the people of Buso and Sephu should be adjusted against the labour to be

provided for other government works under the Dzongkhags, as in the case of other Dzongkhags.

17-2.MATTER RELATING TO DUDOM FOR HERDMEN

The herdsman and their assistants looking after flocks of government cattle would be exempted from 'Dudom' whereas herdsman working for private parties would be required to provide 'Dudom'.

19th SESSION OF THE NATIONAL ASSEMBLY:

19-3. MATTER RELATING TO THE LAND OF DELTSANG PHARKHA

The land located at Dechang Phakha near Thimphu Dzong would be occupied by the government and the people residing in the area would be suitably compensated. In case the land was not cultivable, the compensation would be reduced after consulting the land records. In the case of cultivable land, the cost of land would be paid by the government.

19-4. MATTER RELATING TO THE LAND OF THIMPHU CHANG

The land belonging to the people of chang occupied by the Dadul Makhang (police headquarters) would be compensated as above.

19-5. MATTER RELATING TO THE PADDY LOADS FOR CHARI

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

19-6. MATTER RELATING TO THE LANDS AT PARO

The lands belonging to the public and occupied by the Development Ministry at Paro would be compensated for with the cost of land in case of cultivable lands, and in case of barren land, the tax would be written off. These would be done after necessary verification by the district court of Paro.

Similarly, the land at Yusipang belonging to the people of Toep would also be compensated for as in the case of Paro after due verification by the district court of Thimphu. The land affected by the flood of Punakha Rivers would be compensated for after the verification by the Judge of Punakha Dzong, and such land would also be exempted from tax after consultation with the Store Officer of Punakha.

19-7. MATTER RELATING TO THE LAND OF KHASADAPCHU

The land occupied by the Government at Khasadapchu would also be compensated for and tax on it would be exempted after verification by the Thrimpon of Thimphu.

19-8. MATTER RELATING TO THE LAND OF CENTRAL MONK BODY AT GASA

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

25th SESSION OF THE NATIONAL ASSEMBLY:

25-9. MATTER RELATING TO THE COST OF EXPROPRIATED LAND

Some Assembly members requested that the sum of Nu. 200/- per 'Langdo' paid for the public land expropriated by the

government for developmental works be enhanced. The Assembly rejected the request.

26th SESSION OF THE NATIONAL ASSEMBLY:

26-10. MATTER RELATING TO EXEMPTION OF POTATO TAXES

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

26-11. MATTER RELATING TO THE DOUBLE TAXATION ON GRAZING LAND

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

26-12. MATTER RELATING TO GRANT A GRAZING TO SHEMGANG RABDEY

It was reported that the pasture used by Mr. Sithup for grazing cattle belonging to His Majesty had been lying vacant. As such, His Majesty the King was pleased to accede to the request of the public of Shemgang that the pasture be granted to Shemgang Rabdey.

28th SESSION OF THE NATIONAL ASSEMBLY:

28-16. MATTER RELATING TO FELLING OF TREES IN SHIFTING CULTIVATION

As requested by the public regarding the felling of trees in shifting cultivation, it was decided to allow the felling of trees provided the land in question was registered in Thrams and the trees in that land had not been felled upto twelve years as per Land Act No. KA 1 - 8.

28-17. MATTER RELATING TO THE PAYMENT OF TAXES ON TSERI LAND

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

29th SESSION OF THE NATIONAL ASSEMBLY:

29-13. MATTER RELATING TO FREE ALLOTMENT OF GOVERNMENT LAND NEAR TOWNS TO THE PUBLIC

The public of each village would be allotted pasture free of cost within one mile of their village for the purpose of grazing cattle, mules and sheep. Yearly land revenue, however, would be levied on such land. Beyond a distance of one mile from towns, both the land revenue as well as the price of land would be payable to the government as before.

29-14. MATTER RELATING TO EXEMPTION OF TAX ON CATTLE BELONGING TO MONASTERIES

The House decided to grant exemption of cattle tax to monasteries owing registered livestock for dairy products and for offering sacred butter lamps, irrespective of whether the monasteries belong to the government, to the community, or to private parties. Upto 20 heads of cattle belonging to Class I monasteries, and 15 heads of cattle belonging to Class II

monasteries, and 10 heads of cattle belonging to Class III monasteries would be exempted from tax.

30th SESSION OF THE NATIONAL ASSEMBLY:

30-2. MATTER RELATING TO TAX ON CONVERSION OF SHIFTING CULTIVATION LAND INTO DRY AND WET CULTIVATION LAND

In order to encourage conversion of shifting cultivation lands (tseri) into dry or wet lands, it was decided that all the farmers desirous of carrying out such a conversion would be entitled to pay taxes for 2 or 3 years as per the prevailing rates for Tseri. However, as soon as the first crops were harvested from such converted land, the farmers concerned would have to start paying taxes according to the type of land in their possession, i.e. dry or wet. Inspection would be carried out by the local civil authorities, village headman and assistant headman. The decision applied not only to the farmers of Kheng who were mostly dependent on shifting cultivation, but to all other parts of the country where this practice was in vogue.

30-22. MATTER RELATING TO LAND TAX

It was resolved that the annual taxes on land would have to be paid fully to the concerned Dzongdags by the 12th month of each year. Further, it was decided that in case the public failed to pay taxes due to natural calamities like floods, they should report to the Hon'ble Finance Minister through their respective Dzongdags.

30-24. MATTER RELATING TO LANDLESS PEOPLE OF SOUTHERN BHUTAN

The landless people of Southern Bhutan known as 'Sukumbasis' were being settled on forest lands without having to pay for their land. The Assembly decided that

henceforth the 'Sukumbasis' would be treated on a par with the landless people of interior Bhutan i.e. they would be allotted land on payment of the prescribed price. They would have to settle in areas where there were no forests.

31st SESSION OF THE NATIONAL ASSEMBLY:

31-15. MATTER RELATING TO LAND IN THE SURROUNDING AREAS OF VILLAGES

The people were permitted to use lands within a radius of 2 miles of a village for grazing etc. No taxes needed to be paid to the government for the same. As such, it was decided that landless people wanting to settle on such lands should apply to the government, which in turn would consider their applications before allotting them land. No objections from the villagers on this matter would be entertained.

31-16. MATTER RELATING TO COMPENSATION FOR LAND REQUISITIONED FOR ROAD CONSTRUCTION

The Officer-in-charge of road construction work, together with the concerned land-owners, will record all the relevant details of private plots of land, dry or cultivable, requisitioned for road construction. The same will be obtained by the village Headman and submitted to the Dzungda who, after the necessary verification, will in turn submit the records to the Home Minister. The Home Minister will assess the price of the land, after which the Finance Minister will arrange for compensation in accordance with the prevailing rates.

31-17. MATTER RELATING TO EXEMPTION OF TAX ON ECCLESIASTICAL LANDS AND POSSESSIONS

In view of the traditional reverence with which the various monk bodies in the Kingdom were held, it was decided that henceforth all lands belonging to the Ecclesiastical bodies and

other private lands, grasslands, cattle etc, belonging to the Monasteries would be exempted from tax.

32nd SESSION OF THE NATIONAL ASSEMBLY:

**32-8. MATTER RELATING TO GRANT OF LAND TO THE
LANDLESS PEOPLE OF SOUTHERN BHUTAN**

The Assembly decided to allot land to the landless people of Southern Bhutan in the following order of priority.

- i. Flood affected people
- ii. People who did not possess land from the beginning
- iii. People separated from a house owing to insufficient land.

32-18. MATTER RELATING TO 'SOKSHING'

As per Article 'Chaa' of the Forest Act, the sokshing land registered in thram in the name of the public also fell under government land. As such the public requested that Article 'Chaa' of the forest act should be amended. However, the Assembly noted that sokshing land could only be used free of tax for manure purposes as per article Ka-1-1 of the main law. Consequently, the house resolved that in the event of there being trees within the sokshing, it should be reported to the Forest Department, which would mark them for felling. The public would only be permitted to fell the trees on paying royalties as per the government rules.

**32-21. MATTER RELATING TO GOVERNMENT LANDS NEAR
VILLAGES**

The Assembly acceded to the Public request that the Government lands within 2 miles of a village be recorded in the sathram as public pasture, but only after the payment of the prescribed land tax. However, should the Government

require the land again; it would be entitled to recover it without making any payment.

In the event that any portion of the land was to be allotted to a private party affected by the floods, the concerned Dzongda and the villagers would jointly investigate the matter and accordingly report to the Assembly, which alone was empowered to allot such lands.

32-22. MATTER RELATING TO COST OF COMMERCIAL PLOTS IN THIMPHU TOWN AREAS

In connection with the plea of the merchants in Thimphu that the cost of commercial plots at Nu.1/-per sq.ft.be reduced, the Assembly observed that since the merchants had only recently set up business, they might be facing genuine monetary difficulties, As such it resolved that though the cost of the plots would remain unchanged, the merchants would be permitted to make their payment in appropriate yearly installments so that the entire payment could be made within 5 years.

32-30. MATTER RELATING TO EXEMPTION OF POTATO TAX

Although tax on potato production was lifted all over the country, potato tax continued to be levied in Tashigang. As such, the Assembly resolved to stop the levying of potato tax in Tashigang forthwith.

32-37. MATTER RELATING TO INVALIDITY OF OTHER 'KASHOS'

It was observed that the practice of some rich people in certain Dzongkhags of producing Kashos from various dignitaries and thereby excusing themselves from Dzong renovation works was causing great problems to the people. As such it was decided that henceforth only those producing the Kasho of His Majesty the King would be exempted from such works. In this connection, His Majesty the King was

pleased to issue a Kasho invalidating the other Kashos issued by various dignitaries. The Assembly endorsed the move.

33rd SESSION OF THE NATIONAL ASSEMBLY:

33-1. MATTER RELATING TO SALE AND PURCHASE OF LAND BY GOVERNMENT AND PRIVATE PARTIES

For the development of the country, the Ministries of Development, Trade and Industry and the Civil Departments would have to acquire land for the establishment of Industries and construction of government buildings. The land for the above purpose as far as possible was to be acquired from the vacant government land and not from the cultivable land of the public. If, however, lands near Dzongs or villages were required for the construction of schools or roads, the people would be compensated at the rate of Nu. 400/- per 1/4 langdo of wet land Nu. 200/- per langdo of dry land. Alternatively, if there was any vacant government land in the vicinity, it would be allotted free of cost.

Additionally, the Assembly resolved that all kinds of land transactions among the public themselves would be governed by the existing rules.

33-2. MATTER RELATING TO ECCLESIASTICAL LANDS

In view of the pervasive influence of the Central Monk Body and the monastic organizations in the country, their expenses had so far been met by the government. However, they had now requested the Assembly that henceforth they be permitted to possess their own lands. Noting the heavy financial burden placed on the government in meeting the expenses of the monastic bodies and appreciating the advantages that would result from their being self-sufficient, the Assembly called upon these organizations to find appropriate lands and report back to the government, which

would purchase the same for them. The government would also assist in the event that and development was necessary. The Development Ministry would assist in the construction of irrigation canals within the plan programme.

33-3. MATTER RELATING TO IRRIGATION CHANNELS

It was found that owing to the negligence of village heads, the renovation of construction of many irrigation channels were not progressing at a satisfactory rate. As such, the Assembly decided that henceforth the public representatives should expedite the completion of these works. The following persons were nominated by the Assembly for looking after the works mentioned against their names.

- a. Sri Lango Yeshey - Paro Jagathang
- b. Shah Ugen - Paro Shap Bara
- c. Gyele Gethen Bechhuang and Gongchhu - Wangdi Phodrang
- d. Radi Dhendup - Tashigang Radi Fomey
- e. Ramzam Lhendup Dorji - Bidung
- f. Lamthi Tashi Tshering - Dadung & Benkhar Tongsa
- g. i. Babsatu Chang Byisi - Tobeycha
ii. Mewang Dorji Phub - Lobeysa
iii. Phangsho Dorji Gyeltshen - Lobeysa
iv. Gesey - Lobeysa
v. Tewang Hothoe - Lobeysa
- h. Dil Bahadur Ghaley - Sibsoo & Pinjuli
- i. Dhendup Tshering Lepcha - Samchi Gepteng

It was resolved that the above should complete the stipulated works and report the next Assembly session. They would get a Lajap's salary. The people belonging to the concerned areas were to continue sending labour without fail till the works were completed. A copy of the monthly Muster Roll would be sent to the Ministry of Finance. Absentees would be fined Nu.

3/- per day. Such channels which had sustained heavy damage and were not repairable by the people would be taken over by the Development Ministry. The concerned people themselves would have to undertake the minor repairs.

34th SESSION OF THE NATIONAL ASSEMBLY:

34-8. MATTER RELATING TO THE TAX ON APPLE ORCHARDS

Though previously apple orchards were not taxed, it was decided that hence-forth, after measurement in acres, a tax would be levied on them at the same rate as on dry land. For orchards where the number of fruit bearing apple trees were less than 30, only land tax would be levied, whereas on orchards where the number of apple trees exceeded 31, an additional tax would also be levied @ Nu. 4/- per tree from the third year's crops onwards. People who had already planted orchards on government land would be exempted from paying the cost of land. However, from now onwards, those planting orchards on government would be required to pay the cost of land at the equivalent rate of dry land.

34-9. MATTER RELATING TO REVISION OF CARDAMOM TAX

Till now the export tax on cardamom per maund was Nu. 15/-. In view of the good market the product fetched, the Assembly resolved to revise the export tax on cardamom to Nu. 20/- per maund with effect from 1971.

34-13. MATTER RELATING TO TAX ON ORANGE TREES

Till now, orange tax had been levied only on the people of Southern Bhutan, but not on the people of interior Bhutan. Henceforth, the Assembly resolved that orange tax would also be levied on the owners of orange plantations in interior

Bhutan on a par with that levied in Southern Bhutan, i.e. @ 50 ch per tree.

34-14. MATTER RELATING TO EXPORT OF POTATOES

To date, in view of the unpromising potato export market, no tax was imposed on the export of potatoes. Now, with the potato export market having turned highly profitable, the Assembly resolved to levy a tax of Nu. 2/- per maund on the export of potatoes.

35th SESSION OF THE NATIONAL ASSEMBLY:

35-4. MATTER RELATING TO TAX ON ORANGE TREES

According to resolution passed in the 34th session of the National Assembly, a tax was to be levied on orange trees in all the regions of the country on a par with that being imposed in southern Bhutan. However, the resolution had not specified as to from when the tax was to be levied. The Assembly therefore decided that the said tax would be levied as soon as the orange trees bore fruit.

35-11. MATTER RELATING TO REVISION OF TAX ON ORANGES TREES

In order to generate government revenue, the rate of tax on orange trees in some places at lower altitude like Sibsoo, Chengmari, Samchi, Phuntsholing, Kalikhola, Sarbhang, Gaylegphug, Samdrupjongkhar and Daifam, where the cash crops fetched a comparatively higher price, would henceforth be revised and fixed at Nu. 1.50 per trees with effect from 1972. At other places, the rate would be Nu. 1/- per tree.

35-13. MATTER RELATING TO EXPORT TAX ON CATTLE

The Assembly noted that tax on cattle was being realized from the public of Dagana at the rate of Nu. 5/- per cattle exported to other districts. As such, the House decided that the export

tax on cattle in other Dzongkhags would also be imposed at the rate of Nu. 5/- per cattle.

36th SESSION OF THE NATIONAL ASSEMBLY:

36-1. MATTER RELATING TO LAND TAX EXEMPTION

It was reported that since the appointment of HRH Ashi Sonam Chhoden Wangchuk as Representative of His Majesty in the Ministry of Finance, taxes on land and cattle had been exempted to some extent in view of the problems being faced by the public. The Assembly turned down the request of some members that amalgamated dry and wet lands also be exempted from land tax to the extent of 8 langdos.

Accordingly, it resolved that the Kashos granted earlier by HRH Ashi Sonam in this regard would remain valid.

36-2. MATTER RELATING TO TIBETAN SETTLEMENT

The Assembly observed that the Tibetans were settling and grazing their own yaks as well as those belonging to others in some places in northern Bhutan. In view of the possible political implications of the issue, it was decided that their settlement in the north be restricted. Meanwhile, the House also decided that the Tibetans should be settled in Central Bhutan jointly by the Dy. Home Minister, Dzongdags and the two Tibetans officials. Tibetan refusing to abide by this decision would be directed to leave the country for India.

38th SESSION OF THE NATIONAL ASSEMBLY:

38-14 MATTER RELATING TO LAND FOR THE LANDLESS IN SOUTHERN BHUTAN

Many landless people in Southern Bhutan were given land for cultivation by the government. However, it was later found that there were still many more landless people and all their names

were listed by the government for allotments of land to them. Dates for distribution of these allotments, along with their exact locations, would be fixed by the government. However, the Assembly decided that once these allotments were made, no further requests for land would be entertained.

38-21 MATTER RELATING TO EXEMPTION OF LAND TAX UPTO 8 LANGDOS OF LAND

As per resolution No. 1 of the 36th Session of the National Assembly, the exemption of land tax upto 8 langdos would not be appreciable to amalgamated wet and dry lands. As it was found that this decision had proved advantageous only to the rich land-owners, but not to the poor, the current session of the Assembly decided that henceforth except for Southern Bhutan, the people of interior Bhutan would be permitted to combine wet land, dry land, shifting cultivation land and vegetables patches to make up the requisite 8 langdos for tax exemption.

41st SESSION OF THE NATIONAL ASSEMBLY:

41-2 MATTER RELATING TO SETTLEMENT OF SUKUMBASIS IN SOUTHERN BHUTAN

Regarding settlement of Sukumbasis in Southern Bhutan, the House was informed that new means were being examined by the Royal Government. After completing the investigation and earmarking the areas, the grant of lands to the landless would be initiated.

41-3 MATTER RELATING TO REQUEST FOR 'SATHRAM'

The people of Southern Bhutan requested that their lands be registered in 'Sathram' on completion of their land transactions. In this regard, the House was informed that there was no problem in registering such lands in 'Sathram' provided the transactions had been carried out as per the Land Act. In the meantime, the Assembly resolved that the Ministry of Home

Affairs should issue a circular on transaction procedures for the convenience of the general public.

41-5 MATTER RELATING TO LAND OF MONGAR RABDEY

The people of Mongar complained that they were always running at a loss while cultivating the land of Mongar Rabdey on a 'Thojab' basis. As such, the Assembly resolved that the cultivation be done on a share basis instead of 'Thojab'.

49-10 MATTER RELATING TO IRRIGATION FOR NEWLY TERRACED LAND

It was reported that dry lands that had been converted into wet lands in some villages could not be utilized fully as no water was given to them from the old irrigation channels. In this connection, the Assembly decided that the concerned Dzongdags should report the matter to the Hon'ble Home Minister for supply for irrigation facilities after necessary investigation.

41-26 MATTER RELATING TO DEMARCATION OF GRAZING LAND

Regarding the demarcation of grazing land at Khatey and Khamey in Ha district, it was informed that the issue would be finalized only on holding talks between Bhutan and China. Therefore, the Assembly urged that the matter be pursued and settled as soon as possible.

42nd SESSION OF THE NATIONAL ASSEMBLY:

42-1 MATTER RELATING TO DISTRIBUTION OF LAND TO THE LANDLESS PEOPLE OF SOUTHERN BHUTAN

Due to the increase in the number of landless people in Southern Bhutan every year, a thorough examination into the matter would be conducted by the Royal Advisory Council. On receipt of the recommendation of the Royal Advisory Council,

the distribution of land would be undertaken. The government would select suitable sites for the allotment, and in case of scarcity of water, irrigation channels would be constructed by way of assistance. Those expressing a lack of interest on the allotted land would be debarred from any claim when such land was again allotted in future.

43rd SESSION OF THE NATIONAL ASSEMBLY:

43-5 MATTER RELATING TO PASTURES AND TREES WHOSE LEAVES ARE USED FOR MANURE (SOGSHING)

In order to develop forest resources, the Department of Forests would gradually demarcate all forests of the Government and the public. Some of the pasture and Sogshing rights to the public were likely to fall within such demarcated forests. However, the owners could collect leaves and retain the rights in their own names. If they wanted to fell trees, permits would have to be obtained from the Department of Forests as per prescribed rules. Likewise, the pastures could also be grazed as usual till rules were framed by the Ministry of Trade Industry & Forests in this regard, which were to be submitted in next session of the National Assembly.

43-6 MATTER RELATING TO LAND AND PROPERTIES OF ABSCONDERS

It was understood that some of the absconders on their return to the country demanded lands and other properties which had already been nationalized. The Assembly decided that in future, even if the absconders returned, they could not claim their previous land and other properties as a matter of right. Instead, they would have to settle down as newcomers.

44thSESSION OF THE NATIONAL ASSEMBLY:

44-1 MATTER RELATING TO REFERENCE TO OLD AND NEW LAND RECORD

The matter regarding the old and new land records was taken up in the Assembly and the differences between them were noted. It was decided that the new land records would be followed. However, it was also decided that if the new land records failed to throw sufficient light on particular disputes the old land records may be consulted.

44-2 MATTER RELATING TO TAX ON ORANGE AND CARDAMOM

Some of the members requested that taxes on oranges/cardamom be reduced, but owing to the shortage of governmental revenue, the Assembly resolved that taxes would be continued to be levied as before on orange and cardamom.

44-4 MATTER RELATING TO AGREEMENT BETWEEN THE LANDLORDS AND THE TENANTS

Until now, no proper written agreements between the landlords and the tenants were made as per rules while cultivating the land on a share basis. In view of the complications arising from this state of affairs, the Assembly decided that henceforth written agreements were to be made between the two parties as laid down in the rules. The Hon'ble Home Minister would accordingly issue a circular in this regard.

44-5 MATTER RELATING TO PASTURE LANDS

Various points regarding pastures lands were discussed. The Assembly decided that the government would conduct the necessary investigations, and announce its decisions on the matter later.

45thSESSION OF THE NATIONAL ASSEMBLY:

45-1 MATTER RELATING TO LAND TRANSACTIONS

The issue of the purchase and sale of land by the public of Southern Bhutan came up for discussion in the 45th Assembly Session. It was decided that no individual would be allowed to sell all his land possessions and thus become landless. Any person becoming landless in the above fashion would not be eligible for any land which the Government might in future distribute to the landless. A person could, however, sell a part of his land in case he considered it to be in excess. Those buying land were also to ensure that the land they were buying was in excess.

45-3 MATTER RELATING TO SOKSHING HOLDINGS

The issue of rights over 'Sokshing' holdings was brought up in the Assembly. It was pointed out that the 43rd Assembly Session had recognized that the owner could maintain the sokshing so registered in his/her name in the Government records. The 43rd Session had also stipulated that it would be obligatory for the owner to obtain a permit from the Department of Forests in the event that he/she wanted to fell trees. In view of the problems this created, the 45th National Assembly session decided that as sokshings were mainly preserved for their leaves for manure, felling of trees within the sokshing would henceforth be prohibited.

45-4 MATTER RELATING TO PASTURE LAND

It was pointed out that since the annual taxes and the cost of the pasture had been paid by the owners of pasture so registered in Government records, the Forest Department should exercise no control over such land apart from the trees. Some members further pointed out that at times the Forest Department failed to recognize the rights of the pasture owners on their pastoral lands. After discussing the issue, the Assembly decided that, in view of the immense economic

importance of the country's forest wealth, the government would carry out a detailed investigation on the matter and report its conclusion to the next session of the National Assembly.

46th SESSION OF THE NATIONAL ASSEMBLY:

46-2 MATTER RELATING TO ALLOTMENT OF LAND FOR CASHCROPS

The Assembly discussed the public demand for allotment of land for plantation of cash crops like oranges and cardamom. In view of the fact that land was being distributed to the landless, the Assembly decided to wait until this distribution was completed, after which land for cash crops would be allotted on a priority basis to people who had no such land.

46-3 MATTER RELATING TO APPROVAL OF THE DRAFT OF RULES AND REGULATIONS OF PASTURE LAND

The Assembly approved the draft of Rules and Regulations on pasture land prepared, as per His Majesty's command, by the Royal Advisory Council and the High Court for the general welfare of the public. This Rules and Regulations were to be included in the Land Act.

46-4 MATTER RELATING TO LAND UNDER THIMPHU TOWNSHIP

The Assembly discussed the difficulties of people whose land had fallen under the government's Thimphu township areas. It was pointed out that gradually all the land at Thimphu would fall under Thimphu Township. However, the public could occupy the vacant land around the township till such time as the Government occupied it fully. The government would provide substitute land and other assistance to the people whose land had fallen under the township areas.

46-5 MATTER RELATING TO CONVERSION OF 'SOKSHING'
INTO CULTI-VABLE LAND

Taking up the matter of conversion of 'Sokshing' into cultivable land, the Assembly noted that since 'Sokshing' was specially meant for manure, it was not supposed to be converted into cultivable land as per rules and regulations. Though the people who had already done would be excused in future all would have to abide by resolution No. 3 of the 45th session of the National Assembly.

46-13 MATTER RELATING TO EXPORT OF APPLES,
POTATOES ETC

The Assembly discussed the prospects of profitable governmental export of cash crops produced by the farmers. The Assembly was informed that, as per command by His Majesty, the Food Corporation of Bhutan and the Ministry of Trade, Industry and Forest would first study the prospects of export to India. If these were not satisfactory the cash crops would be exported to other countries through STCB Calcutta.

46-21 MATTER RELATING TO COST OF CARDAMOM ETC

The public sought permission to sell cardamom etc. to the Food Corporation of Bhutan at the prevailing market rate. His Majesty let it to be known that the Food Corporation of Bhutan had been opened for the benefit of the public who failed to dispose off their yields satisfactorily and thus suffered losses. To secure the welfare of the public, the Food Corporation of Bhutan was running without benefit. However, if this procedure was unacceptable to certain members of the public of Chirang, the matter would be investigated and suitable rates fixed.

46-22 MATTER RELATING TO IRRIGATION CHANNEL
MAINTENANCE FUND

It was decided to impose a tax of Nu. 5/- per acre per annum on people whose land had been developed through the government's special irrigation schemes.

47th SESSION OF THE NATIONAL ASSEMBLY:

47-1 MATTER RELATING TO HOUSEHOLD TAX AND INSURANCE FUND FOR VILLAGERS

In some parts of the country two or more families were living in one house. At present each family had to pay household tax separately. However, house insurance fund was collected on the basis of individual houses and not individual families. It was requested in the National Assembly that household tax should be levied on the number of houses based on class of house. Likewise the house insurance fund should also be collected on the basis of individual houses and not individual families. The government conceded to this request. As such, it was decided that the house insurance fund and household tax would be collected on the basis of individual houses with effect from January 1, 1978. This rule would not apply to other taxes and duties except for households.

47-2 MATTER RELATING TO TREES REGISTERED LAND

With reference to the request made by some members that permission to be granted for felling trees in one's registered land, the government felt that such cutting of trees would lead to a steep decline in the nation's natural resources. Besides, as before, the government had to consider the problems of the poor families. It was therefore decided that the rules and regulations drawn up by the Forest Department should be followed.

47-3 MATTER RELATING TO CASH CROP GROWERS

It was decided that if cash crop growers were able to get better prices from private traders than what was offered by the Food Corporation of Bhutan, they would be permitted to sell their produce to the private parties without hindrance.

48th SESSION OF THE NATIONAL ASSEMBLY:

48-1 MATTER RELATING TO RIGHT TO FELL TREES WITHIN REGISTERED LAND

As per the Forest Act, the owners of land had no right to fell trees within their registered land. The matter being raised and discussed in the current session of the Assembly, certain amendments were made. It was resolved that the owners of land could enjoy the rights mentioned in Clause Nos. 6 and 7, Chapter III of the Land Act, without obtaining permit or paying royalty, except for trees in grazing fields Sogshing (the trees specially preserved for collecting leaves for manure), cash crops garden, and trees under preservation, if any.

48-2 MATTER RELATING TO EXEMPTION OF DRY LAND TAX

In accordance with the Land Act, each householder could possess a maximum of 25 acres of land. However, this system was disadvantageous to high altitude people, as they could cultivate their dry land only once in 12 years. Hence, it was decided that they would be permitted to alternately cultivate other cultivable dry land registered in their names after obtaining a permit from the Dzongdag concerned, who would in term exempt the tax for the uncultivated land during the same period.

48-3 MATTER RELATING TO TRANSACTION OF LAND

According to the Land Act, a householder possessing upto 5 acres of land was prohibited from disposing it. In the current Assembly session, permission was sought for the disposal of such land if the landowner was alone in the house-hold. In this connection the Assembly decided that the party intending to sell his/her land in such cases should approach the Dzongda concerned who would grant the necessary permit after proper investigation into the matter. However, in the event that such a person became landless, he/she would not be allotted any land by the government in future.

48-4 MATTER RELATING TO ALLOTMENT OF LAND FOR GROWING CASH CROPS

As per His Majesty's wish, it was necessary to allot suitable selected land to poor people for growing cash crops, so as to improve their condition at the earliest possible.

However, this opportunity could not be availed of by the poor as the suitable sites were reserved by several people of the upper class. As such, it was decided that orchard land irregularly occupied by the people who had been duly confiscated by the government would be allotted to poor people without such land on a priority basis after the Ministry of Development had carried out the necessary investigations.

48-5 MATTER RELATING TO EXCESS LAND

Prior to the approval of the new land act by the National Assembly, if private registered land below 25 acres in total which did not encroach upon government land was found to be in excess of its due during the re-survey of land, the owner could register the said excess in his/her own name as per Article 3-4 of the Land Act. Consequently, the excess land would remain in their Sathram and they would be exempted from paying the cost of the same. However, land tax would be levied for the excess land from the time of its occupation.

48-6 MATTER RELATING TO APPROVAL OF THE DRAFT OF THE LAND ACT

The draft of the Land Act submitted by the Legislative Committee to the National Assembly was discussed and approved after necessary amendments on the 8th day of the 5th month of the Earth Horse Year.

49th SESSION OF THE NATIONAL ASSEMBLY:

49-5 MATTER RELATING TO RIGHT TO FELL TREES WITHIN REGISTERED LAND

In a previous Assembly, the right to fell trees on one's registered land was discussed. This was again raised in the Assembly. The Assembly said that the resolution on this had already been passed and the rules contained in the Land Act which were based on this resolution, must remain unchanged and be adhered to.

49-7 MATTER RELATING TO THE ALLOTMENT OF LAND TO THE LANDLESS PEOPLE IN THE TASHIGANG AREA

A matter frequently brought up in the Assembly was the allotment of land to the landless from publicly and privately owned grazing land. Regarding this the Agriculture and Forest Department and the Dzongda were to ascertain the number of landless people and the suitability of the Government, public and private grazing land for cultivation. The extent of the grazing land which could be allotted was also to be reported to the Government which would then accord the approval for allotment.

49-8 MATTER RELATING TO MORE LAND FOR CASH CROPS

The members of Southern Bhutan stated that there was insufficient land to grow more cash crops and requested that more land be set aside for this purpose. Since His Majesty the King had given, the Development Ministry the responsibility of looking into the matter and allocating suitable land, it was decided that this practice of land allotment was to continue.

49-9 MATTER RELATING TO INCREASING THE RATE OF CULTIVABLE LAND

According to government rule, the rate of wet cultivable land has been placed at Nu. 1,600/- per acre, and dry land at Nu. 600/- per acre. With the passage of time and increase in the

value of land, it was thought necessary by the National Assembly members to revise the existing land rate.

On this it was passed that the Royal Advisory Council would examine the situation and submits their recommendations for revision of the land rates to the next Assembly for approval.

49-10 MATTER RELATING TO PUBLIC LAND FALLING UNDER TOWNSHIP AREA

The issue was raised regarding the sale of the remainder of the public land adjoining the Gaylegphug Township area which did not come under the pro-posed township plan. The right to sell this land ought to be granted to the owners of the land.

It was stated that the Town Planning Committee was presently working on a sketch map of the Gaylegphug Township. This would be completed within 5 months after the conclusion of this Assembly.

It would then be permitted to sell the adjoining land not falling under the Township plan, in accordance with the Land Act.

49-27 MATTER RELATING TO SKETCH MAP OF TOWN PLANNING

The members of Chirang brought up the point that if the sketch maps of the Township were not drawn up speedily, the development of market areas would be delayed. To this the Central Town Planning Committee said that the sketch maps of different Townships were being gradually drawn up. The completed town plan and design of the shops along with the maps would be circulated shortly.

49-30 MATTER RELATING TO CHANGE OF SETTLEMENT OF BHUTANESE TO DIFFERENT SUB-DIVISION

The movement of settlement of Bhutanese to different subdivisions had been causing some problems in places where

there is a scarcity of land. It was decided that in future the concerned sub-divisional officers would examine the adequacy of available land and movement would be allowed only if the land available was sufficient.

49-37 MATTER RELATING TO GRAZING LAND FOR DROKPAS (YAK HERDERS)

In the Government Land Act a chapter mentions the allotment of grazing land belonging to Drokpas for cultivation purposes. Since these grazing lands are all situated at very high altitudes and are not suitable for cultivation and amendment in the grazing land act was thought necessary. On this it was decided that His Majesty the King would study the situation himself and issue a written command (Kasho) in the best interests and for the welfare of the Drokpas. An amendment was thus not required.

49-38 MATTER RELATING TO COMMON PERMIT (TSACHHU NYOKHOR) FOR GRAZING LAND

Till now it has been the customs to issue grazing land permits to individual households. The question was raised as to whether it would be possible to have instead one common permit for all the houses under the one Chipon. In this respect it has been decided that the concerned Dzongdas, the Home Minister, Finance Minister and the Royal Advisory Council would decide on the course of action which will accordingly be accepted.

49-39 MATTER RELATING TO LIMIT OF GRAZING LAND IN ACCORDANCE WITH THE NUMBER OF CATTLE OWNED

It was pointed out that in the best interest of the public and the government when grazing land was being allotted for cultivation purposes, the acreage of the grazing land should be fixed according to the number of cattle owned. To this, it was stated that till date, the total grazing level land had not been measured

thoroughly because of the difficult geographical position of the grazing land areas.

50th SESSION OF THE NATIONAL ASSEMBLY:

50-3. MATTER RELATING TO FELLING TREES WITHIN PRIVATE LAND AND FELLING TREES FOR ROOF SHINGLES

Some chimis requested that they may be allowed to fell trees that were within their registered land. They also requested that they may be allowed to make shingles in the neighbouring forests.

After the deliberations, the National Assembly decided that the Government Land and Forest Acts respectively covered all matters relating to the above. The Assembly, therefore, resolved that no further amendments were necessary.

50-11. MATTER RELATING TO ALLOTMENT OF LAND TO SUKUMBASIS

The Chimis from Bhangtar reported to the National Assembly that the Sukumbasis who have been granted land by the Government have not received it yet. He expressed that if the Government could allot the land before the end of this cultivation season, the work in the land could start soon.

The Ministry of Development pointed out that all the Sukumbasis granted land by the Government will be allotted land. They have already started allotting land. It is proposed that by the end of the seventh Bhutanese month, all allotments will be completed.

His Majesty explained that allotment of land took time because before careful studies of the quality of the soil and irrigation possibilities had to be done. And even after good land was found, scientific clearing of the Forest took a long time.

Haphazard clearing of forests could cause heavy losses of valuable timber. However, the Government was attempting to allot land as soon as possible according to the convenience of both the Government and public. For other landless people, who have not yet been granted land by the Government, His Majesty commanded that if they wished, they could be employed in the industries and development works.

50-4. MATTER RELATING TO ALLOTMENT OF LAND IN THE INTERIOR

The Chimi from Gaylegphug proposed in the National Assembly that if land was not available in Southern Bhutan for allotment to landless people there, the Government could allot land to them in the interior. This, he explained, would also be consistent with the national integration policy.

His Majesty commanded that he was very pleased to hear this proposal to strengthen national integration and understanding. His Majesty further added that the Government has already adopted such a policy.

As commanded by His Majesty, the National Assembly unanimously passed the resolution that henceforth, landless people from Southern Bhutan will be granted land in the interior.

50-13. MATTER RELATING TO PURCHASE OF LAND BY CITIZENS

The Chimi from Chengmari proposed that the Government should permit a landless citizen to purchase land.

During the discussions, it was pointed out that there was no restriction against bonafide citizens purchasing land within the country. This is clearly provided in the Land Act of Bhutan.

The National Assembly resolved that the Land Act had adequate provisions to allow bonafide citizens to purchase land anywhere within the country.

50-5. MATTER RELATING TO ALLOTMENT OF LAND FOR CASH CROPS

The Chimis from Sibsoo, Gaylegphug, Daifam and Chengmari proposed that the Government allot land to the public for cultivation of cash crops.

His Majesty was pleased to command that it was he, who had encouraged the public to cultivate cash crops by allotting land. His Majesty was also pleased to point out that it was the wishes of the Southern Bhutanese people that priority be given to allot land to landless people first before allotting land for cash crops. He also said that the allotting land to landless people has not yet been completed.

The National Assembly resolved that the allotment of land for cultivation of cash crops was adequately covered in resolution 2 of the 46th session of the Assembly.

50-6. MATTER RELATING TO CARDAMOM BUSINESS

The Chimi from Sarbhang proposed that Bhutan should exercise its sovereign right to export our cardamom abroad. He stated that so far we have not been able to export any cardamom abroad.

Regarding this issue, His Majesty was pleased to command that there was nothing that hindered export of Bhutan's goods abroad. He explained that India had not restricted Bhutan's export of cardamom abroad, even no countries like Pakistan. However, what did stop our export was the prices offered for cardamom abroad were far less than what we expected. Therefore, even the foreign exchange we would earn from the export of cardamom would not compare favourably with the

prices we pay here. In view of this, we had negotiated with the government of India to purchase our cardamom at prices favourable to us.

Considering the above facts, the National Assembly resolved that until such times, the export of cardamom would prove more lucrative to us, we can export our cardamom to India.

50-7. MATTER RELATING TO PASTURE LAND

The Chimi from Kurtoe and Khaling proposed to the National Assembly that the Government prohibit cattle owners from grazing in other locality.

The National Assembly pointed out that the pasture regulations in the Land Act sufficiently covered this issue. Therefore, they resolved that they would abide by the provision in the Land Act. The National Assembly also resolved that in accordance with the Ministry of Home Affairs' notification, the public need not obtain permission to graze their cattle by their village (Tsachhu Ngingkhorma). This had not been clearly covered in the Land Act.

50-8. MATTER RELATING TO GOVERNING COMPENSATION FOR LAND AND HOUSES REQUISITIONED BY THE GOVERNMENT

In resolution 9 of the 49th Session of the Assembly, it was decided that the Royal Advisory Council will frame and submit draft regulations governing the payment of compensation for land and houses requisitioned by the Government to the 50th Session of the Assembly. In accordance with the above, the Royal Advisory Council submitted the draft regulations for approval by the Assembly. After the necessary amendments were made, the National Assembly approved the draft regulations.

50-9. MATTER RELATING TO THE LAND AND MARRIAGE ACTS

Several Chimis enquired in the National Assembly when the approval of the Land Act would be accorded.

In response, the Royal Advisory Council explained that after the necessary amendments proposed by the National Assembly were incorporated into the Land Act, it was submitted to the Cabinet for final approval. Once their approval is accorded, the Land Act will be published and distributed widely.

Some Chimis raised certain issues regarding marriage and divorce laws in the Assembly.

In response, the Royal Advisory Council circulated the new draft Marriage Act. They requested that the members of the Assembly examine the draft carefully. Any proposed amendments to the draft should be submitted to the Law Committee of the Royal Advisory Council well before the next session of the Assembly. The National Assembly resolved that the finalization and approval of the Marriage Act would be done during the next session.

The National Assembly also resolved that any other laws and acts to be adopted should be submitted first in draft from the National Assembly for discussions.

50-10. MATTER RELATING TO LAND RECORD OFFICE

The Chimi from Chirang proposed to the National Assembly that the Government set-up a land record office in every district for the convenience of the public.

It was pointed out during the discussions that presently all matters relating to land records were being handled by the Dzongdags satisfactorily. In the event this system was not

found satisfactory, the Government would work out another method.

The National Assembly resolved that the Government system of land record was satisfactory, and that no district land record office was necessary at present.

50-11. MATTER RELATING TO EXTENSION OF CARDAMOM PURCHASE PERIOD

The Chimi from Sarbhong proposed to the National Assembly that the FCB purchase cardamom throughout the year instead of the period specified by them.

The FCB explained that they would extend the period of purchase of cardamom from September to March, during which all people are expected to sell their cardamom to the FCB. The FCB also explained that they would agree to purchase any cardamom that the public have for sale this year.

The National Assembly resolved that the arrangement made by the FCB was acceptable. They also resolved that payment by cash or cheque for any purchases made by the FCB should be done at the purchasing centre.

50-12. MATTER RELATING TO TAX ON ORANGE ORCHARDS

The Chimi from Lamidara requested the National Assembly to reduce the tax on orange orchards which are located far away from the motorable roads.

In response, the Ministry of Finance explained that there were different tax rates for orange orchards depending on their location. The Government pointed out that while the incomes from orange orchards were increasing yearly, there has been no increase in the tax.

His Majesty pointed out that the tax rates in Bhutan compared to any other country was very low. This policy, he said, would continue so long as the people fully participate with the government in all development activities.

51st SESSION OF THE NATIONAL ASSEMBLY:

51-13. MATTERS RELATING TO CARDAMOM

The Member of Sibsoo moved the motion that the Food Corporation of Bhutan should buy cardamom from the public without any distinction in quality at competitive market prices. In addition, the cardamom growers should also be allowed to sell their products to any buyer.

In response, Secretary, Ministry of Trade, Industry and Forests, and the Managing Director of Food Corporation of Bhutan, explained that if no distinction is made in the quality of cardamom, the Government would face substantial losses when they are graded. There have been instances where growers were found adulterating the cardamom. Therefore, the cardamom had to be classified into two grades. Henceforth, the Food Corporation of Bhutan and the Department of Agriculture would explain the differences in quality and cost between grades.

It was also explained that even when no restrictions were imposed on other cash crops besides cardamom, the public faced loss due to fraudulent dealings by the private buyers. Keeping in view the welfare of the public, the Government had decided that these cash crops would be purchased by the Food Corporation of Bhutan. Regarding the rates, the Government had fixed the price of cardamom at the rate of Nu. 18/- per kg for first grade and Nu. 16/- per kg for second grade after a detailed study of prices in the market. These rates are reasonable.

On this issue, His Majesty the King commanded that the Food Corporation of Bhutan was established for the benefit of the people, and not a profit earning agency. If the Food Corporation of Bhutan makes profits from the sale of commodities, such profits are passed on to the people. His Majesty has further been pleased to state that the Government would try to offer the public as high a price as possible for each cash crops.

The National Assembly resolved not to amend the existing cardamom purchase procedure of the Food Corporation of Bhutan. It further resolved that the Food Corporation of Bhutan shall exercise a preemptive right over the purchase of cardamom from the public, as purchase by private parties' results in profit earning which results in loss to the people.

52nd SESSION OF THE NATIONAL ASSEMBLY:

52-14. REGARDING RE-SURVEY OF LANDS

The People's Representative of Chang and Babesa, Thimphu district pointed out that the survey of landholdings has not been conducted properly. As such, it has been found that though the acreage of land-holdings it shown less in the land-deeds, the actual acreage of such holdings are large. This has also deprived the Government of valuable revenue and the people are also not aware of the acreage of their land-holdings. Therefore, it was proposed that the Government should conduct a re-survey of land-holdings in the country and incorporate the correct acreage of land records for the benefit of both the Government and the people.

In response, the Chief of Survey informed the Assembly that the Government was aware of such facts and the Department of Survey already has plans to conduct re-survey of lands and

now the work has been started in Paro. After Paro, other districts of the country will also be re-surveyed.

The National Assembly, endorsing the Chief of Survey's statement, resolved that re-survey of land-holdings in all the districts should be conducted at the earliest possible.

52-15. REGARDING TAXES ON SOKSHING AND PASTURE LANDS

To be able to meet the expenditure of the country from its own revenue, it was proposed by the People's Representative of Teywang and Bjimey, Thimphu district, taxes should be imposed on Sogshing (forests maintained for manure) and pasture lands. The members expressed various opinions on the proposal.

His Majesty appreciated the concern of the public to co-operate with the Government in achieving the very objectives of the economic self-reliance. However, His Majesty expressed the view that since the Land Act has recently been approved, it is not desirable to incorporate any amendments at this initial stage. Therefore, His Majesty suggested that the matter should be kept pending for discussion in future as and when necessary.

The National Assembly, endorsing His Majesty's suggestion, resolved that taxes shall not be levied on sogshing and pasture lands for the time being.

52-16. REGARDING TSERI (SHIFTING CULTIVATION)

The People's Representative of Talo and Chubu of Punakha, Nobidunghog of Tongsa, and Gasengtshowom, Nahi and Thetsho of Wangdiphodrang proposed that the government should allow the practice of 'Tseri' cultivation in one's registered land as practised earlier.

The Home Minister informed the House, that 'Tseri' land can be cultivated only once in about 10 years at the earliest. He pointed out that if all the trees grown during that period are cut down indiscriminately for tseri cultivation, it results in a loss to the country. Besides, he mentioned that the 'Tseri' farmers, though they own large acreage of lands, cannot cultivate all the 'Tseri' lands at a time to benefit them. Considering these difficulties and problems of Tseri cultivation and the development taking place in the country with the passage of time, the Home Minister informed the Assembly that there is a plan either to rehabilitate the people who are dependent on Tseri cultivation in other suitable land or the Tseri land should be converted into permanently cultivable lands.

He informed the House that according to the new Land Act 'Tseri' lands could also be converted into wet and dry fields. Therefore, he was compelled to make strict rules to restrict Tseri cultivation.

While endorsing the policy of the Royal Government, the Assembly resolved that till the government is able to make alternate arrangements, the people dependent on Tseri cultivation should be allowed to continue 'Tseri' farming within the prescribed Land Ceiling.

52-17. REGARDING LAND AT JAMPANI DAIFAM

People's Representative of Daifam proposed that the Government should allow the landless people to resettle at Jampani.

During the deliberation, it was revealed that afforestation programme had already been started and lot of expenditure had also been incurred on the programme. It was also revealed that some people who had been granted Kasho for land allotment at Jampani earlier were cancelled and their money were also refunded.

The National Assembly resolved that no land for cultivation shall be allotted to any one at Jampani.

52-18. REGARDING ALLOTMENT OF LANDS

The People's Representative of Chapcha and Bjachhop, Geylta and Bongo, Gasengtshowom, Nahi and Thetsho, Chenkhar and Chirang proposed that landless people should be allotted lands as early as possible. The People's Representative of Lamidara proposed that people who had been awarded land deeds earlier should be rehabilitated soon. The People's Representative of Geylta and Bongo proposed the allotment of land for the purpose of cash crops.

The Director of Agriculture informed the Assembly that the procedure of land allotment to the landless and lands for cash crops are incorporated in the new Land Act. He also informed that the allotment of lands will be made in accordance with the new Land Act and as per the resolution on the issue passed in the previous sessions. The Director also pointed out that the Government's inability to complete the rehabilitation of these people, who have been awarded land deeds, was due to the unwillingness of the people to settle in allotted regions on grounds of inconvenience caused by distance. However, he said that the Department of Agriculture is conducting surveys as to where it would be suitable to rehabilitate them and assured that efforts are being made to complete the rehabilitation within March, 1981.

The National Assembly decided that the allotment of lands to the landless will be made as per the statement of the Director of Agriculture.

52-19. REGARDING SELF-SUFFICIENCY IN FOOD GRAINS

The People's Representative of Lamidara requested to know the plans of the government in achieving self-sufficiency in food.

In response, the Director of Agriculture said that achievement of self-sufficiency in food is very important and as per His Majesty's command, the Department of Agriculture had been taking measures to achieve self-sufficiency since 1976. In 1976, the country had to import 10,000 tons of food grains. But over the years import had been decreasing and in 1979, only 5,000 tons were imported. If everything goes well according to the plans, the country will be self-sufficient in food by 1985 and there would be no need to import food.

52-20. REGARDING PASTURE-LAND ALONG THE NORTHERN BORDER IN HA DISTRICT

The People's Representative of Bji, Kartshog and Yueso of Ha pointed out that the public of Ha and Chinese graziers used to share the pasture-land along the border till now, but the Chinese graziers are demanding grazing fee. Therefore, the government is requested to settle this dispute with the Chinese government as soon as possible. The Chief of Survey stated that pasture-lands on both sides of the boundary were traditionally utilized by both the Bhutanese and Chinese grazers, thus it is not a new phenomenon. Regarding the grazing fee, the Chief of Survey stated that it would be decided only after negotiations between the two countries and therefore the payment of fees to the Chinese grazers and vice versa does not arise. However, if the public is facing serious problems, the Chief of Survey assured the House that he would go to the area and conduct necessary investigation on the issue. The National Assembly endorsed the Chief of Survey's statement.

52-21. REGARDING RESTRICTION OF POSSESSION OF LAND, MONEY AND HOUSE OUTSIDE BHUTAN

The People's Representative of Lamidara and Gaylegphug pointed out that possession of land, money and house outside Bhutan by the nationals may constitute a risk to the security of the country. Therefore, it was requested to the government to enforce the rules and regulations strictly without distinction.

The Minister for Home Affairs informed the Assembly that according to the National Law, persons possessing land and house outside Bhutan are not considered to be citizens and are recognized as foreigners. He stated that circulars have been issued and investigations are being conducted in this regard.

Regarding deposit of money in Banks outside Bhutan by nationals, the Finance Secretary informed that there are no rules and regulations relating to the deposit of money in Banks outside Bhutan by nationals and deposit of money by non-nationals in the Bank of Bhutan till now. However, the Ministry of Finance is drafting a policy on monetary regulations which would be submitted to the Cabinet and eventually presented in the next session of the National Assembly.

The National Assembly resolved that rules and regulations shall be strictly enforced, regarding possession of land, house and money by nationals outside the country.

53rd SESSION OF THE NATIONAL ASSEMBLY:

53-22. ALLOTMENT OF LAND FOR CARDAMOM PLANTATIONS

The Chimis of Shingkhar and Shemgang proposed that as investments on the cultivation of cardamoms benefits both the government and the general public by giving returns in the shortest possible time, the Department of Forests should not restrict anyone wishing to grow cardamoms on lands, such as pastures etc.

In response, the Director of Forests stated that the allotment of land was governed by the rules prescribed under the Forest Act and the pastures Act, which is convenient both to the government and the general public and as such, the allotment of lands for cardamoms were being done accordingly.

On this issue, His Majesty was pleased to command that allotment of lands for growing cash crops were being made after a thorough investigation and taking into consideration the benefits for both the government and the general public. In the future, too, such allotments, if they were not harmful to the forests but of more benefits to the general public be continued to be done during the Fifth Five Year Plan.

53-23. CLASSIFICATION OF CULTIVATED FIELDS

The Chimis of Tsento, Paro re-classification of cultivated fields be undertaken.

On this issue, the Assembly resolved that the re-classification of the land will be carried out in all the districts in the presence of the concerned Dzongda, the land owner, the Gup and Chimi and an agricultural expert. The re-classification so made will then be reported to the Government so that the amendments would be made accordingly in the government Land Register.

53-24. BAMBOO FIELDS AND KHAR BARIS IN SOUTHERN BHUTAN

The Chimi of Chirang proposed that bamboo fields and khar baris in Southern Bhutan be classified in the same category as sogshings of the interior districts.

During the discussions, to find out the suitability of classifying bamboo fields and khar baris as sogshing, it was learnt that vegetable fields in Southern Bhutan are not classified separately but included as dry fields. It was agreed, therefore, that the Home Minister together with the district Dzongdas and officials from the department of Forests will decide whether or not separate classifications were required for bamboo fields, khar baris and vegetables fields in southern Bhutan.

53-25. PAYMENT OF LAND TAX BY A PERSONS OWNING LAND OUTSIDE HIS DISTRICT OF DOMICILE

The Chimis of Shemgang and Dorokha proposed that the registration and tax of a land owned by a person who is not a domicile in the district where he owns land be registered and taxed in the district where the land is located and not in the district of his domicile.

On this issue, the Assembly resolved that the Ministry of Finance should thoroughly examine the matter and find out the most suitable procedure. The Government would then consider the case accordingly.

53-26. IRRIGATION CHANNELS CONSTRUCTED AT BOUNDARY

The Chimi of Gaylegphug stated that as their fields were being damaged by water from the water channels being drawn from our boundary by the neighbouring Indian villagers, the Government should find out a way to solve this problem.

On this issue, the Dzongda of Gaylegphug explained that excluding the other districts in Southern Bhutan, in the district of Gaylegphug alone there were six such water channels being taken by the neighbouring Indian villagers and that some of these channels were causing heavy damage to our cultivated fields. He requested, therefore, that the National Assembly consider this matter seriously.

On this issue, His Majesty was pleased to comment that the point raised by the people of Gaylegphug was very important but the government up till now was not aware of this matter. The government will certainly take up this issue and the Home Minister and the Foreign Minister were being instructed to thoroughly investigate the case not only in Gaylegphug but in other districts too, and they will refer the matter subsequently to the Lhengyel Shungtshog where it would be convenient to

arrive at a solution. Should no solution be reached then, His Majesty was pleased to comment that the issue will be discussed at the next session.

The Assembly accepted the comments graciously given by His Majesty and resolved that action should be taken accordingly.

53-27. TAX ON IRRIGATION CHANNELS

The Chimis of Zoma, Shengana, Gyon and Guma of Punakha district and the Chimi of Dorokha requested a reduction on the tax on water drawn from Irrigation Channels.

During the deliberation on this request, the Ministry of Finance and the Irrigation Department stated that a proposal had been sent to the Dzongkhag Yargye Tshogchungs to discuss the increase or reduction of taxes on water being drawn from government provided water channels. Therefore, the matter could be reported to the government for reduction of the tax on the water from the irrigation channels only after a decision has been arrived at the Dzongkhag Yargye Tshogchungs.

The Assembly therefore stated that the decisions should be awaited from the Dzongkhag Yargye Tshogchungs and as such no resolution on this request was required during the current session.

54thSESSION OF THE NATIONAL ASSEMBLY:

54-28. REGARDING MORTGAGE OF ANCESTRAL HOUSE AND LAND

The Member from Tewang and Bjimey of Thimphu proposed that the existing property law be amended to permit the mortgage of ancestral house and land by the poorer class of people in the village who had no other means of securing loans from the Bank.

In response, the Finance Secretary said that if the present prohibition on mortgage of ancestral house and land was removed, the people from the villages may not be able to redeem their houses and land once it was mortgaged. The inevitable fore closure of such mortgages by the Bank would create hardship for the village people. Therefore, it would be advisable to retain the prohibition on mortgage of ancestral house and land.

The majority of the members of the house agreed with the proposal made by the Finance Secretary and the Assembly resolved that the present prohibition on mortgage of ancestral house and land be retained.

54-29. MATTERS RELATING TO PASTURE LAND IN SHEMGANG

Some members of Shemgang district stated that almost all the pasture lands in Shemgang were included in the Thram in the name of a few individuals, and those who had no pastures were facing difficulties.

His Majesty the King was pleased to comment that the question of grazing on pasture lands had been thoroughly discussed in the previous session and Act framed accordingly.

His Majesty the King commanded that whenever such problems arise, a meeting should be called among the Dzongdags, Gups, Assembly Members and owner of the pasture concerned. They should then settle the question of grazing rights in accordance with the pasture Act after surveying the pasture land and comparing government records.

On this issue, the Director of Forests said that during the Fifth Five Year Plan period, there were schemes to have fodder tree plantations, and as such in the near future, he felt that there should be no problem related to grazing on pastures. He

suggested that pastures should be used according to the existing Pasture Land Act.

The Assembly then passed a resolution that the utilization of pastures should be in conformity with the Pasture Land Act.

54-30. SALE OF CASH CROPS

The members from Mewang, Gyene and Dagala, Thimphu requested that government should arrange for marketing locations at places other than Phuntsholing to sell their cash crops, or alternatively the Food Corporation should purchase crops from the public without prescribing limits.

In response, the Director of Trade and Commerce explained that attempts were being made to find markets in foreign countries where higher prices could be obtained, but substantial quantities were required for export. Furthermore, storage facilities had to be provided for which the government had sought help from the United Nations Capital Development Fund (UNCDF). As soon as necessary arrangements were completed, export would be started.

The Director of Trade and Commerce added that the Food Corporation of Bhutan was purchasing the available cash crops produced by the public as resolved in the previous sessions. There was no objection on the part of the Food Corporation if the public disposed of their cash crops in markets where they could get higher prices than that offered by the Food Corporation. Where the cash crops could not be sold in the markets the Food Corporation would buy the crops at fixed rates without laying down any limits.

The Assembly resolved that until export arrangements were finalized, cash crops should be sold to the Food Corporation according to the existing procedure.

56th SESSION OF THE NATIONAL ASSEMBLY:

56-31. MATTERS REGARDING EXEMPTION OF LAND AND LIVESTOCK TAXES

The Chimi of Sha Kashe and Nisho reported to the National Assembly that in accordance with existing Government policies upto 10 numbers of cattle were exempted from taxes. However, beyond 10 numbers of cattle, taxes were levied on all cattle without any exemption. He proposed that irrespective of the number of cattle, 10 numbers should be exempted of taxes. With regard to land taxes, he reported that although upto two acres were granted exemptions, families with one member in Government service were not given any exemption. Moreover, such families were also not entitled to any welfare assistance such as construction of houses and new land. He proposed that families of lower categories of Government servants who are unable to provide substantial assistance to their families should also be entitled for the exemption of two acres.

In response the Finance Secretary referred to the 52nd session of the National Assembly, wherein discussions to make the country more financially self-reliant were held. During that session, the public representatives had stated that while the tax exemption benefits introduced by HRH Ashi S.C.Wangchuk were beneficial to the people, in order to increase resources for the Government, the public were willing to force the exemptions. However in the same session, His Majesty in sympathetic consideration of the poor people had commanded that the earlier exemptions be retained. The Finance Secretary further reported that in the 54th session of the National Assembly in accordance with new Government policies, tax exemption on sheep was introduced and the earlier exemption ceiling of 5 numbers of cattle was raised to 10 numbers. Areas yielding only one crop were also exempted of taxes.

The Finance Secretary reported that today Bhutan was probably the least taxed country in the World. He explained that while formulating the Fifth Plan, revenue forecast figures taking into account the present revenue exemptions and the additional financial assistance necessary to be sought from outside had been presented to the National Assembly and approved. He stated that further amendments and changes would make it difficult to implement the Fifth Plan. Moreover, it was his view that people with more than 10 cattle would have sufficient income and could not be considered among the poor. With regard to Government servants, he explained that in accordance with His Majesty's command, salaries of the government servants had been increased, at the lowest levels by as much as 75%. Therefore, there could be no one who could not afford to pay tax on 2 acres in one year. He urged the National Assembly that in order to successfully implement the Fifth Plan, earlier decisions should not be changed.

His Majesty was pleased to command that families having one member in Government service were being given assistance by the Royal Government. In fact, whenever a person petitioned His Majesty for Kidu, irrespective of whether they are civil servants or not are being given assistance after examining their general welfare. No families of civil servants have been denied assistance.

The National Assembly resolved that the decisions of the 52nd and the 54th sessions adequately covered matters relating to tax exemptions. As the Fifth Plan was formulated taking into account existing taxation policies there would be no changes in the earlier resolutions.

56-32. MATTER REGARDING THE VALIDITY OF THE OLD OR NEW THRAM

The Chimi of Gasey Tshowom and Umdaga sought clarification on which of the two Thrams, old Thram or the new Thram was more valid.

In response, the representatives of the Judiciary reported to the National Assembly that the new thram would be mainly used. The old thram would still be referred to, to ensure that there are no fraudulent entries in the new thram. He further clarified that if entries in the new thram are not contested or disputed within 15 years after entry, the entry in the new thram would prevail. This provision had been made in the new Land Act and so far the Judiciary had not encountered any problems.

The National Assembly resolved that the provisions of the new Land Act should be followed.

57th SESSION OF THE NATIONAL ASSEMBLY:

57-1. MATTER REGARDING ROYALTY ON TREES GROWING ON PRIVATE REGISTERED LANDS

The Chimi of Dagapela requested that trees growing on land registered in a person's thram be allowed to be felled without payment of royalty as per the new Land Act.

In response, the Director of Forests clarified that according to the new Land Act, felling of trees grown in registered land were exempted from royalty for domestic use. However, royalty would have to be paid for felling trees for commercial purpose. The Director stated that the Department of Forests was following the above stipulation in the new Land Act.

The Director further stated that the new Land Act had been circulated only recently and may not have been understood by

the Forest Department personnel working in remote areas. If any inconvenience has been caused to the public due to any misunderstanding, he requested that the matter be reported to Forest Department Headquarters or to the Ministry of Trade, Industry and Forests by the Chimis.

His Majesty the King was pleased to command that the question of payment of royalty on trees grown on private registered land should follow the provisions of the new Land Act. His Majesty stated that in accordance with the Fifth Plan policies, every household should plant at least ten trees from 1981 onwards. Trees grown in private registered land under this programme would not be taxed. However, His Majesty further commanded that some persons may want to establish large-scale plantation of trees for commercial purpose which could affect the country's economy. Therefore, His Majesty commanded the Dzongdags to submit detailed reports to the Home Ministry on social forestry in each Dzongkhag. On the basis of the reports, the Government would decide on the numbers of trees to be exempted from royalties for each household under the social forestry programme.

The National Assembly resolved to abide by His Majesty's command.

57-2. MATTER REGARDING ALLOTMENT OF LAND TO THE LANDLESS FROM PASTURE LAND (CHADO)

The Chimi of Dorokha proposed that landless people be granted lands from pastures where there are few valuable trees and are suitable for agriculture.

In response, the Director of Forests stated that His Majesty bearing the peoples welfare in mind, had been granting 'Kidu' to landless people. The Home Ministry, the Department of Agriculture and Forests have been studying the possibilities of finding more lands for distribution at the command of His

Majesty. He urged the Assembly that the matter need not be discussed further.

The Director further pointed out that forests were the main source of revenue and that most of the forest lay on pasture lands. Thus if the pasture lands were used for other purposes, it would adversely affect the ecology and economy of our country.

The National Assembly in its deliberations felt that the present system of allotment of land could be continued and resolved that the system of allotment of land to landless from pasture lands need not be introduced.

57-3. MATTER REGARDING THE MERGING OF FOREST DEMARCATION SURVEY AND LAND REVENUE SURVEY INTO ONE UNIT

The Chimi of Chirang enquired whether it would be possible to merge the forest demarcation survey and land revenue survey into one unit to cut down establishment cost.

In response, the Director of Forests stated that he appreciated the public's concern to cut down the establishment costs. The Government was taking appropriate steps to cut down costs wherever possible. However, as in this case the two Departments had different functions, their merging would not be possible due to technical problems.

On this matter, the Finance Secretary stated that no decision could be made without conducting a proper study. He proposed that both the Departments of Survey and Forests should study the problems and possibilities of a merger and submit a report to the next session of the National Assembly.

The National Assembly endorsed the proposal of the Finance Secretary.

57-4. MATTER REGARDING GRADING OF LAND

The Chimi of Dorokha stated for tax purposes, land was presently graded into three categories. He proposed that a fourth grade on infertile lands at reduced rates of tax be introduced.

In response the Finance Secretary, stated that the gradation of land into three categories had existed since a long time, if a new gradation was introduced, it would call for changes in the 'Thrams' entailing more work and recruitment of more staff. Thus it would affect the Government's policy of reducing the establishment costs.

The Finance Secretary stated the tax rates of Bhutan were low compared to rates in other countries. The fixation of taxes had been done in 1967 and till now taxes had not been increased. Further, in 1972, HRH Ashi Sonam Choden Wangchuk, the Representative of His Majesty in the Ministry of Finance had granted exemption of taxes on land, house and cattle etc.

The Finance Secretary further pointed out that during discussions on the policy of self-reliance in the previous National Assembly sessions, the public representatives had stated that the people were willing to forego the exemptions granted by Ashi Sonam Choden Wangchuk, in order to increase the revenue of the Government. However, His Majesty the King, bearing in mind the welfare of the poor people, had commanded that the exemptions be retained. Subsequently, additional exemptions on land and cattle had been granted. Therefore if tax exemptions were granted every two to three years, the country would not be able to achieve the goal of self-reliance. The Finance Secretary urged the National Assembly to give enough thought and consideration to the matter. Keeping in mind the national policy of self-reliance, the National Assembly resolved not to change the existing system of grading land. The National Assembly decided that if proper survey has

not been conducted, then the work of re-survey could be started from Dorokha sub-division.

58thSESSION OF THE NATIONAL ASSEMBLY:

58-5. MATTER RELATING TO THE FUND FOR THE MAINTENANCE OF IRRIGATION CHANNELS

The Director of Agriculture while informing the House about the decision of the 46th session of the National Assembly, proposed to charge a sum of Nu.5.00 per acre towards meeting the cost of maintenance and renovation of irrigation channels. Later, however, the fund collected was found to be insufficient to meet the expenditure for the purpose and during the 53rd session of the National Assembly it was proposed to raise the charge from Nu.5.00 to Nu.60.00 per acre. During the session it was decided that all the maintenance of irrigation channels would be undertaken by the beneficiaries and no collection would be made from the public.

The Assembly members were informed of the policy of the Royal Government to undertake construction of irrigation channels only on receiving assurance that the public would maintain the channels on their own. However, in the case of major irrigation projects which involve huge sums of money like that of the Gaylephug lift irrigation project, it is felt necessary to undertake the renovation/maintenance by the Royal Government itself. It is feared that the public will not be able to maintain them. The Director of Agriculture, therefore, proposed to the Assembly that such major irrigation channels should be maintained by the Royal Government charging a sum of Nu. 100 per acre from the beneficiaries.

The National Assembly resolved that the beneficiaries of major irrigation project would be charged a sum of Nu.100/- per acre for maintenance and renovation to be undertaken by the Royal Government and in the event of the funds collected being short of the actual expenditure caused by several factors like payment of electricity charges for lift irrigation, it would be borne by the Royal Government itself. It was further resolved that in the case of maintenance/ renovation of smaller channels the beneficiaries would be required to pay only the actual expenditure.

58-13. MATTERS RELATING TO LAND

The Representative of Tashigang and Paro Dzongkhags suggested that the registered land falling within the clearly demarcated boundary and not exceeding 25 acres owned by an individual family, if found excess after resurvey be exempted from the payment of cost and tax. For land without boundaries, if found to be in excess, but recorded in the land record, the landowners be allowed to pay the cost of the land as well as the tax and the land be registered in his/her name if it does not exceed the land ceiling. All the lands not registered but being cultivated indisputably by individual families are requested to be registered in their respective names on payment of cost of the land, tax and fine according to the Government rules.

The Chimi of Sibsoo pointed out that as per the land Act, an individual family can possess only 25 acres and requested that the provision be kept pending for the time being.

The Chief of Survey in supporting the suggestions put forth by the Chimis of Tashigang and Paro, said that the land act needs to be amended, in view of the suggestions by the Chimis. In this regard, His Majesty the King was pleased to command that the matter relating to land should be implemented according to the Land Act. His Majesty also

pointed out that earlier land survey was not carried out properly, but now with the resurvey being undertaken in all the Dzongkhags, excess land could be ascertained. Any land holding below the Land Act ceiling, whether reflected in the Thram or as revealed by the resurvey would be considered as the Government land. The House resolved as per His Majesty's command given below:

- i. Where a plot of land had defined boundaries and is so recorded in Thram, but during resurvey is found to be in excess it will be allotted to the owner of the land without having to pay the price of land and taxes. The taxes on the excess land shall be paid to Government after it is recorded in the Thram.
- ii. Where a plot of registered land having no defined boundaries and during the resurvey if found in excess, although the land owner is entitled only 12 decimals to every acreage of wet and dry lands and 25 decimals to every acreage of shifting cultivation as per the Land Act, however, it was decided in the Assembly that all the excess land would be allotted to the land owner on payment of cost of the land and taxes, provided it does not exceed the ceiling of 25 acres.
- iii. Where a plot of land owned by a person is not recorded in the Thram it will be seized and fines shall be imposed on the owners according to the Land Act. However, the Assembly decided that during the resurvey if a person is found to illegally possess the land, he will be dealt with in accordance with the Land Act. If such lands are found to be in possession of the owners for generations but have been omitted in Thram by mistake, will be allotted to the owner on payment of full cost of the land and taxes, provided it is not in dispute and is within the land ceiling.

- iv. It was clarified that the land ceiling of 25 acres is meant for a household and not for an individual member of the family. It is, therefore, decided while the resurvey is being carried out, the land owners possessing more than the ceiling of the land, will not be allowed to distribute the land among their individual family members. It is further decided that if the land owners are found to have been possessing more than 25 acres, the facilities mentioned above will not be extended.

- v. The Assembly, keeping in view the welfare of the public has decided to extend the benefits of excess land for families whose land holdings have been less than 25 acres. In future, once the resurvey is completed, such cases will be dealt with in strict accordance to the Land Act.

58-14. MATTER RELATING TO LAND TRANSACTIONS

The Chirang Dzonkhag proposed to the Assembly that as per the land act, no one is allowed to sell the entire landed property without keeping a minimum of five acres. In case a person has less than five acres and intends to purchase equal or more than the size of his present holding elsewhere, the old land should be permitted to be sold upon the registration of the purchased land.

In response, the representative from High Court clarified that though under the Land Act, sale of land is not permitted by the land owners possessing less than five acres the Royal Government considering the inconvenience of the public has been entertaining such cases after the new purchased land has been registered. Therefore there have not been any inconveniences to the public in this matter.

58-15. TRANSFER OF OWNERSHIP OF LAND

The Chimis of Bhangtar and Sibsoo reported in the Assembly that the registration of land is carried out at the Land Record office, Thimphu where as the transaction on sale and purchase of land is executed at the respective Dzongkhag Courts. It is proposed that the registration of land be allowed to be done at the Dzongkhag Courts and not at two offices for the convenience of the public.

The Chief of Survey explained that previously the execution and registration of land inherited from the families were being dealt with and recorded at the level of Dzongkhag/Dungkhag. However, these offices failed to exercise strictness in maintaining both the prescribed procedures and the legal records. Besides, as per the Land Act, it is necessary to first record in the main land record and then in Dzongkhag records. Hence, the registration of land is now being done in Land Record Office, Thimphu.

The National Assembly resolved that this being in line with the provisions of land Act, it should be continued and it would not be necessary to amend the Land Act at the moment.

58-16. REGARDING SHIFTING CULTIVATION

Tashigang Dzongkhag reported in the Assembly that as per the policy of the Royal Government, shifting cultivated lands have to be converted into wet land (Chusing) and dryland (Kamshing). It was proposed that in case of the shifting cultivated land not being convertible to the above categories but if located nearby the house be permitted to convert into cash crop and fodder lands. Similarly, it was also proposed that land under shifting cultivation, located at a great distance from the home, be taken over by the Royal Government and a reimbursement effected to the owner.

In response, the Director of Forests suggested that although it is the policy of the Government to convert shifting cultivated lands to 'Chushing' and 'Kamshing' such lands not fit for 'Chushing' and 'Kamshing' and cash crops may be dealt with in accordance with the Land Act. On this issue, His Majesty the King was pleased to command that in case of shifting cultivated lands already recorded in the land record and that which is within the ceiling of 25 acres may be given for growing cash crops and fodder trees. If it exceeds the ceiling of 25 acres, there is a provision in the land Act and this be dealt with accordingly.

His Majesty further stated if it is within the land ceiling, the land owners wanting to sell tseri land, may do so. The Royal Government after determining the requirement of such lands will buy from the public.

58-17. CLARIFICATION ON SOGSHINGS

Tashigang Dzongkhag reported to the Assembly that there are two kinds of Sogshings, one for the purpose of manure and the other for firewood. It was proposed to register such sogshings in the Thram and be taxed accordingly.

The Director of Forests reported to the Assembly that as per the Land Act No. Ka 3-5 the sogshing owners are allowed to use only those 'sogshings' that can be used only for manure. As per the terms of Land Act No. Ka 6-10, the sogshings not fit for purpose of manure must be confiscated by the Royal Government even if it is registered in the Thram.

The Assembly was informed that all those sogshings that cannot be used, belong to the Government as per the Land Act, even if it is recorded in the Thram. Meanwhile, it was decided that the matter relating to 'sogshing' should be dealt with as per the provisions of the Land Act.

58-18. REGARDING SOCIAL FORESTRY

In accordance with the policy of the Government, the Director of Forests explained the rules for planting trees under Social Forestry Scheme. He said that under the Social Forestry if the trees are planted within the registered land, such as wet land, dryland and in lands nearby the house, the number of trees should be limited to 10 to 300. Since the grazing land and 'sogshing' land belong to the Government as per Forest Act, the planting of trees on these lands are not permitted. He further stated that trees planted under this scheme are exempted from all taxes as per the command of His Majesty. It was reported that the records containing the name of land, No. of Thram, No. of trees and type of trees would be maintained by the Dzongkhags separately.

In this regard, some of the members reported that some people have planted more than 300 trees within their registered land and proposed that permission be granted for possession of the excess trees already planted by the owners. On this issue, His Majesty the King was pleased to command that, under the Social Forestry Scheme trees planted on lands which are not recorded in one's Thram, grazing land, sogshing and orchards is strictly prohibited. The planting of trees on other lands such as wet land, dry land, shifting cultivated lands, and pangshing which are recorded in one's Thram would be allowed without any ceiling.

58-19. SEASONING OF CARDAMOM

The Chimis of Sibsoo while stating the importance of cardamom as a major cash crops requested the Royal Government to provide technical assistance in seasoning it. In response, the Director of Agriculture reported that many trees were being felled for use as firewood for drying the cardamom and he added that the Department of Agriculture had also been finding out the means to overcome this problem.

The Director also informed of the availability of a machine for the purpose and said that with the help of this machine, the seasoning could be carried out with a comparatively lesser quantity of firewood. He further stated that all those interested could contact the personnel from Agriculture Farms, Paro and Phuntsholing and find out its utility. If the machine is found to be suitable for the purpose, the Department would arrange to procure as many of them as needed by the farmers. This, if found workable and adopted, much forest resources could be saved.

58-21. EXTRACTION OF PIPLA, CENAMON ETC

The Chimi of Chengmari reported in the Assembly that the collection of forest produce such as pipla, cenamon had been banned since 1982. She proposed that the Department of Forests should permit the extraction of these forest produce and levy the taxes which will benefit both the Government and the public. The matter was discussed in the Dzongkhag Budget Plan meeting also and was decided to be put up to the 58th session of the National Assembly

In response, the Director of Forests explained that although the execution of the proposal may fetch some revenue to the Royal Government, past experience has shown that a permit granted for the extraction of pipla, broom and cenamon has led to the illegal felling of trees. Therefore, in order to prevent this, the Director of Forests proposed to impose a restriction on the extraction of such forest produce for the time being. After a series of discussion on the issue, the Assembly decided to impose restriction on the extraction of pipla, broom (Tsakusha) and cenamon from the forests.

58-22. REGARDING MERGING OF FOREST DEMARCATION SURVEY AND LAND REVENUE SURVEY INTO ONE UNIT

In pursuance of the Resolution No.3 of the 57th session of the National Assembly, the Forest Director was required to report

about the merging of forest demarcation survey and land revenue survey into one unit.

The Director of Forests reported in the Assembly that in accordance with the policy of the 5th plan to minimize the Government expenditure on establishments, the two survey divisions have been decided to be merged into one unit. The working procedures of the two divisions are being worked out jointly considering their administrative problems and convenience.

59th SESSION OF THE NATIONAL ASSEMBLY:

59-5. LAND TAX OF THE DZONGKHAG SUB-DIVISIONS

The Chimi of Dorokha sub-division suggested that it would be both convenient and useful if the revenue accruing from agricultural land in the sub-divisions may be recorded as the revenue of the respective sub-divisions, regardless of the fact that the registered owner may be a resident of another dzongkhag.

In this regard, the Minister for Home Affairs explained that such a decision had already been taken by the Government and actual work in this matter was in progress.

The Assembly endorsed the statement by the Home Minister and resolved that, henceforth, taxes for all agricultural land in any one Dzongkhag will be collected and treated as revenue of that particular Dzongkhag, regardless of the place of residence of the actual registered owner.

59-6. ACTION AGAINST DEFAULTERS OF LAND TAX PAYMENT

It was proposed to the Assembly by the Chimi from Shemgang Dzongkhag that in the event a registered land owner lived away

from the Dzongkhag and also simultaneously failed to fulfill his tax obligations to the Dzongkhag, provisions should be made to either transfer ownership of the land in question to the Government or have it allotted to a landless resident of that Dzongkhag.

The Home Minister briefed the Assembly that the Government recognized the individual owner's right of ownership to his land as long as the pertinent taxes were regularly paid even if the person was not a resident member of the Dzongkhag. The Government's view, however, would be different, in cases, where the absentee land lord failed to pay the land taxes regularly. In this regard, the Minister asserted that in all such cases an understanding had been reached that the Ministry of Home Affairs would be promptly notified. No reports of this nature had, however, been received by the Ministry, to this date.

The Assembly decided that all Dzongkhags should institute thorough investigations into such matters and have the related reports forwarded to the Ministry of Home Affairs for further action.

60th SESSION OF THE NATIONAL ASSEMBLY:

60-7. REGARDING THE ISSUE OF SEASONAL TRADE LICENCE FOR CASH CROPS

The Chimi of Lamidara suggested that the Royal Government should consider the possibility of issuing seasonal trade licence to the cash crop traders with a view to generate more revenue.

In reply, the Joint Secretary, Department of Trade & Commerce, Industry & Mines explained that the trade licenses were being issued for seasonal trading for people from outside the country and that nationals were being exempted of this requirement. The Government's objective to grow cash crop

was to generate additional income to the farmers and while it was important to raise Government revenues, the interest and well being of the people were accorded equal priority. Therefore, while outside traders were required to obtain permits, the local people were permitted to trade in cash crop with license.

Some members, while expressing their appreciation of the above arrangements, stated that most of the traders were outsiders. They also pointed out that these traders advance in kind to needy farmers especially in the form of food commodities and clothings prior to the harvest. The adjustment of the value earned against advance for crops were conducted at prices which were well below the prices that prevailed in the market after harvest. They requested the Royal Government to consider formulating procedures by which taxes can be levied on traders to increase revenues and to restrict pre-harvest business in cash crops by seasonal traders from outside the country.

The Assembly decided that the existing facilities being extended to the nationals should remain in effect. As regards the levying of enhanced tax and the nature of license to be issued to the non-national seasonal traders, it was decided that the Department of Trade & Commerce formulate and acceptable procedure.

60-8. PROCEDURE REGARDING ALLOTMENT OF PLOTS IN TOWNSHIP AREAS

The Representative of the Bhutan Chamber of Commerce and Industry stated that the present system of allotting plots through auction has greatly affected the small businessmen. He, therefore, proposed that all the cases submitted prior to the introduction of the auction system be considered according to the earlier procedures.

In response, the Hon'ble Chairman of National Urban Development Corporation (NUDC) stated that the auction system was introduced because the land available in the township areas were limited and the demands for allotment could not be met fully. Further some of the urban areas had also been reserved for future use by the Royal Government.

The Hon'ble Chairman further stated that in pursuance of His Majesty's commands, the urban areas in Thimphu and in all Dzongkhags were being developed and being provided with all basic municipal facilities like water supply, electricity, roads and sanitation. These works he said involved high costs, which were being met from assistance received from donor countries. He pointed out that the present system of auctioning the plots had contributed to some extent towards meeting the expenditure on urban development. He also informed the Assembly about the other proposals to levy taxes on municipal facilities.

The Chairman pointed out that most of the commercial and residential plots in the township areas were already owned by businessmen. He informed the Assembly that His Majesty the King had commanded that one family would be entitled to only one plot, and priority would be given to those who have no residence to live in. He stated that it had also been decided that all the buildings should be constructed according to Bhutanese architecture. Further in areas where limited municipal facilities existed, construction of buildings would be restricted.

The Chairman stated that the various activities of NUDC were being carried out in accordance with the commands of His Majesty the King. He added that the existing procedures relating to the allotment of the plots should not have affected the small businessmen as badly as was being reported.

During the deliberation on the issue, some of the members felt that auction system should be abolished in the interest of the people, particularly small businessmen. Some proposed that people already owning plots in the township area should not be allowed to bid in the auction.

The Assembly resolved that the allotment of plots in the township should be carried out in accordance with approved policies of the Royal Government, giving preference to the landless on the basis that one family would be entitled to own only one plot in township areas. Further, construction in the towns should be strictly in accordance with regulations.

60-9. MATTER RELATING TO THE USE OF UNREGISTERED LAND FOR GROWING CASH CROPS

The Chimi of Sibsoo and Chengmari requested that a Government decision on the issue of unauthorized planting of orange and cardamom be taken during this session, as commanded by His Majesty the King at Samchi. Since the land used was the registered pasture land of the respective farmers, it was requested that they be re-allotted.

The Chimi of Gaylegphug requested that such lands confiscated by the Government be allotted to the farmers who are landless or generally poor.

In response, the Representative of the High Court pointed out that these lands were used without prior approval and in contravention to the Land Act which provided that the land used without the authorization would be seized and a fine equivalent to the value of the land used be imposed on the illegal growers. He proposed that the confiscated lands should be disposed of in accordance with the provisions of the land act with the objective to administer justice and to avoid setting unacceptable precedence. He added that if the requests of the

public were conceded to, it might weaken the effectiveness of the law and justice system and their functioning.

The Director of the Department of Forests pointed out that the owners of pastures only had the right for fodder and grazing. They did not have any claims over trees and the use of the land for purpose other than intended by the law. If the practice of using such vast forests lands is permitted, it would result in the destruction of the national forest wealth, causing adverse on environment. The Director reported that the Department was starting an experimental programme to create community forests at Paro, later this programme would be extended throughout the country. He proposed that the request for allotment of the seized land to the respective farmers should not be acceded to as it might affect the programme.

The Hon'ble Deputy Minister, Department of Registration on behalf of the Home Ministry reported that the investigations and surveys of most of the Dzongkhags, established that land in excess of 26,600 acres was being used for unauthorized cultivation of cash crops. He proposed that while Assembly might not impose fines on such planters, the confiscated land should not be allotted to the respective growers under any circumstances.

In view of the above statements and in accordance with the Land and Forest Acts, the Assembly agreed that there was no grounds on which the confiscated land could be re-allotted to the concerned growers. The Government could consider distributing confiscated lands among landless farmers.

His Majesty the King was pleased to note that the Assembly had concurred with the decision of the Cabinet to confiscate the land without imposing any fine. Regarding the question of re-converting illegal cash crop lands back into forests, His Majesty commanded that the suggestion of destroying fields

which are already developed and giving good returns, might not be advisable. Therefore, on completion of the survey of the confiscated lands, those areas doing well in cash crops would be distributed to the landless farmers and registered as their cash crop lands. Further, His Majesty was pleased to command that the Government pasture development programmes which had not done well in several Dzongkhags due to unavailability of land could now use some of the suitable confiscated land.

His Majesty the King was pleased to direct the Director, Department of Forests to submit as soon as possible a report on the confiscated lands to the Home Ministry under the following categories:

- a. The land that may adversely affect the forests;
- b. The land that may be suitable for creation of private community forests; and
- c. The land that may be suitable for development of pasture.

His Majesty the King was further pleased to command that the concerned Dzongdas also submit reports to the Home Ministry giving the following details;

- a) Size and extent of unauthorized cash crop land in the following categories:
 - i. Cash crop lands that have reached production stage.
 - ii. Cash crop land that have not reached the fruit bearing or production stage.
 - iii. Land just cleared or prepared for growing cash crops.
- b) Statistics on registered land holdings of illegal growers under the following heads:
- c) Extent of registered cash crop land owned by each grower;
- d) Extent of registered land other than cash crops land owned by each growers;

e) Illegal cash crop planters with no registered land holding at all.

The National Assembly resolved that the land illegally cultivated would be confiscated however, in this instance; the growers would be exempted from paying fines. The allotment of the confiscated lands would be carried out by the Government on completion of the investigation and surveys commanded by His Majesty the King.

62nd SESSION OF THE NATIONAL ASSEMBLY:

62-10. MATTERS RELATING TO IRRIGATION CHANNELS OF DISTRICTS & CENTRAL MONK BODIES

The Chimi of Gasey, Tsowom and Oum Daga (Wangdiphodrang) stated that in accordance with the Land Act, the construction and maintenance of irrigation channels must be carried out by the beneficiaries themselves. However, such arrangements could not be made for constructing and maintaining of irrigation channels covering lands belonging to the Central and the Dzongkhag Monastic Bodies. As a result, people in the areas were facing difficulties.

During deliberations on the issue, most of the Assembly Members expressed the views that in keeping with the Land Act, the Central and Dzongkhag Monastic Bodies should pay wages to the labourers engaged in the construction and maintenance of irrigation channels covering lands belonging to them.

In this regard, His Majesty the King was pleased to command that the matter be referred to the Dratsang Lhentshog (Central Body of Monastic Affairs) if it was causing problems to the people. In other cases, irrigation works should be carried out in accordance with the Land Act. Considering the religious

importance attached to the Central and Dzongkhag Monastic Bodies, His Majesty was pleased to command that the costs incurred to undertake irrigation works in such areas could be borne by the Royal Government.

The House resolved that the matter be referred to the Dratshang Lhentshog for consideration and action.

61-11. REGARDING SALE OF POTATOES AND APPLES

The Chimi of Paro requested that necessary arrangements be made for non-nationals buyers to participate in the seasonal potato and apple auctions conducted in Phuntsholing. He also requested that the auctions be held twice daily on all the days, including holidays. Further, he asked that the auction rates be raised.

In response, the Managing Director of FCB said that it was also the policy of the Royal Government to arrange participation of non-nationals in cash crop auctions for the benefit of the growers. In order to ensure maximum participation of non-nationals, circulars were being distributed among all the concerned parties in different cities of India, Nepal and Bangladesh. Necessary arrangements were also being made for the interested parties to come and visit the growing regions in Bhutan.

The sale of cash crops, the Managing Director pointed out that it depends on the quality and standard of the produce and partly on the relationship between the buyers and sellers. It was, therefore necessary for the growers to do proper grading and packaging, and establish good rapport with the buyers. Further, he pointed out that the FCB facilities remained open on all the days, including the holidays for the convenience of the growers. Auctions however, could not be held on Sundays because hardly any bidders come to the auction on that day. On the question of holding cash crop auctions twice daily, the

Managing Director said that it was not possible to conduct more than once a day due to heavy workload involved in weighing and making payments. With regard to raising the auction rate, he said that although the support rates had not been set so high, they would go up during bidding. Further, prior to selling the cash crops to the highest bidder, the FCB also sought the consent of the concerned owners. Therefore, he felt certain that the existing buying and selling procedures of the Corporation were conducive to helping the growers.

The Assembly observed that the FCB had been established to look after the welfare and interests of the people. In light of the explanations provided by the Managing Director they noted that there was no inconvenience caused to the buyers and sellers.

The Assembly resolved that the existing rules of the Corporation be continued.

63rd SESSION OF THE NATIONAL ASSEMBLY:

63-12. MATTERS RELATING TO SALE OF FUTURE URBAN DEVELOPMENT AREAS

The Chimi of Chirang stated that according to the rules of the National Urban Development Corporation (NUDC), transaction of lands in the vicinity of new township areas was restricted. As a result of this rule, there were over 200-300 areas of land lying idle in Chirang causing inconvenience to the public. He therefore, requested that the restriction on the sale of such lands be lifted. The Royal Government could however retain the right to acquire such lands and in case houses were to be built on such property, Government approval could be obtained.

In response, the Chairman of the National Urban Development Corporation (NUDC), the Hon'ble Foreign Minister explained that in accordance with His Majesty's command to provide

basic amenities to the people living in the township areas, and to protect the cultural heritage and architecture, necessary steps were being initiated in all the 25 township areas in the country. For development of township areas, the chairman stated that financial assistance was also being acquired from other countries and some town development experts recruited. Master plans of some of the Dzongkhag towns had already been completed and that efforts were being made to provide these towns with basic municipal facilities like water, electricity, roads, sanitation etc.

As regards the restriction on the sale of lands in the vicinity of township areas, the Hon'ble Minister pointed out that the wealthy people purchased many plots in such areas offering high prices for the construction of houses. As a result, it was found that it would be difficult for other people to acquire plots in future. In view of this, the restriction had been imposed in consultation with the Local Town Planning Committee (LTPC). The LTPC chaired by Dzongdags has the Dzongkhag departmental heads, Chimis, Gups and village elders as members. The Hon'ble Minister assured the Assembly that if the people were really facing great difficulties due to this restriction, the matter would be discussed with the concerned Dzongdags and their decision reported during the next Session of the National Assembly.

The Assembly endorsed the statement made by the Hon'ble Foreign Minister.

63-13. MATTERS RELATING TO GRADING OF LANDS

The Chimi of Chirang stated that the land taxes were currently levied on the basis of different grades recorded many years ago. As this was found to be unsatisfactory the Ministry of Home Affairs had been requested to look into the matter. He requested for the Ministry's views on the matters.

In this regard, the Secretary, Ministry of Home Affairs recalled that the issue had been raised during the 57th Session of the National Assembly. Accordingly, the Ministry of Home Affairs started the work on the re-survey of lands under all the Dzongkhags in a phased manner, with a view to fixing the grades property. The re-survey had been completed in Paro and it was being carried out in Samchi and Chirang Dzongkhags. He explained that the work was taking time to complete because of the vast areas involved and the limited manpower available.

The Secretary stated that there must be only a few people in Chirang facing tax difficulties because of land grading done earlier. If this was the cause, he suggested that a list of such people be forwarded through the Dzongkhag administration to his Ministry for investigation on a priority basis.

The Assembly endorsed the suggestion of the Home Secretary.

63-5. MATTERS RELATING TO ILLEGAL PLANTATION OF CASH CROPS

The Chimi of Lamidara stated that a detailed report on illegal plantation of cash crops had been submitted to the Royal Government. He requested that such plantations be allotted to the landless or to poor people with insufficient land.

In response, His Royal Highness the Hon'ble Minister for Home Affairs, stated that as per the decision taken during the 60th Session, the Royal Government had initiated investigation and surveys of all the lands illegally brought under cash crop cultivation. The Royal Government could consider allotment of such lands to the landless or people with insufficient lands after the investigation and surveys are completed. However, he made it clear that plantations which affected the forests not be allotted. He informed the Assembly that the total illegally

planted areas were estimated at about 76,000 acres. However, the survey was still to be completed.

The Assembly, referring to the decision of the 60th Session resolved that the allotment of such lands be made on the basis of the statement made by His Royal Highness.

64th SESSION OF THE NATIONAL ASSEMBLY:

64-1. ISSUES REGARDING ACQUISITION OF PRIVATE LAND BY THE ROYAL GOVERNMENT

The Chimi of Dechhenling, Samdrup Jongkhar requested that private lands which have fallen under the mining areas and game sanctuaries be replaced with some other agriculturally suitable government land or from land recorded in their thrams as pastures.

In response, the Deputy Minister for Home Affairs informed the Assembly that the Royal Government had already deputed a team to carry out a detailed investigation on the private lands falling in the cement project areas and game sanctuaries in Dechhenling and that the report had already been received by his Ministry. However, in accordance with the prevailing Land Act, further investigation was required to be conducted in this connection. Therefore, the Deputy Minister suggested that prior to replacing affected private land with agriculturally productive government land or from land recorded as pastures or paying the compensation to the people, necessary consultations be held among the Ministries of Home; Agriculture and Forestry, and Trade, Industry and Power.

The National Assembly endorsed the suggestion made by the Deputy Minister.

64-2. ISSUE REGARDING EXPORT TAX ON CASH CROPS

The Chimi of Lamidara reported that while exporting cash crops from Chirang through Gaylegphug, exporters had to pay taxes in both the Dzongkhags. He therefore, requested that the collection of all necessary taxes of the Royal Government for exports from Chirang be done in the Dzongkhag itself.

In reply, the Deputy Minister of Finance said that certain municipal taxes were being levied on the cash crops being sold within the Dzongkhags. However, for export of cash crops, taxes were levied only on the basis of weight since 1984 in accordance with a circular issued from the Ministry of Finance. After payment of such taxes in one Dzongkhag, it would not be necessary to pay similar kinds of taxes in other Dzongkhags provided receipts of earlier payments were produced.

The National Assembly observed the taxes being levied in different Dzongkhags were not uniform. Therefore, it resolved that all Dzongdags should levy various kinds of taxes uniformly after holding necessary consultations with the Ministries of Finance, and Trade, Industry and Power.

64-3. ISSUES REGARDING EXTENSION OF PHUNTSHOLING TOWNSHIP AREA

The Chimi of Mewang, Gyene and Dagala stated that the township area of Phuntsholing urgently needed to be extended. He requested to be informed of any efforts the Royal Government was taking to reclaim or develop areas earlier affected by floods.

In reply, Chairman, National Urban Development Corporation (NUDC), the Hon'ble Foreign Minister, Supported the needs expressed by the Chimi. He, however, pointed out that there was no scope for extension of the township area of Phuntsholing as it was bounded on the south by the Indian border and to the north by rugged mountainous terrain. He

informed the Assembly that embankment works on the Dhutichhu was being carried out presently and would be completed within a year. For this purpose, a sum of Nu.43 lakhs had been provided by the Government of India as grant. This project on completion would to a large extent help protect the existing Phuntsholing township area.

The Hon'ble Foreign Minister also informed the Assembly that although the NUDC had originally proposed to undertake the protection works of Amaochhu, it was now being undertaken by the Ministry of Communications and Tourism as a part of the project to set up an airfield in the area. As such he believed that the present river protection requirements were being fulfilled. The Foreign Minister also made it clear that the protection works on the Amochhu was to protect the existing township area of Phuntsholing. The Royal Government had no intention of extending the town towards areas which are vulnerable to floods. In view of this problem the Hon'ble Foreign Minister said that before extending the township area of Phuntsholing towards the Amochhu, the matter would have to be thoroughly examined.

64-4. REGARDING PAYMENT OF TAX ON CASH CROPS OUTSIDE BHUTAN

The Chimi of Lamidara reported that certain taxes were being levied when the cash crops of Bhutan passed through West Bengal in India. Therefore, he requested that this problem be solved after holding necessary discussion with the Government of India.

In reply, the Deputy Minister for Trade, Industry and Power reminded the Assembly of the trade agreement executed between the Government of Bhutan and India. In accordance with the trade agreement, there was free trade between the two countries and as such, Bhutanese goods sold in India would not be subjected to customs duties of the Government of India.

However, if this was the case, it could be solved after holding due consultation between the two countries. But, in case of other kinds of taxes levied, the Royal Government would not be able to do anything as it concerned the national policies of another country.

As regards the sale tax being levied on our cash crops in West Bengal, the Deputy Minister suggested that the matter be investigated in detail.

The Assembly endorsed the views expressed by the Deputy Minister.

64-5. REGARDING CULTIVATION OF MUSHROOM

The Chimi of Chirang noted that the Royal Government had introduced mushroom cultivation in the country and was encouraging farmers to take up the mushroom cultivation wherever feasible to increase their income. In this connection, he requested that field demonstration of the crop be carried out in all the Dzongkhags of the country. He also requested to be informed of any high yielding varieties of food grain seeds which have been tried and were being distributed to farmers.

In reply, the Secretary, Ministry of Agriculture and Forestry said that in the past the people had been consuming mushroom that grew naturally and no cultivation had ever been undertaken. However, with the increased development in the country and drawing on the experiences of others, the Royal Government had introduced mushroom cultivation in 1982. Mushrooms besides being nutritious, experiences of cultivation in Japan and Korea show that it can be an important source of income to farmers. Therefore, in order to introduce mushroom cultivation in the country, some Bhutanese nationals had been sent to Japan for training. Of all the varieties of mushroom available in the world, the "Shokey" type is the most profitable from the commercial point of view. This variety and several

others have already proved viable in experiments. The Secretary said that it was planned to start demonstration of the crop in some of the Dzongkhags during the Vith Plan period. Detailed programmes were already being drawn up by the Royal Government. When such demonstrations proved to be successful, the crop would be introduced to other Dzongkhags of the country, wherever it was climatically feasible.

With regard to improved food grain seeds, the Secretary stated that although all kinds of crops were grown in the country, paddy was the major crop. In order to increase productivity of rice and other important crops like barley, wheat and maize, improved varieties of seed were being introduced. Taking into account the agro-climatic and soil conditions, the Department of Agriculture had been making every effort towards increasing the crop yields by 7 - 8 times by the use of improved seeds and practices and bringing the cultivated areas under double or triple cropping. Some new areas had also been brought under cultivation of new crops.

The National Assembly, endorsed the views expressed by the Secretary and expressed gratitude for the initiative taken by Royal Government to introduce improved and new crops.

64-6. REGARDING DEMARCATION OF PRIVATE AND FOREST LANDS

The Chimi of Dechhenling, Samdrup Jongkhar requested that the erection of pillars demarcating the forest land and the private land be carried out only after verifying the thrams of the people.

In response, the Secretary Ministry of Agriculture and Forestry has stated that forests were one of the main assets of the country. Recognizing this, the National Assembly in previous Sessions had resolved that the Royal Government make every effort to preserve the forests in the country. However, in the

absence of proper demarcation between private land and forests, the Royal Government had faced difficulties while protecting forests and promoting afforestation. In order to solve this problem, the Royal Government in 1974 decided to demarcate the forests in the country. The work would take more than 10 years to be completed.

The Secretary stated that prior to erecting the demarcation pillars, the Department of Forests informed the concerned Dzongda, Survey and village representatives well acquainted with the boundary in the areas under demarcation through a circular. In addition to holding necessary consultations with the concerned parties, the thrams of the people were also examined in detail. Despite such measures, if there were still problems with regard to the erection of demarcation pillars in Dechhenling, the matter could be taken up with the Ministry of Agriculture and Forestry.

The Assembly endorsed the views expressed by the Secretary and resolved that in the event any problems emerged in the demarcation of forests, the Secretary Ministry of Agriculture and Forestry could finalize the matter in accordance with the Land and Forests Acts.

65th SESSION OF THE NATIONAL ASSEMBLY:

65-7. REGARDING ALLOTMENT OF UNAUTHORISED ORANGE & CARDAMOM PLANTATION TO THE POOR PEOPLE

The Chimi of Gaylegphug district requested for a quick allotment of the unauthorised orange and cardamom plantations to landless people in accordance with the decision taken during the 60th session of the National Assembly. He also requested that the people be allowed to register those lands in their own Thrams.

In response, the Deputy Minister for Home Affairs recalled the decision of the 60th session of the National Assembly. It had been decided that the lands which were being cultivated without the prior permission of the Royal Government would be confiscated and the fines to be imposed. While the fines are exempted by his Majesty, the Ministry of Home Affairs and the Department of Forestry were instructed to find out whether all the illegal plantations adversely affected the forests or not. On receipt of the report, those lands which were determined as being appropriate for agriculture and had no adverse effects on the forests would be considered for allotment to the poor. The Ministry of Home Affairs accordingly carried out the inspection. The Director General of the Forestry informed the National Assembly that the Department also conducted similar inspections. Accordingly, those lands which were rightfully owned by the cultivators were allotted to them, while illegally occupied land was confiscated by the government. In some of these areas, trees had already been planted. The Department also encountered some land cases, which were submitted to the High Court for decision. The representative of the High Court explained the time taken to impart decisions on the land cases. Further, he said once decisions are taken by the High Court, they would be obliged to impose fines in accordance with the law. But this he said the court could not do as His Majesty the King had already granted exemption of fines during the 60th session of the National Assembly. Therefore, final decision on the cases had been left for the National Assembly.

His Majesty the King was pleased to command the following:

- a. The land cultivated by the people with due authorization or permission from government authorities although not registered in their names should not be strictly classified as illegally occupied land. Such land would therefore be allotted to the people who cultivated them.

- b. The lands which were cultivated by the people on their own initiative and without any form of authorization or permission from government authorities will be strictly classified as illegally occupied land. Such land would therefore be confiscated by the government.
- c. Regarding the allotment of confiscated land to the landless people, the resettlement of these people will be carried out according to the resettlement programme of the Six Five Year Plan.

His Majesty the King said that firm measures must be adopted as there are no less than 24 thousand acres of illegally cultivated land in the country. If illegally cultivated land were given to the people who occupied them it would result in making redundant the Land Act which had been passed by the National Assembly only a few years ago. It would also mean that the National Assembly would be endorsing the circumvention of the very laws passed by it to safeguard the interests of the people and the country.

The National Assembly endorsed the command of His Majesty the King concerning unauthorized cultivation of land.

In this regard, the Ministry of Home Affairs the Department of Agriculture and the Dzongdags were commanded to discuss the methods of implementing the National Assembly decision.

65-8. REGARDING COST OF LANDS REQUIRED BY THE GOVERNMENT

The Chimi of Chang of Thimphu Dzongkhag stated that so far the people were surrendering their land whenever it was required by the government. During the 50th session of the National Assembly it had been decided that the owners of lands would be paid according to the existing cost of land in the country. However, they pointed out that the compensation

given by the government for 1 acre of land is not even enough to buy 1 decimal of land in the town area. Therefore, the chimis of chang and Kawang requested the government to go by the decision taken earlier by the 50th National Assembly in this regard.

In response, the Deputy Minister for Finance clarified that the decision of the National Assembly had several problems as there are no uniform existing values of land in the country. Prices were set independently by buyers and sellers. The result was that the government departments paid different rates for the lands bought. This caused great inconvenience especially with regard to accounting & auditing of the government. Similarly, the sellers of the lands had problems as they were paid differently. The government also had enormous difficulties in buying lands as the sellers were charging between 4 to 5 lakh for 1 acre of land. The consequence was that many plan projects could not be implemented and the Royal Government of Bhutan also had problems utilizing assistances given by donor countries. On the other hand, the Deputy Minister reminded the Assembly that as stipulated by law the government can take any land which is required for development purposes and the land owner would be paid accordingly as decided by the government.

The Deputy Minister stated that in 1986, the premium price of an acre of land was Nu.24,000/- only. However, the government classified the land into 4 divisions and decided that the best land would be paid at double the amount of the existing rate of land i.e. Nu.65, 300/- per acre.

The Deputy Minister also gave a clear explanation regarding the difference in the value of lands in the towns and the villages. In the towns, he said that, besides the actual cost of land various charges made by the City Corporation, for roads, water supply, sanitation and electricity supplies are also included. Therefore,

land in the towns would command higher value than land in the villages.

On the basis of the above reasons, the Deputy Minister felt that no changes should be made in the system of paying compensation for land adopted by the cabinet.

During the discussions some of the members were of the opinion that the land in Thimphu should command higher compensation than in other Dzongkhags. Some were of the view that those people, whose lands have been taken over by the Government, should be given extra 'Soilra'. Some members also requested that the present system of compensation adopted by the Cabinet should be altered, in the next session of the National Assembly. They stated that the rate of land should be increased and the price of land in all Dzongkhags should be equal.

On this issue, His Majesty the King informed the National Assembly that the Cabinet has never passed any resolutions which were against the decision of the National Assembly, at any time. Similarly, the system of compensation for land required by the Government adopted by the Cabinet was not in any way initiated by the cabinet, but was based on the National Assembly decisions. His Majesty explained that clear responsibilities had been entrusted to both the forums and accordingly, the cabinet decides only on those matters related to its authority.

His Majesty was pleased to command that while the system of compensation for land adopted by the cabinet should remain unchanged for the present a distinction between land acquired for commercial purposes and land acquired for development works should be made. Land acquired for commercial purposes, due to the very nature of its purpose, should be given a higher compensation than land acquired for development

works for which the existing value established by the government is more than adequate. His Majesty was also pleased to command that consideration may be given for the free allotment of a plot, for constructing a house, to the owners of the land from whom the land is acquired.

The National Assembly endorsed the decision given by His Majesty the King.

65-9. REGARDING RESETTLEMENT OF LANDLESS PEOPLE

The Chimis of Gaylegphug & Sarbhang requested for the resettlement of the landless people from scattered villages in some suitable place so as to be able to make available to them social services extended by the Royal Governments.

In response, the Secretary of the Planning Commission stated that this request has been provided for in policy five of the 6th Five Year Plan framed by His Majesty the King. In this regard the Dzongdags have also been told to look for such suitable areas for resettlement of landless people. Therefore, further discussion in the National Assembly was not needed at this stage.

66th SESSION OF THE NATIONAL ASSEMBLY:

66-10. LAND AS SECURITY FOR BANK AND R.I.C.B. LOANS

The Chimi of Phuntsholing Dungkhag proposed that farmland be accepted as security for Bank and R.I.C.B. loans for the public to help set-up small industries and other commercial activities.

In reply, the Deputy Minister of Finance stated that since Bank and R.I.C.B. are commercial institutions handling Government funds and public money; it was imperative to have proper

recovery of all loans. Thus, it was not possible to grant loans to anybody who applied for it. However, loans were being made available to buy agriculture machineries and trucks. A system of granting loans for various commercial purposes using assets and products as security had already been started. The Bank had already started giving loans of Nu.20,000/- to 30,000/- to small scale business people of Pemagatshel and Chirang Dzongkhags. Similarly, in southern Bhutan when people were in dire need of money during cash crop harvesting season, interest-free loans amounting to Nu.8,00,000/- were distributed to the public of Gaylegphug and Samchi Dzongkhags last year. This year too, it is planned to be continued. Likewise, over Nu.7,00,000/- was disbursed as interest-free loans to the public of Chukha and Samchi Dzongkhags to buy mules for transportation of cash crops.

The Deputy Minister stated that according to the law, no one is allowed to mortgage their `phazhi' (inherited farmland/house) as security for loans. He expressed the view that it was better not to change the existing law. He also informed the Assembly that Bhutan Development Finance Corporation (BDFC) was established in February, 1988, with the assistance of the Asian Development Bank, to provide financial assistance for the development of agriculture and small business. The BDFC will be providing loans on interests lower than that of other financial institutions in the country.

Therefore, as prescribed in the law, the Assembly decided not to allow the mortgage of `phazhu' to obtain loans from Bank and RICB, since loans for commercial activities and industrial development can be obtained through various institutions created by the government.

66-11. CASH CROP LAND TRANSACTION

Referring to the Land Act which prohibits the sale of farmland measuring five acres or less, the Chimi of Phuntsholing

Dungkhag requested that promulgating a similar law for cash crop land also be considered. He stated that otherwise there can be people without a decimal of land in the Land Records (Sa Thram) which may create inconvenience for registration as citizens if the population census is to be taken only on household basis.

In this connection, the High Court Representative explained that as per Land Act, the maximum land holding allowed per person was 25 acres including wet and dry land such as 'Chhushing, Kamshing, Rishing, Pangshing, Tseri' and vegetable garden. Further, a person owning land measuring five acres or less cannot sell it. Whether cash crop land should be specified under the aforementioned land ceiling was upto the discretion of the National Assembly.

Appreciating the concern raised by the Phuntsholing Chimi about the traditional inheritance and livelihood, the Deputy Home Minister said that since the Land Act was explicit on such issue, no problem is foreseen if the law was followed correctly. Regarding identification of citizenship, there was no reason for worry if the person was included in the 1958 population census in accordance with Citizenship Act, (1985) which was passed by the National Assembly.

During the deliberation on whether to modify the Land Act or not, His Majesty the King was pleased to state that it was essential to give serious thought as to whether there was really a necessity to amend the Land Act to control the sale of one's cash crop land. Moreover, unless there was a substantive reason for changes, the credibility of the overall laws of the country would be adversely affected if the National Assembly keeps on amending the law passed by itself for minor or negligible reasons.

His Majesty said that there was only about 2% of the population who owned cash crop gardens. In the event a law to control the cash crop land transaction was formulated, it may cause more harm than contribute to the welfare of the people. Therefore, instead of debating on the issue of not allowing the sale of cash crop land measuring five acres or less, it would be better if more concern should be expressed about setting a maximum ceiling for cash crop lands that can be owned by an individual. No such provisions were covered in the Land Act, and as such there could be people owning cash crop lands beyond reasonable limits, causing disparity among the public and problems to the country.

On this matter, the National Assembly resolved that no modification to the existing Land Act shall be made.

67th SESSION OF THE NATIONAL ASSEMBLY:

67-12. FOREIGN NATIONALS WHO HAVE LAND AND PROPERTY IN BHUTAN

The Deputy Minister, Ministry of Home Affairs, reported to the Assembly that foreign nationals who have acquired land and property in accordance with the laws of the country should be permitted to apply for citizenship in accordance with the 1985 Citizenship Act. Those who have acquired immovable properties illegally shall not be admissible for citizenship.

The National Assembly resolved that the matter would be dealt in accordance with the proposal of the Deputy Minister, Ministry of Home Affairs, as and when such cases arise.

67-13. WELFARE OF LANDLESS PEOPLE

The Representative of Ghasey Tsowom, Wangdiphodrang Dzongkhag, reported to the National Assembly that the Royal Government's programmes for landless people should allow

persons who do not possess more than 3 to 4 langdos the acquisition of the government adjoining land.

The Deputy Minister, Ministry of Home Affairs, reported that the Royal Government in consideration of the difficulties of landless and marginal farmers had through the Cabinet, framed new proposals for allocation of land and a new system of mobilization of people for the national workforce. Both measures had been made known to all 18 Dzongkhags by the Ministry of Home Affairs and had been broadcast and published through the national media. However, as such matters were reported to the Assembly, some people must have not clearly understood the policies and their implications. The Secretariat read out in the National Assembly the 2 policies for the benefit of all members.

Several members commented that if people were continuing to request for adjoining government land, the case seemed to be of unproductive plots lying unused, which could not be of any value to the people themselves or their children. These landless and marginal farmers should think carefully and avail of the Government's resettlement programmes where, in addition to land, facilities such as schools, dispensaries, roads and water would be available. This would set a good example for other landless and marginal farmers.

Some members noted that the programme of mobilization of national workforce would provide landless and marginal farmers with a good opportunity of employment and adequate remuneration, housing, and other benefit. Therefore, this programme was extremely beneficial for the wellbeing of poor people.

The National Assembly members expressed appreciation of the government policy of resettlement and mobilization of

workforce. The Assembly resolved that the related programmes must be carried out in accordance with the new policies.

His Majesty the King was pleased to note that despite the existence of resettlement programmes and the adequate divulgation of information, people continued to approach the government for allotment of land, which was incompatible with the pursuance and application of the law.

For the benefit of the National Assembly members, His Majesty the King recalled that in the last fifteen years more than 5000 households had been granted a total of more than 15,000 acres of land, and area equivalent to cover 60,000 langdos. If the various cases were carefully investigated, many persons would be penalized for irregularities; some recipients had appropriated more land than awarded in the Royal Kasho; some had sold the land given for their wellbeing to wealthy and influential persons. Such cases are being investigated by the Home Ministry.

His Majesty the King noted that in all the Dzongkhags there are good agricultural land which has been left uncultivated due to lack of manpower. At the same time, landless people continue to look for marginal and unproductive lands which are of little use to improving their livelihoods. The danger in the long run is that, increasingly, productive agricultural land of the country becomes fallow. On the other hand, of the 30,000 persons required to be mobilized under the national workforce programme, so far 5000 have come forward from the 18 Dzongkhags, leaving a shortage of 25,000.

Several members requested that large families with no more than 1 to 2 acres of land should be permitted to sell their property so that they can become eligible to join the resettlement programme, although the existing laws do not allow sale of land less than 5 acres.

His Majesty the King was pleased to command that families wishing to join the resettlement schemes could be considered to be permitted to dispose of their land falling below the 5 acres limit. The Home Ministry would formulate and issue appropriate regulations governing such cases.

The National Assembly resolved that land allotment and mobilization of the national workforce must be implemented in accordance with the approved policies.

67-14. REQUEST FOR ALLOCATION OF LAND BY PEOPLE OF DAGCHOG GEWOG, CHUKHA DZONGKHAG

The Representative of Dagchog Gewog reported to the National Assembly that the 56 households of his gewog who had been granted land by Government could not bring the land under cultivation due to adverse soil conditions. He requested that the land in Dobji currently under the Chukha Hydel Project be granted to them.

The Deputy Minister, Ministry of Home Affairs, reported that when the above area was acquired for the project, compensation and replacement land was given to the concerned persons by the Government. The area constitutes an important and integral part of the project and, therefore needs to be retained by the Government.

The National Assembly resolved that the landless and marginal farmers in Dagchog Gewog should take advantage of the Government's resettlement programme. It was decided that it was important to retain the land in Dobji under the project.

67-15. RURAL HOUSE CONSTRUCTION

The Representative of Jakar Dzongkhag reported that while concessional timber is granted for construction of rural houses, the government has recently established that in areas within 30 km. of a sawmill, wood must not be felled and cut from the

forest but procured through the sawmill. In such case, if a medium size house was constructed, approximately 1000 cft of timber would be required for which Nu.12,000 would have to be paid to the sawmill. This would be a large sum for a villager to put together at one time. He proposed that the old system of allowing felling and hewing in the forest be continued.

The Secretary, Department of Forests, reported to the Assembly that minor changes had been made to the system of allotment of concessional timber for the rural house construction. The royalty in urban areas of Nu.9/cft and in rural areas of Nu.0.25 per cft. remained. The supply of sawn timber to rural areas was made only on the basis of actual costs, with no profits, at the rate of Nu.12/cft, whereas the rate for timber for commercial use and urban house construction was established at Nu.40/cft and Nu.34/cft. in 1987.

The provision of concessional rates for rural house construction has been made keeping in mind the welfare of rural people. In this context, the Royal Government during 1987 lost revenues for about Nu.3.3 million on concessional timber supply in Thimphu Dzongkhag alone.

It was pointed out that the felling and hewing of wood of one house if carried out manually in the forest would involve work of 6 to 7 months. If this is costed, there would be no difference with the cost of procuring ready timber from the sawmill. Further, an average-size tree can provide 100 cft of timber when cut in the sawmill, but only 40 to 50 cft of timber if cut and hewn manually. The waste left in the forest is also a potential fire hazard and a breeding ground for insects which destroys healthy trees. In addition, in most parts of the country the preparation of timber for construction takes place around the same time, and it would be extremely difficult for the Department of Forests with its limited staff to cope with all the necessary investigation work and marking of the trees.

In view of such constraints the matter had been reported in detail to the 65th Session of the National Assembly. The provision for supply of ready timber from sawmills had been formulated at that time taking into account the difficulties faced by the government in this regard. Notwithstanding these provisions, remote areas far from motorable roads and sawmills have been allowed to continue as before.

Several members reported no difficulties as a result of the application of the new timber supply regulation.

The National Assembly resolved that due to inconvenience of one Dzongkhag the rules of the country cannot be changed.

67-16. FLOOD PROTECTION

The Representative of Gaylegphug reported that cultivable land of seven Gewogs was being eroded by floods and requested that a flood protection programme be considered to improve the situation and the welfare of the people.

The Director General, Department of Agriculture, reported that the consideration of a flood protection programme involves study of the flow of the river and the environment of the flood-hit area, and other in-depth investigations. This work requires expertise and equipment not available in Bhutan and considerable investment. He further stated the previous flood protection programmes had not been satisfactory and effective as insufficient preparatory work and study had been carried out with consequent waste of resources.

A flood protection programme in the Lalaidap area is envisaged to be undertaken during the plan period under the Area Development Project with the assistance of the Government of India. For this activity alone, to be carried out on a test basis, a budget provision of Nu.2.3 million has been earmarked. It will

not be possible for the Government to include other flood protection programmes in the current plan.

The Representative expressed his gratitude for the concern of the Government of this area and for the approval of the above pilot scheme.

CIRCULAR

NEW APPROACH TO THE KIDU LAND POLICY

The Royal Government has for the past 15 years been distributing land to the landless and poor as and when such requests were received. The primary consideration of the Royal Government in initiating this programme was to fulfill His Majesty's desire that the less fortunate subjects of the Kingdom should be provided with a source of material security and an opportunity for income generation.

Experience and assessment of the way the current kidu land distribution was being implemented has revealed that the programme, despite its noble objectives, has not improved the security or income opportunities of its beneficiaries. The main constraint was that since practically all productive land and easily accessible areas were already cultivated or privately registered, the new allotments in most cases were either in remote locations or on barren lands. Also poor management practices and difficulties in supplying costly development inputs like schools, health units, extension services, energy and motorable roads to isolated households in remote areas acted as further impediments to the socio-economic development of such poor and landless people. The fact that the kidu land allotment itself was implemented on an ad hoc and highly dispersed basis was also not conducive to the formulation and provision of development services on a planned and comprehensive basis.

On the other hand, the existing system of granting land to the poor and landless on an ad hoc kidu basis has many negative implications at the macroeconomic level for the nation. Today, the country needs a minimum national workforce of 30,000 to maintain the momentum of the existing development programmes. The large enrolment of children and able bodied persons in schools, the religious institutions and the armed forces had further intensified the already acute labour constraints of rural areas. Given such labour shortage in the countryside, the existing land kidu policy, besides failing to achieve the intended objective of improved livelihood and higher income for the villagers, actually aggravates the rural manpower crisis as more hands are required to cultivate the newly allotted kidu land. Moreover, the limited availability of land and the ever increasing number of households due to fragmentation of the family unit makes it impossible to continue allotting kidu land on a perpetual basis.

In view of the reasons stated herein, the Royal Government will henceforth discontinue the existing practice of ad hoc and highly dispersed allotment of kidu land on individual basis. Instead, the Royal Government, as laid down in the current Sixth Five Year Plan objectives and as already initiated, will formulate and implement a comprehensive and planned resettlement programme for landless families applying for land. At the same time, the Ministry of Home Affairs in concert with other organizations will also provide opportunities for landless people to join the national workforce.

This new approach to land allotment and the creation of national workforce are both aimed at improving the income and enhancing the quality of life of the poorest sections of the nation's population. In the resettlement programme, the Royal Government will give full assistance in developing the selected areas of land and also provide irrigation, drinking water, communication facilities, agriculture and livestock extension,

schooling and health care, improved rural housing packages and other social and economic services. Steps will also be taken to provide the people joining the national workforce with equally attractive incentives that will include housing, education, health coverage and other in-service as well as post service benefits.

It is hoped that the new resettlement areas will eventually develop into self sustaining communities and emerge as future growth points. This revised approach to rural upliftment is expected to be useful not only to the people but also to the Government as it allows for the Government to provide development services within cost effective limits, while improving the coverage of such services in terms of area and population. This is particularly relevant to Bhutan in view of our high dependence on external resources and the need to effectively reduce wasteful and costly spending.

It is because of these considerations that the Royal Government has decided to adopt and strictly follow the revised procedure for allotment of kidu land.

68th SESSION OF THE NATIONAL ASSEMBLY:

68-17. OUTLET FOR SALE OF ORANGES

The Public Representatives of Nganglam said that oranges from Nganglam were sold in the towns of Assam and nearby places which do not provide remunerative prices. Therefore, the public requested that arrangements be made through the State Trading Corporation of Bhutan to provide an outlet for exports to Bangladesh, which would be very beneficial to the public.

In response, the Deputy Minister of Trade and Industry said that since Bhutan lies between two countries and is land-locked, all our goods had to transit via routes through

another country. The government of India had generously allowed us the use of Changrabandh and Mugalhat trade routes to Bangladesh which had proved very beneficial. Moreover, talks were going on between Bhutan and India regarding a new route through Dhubri. In this connection, an Indian delegation was scheduled to visit Bhutan during November, 1989 at which time, talks on the transit route are expected to be finalised.

Last year, 672 boxes of oranges were exported to Bangladesh on a trial basis. This year too, two businessmen from Nganglam agreed to export around 250 MT of oranges to Bangladesh through the State Trading Corporation of Bhutan. Compared to last year, business between Bhutan and Bangladesh had increased three-fold.

On this subject, the National Assembly expressed satisfaction with the explanation given by the Deputy Minister of Trade and Industry.

68-18. RURAL IRRIGATION

The Public Representative of Gaylegphug stated that irrigation water for Gaylegphug is lifted from Maokhola. However due to problems in Assam, the supply of electricity has become erratic which hinders the operation of the pumphouse. As such, cultivation is greatly hampered without regular water supply. Therefore, the government is requested to take measures to supply irrigation water directly from the river without having to depend on the lift irrigation system.

In response, the Director General of Agriculture said that the Department of Agriculture has been giving due importance to the improvement of irrigation facilities for agricultural development in Gaylegphug. At present, the Department has earmarked Nu. 62 lakhs for the construction of new irrigation channels and repairs of the existing channels.

With regard to supply of water directly from the river source without a lift system, the Director General explained that when conducting the feasibility study in the IVth plan, it was found that the supply of water directly from the river source by gravity was not possible because of the hilly terrain and the porous nature of the soil. Again, the construction of a new irrigation channel would involve huge expenditure. Secondly, repairs of the channel would have to be done continuously and consequently the yearly budget would be very high. Therefore he said that it was not feasible to supply water by using gravity direct from the source as requested. Moreover, the southern parts of the country received heavy rainfall which damaged the channels resulting in regular repairs. He however added that irrigation facilities would be developed in the high-yielding areas of Gaylegphug. In this connection, the Government was also studying the possibility of developing agriculture with the aid of underground water and rainfall. A team of experts from Japan to study the availability of underground water was scheduled to visit between November and December of this year. In light of this, he stated that the government had no plans to establish new channels for the Gaylegphug area.

The Public Representative of Gaylegphug expressed his gratitude to the Royal Government for the detailed information on the matter.

68-19. CONSTRUCTION OF IRRIGATION CHANNEL NO. 2:

The Public Representative of Gaylegphug stated that the construction of irrigation channel no.2, which was started in 1981, was abandoned by the Project in 1983 without it being completed. Therefore, the Government is requested to kindly complete the construction of the channel as it would greatly benefit the public of Gaylegphug Naya Busti and Bhur area.

In response, the Director General of Agriculture said that during the Fourth Five Year Plan an area development project

was started in Gaylegphug. Under the project, construction of two irrigation channels was planned. The construction of irrigation channel no.1 which was started in 1978 was completed in 1983 at a cost of Nu. 1.85 crores with a capacity to supply 40 cusecs of water. The construction of irrigation channel no.2 was taken up in 1982 but was abandoned in 1985 without being completed. If the channel was completed it was expected to supply 80 cusecs of water. When irrigation channel no.1 was commissioned, it was found that adequate water could not be supplied through it because of the porous nature of the soil. Besides, the intake tanks at the source were often filled with sand and silt which had to be regularly dredged.

He said that in order to establish a new pumphouse for a two and half kilometers long channel, it would cost Nu. 477 lakhs according to the estimate of 1985, which is equivalent to 900 lakhs at the present value. If irrigation channel no.2 is to be commissioned, it is calculated that a tax of over Nu. 1000 per acre per year will have to levy to meet the cost of electricity for operating the pumphouse. Since irrigation channel no.2 was perceived to be more of a liability than benefit, the construction work had to be discontinued.

In the absence of any other alternative, the National Assembly endorsed the statement of the Director General of Agriculture.

68-20. MARKET FOR CASH CROPS

The Public Representative of Pemagatshel requested that due to limited marketing prospects in Samdrup Jongkhar for cash crops such as green vegetables, potatoes and oranges, a regular marketing outlet be organized for the sale of such produce.

The Director General of Agriculture said that the development of cash crops to increase the income of the public is an important policy. Thus the Food Corporation of Bhutan (FCB)

had established auction yards in Gaylegphug and Samdrup Jongkhar in 1986 and 1987 respectively in addition to the existing ones in Samchi and Phuntsholing for the convenience of the public.

The Director General informed the Assembly that among the agricultural produce, the Food Corporation of Bhutan auctioned 10,262 metric tons of green vegetables in 1986 which earned more than Nu. 266 lakhs. Similarly, in 1987, 12,648 metric tons of vegetables worth more than Nu. 310 lakhs were auctioned while in 1988; 16,747 metric tons were auctioned earning more than Nu.449 lakhs.

Realizing the importance of auction facilities to boost business activities, establishment of new storage facilities under UN assistance was planned in Phuntsholing, Gaylegphug and Samdrup Jongkhar and construction of such facilities had already started in two places. The Department would spare no effort towards the growth and expansion of business activities through the establishment of auction yards and the provision of improved marketing.

Regarding export facilities to Bangladesh, the Director General said that at present apples and oranges were being exported, and plans were being discussed with the Ministry of Trade and Industry to export green vegetables, potatoes and other food items.

The National Assembly endorsed the statement of the Director General of Agriculture.

68-21. SELF-SUFFICIENCY IN RICE AND SEED

The Department of Agriculture submitted a proposal for the achievement of self-sufficiency in rice and edible oil seeds for the endorsement and approval of the National Assembly.

The National Assembly, commending the proposal of the department of Agriculture which was geared towards achieving self sufficiency of essential cereals and edible oils endorsed and approved the proposal as follows:

- a. The policy of intensive production of rice and oilseeds in selected project areas;
- b. Purchase of land in project areas by the department of Agri-culture as per rules and the decision of the National Assembly.
- c. Mandatory concentration on cultivation of rice and oilseeds only by farmers in the project areas.

68-22. TAX EXEMPTION FOR ORCHARD LANDS:

The Public Representative of Sarbhang Dungkhang said that His Majesty had graciously exempted the taxes for 1989 to enable the public to buy Ghos and Kiras. Accordingly, this was announced by the Gups, Chimis and Gewog Tshogpas to the public of their respective gewogs. However, after three or four months, there was a notification from the government asking the public to pay taxes on orchard land. In view of the earlier practice of paying taxes for wetland, dryland, house and orchard, it was presumed that all payable taxes were exempted. But with the levy of taxes on orchards, it has created confusion among the public, who are unwilling to pay the taxes on the ground that the taxes had been exempted by His Majesty. As a result, the Gups are facing problems in collecting the taxes.

The Finance Minister said that His Majesty the King had graciously exempted taxes on land, house and cattle to enable the public of Southern Bhutan to purchase Ghos and Kiras. However, the tax on cash crops was not included in the list of exemptions. Therefore, a government notification with instructions to collect taxes on cash crops had been circulated. The Finance Minister pointed out that there were only a few persons owning cash crop gardens and that these people being

prosperous farmers could easily afford to pay such taxes. The question of tax on cash crops was raised only by Sarbhang Dungkhang while no other Southern Dzongkhag had any problem in this regard. He said that the people should be grateful for the exemption of taxes as mentioned above and that there was no justifiable reason to request for tax exemption on cash crops.

The Public Representative of Sarbhang said that he had not clearly understood whether the tax on cash crops had also been included under the list of exempted taxes and expressed his satisfaction with the explanation of the Finance Minister.

68-23. COMPENSATION FOR HOUSES DESTROYED BY NATURAL CALAMITIES:

The Public of Lamgong Gewog, while thanking the government for the financial assistance granted for houses destroyed by fire, requested for similar compensation for houses destroyed by floods, earthquake and wind.

The Finance Minister stated that the government, taking into consideration the welfare of the people, had introduced the system of house insurance in 1971. At that time, the houses were classified into four categories. The houses under category one had to pay Nu. 4 per year while those under categories 2, 3 and 4 had to pay Nu.3, 2 and 1 respectively. Accordingly the compensation payable was also Nu. 8000, 6000, 4000 and 2000 respectively. Under this policy, insurance was also provided against destruction by flood, earthquake and fire. However, as per circular issued by the Home Ministry in 1977, only houses destroyed by fire were granted compensation which is in effect till date.

He added that in 1986, the Royal Insurance Corporation of Bhutan (RICB) was directed to operate this house insurance scheme. In 1986-87, the Finance Ministry had to pay more

compensation than the insurance premium collected by the Royal Insurance Corporation of Bhutan. As a result, the government had been bearing losses in the interest of the people's welfare.

However, taking into consideration people's welfare, the Royal Insurance Corporation of Bhutan had prepared three proposals in which were included not only houses destroyed by fire but also those destroyed by flood and earthquake. The National Assembly could now select the best proposal from amongst the three.

The National Assembly accepted the proposal that (a) houses classified under category I pay Nu. 30 per year and receive Nu. 30,000 as compensation and (b) houses classified under category II pay Nu. 19/- per year and receive Nu.12, 500 as compensation. The proposal would be effective from January, 1990.

69th SESSION OF THE NATIONAL ASSEMBLY:

69-XXIV.CONSTRUCTION OF HOUSES IN PADDY FIELDS

The People's Representative of Chang and Kawang Gewog submitted that when it became unavoidable for a family to divide into separate households it was necessary to build a house for the new family. In view of this, he requested the Royal Government to consider permitting the construction of houses in one's own paddy field.

In reply, the Deputy Home Minister clarified that in the past, paddy fields were developed with much difficulty by our forefathers to be used as agricultural land and not for building houses on them.

However, today the number of houses being constructed in the paddy fields is on the increase not only because of the fragmentation of families but also because of the new concepts in their usage. If this trend remained unchecked, there was every possibility of a serious reduction of paddy fields which would in turn result in further increasing our present rice deficit. With the immediate and long term objective to strengthen the country's economy which was dependent upon agriculture, the 93rd session of the Lhengyel Shungtshog had, therefore, resolved and issued an additional clause to the existing clause KA 3.3 and 3.10 of the Land Act with regard to construction of houses in paddy fields.

Accordingly, on 16th February 1989, the Ministry of Home Affairs had issued a circular containing the above decision of the Lhengyel Shungtshog for strict compliance by all. As this decision was specifically made to promote the policy of food self-sufficiency, the Deputy Minister submitted that this clause should not be amended.

In the discussions that followed, some of the Royal Advisory Councilors and People's Representatives expressed the view that the construction of houses in paddy fields should be permitted to help those people who do not own any other type of land aside from paddy fields, and those who had moved from higher altitudes and purchased paddy fields and therefore needed to construct a house. Some members submitted that the construction of houses in paddy fields should not be permitted as the country was dependant on agriculture. Others were of the view that there was a need to categorize paddy fields located in the villages and in the vicinity of towns.

In reply, the Deputy Home Minister stated that he saw no inconvenience if people observed the existing rules and regulations of the Department of Works and Housing for

constructing houses in urban areas and followed the provisions of the Land Act for constructing houses in rural areas.

In this connection, His Majesty the King clarified that he had repeatedly reminded the Government officials and People's Representatives that frequent amendments of our important national policies and laws to accommodate the inconvenience and Kidug of a few persons would greatly undermine the credibility of all existing rules, regulations and laws of the country. His Majesty, therefore, stated that the National Assembly should carefully consider the advantages and disadvantages of amending the additional clause to the Land Act which was enacted just over a year ago.

His Majesty informed the National Assembly that at the time of enacting this additional clause to the Land Act the country was importing at least 25,000MT of rice every year to meet our cereal deficits. This was adversely affecting our policy of food self-sufficiency and the additional clause was therefore enacted. His Majesty also commented that if the existing Land Act was amended as proposed by the Chimis, then very soon most of the villagers would sell their paddy fields to businessmen and government servants.

Moreover, His Majesty observed, since there was no ban on the construction of houses in other categories of land such as tseri, kamshing, pangshing and kitchen garden, it was not necessary for people to build houses only in paddy fields.

Many members submitted that amending the additional clause would not serve any useful purpose for the people in general, but would adversely affect our national policy of rice self-sufficiency and them, therefore, requested that the additional clause of 1989 to the Land Act be retained without amendment. This request was accordingly endorsed by the National Assembly.

69-XXV. CLARIFICATION ON THE LAND ACT

The People's Representative of Samchi submitted that in accordance with clause 4 of section KA 3 of the Land Act, a family could not possess more than 25 acres of agricultural land. However, there were some people who owned land exceeding the 25 acres ceiling. The Land Act did not contain any details concerning such cases. Therefore, the public of Samchi sought clarification from the Government on the issue.

In response, the Deputy Home Minister and the Representative of the High Court clarified that point 13 of the 58th National Assembly session held in 1983 contained clear directives on the matter in addition to which clause KA 3.4 and KA 6.11 of the Land Act contained provisions relating to the confiscation of land and compensation by the Government with regard to a family's land exceeding the 25 acres ceiling. It was also submitted that clause KA 4.2 and KA 4.3 pertaining to the division of land contained clear provisions on the retainment and surrender of land by the Thram holder in cases of land exceeding the registered acreage in the Thram.

The Surveyor General further submitted that as contained in point 13 of the 58th session of the National Assembly convened in 1983, His Majesty the King had been pleased to command that entry into the owner's Thrams should be permitted for the excessive land holdings realized during the re-survey if they had not been acquired through illegal means and did not exceed the 25 acres land ceiling. He reported that while re-survey was being conducted, much inconvenience was faced as cases relating to the deliberate division of land were frequently being encountered. There had even been occasions when the surveyors, in keeping with the directives of the Home Ministry, had to ask the courts in the dzongkhags not to accept requests for any division and transfer of land until the completion of the re-survey of the concerned household's land. However, the

actual re-surveys had always been carried out on the basis of the registration in the owner's Thram.

The People's Representative of Samchi acknowledged his understanding of the Land Act regarding the 25 acres land ceiling and expressed his appreciation for the clarification. There was no further discussion on the matter.

69-XXVI. REGULATIONS FOR GRANTING LAND

With the objective to promote national integration among the people of northern and southern Bhutan, the Ministry of Home Affairs submitted a report on a system of rehabilitating the people from southern Bhutan in northern dzongkhags. The report which was distributed to all the National Assembly members is attached as annexure-3.

During the discussions on the report, the members of the Royal Advisory Council and the People's Representatives from eastern, western and central Bhutan requested that the same facility be extended to their areas as there were many people in their dzongkhags who did not have enough agricultural land. Other People's Representatives also requested the government to extend the same facility of rehabilitation programme to all the subjects of the country equally.

The Minister of Finance clarified that the system of granting land submitted by the Home Ministry was basically to promote the long term interest of the nation by strengthening the security and stability of the country through the promotion of national integration and unity among the people of northern and southern Bhutan.

This special project had been formulated in order to encourage the integration of our people by resettling the landless Lhotshampas in the northern dzongkhags. Although, the Royal Government would have to spend millions of ngultrum for this

purpose, the programme was planned with a view to promote our long term national security and stability and to ensure peace and social harmony in the country. He pointed out that this project was not planned specifically for distributing land to all the landless people in the country and it was important for all the People's Representatives to realize the benefits this programme would have in promoting the important policy of national integration. All the members were, therefore, requested to extend their full support towards fulfilling this national objective.

As no People's Representatives from the southern dzongkhags had any different views on this programme, the National Assembly resolved that everyone should endeavour to ensure the successful implementation of this important national policy.

70th SESSION OF THE NATIONAL ASSEMBLY:

70-III (A).TAXATION OF PASTURE LAND

The People's Representative of Kheng Silambi (Mongar) submitted that in the past, they could obtain Tsa-Drog Lagkhers (pasture licences) by paying only Nu.1/- for a five year period, irrespective of the number of cattle owned by a licence holder. This was followed by an increase of the licence fee to Nu.5/- which now applied to only those persons who would develop their grazing grounds with improved varieties of pasture seed. A licence fee of Nu.100/- was levied for those people who did not/could not develop their own pasture fields, regardless of the number of cattle they owned.

In view of the kidug of the ordinary village people, the people requested that the licence fee be levied in accordance with the number of cattle owned by the applicant.

The Minister of Finance informed the House that taxation on pasture land was based on the policy of the Royal Government to improve the quality of grazing grounds and to reduce the number of cattle while improving their breed and productivity. He held the view that the main cause of this problem was the confusion and conflict over private and common grazing grounds which often created misunderstanding over pasture licence. He clarified that, even though it was necessary to obtain individual licence for each pasture land, it was not necessary for every person who had cattle grazing in a common/public pasture to obtain a separate licence. He said that the cattle owners needed only one combined licence in such cases.

Many representatives of the people appreciated the clarification made by the Finance Minister. However, they stressed the problem faced by the poor farmers who only had a few heads of cattle and, thus, had no reason to develop pastures. This resulted in them having to pay Nu.100/- instead of Nu.5/- as paid by those who had more cattle and, therefore, had every reason to improve their pastures. They reiterated the request for payment of licence fees according to the number of cattle.

His Majesty the King was pleased to propose that since there was no difficulty for the Royal Government to fix the rate of pasture licence fee on the basis of number of cattle, a decision should be taken after a proper study was conducted to determine how best the interest of the people could be served.

Having noted that there prevailed certain misinterpretation of the policy on pasture development, and as proposed by His Majesty the King, the National Assembly decided that the benefit of levying fees on the basis of the number of cattle should be discussed at the Dzongkhag Yargye Tshogchungs and their recommendations submitted to the concerned Ministry for final decision.

70-IV (1). ALLOTMENT OF ILLEGAL EXCESS LAND IN SOUTHERN BHUTAN

The People's Representatives of 45 gewogs in the Dzongkhags of Tongsa, Haa, Paro, Chukha, Lhuntshi, Tashigang, Pemagatshel, Wangdiphodrang, Dagana and Samdrupjongkhar submitted eleven proposals on allotment of land in southern Bhutan to the poor and the landless people from northern Bhutan.

The members proposed that the land belonging to Southern Bhutanese who had absconded and joined the anti-nationals and all categories of illegal land should be allotted to the poor and landless people from northern Bhutan. Some members recommended that such lands should be allotted to the retired personnel from the armed forces as many of them were finding it extremely difficult to find employment after retirement and were unable to stake claims to land owned by their parents as most of the land holdings were very small and not sufficient for distribution among the children. Such resettlement programmes would also foster preservation of the country's tradition, culture and customs thereby promoting national identity and strengthening the security and sovereignty of the country.

The Chimis from the Dzongkhags of eastern Bhutan stated that there were many people who did not have sufficient agricultural land and that many did not even own a plot of land to construct a house. They requested that the illegal land in southern Bhutan and land belonging to the ngolops should be allotted to the poor and landless people from the northern Dzongkhags. Such a step would also ensure equitable distribution of land and reduce the occurrence of anti-national activities.

The Secretary, Department of Survey and Land Records reported to the Assembly that the cadastral survey of the land holdings in Samchi and parts of Samdrupjongkhar had been

recently completed. He stated that in Samchi Dzongkhag alone, when the resurvey was carried out in accordance with the 1979 Land Act, illegal land holdings of 47,235.67 acres had been detected. During January to June 1991, 208 surveyors were engaged for the cadastral survey in Samchi, out of which 160 were Southern Bhutanese. As per the Land Act, variations of 0.12 acres and 0.25 acres were allowed for every acre of wet land and dry land respectively. If this Law had been applied strictly, large tracts of land would have had to be confiscated and the people concerned penalized. However, His Majesty the King had been pleased to command the regularization of genuine excess land holdings in accordance with Resolution No.13 of the 58th Session of the National Assembly which permitted registration of excess land without paying the cost, provided the land in question was within the boundary recorded in the earlier land record. In case the owner was unable to prove that the excess land was within the boundary of his land holdings, the excess land would be registered in his/her name provided the land holding of the particular household did not exceed the national ceiling of 25 acres. However, as decided during the 60th Session of the National Assembly, all forest land illegally leased and used for growing cash crops had been confiscated.

Though the Land Act permitted land holdings of only 25 acres per household, in southern Bhutan many people registered in the census under one household had been permitted to register land in their names on the ground, that although listed as such in the census, they were not members of the same household. This relaxation of the Land Act had enabled many households to own land far in excess of the land ceiling of 25 acres.

The Secretary went on to report that despite all these special considerations given by His Majesty to the people of southern Bhutan, Samchi Dzongkhag alone had over 47,000 acres of illegal land holdings even after large areas of excess land were

regularized under the above special allowances and considerations.

At this point, the Home Minister stated that even after the Royal Government had regularized all genuine excess land detected during the resurvey as per the Land Act and the resolutions of the National Assembly, the amount of illegal land found by the survey ran into tens of thousands of acres. Besides these illegal land holdings, the government would be acquiring some land as some of the Southern Bhutanese were selling their land and leaving the country. Some of these lands would be handed over to the Department of Forests for plantation and protection of the environment. The balance could be distributed to the security forces, militia volunteers and landless and poor people. He reported that the Ministry of Home Affairs was working on the procedures to be adopted for such allotments.

The Chimis from Haa, Punakha and Tashi Yangtse submitted that the illegal land in southern Bhutan should be allotted to ex-service personnel as this would contribute to the security of the nation and the promotion of the national policy of one country, one people.

His Majesty the King, at this point, told the Assembly that despite the anti-national uprising and the large scale terrorism and subversive activities unleashed by the ngolops, the 5 Dzongkhags and 1 Dungkhag of southern Bhutan had remained intact and secure because of the loyalty and dedicated services of the security forces. He proposed that the allotment of the illegal land to the security forces and retired servicemen, who were also a part of the rural population, would be a fitting recognition of the important role played by the services forces and the militia volunteers in safeguarding the security of the country.

One of the Royal Advisory Councilors of southern Bhutan submitted that as in the case of Samchi Dzongkhag, excess land holdings would also be detected in the other southern Dzongkhags and requested the government to consider allotting these lands to the “Sukumbasis” of southern Bhutan. He also submitted that when resurvey of the land holdings in the northern Dzongkhags were carried out, excess land holdings would probably be detected there also. He requested that resettlement programmes be undertaken as per the resolution adopted in this regard during the 69th Session of the National Assembly and allotment of excess land be made to landless people of both northern and southern Bhutan.

The Home Minister submitted that if any individual felt that his/her land had been forcibly or wrongly declared as illegal by the surveyors, His Majesty the King had issued a Royal Command that such aggrieved individuals could take the matter to the Dzongkhag Courts or directly to the High Court. His Majesty had also commanded that if any individual wanted to sell his/her land to the government and leave the country, such transactions should be undertaken only upon submission of a statement from the head of the household declaring his intention to sell the land and leave the country. This statement must be made and attested in the presence of the Dzungda, Thrimpon, Head of the local Police, Registration Officer, Dzungpa, Gup (Village Headman) and the National Assembly member concerned. The payment of the cost of land must also be made to the individual in the presence of the above officials and people's representatives. With regard to settlement of Southern Bhutanese in northern Bhutan the implementation of such a programme would be considered only after the present problem in southern Bhutan was resolved, bearing in mind the overall national security, the Home Minister said. With regard to the term “Sukumbasis”, as per the previous session of the National Assembly and as landless people or people with very small land holdings were found in all parts of the country, the

acceptable term was "Landless People" and not "Sukumbasis".

Many People's Representatives stated that the reason why such large illegal land holdings were being found only in southern Bhutan was due to the large influx of illegal Nepalese migrants and also due to convenient and easy leasing of illegal land holdings to non-national share croppers. They recommended that the illegal land holdings in southern Bhutan should be allotted to the security forces as proposed by His Majesty the King.

The Chief Operations Officer of the Royal Bhutan Army expressed his deep appreciation for the proposal to allot the illegal land in southern Bhutan to the security forces. He said that such generous considerations by the government and the people would go a long way in boosting their morale.

The National Assembly resolved that taking into account the well-being of the people and to strengthen national security, the illegal land holdings in the southern Dzongkhags should be allotted first to security force personnel and the Militia Volunteers. The additional land after such allotments should be given to landless people and to people with very small land holdings, to facilitate the national objective of ensuring equitable land distribution.

70-IV(2). CADASTRAL SURVEY AND CENSUS

The People's Representative of Yuesu of Haa Dzongkhag recommended that it was important for the Royal Government to vigorously implement the Cadastral Survey and Census programme in order to obtain complete and accurate land and census data.

The Secretary, Department of Survey and Land Records informed the House that the payment of land tax was converted to cash from kind in 1971. When subsequent chain surveys

were conducted to convert land records into the acreage system, many discrepancies had arisen. In addition, a substantial amount of private land had to be acquired for development purposes. The National Assembly had therefore, appointed a legislative committee which had drawn up the Land Act that was passed by the National Assembly.

In accordance with this Act, re-surveying of land had begun in 1980 starting with Chirang and Paro. In order to mitigate the problems faced by the people during the course of the survey, several revisions had been incorporated in the Act by the National Assembly upon the command of His Majesty the King. He reported that between 1980 and 1990, the Department had completed land survey in 11 Dzongkhags. However, owing to shortage of staff, they had been able to complete the revision of land records (Thram registration) for only 2 Dzongkhags, Paro and Bumthang. The Secretary informed the Assembly that the Department had now completed the cadastral survey and verification of land records in the 16 gewogs of Samchi between January and June of 1991. Similarly, he reported that upon the completion of census in Samdrup Jongkhar, they had been able to undertake cadastral survey in 3 of the gewogs. As soon as census activities were completed in Gaylegphug, cadastral survey and verification of land records would also be undertaken.

The concerned representatives of the people expressed their satisfaction with the progress report submitted by the Secretary, Department of Survey and Land Records. The National Assembly, therefore, resolved that, in conducting the cadastral survey in the remaining Dzongkhags, the Survey Department should continue to adhere strictly of the Land Act and the related resolutions of the National Assembly.

71st SESSION OF THE NATIONAL ASSEMBLY:

71-IV(6). PASTURE TAX

The people's representatives of Ngangla and Phangkha gewogs in Shemgang Dzongkhag submitted that in the past, the people were allowed to obtain Tsa-Drog Lagkher (pasture permit) by paying Nu.5 for the first year and Nu.1 per annum for renewing the permit over the next four years. Since a few years back, the pasture fee had been increased to Nu.100/- per year for those people who did not develop their pasture even if they had only one head of cattle. The people therefore requested for the pasture fee to be reduced as a kidu or the earlier system reverted to.

The people's representatives of Tshogom, Phangyul and Dagar gewogs in Wangdiphodrang Dzongkhag requested the government to consider issuing a combined grazing permit valid for community Tshamdo as a kidu for the people in general. The grazing tax could be levied at the rate of Nu.5/- per head.

The Minister of Finance responded by stating that the issue of pasture tax as raised by the people of Ngangla and Phangkhar, had been discussed in the 70th session of the National Assembly and it had been decided that the concerned DYT's should decide on the matter. With regard to issuing grazing permits for community Tshamdos, the Minister clarified that a joint grazing permit would suffice for all the households of the community. He further clarified that taxes per head of cattle were cattle tax and should not be confused with pasture tax.

The Assembly resolved that the Ministry of Finance should circulate clear guidelines on obtaining permits to all the dzongkhags to clear the doubts of the people.

71-XI. ALLOTMENT OF LAND AND RESETTLEMENT IN SOUTHERN BHUTAN

The people's representatives of 51 gewogs from Shemgang, Sarbhang, Samdrupjongkhar, Tashigang, Punakha, Paro, Pemagatshel, Thimphu, Chirang, Mongar, Tongsa and Lhuntshi and the representatives of the Dratshang and the Bhutan Chamber of Commerce and Industry presented 16 points for allotment of land and resettlement in southern Bhutan. The representatives proposed that the land left behind by the ngolops who had absconded after the 1990 anti-national uprising and the land vacated by the Lhotshampas who had sold them and legally emigrated to Nepal should be allotted to landless people from all the dzongkhags. There were over 400 households with very little or no land in Samdrupjongkhar alone and over 1000 such families in Mongar. In Tashigang, there were 178 landless families and 556 households with less than one acre of land. There were also many families in the eastern dzongkhags that subsisted entirely on Tseri cultivation. The chimis from the eastern dzongkhags proposed that all these families from their dzongkhags should be resettled as soon as possible in the south. The chimis from all the other dzongkhags also called for the landless people in their dzongkhags to be resettled on the vacated and excess land in southern Bhutan.

The people's representatives from Sarbhang explained that if landless people from other dzongkhags were re-settled on the vacated land in the south, it would generate a greater sense of security among the local people and neutralise any plan by the emigrants to return and claim the land they had sold and abandoned.

The BCCI representative and the chimis from Thimphu said that not only were the Lhotshampas facing great hardship from constant raids by ngolop terrorists but their presence in the border areas would continue to be a source of serious problems for the security of the country. They therefore proposed that the

landless people from the northern dzongkhags should be resettled in the south while the Lhotshampas should be resettled in the north.

The Home Minister reminded the Assembly that proposals for resettling landless people from northern dzongkhags in the south had been discussed during the 70th session of the National Assembly and the proceedings duly recorded under section 5 of Chapter IV of the resolutions. A proposal for resettling Lhotshampas in the northern dzongkhags had been discussed earlier during the 67th session of the National Assembly in 1988 and the proceedings recorded in its resolutions. As per Chapter 10 of the resolutions of the 69th session in March 1990, in order to facilitate the resettlement of landless people from the south in northern dzongkhags, a survey and feasibility study for resettlement had been carried out at Barpong, Pangling, Bumpa Thang and Bozam under Shemgang Dzongkhag; at Kamichu and Hebisa under Wangdiphodrang Dzongkha; and at Dargayling and Kalizingkha in Dagana Dzongkhag. However, nothing had materialized from this proposal. Far from any Lhotshampa coming forward for resettlement in the north, they were now emigrating from the country.

The Home Minister also informed the Assembly that His Majesty the King had granted over 15000 acres of land from various parts of Bhutan to over 5000 landless families.

His Majesty the King reminded the Assembly that while discussing the proposal for resettlement of Lhotshampas in northern dzongkhags during the 69th session of the National Assembly, many northern chimis had requested for similar resettlement kidugs to be granted to the Northern Bhutanese. His Majesty had however told them that resettlement kidus for the landless people in the northern dzongkhags would be taken up only after the Lhotshampa resettlement programme was

completed. Incentives for Lhotshampas to resettle in the north included free agricultural tools and seed and 2 bulls per family. Exemption of rural tax and goongda woola for 3 years, a grant of Nu.5000 for house construction and free transport to the resettlement sites had been offered. The resettlement areas had also been selected in sub-tropical areas with warm climates. A total of 481 acres in southern Shemgang, 808 in Wangdiphodrang and Chirang and 700 acres in Dagana had been surveyed and detailed project reports had been made at great cost. Travel expenses and allowances had also been sanctioned for Lhotshampas wanting to see and select the areas they would like for resettlement. However, no Lhotshampas showed any interest in the kidus offered by the government to facilitate resettlement of Lhotshampas in northern dzongkhags. The Sibsoo chimi expressed deep regret that instead of resettling in the north as per the aspirations of the government, many Lhotshampas had instead been leaving for Nepal on hearing that there was free food, clothes and other benefits available in the camps there. He said that the land vacated by such people should be resettled with landless people from other dzongkhags. This would be a great kidu for the landless people as well as a big help for the security of the loyal Lhotshampa citizens. It would also ensure proper utilisation of arable land and contribute to the successful implementation of the Seventh Plan programmes.

Many chimis then proposed that rather than resettle Lhotshampas in the north, the resettlement of landless people from northern dzongkhags to the south should be done on a priority basis. This would be of great benefit to the landless people and also help the security situation for the loyal Lhotshampa citizens.

Several chimis proposed that resettlement should be carried out by sending the landless people from the eastern dzongkhags to Samdrupjongkhar and Daifam, while the landless people from

the central dzongkhags should be given land in Surey, Gaylegphug and Sarbhang, and the landless people from the western dzongkhags should be given land in Phuntsholing and Samchi. This would be very useful for the kidu of the people.

Other chimis said that as far as allotment of land was concerned it should be done as per the resolutions of the 70th session of the National Assembly. First preference should be given to the retired service personnel and to militia volunteers. The balance land should then be given to the landless people from the various dzongkhags. While it had been decided that resettlements would be carried out during the Seventh Plan period, there had been no decisions taken as to the time frame, actual distribution of land and overall implementation of the programme. The people therefore felt that it was important for the National Assembly to discuss and finalize how the resettlement would be carried out.

His Majesty the King said that, as proposed by the people, all Dzongkhag Yargye Tshogchungs should submit lists of people who did not have any land or had very little landholding and those who were entirely dependent on Tseri cultivation. These lists should be submitted to the Home Ministry. At the same time, it was necessary for the Department of Survey and Land Records to prepare a list of land, including acreage and quality of the land, left behind by emigrants who had received Kidu Soilras. The RBA had to make an assessment of security implications for any resettlement and the Finance Ministry had to assess the financial implications for a resettlement programme. Before drawing up any programme it was necessary to first complete these studies and reports.

His Majesty also informed the Assembly that during the Seventh Plan meetings in all the 20 dzongkhags, the DYT members, GYT members and the people had all requested for

land kidu from the south. The Planning Commission had taken due note of these requests.

The Royal Advisory Councilors and people's representatives observed that, as pointed out by His Majesty the King, a resettlement programme could only be drawn up after the relevant information were submitted by the dzongkhags and the concerned departments and organizations. Therefore, all the concerned departments and organizations must submit their information and reports as soon as possible.

The Assembly resolved that a proper resettlement programme should be drawn up after all the concerned departments and organizations had submitted their reports.

72nd SESSION OF THE NATIONAL ASSEMBLY:

XVI. ALLOTMENT OF LAND IN SOUTHERN BHUTAN TO THE LANDLESS PEOPLE

The people's representatives of 56 Gewogs from Tashigang, Bumthang, Samdrupongkhar, Wangdiphodrang, Samchi, Pemagatshel, Mongar, Paro, Shemgang, Sarbhang and Punakha Dzongkhags submitted 13 points calling for the allotment of land in southern Bhutan to landless people in the country.

The Chimis recalled that requests for land to be allotted to landless people had been made during previous sessions of the National Assembly also. Although more than 30 years had passed since the beginning of planned development, the important goal of self-reliance had not been achieved. This was mainly due to the poor quality of soil and the rugged and inhospitable terrain in the mountainous northern Dzongkhags which rendered agricultural activity very unproductive, and also because there were many landless

households in these Dzongkhags. Many families were totally dependent on Tseri Cultivation (slash and burn shifting cultivation). The Chimis said that if the landless people were given land and resettled in the south it would not only benefit them greatly but also promote food self-sufficiency for the country. Until now the tendency of the people in the south had always been to sell all their agricultural and animal husbandry produce across the border and to buy the produce they needed from outside. This trend would be reversed if the landless people in the north were re-settled on vacant land in the south. Agricultural and animal husbandry produce from the south would be sold to people in the north while produces from the north would be sold to the people in the south, thus promoting the national policy of self-reliance.

The people's representatives of Samchi Dzongkhag and Dalim, Bakuli, Samrang and Hastinapur Gewogs in Samdrupjongkhar and Kalikhola Dungkhag in Sarbhang Dzongkhag said that the issuing of land in the south to landless people from the north had been discussed in previous sessions of the National Assembly also. They requested for re-settlement programmes in areas where there were vacant land such as Sibsoo, Nainital, Gumauney and Buka Tading in Samchi, and Dalim, Bakuli and Hastinapur in Samdrupjongkar with a view to enhance the security of the Lhotshampa people in these areas. This would prevent the vacant land in the south from turning into jungle, and the presence of more neighbours would be very beneficial for overall security against ngolop attacks.

The Home Minister observed that although the requests for the re-settlement of landless people had been discussed during the 71st Session of the National Assembly, the people were making the request this year again. As increased agricultural production would go a long way in promoting the policy of national self-reliance, it was first of all very

important for everyone to look after and make optimum use of every small piece of land in his or her possession. He said that the Home Ministry was still receiving the lists of landless people and those who were dependent on Tseri cultivation. Some of these lists had been sent back to the Dzongkhags for verification. He also informed the Assembly that the Department of Survey and Land Records had not completed its nationwide survey of suitable land for resettlement of landless people. Based on the report of the Survey Department, other departments would be drawing up their reports on the feasibility of establishing essential service facilities such as health centres, agriculture and animal husbandry service centres, schools and roads which were necessary to ensure the success of any resettlement programme. Proper plans and budget estimates had to be drawn up for all these works. Once the feasibility reports and individual programmes drawn up by the concerned ministries and departments were completed, the final plans would be drawn up for the resettlement of the landless people. The guidelines for drawing up these plans was already provided by the commands of His Majesty the King, the policy laid down by the Royal Government and the resolutions of the National Assembly which all emphasised that resettlement of landless people was the only effective way of taking care of the Kidug (alleviation of difficulties and problems) of landless people.

The Planning Minister submitted that first priority should be given to the re-settlement of people who were dependent on Tseri cultivation. This is extremely important for the preservation of our environment, he said. Bhutan being a mountainous country with limited flat and arable land, many people had been resorting to Tseri cultivation to eke out a living. In this slash and burn system of cultivation, converting one acre of Tseri into cultivable land would often result in 7 to 8 acres of nearby forest being burnt down. The heavy toll

inflicted on our forests by Tseri cultivation is well known to all of us, said the Planning Minister. Taking timely steps to do away with Tseri cultivation has become very essential for protecting our environment and preserving our rich and diverse flora and fauna, he emphasized.

The Planning Minister also pointed out that people practicing Tseri cultivation had derived very minimal benefits from the last thirty years of planned development. The main reason for this was that the Tseri cultivators moved from place to place in remote and rugged terrain looking for new Tseri land to slash and burn. As a result it was never feasible for the government to provide them with cost effective service facilities and infrastructure. The only solution to stopping Tseri cultivation and also ensuring a better livelihood for these families was to resettle them in areas where there was productive land and where essential service facilities could be provided for them. This would not only be good for the socio-economic benefit of these poor families but would also help to save our environment, he said.

The Planning Minister also informed the Assembly that an Environmental Trust Fund had been established for the protection of the environment in Bhutan. Specific environmental activities and programmes had been prepared in the last two years which would be funded from the proceeds of the Trust Fund. The interest accrued from the Fund of US \$ 20 million would be utilised for implementing various activities and programmes related to environmental conservation. Although only US\$ 12 million had been mobilized till date, the Fund had been operationalised. As a very important step in protecting Bhutan's fragile mountain ecosystem, the Planning Minister requested the National Assembly to resolve that first priority should be given to the re-settlement of Tseri cultivators in any re-settlement programme taken up by the government.

Government officials and the people's representatives observed that the people practicing Tseri cultivation were all landless people who had no other means of earning a livelihood. The returns from their slash and burn cultivation were very meager, and very often the crops they sowed would be washed away by floods or destroyed by wild animals. As these families faced a hard life with barely enough food produced to feed themselves and their families, they had put in applications for resettlement. The members said that these people should be re-settled as soon as possible wherever suitable land could be found.

Several people's representatives said that those who were landless or had less than two acres of land and were tilling other people's land as sharecroppers should also be resettled in the south.

Other Chimis said that there were many people in high altitude areas who had little or no land, and many others who had to depend on Pangshi (high altitude dry land). All their names had been submitted to the government for land Kidug. The Chimis said that these people also should be granted land on any vacant land in the south.

His Majesty the King informed the Assembly that, over the years, thousands of landless people, including many Lhotshampas, had been granted land in all parts of the country and not just in southern Bhutan. Applicants for land Kidug continued to be granted land from wherever there was suitable land. The reports received by the Home Ministry from the 20 Dzongkhags revealed that there were 25,126 households who were fully dependent on Tseri cultivation and were slashing and burning over 2,00,000 acres of Tseri and forest land to eke out a hand to mouth living. There were 2,156 households that had no land at all and 16,041 households that had less than two acres of land. In all, a total

of 43,323 households were in acute need of productive agricultural land. However, it was not necessary that the allotment of the land to these people had to be from southern Bhutan alone. It should be all right if the government, after finding out the availability of arable and productive land in all the Dzongkhags, allotted land to these families from wherever it was available.

His Majesty explained to the representatives that it would neither be possible nor practical for the government to allot adequate land at one time to all the families that were dependent on Tseri cultivation as well as to all landless families and those households that had less than two acres of land. If that had to be done, even if the entire Seventh Plan Agriculture budget of Nu.1,041 million was spent on providing necessary service facilities for these families it would not be enough to bring any meaningful benefit to them. His Majesty told the members that the re-settlement of these families would have to be carried out in phases. He said that adequate land should first be allotted to Tseri cultivators and landless families after the Agriculture Department had assessed the productivity of the land and the feasibility of establishing essential service centres in the areas identified for re-settling these families. Emphasizing the importance of preventing environmental damage and the need to provide a good livelihood to Tseri cultivators and landless families, His Majesty suggested that the National Assembly should resolve that first priority should be given to the resettlement of Tseri cultivators and landless families and that Tseri cultivation should be banned by the end of the Seventh Plan.

The National Assembly resolved that the Home Ministry should coordinate with the concerned departments and identify suitable areas throughout the country for resettling all Tseri cultivators and landless families within the Seventh Plan period. The resettlement areas must have fertile and

productive land with adequate water supply, and it should be feasible to establish all basic service facilities in all these areas. Taking into account the availability of funds and the need to ensure that proper feasibility studies are done, the resettlement of these families must be carried out as soon as possible within the Seventh Plan. The Assembly also decided that Tseri cultivation must be stopped completely by the end of the Seventh Five-Year Plan, and accordingly passed a resolution banning Tseri cultivation in Bhutan by the end of the Seventh Plan in the interest of the people and the preservation and protection of the environment. The Assembly directed all concerned to ensure the speedy and faithful implementation of these two resolutions.

73rd SESSION OF THE NATIONAL ASSEMBLY:

73-VII.REHABILITATION OF LANDLESS PEOPLE

The people's representatives of Lhunsi Dzongkhag, Dagapela Dungkhag, Nanong, Thrimshing and Lumang gewogs in Trashigang Dzongkhag, Luni gewog in Paro Dzongkhag, Kengkhar and Saling gewogs in Mongar Dzongkhag, Shingkar gewog in Zhemgang Dzongkhag, Samtse, Tsirang and Sarpang Dzongkhags, Gomdar and Norbugang gewogs in Sarmdrupjongkhar Dzongkhag, and Khar gewog in Pemagatshel Dzongkhag made 12 submissions calling for an early implementation of the rehabilitation programme for landless people.

The representatives said that although it had been requested in the earlier sessions of the National Assembly that landless people and people with insufficient land should be rehabilitated on the land left behind by the Lhotshampas who had taken Kidu Soilra and emigrated, this has still not been done. As a result, while these vacant land were turning into jungle, the people with little or no land were facing great

hardship. The representatives requested for an early allotment of land to the landless people as per the lists of names which had already been submitted. Expediting the rehabilitation of the landless on the vacant land in the south would also greatly benefit the Lhotshampa villagers who are facing tremendous hardship and difficulties from the constant raids by the ngolop terrorists.

The people's representatives of Tsirang and Samtse Dzongkhags, and Kalikhola, Singey, Sarpangtar, Leopani, Hilley, Gelephu, Bhur, Taklai, Surey and Sershong gewogs in Sarpang Dzongkhag also said that although this point had been submitted during the 72nd Session of the National Assembly, the people once again requested the government for an early implementation of the rehabilitation programme for the landless. They said that the emigrants who had left the country and joined the ngolops have been sending threats and warnings to the loyal Lhotshampa people not to touch the land left by them as they would be coming back soon.

With the terrorists taking advantage of the more scattered nature of habitation to carry out terrorist raids in the villages, in many places the fear of terrorist raids have made people move to the town areas leaving behind their cultivable land. With villages being spread out it has become very difficult for the village volunteers to protect their villages effectively as they have to spread out and cover wide areas while patrolling to prevent terrorist raids. Also, leaving these fertile agricultural lands in the south untended year after year only increases the hopes of the ngolops in Nepal to return. The representatives said that the rehabilitation of landless people on these lands and regrouping of villages will consolidate the scattered settlements into big clusters of villages, thereby enabling the people to resist and counter terrorist activities more effectively. This will enable development programmes to

be implemented effectively and enhance economic growth and the well-being of the people.

The people's representative of Gomdar gewog in Samdrupjongkhar Dzongkhag informed the members that when Tseri (shifting cultivation) land was inspected as per the order of the government, the land of 32 households was found unfit for cultivation while seven households under the gewog were confirmed to be landless. Similar problems are being faced by the people of other gewogs also, he said.

The people's representative of Khar gewog in Pemagatshel Dzongkhag said that the people of Pemagatshel Dzongkhag are mainly dependent on Tseri cultivation for their livelihood. It would be very beneficial for the people who were facing great hardship due to insufficient land if they were given land in the south. Moreover, the rehabilitation of the landless and people dependent on Tseri cultivation will have a positive impact on reducing Tseri cultivation. As requested during the 71st Session of the National Assembly, the people would like to request for the landless to be rehabilitated as soon as possible.

The Secretary, Ministry of Agriculture supported the request for the landless and Tseri-dependent farmers to be rehabilitated as early as possible. He informed the members that in accordance with the decision of the 72nd Session of the National Assembly, the Ministry of Agriculture including the Forestry Division, the Home Ministry, the National Environment Commission and the concerned Dzongkhags conducted a joint survey of Tseri cultivation practices in the seven Dzongkhags with the largest area under Tseri to find out detailed information such as location, steepness of slopes and potential for other use of the land. The field study has been completed and the final report is being prepared for submission to the government.

The Secretary said that according to the findings of the survey and other available information there is about 3, 00,000 acres of registered Tseri land. However, as everyone knows the actual land under Tseri cultivation is many times larger. In some areas Tseri land occupy whole ranges of hills. Unless we rehabilitate farmers who are dependent on Tseri cultivation, as decided in the 72nd Session of the National Assembly, the negative impact of Tseri cultivation on the forests and the environment will be tremendous, said the Secretary. As everyone is aware, during the slash and burn practice of Tseri cultivation in the winter months, fires from the Tseri land spread to nearby forests, resulting in huge losses of forest resources and damage to the environment. Realising the importance of protecting and preserving forest resources and the environment for the interest of future Bhutanese generations, it is the policy of the Royal Government to maintain at least 60 percent of the country's land surface under forest cover. Hence, in order to promote this policy, it is very important for the Tseri-dependent farmers to be rehabilitated as soon as possible, said the Secretary.

One of the people's representatives from Haa Dzongkhag pointed out that although His Majesty the King has been granting land to the landless, most of the people with insufficient land have not approached His Majesty but have given their land applications to the Dzongkhag administration. Although three years have passed they have still not received any response. He requested the National Assembly to pass a decision that all people with little or no agricultural land should be given land after verifying their applications.

The Home Minister informed the members that the first rehabilitation programme for the landless people of southern Bhutan was carried out in Samrang under Samdrupjongkhar Dzongkhag in 1977. Along with agricultural land, all service

facilities like school, health centre, forest office, irrigation canals, and agriculture and animal husbandry centres were established. Unfortunately, most of these facilities were blown up, burnt and destroyed by the ngolops, inflicting heavy loss on the government and the people.

The Home Minister said that all the members are fully aware that His Majesty the King has been granting land to people from all over Bhutan who has applied for Kidu because they have large families and insufficient land to earn a livelihood. To this day, this Kidu has continued to be extended to everyone including Lhotshampas, civil servants and people from all the Dzongkhags who have approached His Majesty the King, and whose problems have been found to be genuine. The Home Minister said that in keeping with the decision of the 52nd Session of the National Assembly in 1980 to start a rehabilitation programme for the landless, in 1988 His Majesty the King had also commanded that all necessary investigations and work should be started to rehabilitate the landless and people with insufficient land in suitable areas. Accordingly, the Home Ministry in close cooperation with the concerned government departments and Dzongkhags established a settlement in Bhangtar under Samdrupjongkhar Dzongkhag for the rehabilitation of landless families. This programme will provide useful experience and feedback to the concerned departments on the problems for the landless and those dependent on Tseri cultivation, said the Home Minister.

The Home Minister informed the members that the Home Ministry has been compiling a list of the landless people and people with insufficient land. Surveys are being conducted through the Dzongkhags to find suitable land to rehabilitate the landless and a report is being prepared for submission to the government, he said. The Ministry of Agriculture also has been commanded by His Majesty the King to carry out a

survey of all Tseri land and its related problems. This survey has just been concluded and the Agriculture Ministry is in the process of preparing its report. When all these reports are completed and considered by the government, it would be possible to start a rehabilitation scheme for the landless, said the Home Minister.

The Home Minister pointed out that a rehabilitation scheme for the landless cannot be implemented everywhere as the selection of a suitable site is of great importance. Apart from good fertile land and water, factors such as access by motor road, service facilities like power, health centres, schools, agriculture and animal husbandry centres should be available or possible to be established cost effectively. The Home Minister informed the members that His Majesty the King has been pleased to command the Home Ministry to coordinate the implementation of the rehabilitation of the landless people and those dependent on Tseri cultivation as soon as possible. He assured the members that the Ministry of Home Affairs would do everything possible to start the implementation of the programme within the 7th Five-Year Plan.

Some of the people's representatives suggested that if it is not possible to start the rehabilitation scheme in the near future, the landless and those dependent on Tseri cultivation should be allowed to cultivate the available land near their homes which are not registered in their names. Other people's representatives expressed their deep appreciation for the government's policy of rehabilitating people dependent on Tseri cultivation in order to protect the environment and the future interests of the country. They said that since the majority of the people depend on agriculture for their livelihood, agricultural development is of the utmost importance for increasing the income of the people and raising their standard of living. It is, therefore, very important

that the landless and people with insufficient land are given suitable land.

The National Assembly, keeping in mind the importance of raising the living standard of the people while at the same time preserving Bhutan's pristine environment, resolved that the Home Ministry and the concerned departments shall give priority to implementing rehabilitation schemes for Tsericultivators, the landless and people with insufficient land in suitable areas where all necessary service infrastructure can be established.

73-IX(9). REGISTRATION OF HOUSING PLOTS IN THE SATHRAM

The people's representatives of Chang and Kawang gewogs in Thimphu Dzongkhag submitted that since the house plots in the villages are not registered in the Thram, it has been causing much inconvenience to the people. Therefore, the people requested for house plots to be registered in the Thram. Likewise, the premises of the houses of the old inhabitants in the vicinity of the Thimphu Dzong and town should also be registered in the Thram in accordance with the Land Act and the relevant resolution of the 58th Session of the National Assembly.

To further clarify the above issue, the Thimphu Dzongda stated that while going through the Sathram (land record), it was observed that although the registration of different types of land are specifically shown, some problems are encountered while allotting the new house numbers due to the absence of specific registration of housing plots. While requesting for the housing plots to be registered in the Thram in accordance with KA-4-7 of the Land Act, the people have raised the following issues also, he said.

The registered land of Chang and Kawang which are situated in the periphery of the town area and measures 312.10 acres, have been handed over to the City Corporation since 17th May, 1994, while collection of taxes and mobilization of Woola continued to remain with the Dzongkhag. Also, the problems became more apparent with the 51 residents (Khepnym) from five villages who still do not possess separate Thrams for their house plots although they have been living there for many generations. This has made it necessary for them to request the National Assembly for permission to register their house plots in the Thram like other types of land.

The Royal Advisory Councillors, the representative of the Bhutan Chamber of Commerce and Industry and the people's representatives of Haa, Paro and Chukha Dzongkhags, all expressed their views on this point. They pointed out that the Land Act did not require house plots to be registered separately and Section 4-7 exempted tax for half acre of a person's land holding. This could create problems in areas near towns and Dzongs where house plots may have to be registered, but the issue is not covered by the Land Act. Since there is no guarantee that the problems faced by the 51 residents of Thimphu will not arise in other Dzongkhags also, and since this problem is not covered by any of the clauses in the Land Act, they recommended that a provision to register house plots in the Thram should be considered. Taking into account the Kidu of the 51 residents of Thimphu, the members also recommended that these residents should be allowed to register their house plots.

Regarding the rural land of Thimphu people falling within the new urban boundary, the Deputy Minister for Communications explained that clause No. Ka 4.7 of the Land Act is not applicable to areas falling within Dzong areas and town areas. He also stated that Clause No. 3.2 of the Land Act covers cases omitted during transfer from old Thram to

new Thram and further provides that such omission should be corrected within five years, failing which it will be considered as government land. He clarified that the town had taken over rural land alongwith records from the Home Ministry. He pointed out that if the National Assembly agrees with the request of the Thimphu people to consider their case as Kidu, it will have wider implications. Therefore, he submitted that the municipality should be allowed to follow its rules and regulations to facilitate better planning of the towns.

The Bumthang people's representative pointed out that although house plots were also measured along with other land during the 1987 cadastral survey in Bumthang, house plots have not been registered separately as such plots were not listed in the old Thram. This was causing problems in settling disputes over house plots as ownership cannot be verified by checking the Thram.

In response, the Secretary, Survey Division explained that the land registration and cadastral surveys are being carried out in line with the Land Act. If we are to accede to the request of the 51 households of Kawang and Chang gewog under Thimphu Dzongkhag, it will mean amending the Land Act and relevant government rules, he said. Therefore, this case should be dealt with in line with the Land Act.

As of now, out of the 20 Dzongkhags, Sathrams for 4 Dzongkhags only have been prepared on the basis of cadastral survey. Therefore, in the Dzongkhags where cadastral survey has not been done, requisition of land for development activities such as construction of schools, hospitals etc are carried out as per the existing Sathram. He conceded that if the problems represented by the 51 households of Chang and Kawang gewogs are really genuine, then this might need to be examined. This can be done in

consultation with the concerned Dzongkhag and the case forwarded to the Home Ministry for further detailed examination and a decision. Hence, he was of the opinion that there was no need to change the Land Act and frame new rules just to resolve this particular case.

Responding to this, the people's representative of Chang gewog in Thimphu pointed out that according to the resolution of the 58th Session of the National Assembly, the issue shall be governed by the relevant resolutions of the 58th Session and such cases are not required to be governed by the Land Act until the Cadastral survey is completed. Once the cadastral survey is completed, the matter shall be dealt in accordance with the relevant clauses of the Thrimshung Chhenpo. Although the people of Chang and Kawang are living in the rural areas, they have to follow the urban rules and regulations as their land are already included in the town area, he said. When it is all right for the people of other Dzongkhags to abide by the resolutions of the 58th Session of the National Assembly, regarding this issue, the people of Chang and Kawang alone should not have to follow the Land Act. Because of this reason, difficulties have arisen. He requested that the people of Chang and Kawang should also be allowed to follow the earlier system that is the resolution of the 58th Session, regarding this matter.

In response, the Home Minister explained that as stated by the Secretary, Survey Division, the problem faced by the public of Chang and Kawang could be taken care of if it is dealt in accordance with Land Act. Ka4(7). Besides, the house plot tax for 0.50 acres is exempted. As per Ka4(8) even if a person has no registered land but the house tax is being paid, full right is being endowed to the registered house. For the purposes of house tax and Goongda Woola (labour contribution for development work) for such households, all houses are listed every year. Since matters regarding Khimsa

in rural areas are clearly outlined in the Land Act there should be no problem. Similarly, compensation for areas falling within the municipal boundary had already been paid and settled, and the rural areas are being taken care of by the Survey Division. Thus there should be no problem. With regard to the 51 households of Thimphu, the land was surveyed in consultation with the Dzongkhag, and all plots falling within the municipal area were transferred to the municipality. However, payment of taxes and Goongda Woola are still governed by rural area standard. After transferring these areas to the municipality, all benefits are now as admissible for municipal areas and consequently they now benefit from municipal services.

The people's representatives of Chang and Kawang gewogs agreed that if the 51 residents in the two gewogs had any problem about their house plots, they should approach the Home Ministry to resolve the problem in accordance with the clarifications given by the Home Minister.

The National Assembly decided that the Home Ministry and the Survey Division together with the Dzongda and the Dzongkhag Yargay Tshogchung members of Thimphu Dzongkhag shall investigate the problems faced by 51 residents of Chang and Kawang gewogs on the basis of the Land Act. The Home Ministry and the Survey Division, together with the concerned Dzongdas and Dzongkhag Yargay Tshogchung members shall also frame a clear solution to prevent similar problems for people in other Dzongkhags whose ancestral homes may fall under urban areas.

73-IX(10). TRANSFER OF TSERI THRAM HOLDING

The people's representative of Decheling and Norbugang gewogs in Samdrupjongkhar Dzongkhag submitted that in accordance with the policy of the government, the Tseri land holdings of the people were being inspected by the Agriculture

Investigation Team in close consultation with the people to determine whether such land are arable or not. In accordance with their own wishes, the land fit for cultivation were converted into paddy and dry land while those land not suitable for crop cultivation were earmarked for planting oranges, cardamom and bamboo or private pasture land, for which forms duly filled have been submitted to the government. The people requested the government to kindly transfer these land in their Thram.

In response, the Secretary, Survey Division explained that as per Government policy, the Ministry of Agriculture is carrying out a detailed Tseri study. After the study, on the recommendation of the Agriculture Ministry, if the concerned Dzongkhags process the cases in line with the Land Act, there should not be any problem in registering land which has been converted from Tseri to regular cultivable fields.

The people's representatives of Pemagatshel Dzongkhag informed the Assembly that out of 3,500 acres of Tseri in Pemagatshel, 380 acres had been converted to regular cultivable land. However, since this land is still registered as Tseri there were anomalies in paying land tax. He said that the people are trying their best to reduce their dependence on Tseri cultivation in keeping with His Majesty the King's command during the 72nd Session of the National Assembly. Expressing his appreciation, he requested the Agriculture Ministry to continue its efforts to develop agriculture while taking into consideration the problems faced by the people.

One of the people's representatives from Zhemgang Dzongkhag pointed out that although most of the people had earlier been dependant on Tseri cultivation, with the government introducing many development schemes and building irrigation canals, Tseri land were being converted to paddy land and other cultivable land. Expressing his deep

appreciation to His Majesty the King for making this possible, he said that it could now be seen clearly that reducing Tseri cultivation is very beneficial for increasing the income of the farmers and preserving the environment. Pointing out that if the Tseri converted to regular cultivable land is registered in the Thram it would benefit the people and also help to fulfil the government's policy of reducing Tseri cultivation; he requested that the land reclaimed from Tseri may be registered in the Thram as soon as possible.

In response to this, the Home Minister explained that there should be no problem if the conversion of Tseri to Chhuzhing (wet land), Kamzhing (dry land) and cash crop fields is processed in line with Land Act Ka3(10) and Ka3(11) through the concerned Dzongkhags. Registration of converted land should be processed by the concerned Dzongkhags and the cases could be looked into in conformity with the existing government policies and regulations.

The people's representative of Decheling and Norbugang who raised the point agreed with the Home Minister's reply and thanked him for the clarification.

73-IX(13). INCREASE IN LAND COMPENSATION

The people's representative of Chang gewog in Thimphu Dzongkhag submitted that when private land is acquired by the government for development works, compensation is being given as per the rate fixed by the 77th Session of the Lhengyel Shungtshog held in 1989. He said that some parts of Chang gewog had already been taken over under the town area and more parts were likely to fall under the municipal area in the future. The cost of agricultural products had also increased because the cost of labour had escalated. He pointed out that the government will continue to need land as and when it would be required for development works. Today, much of the public land had fallen under the Thimphu

sewerage project. He said that the people of Chang requested that land compensation be given after an adequate revision of the rates.

In response to this, the Secretary, Survey Division explained that as per Ka6(8) of the Land Act, public registered land can be acquired from any location. The acquisition of registered public land by the government and payment of compensation are outlined in Land Act Ka6(9). Keeping in view the welfare of the public, in 1992, the government had revised and streamlined the acquisition rules approved in the 77th Session of the Lhengyel Zhungtsog held in 1986. With passage of time, the qualitative grades for Chhuzhing such as “RUB”, “DRING” and “THA” corresponding to the rates Nu. 30,000.00, Nu. 20,000.00 and Nu. 15,000.00 per acre respectively had been revised to Nu. 30,000.00 without the grade system. Similarly, for Kamzhing the earlier qualitative grade such as “RUB”, “DRING” and “THA” corresponding to the rates Nu. 15,000.00, Nu. 10,000.00 and Nu. 8,000.00 respectively were revised to Nu. 15,000.00 without the qualitative grades.

While making the payment for the acquisition of a little over 10 acres of land required for the construction of the Thimphu Sewerage Project from the 29 households under Chang Gewog, the public had requested for an increase in the compensation rate. Although the rates admissible were Nu. 30,000.00 per acre for Chhuzhing, Nu. 15,000.00 per acre for Kamzhing, Nu. 3,000.00 per acre for Pangzhing, and Tseri, Nu. 200.00 per acre for Tsamdro, His Majesty the King was pleased to approve that the compensation be increased to Nu. 43,500.00 per acre which is applicable as per Lhengyel Zhungtshog's decision to areas beyond “A Class” towns although the land acquired in this case is rural area.

Until now, out of the 20 Dzongkhags, cadastrally surveyed Sathrams have been prepared for only 4 Dzongkhags. Any increase in the rate of compensation now can have an impact for payment on excess land in the Thram when the cadastral survey is completed in all the Dzongkhags.

The Chang Chimi who raised the issue pointed out that the land of the people of Chang fell under the sewerage project although they are outside the urban area. Still, he agreed that the compensation of Nu. 43,500 per acre given to the people of Chang whose land fell under the sewerage project were adequate. However, regarding the land which had fallen under Thimphu town, he inquired by how much it would be possible to increase the rate of compensation from the existing rate of Nu. 65,300 per acre for Class 1 land.

In response, the Home Minister stated that land compensation rates for private lands by the Royal Government shall be in line with the presentation made by the Secretary, Survey Division and, therefore, needed no further explanation. Similarly, it was pointed out the lands falling under municipal area would follow the municipal rules and regulations and the resolution of the Lhengyel Zhungtsho. The Home Ministry and Survey of Bhutan is responsible for the Sathram in the rural areas.

As regards compensation for acquisition of land, whether the government acquires or sells land, the rate of sale or purchase ought to remain the same except for land under municipal areas. However, the members of the Assembly will have to consider whether such rates will be equitable and to the advantage of the general public at large or there is a need to consider an amendment for adopting a separate rate for sale of land and acquisition by the government, he said.

The Thimphu Chimi accepted that it would be all right if a decision is taken that the rate of compensation for land which has fallen under the town area should be discussed between the people and the Town Committee, Thimphu City Corporation.

On this point, the Deputy Minister of Communication, in his capacity as the Chairman of the Town Committee, Thimphu City Corporation, clarified that regarding the land which had fallen under the Thimphu Township, although it may be registered as land which has already been taken over by the government, a compensation of Nu. 65,300 per acre for Class 1 land will be given. For similar land already taken over by the government and which falls one kilometre or more outside the urban area, the rate of compensation is Nu. 43,500 per acre.

In response to this, the people's representative of Chang and Mewang gewogs said that ultimately the purpose of taking over land for a township or the work done by a government department is for the benefit of the people. They pointed out that there was a big difference between the compensation given to the people for land acquired by the government and the price charged for these lands redistributed as urban plots. The people of Chang and Kawang, therefore, requested the government to consider awarding a suitable compensation for the land which had fallen under the Thimphu Township.

They also submitted that in all the 20 Dzongkhags there were differences in compensation for land acquired by the government. The people place their hopes in the government to solve their problems like the child goes crying to its parents for comfort. They requested that land taken over for commercial purposes under townships should be treated differently from land acquired by the government for service facilities benefiting the people, and land required for foreign

assisted projects. They asked for clear distinctions to be made between lands acquired for these different purposes.

The Planning Minister explained that regarding the issue of increasing the land compensation for different categories of land acquired for development works, land acquisition is not done for commercial purposes but for the establishment of essential service facilities for the people. He informed the Assembly that in the course of the royal tour to the 20 Dzongkhags, His Majesty the King commanded the establishment of many towns and satellite towns. In this regard, land compensation is being paid in accordance to the existing law, and all the numerous general service facilities are being provided free of cost by the government. The provision of service facilities such as land development, construction of roads, water supply, electricity etc. to these towns constitutes a huge financial burden on the government. It was, therefore, emphasized that the National Assembly should take into consideration the welfare of the nation as a whole rather than the concerns of a few households while deliberating on this issue.

The National Assembly decided that the request of the people of Chang gewog in Thimphu Dzongkhag for increase in land compensation needed to be studied carefully, keeping in mind the possible benefits and problems for both the government and the people. Since a revised rate can only be finalized after some of the clauses in the Land Act are amended by the National Assembly, until then the request of the people of Chang should be governed by the Land Act and the rules and regulations of the Thimphu City Corporation.

74th SESSION OF THE NATIONAL ASSEMBLY:

74-VI. RESETTLEMENT OF LANDLESS PEOPLE

The people's representatives of 26 gewogs from Trashigang Dzongkhag, Thangrong and Tsakaling gewogs in Monggar Dzogkhag, Tong gewog in Zhemgang Dzongkhag, Danabari, Bhur and Surey gewogs in Sarpang Dzongkhag, and Bhangtar, Dalim, Bakuli and Samrang gewogs in Samdrupjongkhar Dzongkhag made the following submissions requesting for resettlement of landless people:

Although repeated requests had been made in 70th, 71st, 72nd and 73rd Sessions of the National Assembly for allotment of land from southern Bhutan to the landless people, those with very small unproductive land and people dependent on Tseri farming (shifting cultivation), so far the Royal Government has not allotted any land to these people. Therefore, the resettlement of the above people should be done as soon as possible.

The people of Danabari, Bhur and Surey Gewogs of Sarpang Dzongkhag submitted that Sarpang Dzongkhag stretches along three-fourths of the international boundary in the south, and it lies across the states of Assam and West Bengal in India. As a result, the Dzongkhag is consistently confronted with the problem of potential infiltration by the anti-nationals through the wide expanse of this porous border. The people of Sarpang, therefore, look upon resettlement as one of the main solutions to such intrusion and the perpetration of terrorism and atrocities in their Dzongkhag by the ngolops.

There are also many people who have been forced to move and take shelter in the towns due to the ceaseless raids by the terrorists, and they have not been in a position to cultivate their land for the last few years. Early resettlement would, therefore, enhance and facilitate the immediate return

of such people to their respective villages from the towns to become productive citizens of the country.

The people of Samdrupjongkhar Dzongkhag submitted that the lands of the people who have left the country after selling their properties have now turned into forest. The wild animals in the forest are damaging crops in nearby fields. Therefore, it would be a Kidu to the landless people and those with very small land holdings, who have been loyal and dedicated to the Tsa-Wa-Sum, if these lands are granted to them. Cultivation of such land would contribute to increasing agricultural production in the country, and it would also benefit the security of the people living along the southern border.

The Deputy Minister of Agriculture informed the National Assembly that there is very limited land suitable for agriculture in the country due to the steep topography and rugged terrain, while on the other hand, the increase in the population and resulting land fragmentation has further contributed to increasing the shortage of arable land. Therefore, the Ministry of Agriculture attaches great importance to resettlement of landless people and those with very small land holdings to enable them to overcome the difficulties faced by them.

According to a study conducted by the Ministry of Agriculture, there are more than 2,156 households that have no land at all, 25,126 households are fully dependent on Tseri farming with about 300,000 acres of Tseri land officially registered in their Thrams, and 16,041 households have less than two acres of unproductive land. In all, a total of about 43,300 households are in acute need of productive agricultural land, most of them being Tseri dependent households spread out in remote areas. In view of the above, the people have been repeatedly requesting for resettlement in the National Assembly.

The Deputy Minister of Agriculture reminded the National Assembly that resettlement is not a new programme, since starting from 1976 the Government had taken up 17 resettlement programmes for the landless people and those with small land holdings. In future, if resettlement programmes are implemented to enable the people to overcome their difficulties, it would also help the country in achieving its policy objective of enhancing agricultural production and food self sufficiency.

He reminded the Assembly that Tseri cultivators comprised the poorest section of farmers. They eked out a hand to mouth living through slash and burn farming methods that are destructive to the environment. Also, being scattered over difficult terrain, there is no scope for any development programmes benefitting them unless they are resettled.

The Deputy Minister submitted that resettlement of Tseri cultivators, the landless people and those with very small and unproductive land will enhance food production in the country, have a positive impact on environmental preservation, enable the Royal Government to provide services for agricultural development and other services, develop a prosperous and sustainable farming community, and thereby also help in achieving the government's policy of reducing rural-urban migration.

The Deputy Minister submitted that even if it is not possible to resettle these people all at the same time, in keeping with the aspirations of the people and taking into consideration Ministry of Agriculture's policies, the Royal Government could first consider the resettlement of landless people and Tseri cultivators, as decided in the previous sessions of the National Assembly.

The people's representatives of Pemagatshel and Haa Dzongkhags submitted that the resettlement programme for people needing land, out of consideration of their Kidu, would benefit those needy people immensely. They expressed their deep gratitude for the consideration given to the resettlement programme. In spite of the hard work put in by Tseri cultivators and those residing at higher altitudes, these people applying for resettlement have always faced difficulties in feeding their families due to poor productivity of the land they farmed. The Chimis requested for the resettlement programme to be implemented as soon as possible, as decided by the 73rd Session of the National Assembly.

The Secretary of Health and Education said that implementation of development programmes in Bhutan have been impeded by its steep and rugged mountainous terrain which has caused villages to be scattered over a wide area. For instance, if one village has to be electrified, hundreds of thousands of Ngulturm would have to be spent which is not economically viable when the village has only a few households. The country today has 644 health facilities including hospitals and Basic Health Units, and more than 300 education institutions including primary schools, high schools, junior colleges and college. Yet due to the difficult terrain and scattered nature of settlements, the Health and Education Divisions have not been able to provide optimum coverage of their services. By applying for resettlement, the people are seeking an opportunity to raise their living standards and become self reliant, in keeping with His Majesty the King's vision of uplifting the poorer section of the population. Therefore, if the Royal Government could implement the resettlement programme, it will make development programmes much more cost effective and greatly help health and education coverage.

The people's representatives of Trashigang and Monggar Dzongkhags submitted that in certain parts of Bhutan landslides have become a major threat to the lives of people and domestic animals, besides reducing the agricultural land area by as much as 20%. As a result, the people are facing difficulties in producing enough food for them. It was in this context that repeated requests have been made in the earlier National Assembly sessions for resettlement. They suggested that if the security situation in southern Bhutan is not conducive for the resettlement programme at present, the Government could still consider resettling people in agriculturally productive areas which are not close to the border, for the Kidu of the landless people and those with very small land holdings.

The Deputy Minister of Environment and Agriculture stated that for the protection of our pristine environment, the Ministry of Agriculture and the National Environment Commission have been working on a programme to reduce Tseri cultivation in the country from last year. Since there is not enough land in the northern Dzongkhags to accommodate the resettlement of about 43,300 households, they submitted that in spite of the present security situation in southern Bhutan, the government and the people should jointly try to find a solution as early as possible, and resettle the people on vacant land which are not under forest in the southern Dzongkhags. This would greatly benefit the people and increase agricultural production, and help in minimizing any negative impact on the environment.

The Chairman of the Royal Advisory Council observed that while some members have been suggesting that everyone should all work with dedication and commitment towards finding a lasting solution to the southern Bhutan problem, others have been requesting Kidu for resettlement in southern Bhutan despite the present situation. He felt that

instead of trying to tackle all these problems at the same time, the issues should be prioritized and tackled one by one. He said that the government had not abandoned the resettlement programme. It has only been delayed because of security considerations. He, therefore, suggested that the resettlement programme should be implemented as decided during the 73rd Session of the National Assembly.

The Chukha Dzongda submitted that the people have been repeatedly requesting for resettlement in the National Assembly so as to enable them to uplift their economic conditions. However, if the resettlement programme cannot be implemented for some time due to security problems in the south, other alternatives could be considered for these people. In the 8th Plan, in keeping with the Royal Government's policy of increasing the country's revenue generation, the Tala Hydropower Project in Chukha Dzongkhag, Kurichhu Hydropower Project in Monggar, Basochhu Power Project in Wangduephodrang and the Dungsum Cement Plant would be implemented. In the process of implementing these major projects, if our people can take the responsibility for providing the manpower required, we can benefit immensely from the large capital investments, and the money will also remain in the hands of our people, he said.

If those 43,300 households who have opted for resettlement could work in these projects till a lasting solution to the southern Bhutan problem is found, it will not only help them to sustain their livelihood for the time being, but they will also gain useful work experience which will come in handy when they participate in the resettlement programme. The National Assembly may like to give a serious thought to this suggestion, he said.

To this, the government representatives, Royal Advisory Councillors and people's representatives felt that the landless

people and Tseri cultivators applying for resettlement would have to face difficulties either way. If they are included in the resettlement programme they would have to face the security risks from the anti-nationals, and if not, they will continue to face the problem of eking out a very difficult livelihood. If they were to work in the projects they will only earn about Nu.56 per day which will not be sufficient for them to sustain themselves and their dependents. Quoting an old Bhutanese saying, "The earlier you light the fire, the sooner the smoke will settle", they strongly requested for resettlement to be given priority so as to enable the farmers to sustain themselves through agriculture.

The Minister of Trade and Industry said that on the one hand there was the question of landless people to be resettled in view of the problems they faced, and on the other hand, there were difficulties in getting labour for the large projects to be established in the country for the betterment of the people. Because of this, such labour requirements and the issue of settlements should be discussed simultaneously. The Minister pointed out that the Tala Project alone would require fifteen to twenty thousand people, the Dungsum cement project around 5,000 labour and the Kurichu and Basochu projects around 5,000 to 10,000 people. With regard to the Kurichu project, the Minister pointed out that based on earlier experiences; the Royal Government had decided to recruit as many workers as possible from the eastern Dzongkhags. However, when actual implementation took place, the project was able to obtain only about 200 people from the Dzongkhags in spite of earlier commitments. Since the Indian contractors involved with the projects started to complain, the Home Ministry's permission had to be sought for the recruitment of additional labourers from India.

The Minister appealed to the house to give serious thought to the issue of resettlement of landless people from these points

of view. If all landless people were resettled, he wondered as to who would be available for construction and running of large hydroelectric and industrial projects that are beneficial to the people and the country. If all the labour had to be imported from outside who would actually derive the benefits from the socio-economic development efforts of the Royal Government had to be given serious consideration.

Some of the people's representatives submitted that the importance of the resettlement programme should not be undermined after having been requested for by the people repeatedly. Instead, the Royal Government and the people should jointly shoulder the security responsibility of the resettlement programme. Quoting the old Bhutanese saying, "If a person does not love his daughter who is staying with him, he will not miss his son who is going away", they submitted that if the people are not resettled on the land lying vacant in the southern Dzongkhags, the Lhotshampa people will have to keep on facing the constant threat from the anti-nationals. They also submitted that the main consideration should be to ensure that where the father lives today, the son can live tomorrow. They strongly pleaded that for the benefit of those people who are facing difficulties in maintaining their livelihood, the Royal Government should consider their resettlement as a Kidu, and also since this issue has been repeatedly discussed and decision taken in the previous sessions of the National Assembly.

The Home Minister said that resettlement was not a new programme in the country. He informed the members that since 1976, in consideration of the Kidu of the landless people and those who did not have enough land, His Majesty the King had initiated resettlement programmes in the country. The first resettlement programme was undertaken in 1976 in Samrang, Daisam, Khirkhiria and Kawapani under Samdrupjongkhar Dzongkhag; followed by Pemaling,

Norbuling, Sershong and Tashiphu under Gelephu Dzungkhag; Matshangdaza, Bongdima, Gepshing and Yangbari under Monggar Dzungkhag; Laptshakha under Punakha Dzungkhag; Lajab and Khibesa gewogs under Dagana Dzungkhag; Changyakha under Phuentsholing Dzungkhag; and Chhotaytar under Bhangtar Dzungkhag. In total, 17 resettlement programmes were undertaken. In addition, as per records available in the Land Records Division, since 1974, His Majesty the King has granted a total of 60,276 acres of land as Kidu to 13,028 families having no land at all or very small and unproductive land holdings. No other country has done so much for the well being of landless people, he said. He also informed the members that due to lack of proper investigations in the past, by the Dzungkhags and the concerned Gups, even non-nationals had managed to obtain Kashos for land, and by including them in the resettlement programmes, tremendous difficulties had been encountered.

The Home Minister submitted that it was very important to conduct a proper study, including an assessment of how beneficial it would be to the people involved, before implementing any resettlement programme. Following the 73rd Session of the National Assembly in 1995, His Majesty the King had commanded the establishment of a Resettlement Committee to coordinate the various preparations by the concerned ministries. As of June 1996, the Home Ministry has received more than 10,000 applications requesting for resettlement and it is in the process of working on the resettlement programmes in accordance with the National Assembly decisions. The applications received from the people are being screened by the Resettlement Committee, and they are being listed under three categories, landless people, Tseri cultivators and people with very small and unproductive land holdings.

According to the report submitted by the Resettlement Committee, most of the land available for resettlement is in the south. Due to the present situation in southern Bhutan, people resettled there would face serious security risks from the anti-nationals. The need to provide security for any resettlement programme in the south, as highlighted by the Committee, is indeed a serious problem which needs careful consideration particularly in light of the fact that the ngolops have carried out 989 cases of armed robbery and dacoity in the south since 1990, and have been repeatedly sending letters threatening to carry out more subversive activities in the country. He said that security considerations merited the attention and consideration of not just the Home Ministry but the National Assembly also. He informed the members that he had consulted the Royal Bhutan Army on this issue, but had been informed that providing security for resettlers was the responsibility of the police. However, due to its small size, the police force did not even have enough personnel to look after law and order in the 20 Dzongkhags. Therefore, unless a solution could be found to provide adequate security, there would be a great risk in starting the resettlement programme as requested. The resettlement programme should be started as soon as the Royal Government is able to provide adequate security protection, he said.

His Majesty the King pointed out that, as submitted by the Trade and Industry Minister, if Bhutanese nationals do not come in the required numbers to work in the Tala, Basochhu, Kurichhu and Dungsum projects, the Royal Government would face great difficulties as these four major projects, costing a total of more than Nu. 28 billion will require a minimum of 50,000 workers, besides the 30,000 non-nationals labourers who are presently working in the country. His Majesty reminded the members that Bhutanese people have always been reluctant to work as labourers in the projects. At the Chukha project, for example, when a total of

about 20,000 workers were required, not even 1,000 nationals had come to work. Similarly, when the Kurichu Project started, very few nationals came forward to work on the project, although many people from Monggar, Kurtoe, Trashigang, Trashiyangtse and even Pemagatshel and Samdrupjongkhar, during the 7th Plan meetings, had said that they would mobilize adequate manpower.

His Majesty said that it was very important to have a full time work force to implement the projects on time. The Tala Project period is eight years, the Basochhu Project is five years, the Dungsum Project is four years and the Kurichhu project period is five years. It is important to keep in mind that the funding for some of these projects are 60% grant and 40% loan. Therefore, if there is a delay of even a year or two, the loss would amount to hundreds of millions of Ngultrum. These projects will bring tremendous benefit to the people and the country if completed on time. Therefore, it is very important for us to see whether a national work force can be mobilized, and make proper arrangements to meet the manpower requirements for these projects, said His Majesty.

The Trashigang Dzongda submitted that just as the Royal Government has been discharging its responsibility of arranging donor funding and drawing up the best possible development programmes for the benefit of the people, the responsibility for physical implementation lies with the Bhutanese people. Regarding labour requirement for major projects, he submitted that there had been no discussions between project officials, the people's representatives and the Dzongdas. Another reason why the people were not coming forward to work on projects was because they had no clear idea of the wages and other benefits they would get. The current daily wage in the villages is Nu. 50 to 60 for both men and women, and includes three meals a day. As such, the

official daily wage rate of Nu. 50 does not compare favourably with even the local rates.

Regarding the labour requirement for the Kurichhu Project, the Ministry of Trade and Industry and the projects officials should have contacted the Dzongkhags, indicating the number of workers required, and providing information about their wages, housing arrangements, medical facilities, schooling arrangements for their children and other benefits such as compensation for deaths and accidents, as per the National Work Force Chathrim. Proper arrangements should have also been made for transportation and handing/taking over of the workers required for project. If these points are discussed and decided very clearly by all concerned, there will be no problem in mobilizing people to work on the projects, he said.

As the hon'ble members are all aware, repeated requests are being made by the people for resettlement because of the difficulties they face due to lack of cultivable land. He had personally observed the difficulties faced by the people through his interaction with them. Although it is not appropriate to make such requests at a time when the country is going through a difficult period, the request for resettlement is being raised in keeping with the Speaker's instructions that matters affecting the people should be brought before the National Assembly through the Gewog Yargay Tshogchungs and Dzongkhag Yargay Tshogchungs.

During the past 35 years of planned development, the Royal Government has spent millions of Ngultrums on agricultural development. The Ministry of Agriculture and its staff have also worked very hard with full dedication and commitment. The people also have been working very hard to develop their land. In spite of this, the impact has not been very substantial everywhere because of the ruggedness of the terrain and

unsuitability of the soil for farming in many parts of the country. No amount of fertilizers or improved seeds and tools will raise productivity to the desired level when the soil is infertile and unsuitable for agriculture. Alternative approaches should therefore be considered for the Kidu of people facing such difficulties during the Eighth Five-Year Plan, he said.

In southern Bhutan, the ngolops have destroyed many development facilities established by the Royal Government at great cost. At the same time, in some of the northern Dzongkhags, Tseri cultivators have been destroying many hillsides through their slash and burn farming methods which result in hundreds of thousands of acres of forest being burnt every year. This method of farming is both harmful to the environment and unproductive for the farmers. In the long run it will only result in wasting government resources and fruitless toil for the people, said the Dzongda.

As in other countries, Tseri cultivators are considered very backward in Bhutan also. Since there are a substantial number of people practising Tseri cultivation, they would give the impression that most Bhutanese are dependent on primitive methods of subsistence farming, thereby giving a negative image of our country, even though Bhutan, under His Majesty the King's personal leadership and guidance, has one of the highest per capita incomes in South Asia, he said. Therefore, even if all the 43,300 people who have applied for resettlement cannot be resettled right away, consideration should be given for Tseri cultivators and the landless people.

The Dagana Dzongda submitted that with the abolition of the only Woola which the people had to contribute, known as Gungda Woola, by His Majesty the King, it will be difficult to mobilize workers for the projects. He said that his Dzongkhag had faced difficulty in mobilizing a work force for the

renovation of the Punakha Dzong. In his view, it would be next to impossible to mobilize tens of thousands of national workers for the various projects. Such being the case, he submitted that the resettlement of people who have no land or very small land holdings should be undertaken as soon as possible to enable them to enhance their income and contribute to agricultural production in the country.

He requested that priority should be given to resettlement of landless people and Tseri cultivators, and suggested that resettlement could first start from areas where there is no security problem, in a planned and phased manner, and then depending on the security situation move to the more southern areas. This would reduce the budgetary requirements for the government and also benefit the people.

Intervening in the debate, His Majesty the King pointed out that it is necessary for the National Assembly to consider the matter from two angles. What will be the benefits and the problems of resettling more than 43,000 families, particularly in view of the security protection required for all these people at this present juncture? How important is it to mobilize a national workforce to complete the above mentioned four projects on time, and ensure that the huge resources coming into the country for these projects will remain mostly in the country in the hands of the Bhutanese people? His Majesty reminded the members that the implementation of these projects, and others in the future, are vital for the economic growth and prosperity of the country, and a large work force will be required to complete them on time. His Majesty suggested that a Committee comprising the Home Ministry, Agriculture Ministry, Finance Ministry, the 20 Dzongdags and the RBA Headquarter should study the implications of implementing the resettlement programme at this juncture, and also study how the labour requirement for the important projects should be mobilized. A separate report for both

issues should then be submitted to the Lhengyel Shungtshog for its consideration and decision.

The National Assembly decided that as suggested by His Majesty the King, a Committee should be established to study the implications of implementing the resettlement programme at this juncture and to study how the labour requirement for the upcoming major projects should be mobilized, and that a separate report on the two issues shall be submitted to the Lhengyel Shungtshog for consideration and final decision for implementation.

74-VIII (5). SHARE-CROPPING

The people's representative of Langthel and Drakten gewogs in Trongsa Dzongkhag submitted that in spite of the high priority being accorded to agricultural development by the government for the benefit of the people, those who depend on share-cropping are not able to uplift their economic conditions at par with others mainly because the produce from the land has to be shared between two parties. Even if the output of the land is increased through construction of irrigation schemes and improvement of soil fertility, the share-croppers get only half of the produce. As a result, it will be very difficult for the share-croppers to improve their economic condition through agriculture.

Therefore, the people who are dependent on share-cropping feel that if the Land Act could be amended and share-cropping or agricultural lease prohibited, they would have an opportunity to develop and improve their living standards.

The Chimi submitted three suggestions on behalf of the people of Langthel and Drakten Gewogs:

- a. People dependent on share-cropping should be given independent land holdings.

- b. All land owners should be made to cultivate their land by themselves and not by others.
- c. If the land owners are engaged in business or government service their land should be sold to the share-croppers. If the share croppers cannot buy the land, such land should be bought by the government and sold to them at subsidized price.

He further submitted that if formulating such polices would take time, the people would be grateful if a temporary solution is found whereby the share-croppers can avail loans at interest rates that will not exceed the value of the annual produce from the land being cultivated on lease.

In response, the Secretary of Survey said that the practice of share-cropping exists in Bhutan as it does in other countries of the world. In Bhutan, the issues of sharing the produce, management and improvement of land are all very clearly covered by Sections Ka 10-1 to Ka 10-36 of the Land Act. Therefore, if the share-croppers follow the above provisions of the Land Act, there should not be any problem in share-cropping. As far as the Kidu of landless people is concerned, as already reported by the Home Minister, His Majesty the King has so far granted 60,276 acres of land to 13,208 households from all over the country. In addition landless people can apply and register for resettlement under a resettlement programme which is under consideration of the government. Those landless people who wish to buy land can avail loan facilities from the Rural Credit Schemes administered by the Dzongkhags or directly from Bhutan Development Finance Corporation (BDFC), and Bank of Bhutan for purchase of land, and such land transactions are allowed as per Sections Ka 5-1 and Ka 5-2 of the Land Act. Therefore, he submitted that in view of the various facilities

available to the people to address this problem, there was no need to amend the Land Act.

The concerned people's representative submitted that even if it is not possible to amend the Land Act immediately, the government could consider making some amendments after a few years to address the problem faced by the people.

The people's representatives of Chhukha, Haa and Bumthang Dzongkhags submitted that although in the western Dzongkhags there are different systems of sharing the crop between the land owner and the share-cropper, there is no problem to the share-croppers due to the existing provisions of the Land Act. Some of the people's representatives also submitted that although share-cropping is prevalent in all the Dzongkhags, starting from Haa in the west to Trashigang in the east, the share-croppers had no problems at all. They pointed out that further deliberations on amending the Land Act, based on the points submitted by the people of Draktan and Langthel gewogs could lead to a lot of problems.

Supporting the views of the people's representatives, the Deputy Minister of Agriculture informed the members that in other countries there are more share-croppers and less land while in Bhutan the majority of the population own land and as a result, the number of share-croppers is small. Regarding difficulties faced by the share-croppers, he said that the share-croppers are never at a disadvantage. He pointed out that as per the provisions under Chapter 10 of the Land Act, even if a share cropper cultivates two or three crops a year, the land owner gets only the share from the main crop. If the crops are destroyed due to flood, landslides or diseases, the owner gets only the share from what is left.

Therefore, the share-croppers gain more than the land owners. If, as submitted by the people's representatives of

Trongsa, we make policies which would deprive the people of their ancestral land which have been legally registered in their Thrams, it would not only infringe on basic rights of individual citizens but would also amount to adopting a communist policy.

Going by the submission made by the Trongsa Chimi, those legal land owners who lease out their land for share-cropping must sell their land, and government servants and business people cannot own land. On the pretext of furthering the policy of food self sufficiency, it is a move to keep the children of farmers on the farms, depriving them of education and knowledge in other fields. At this rate the government could soon be requested to pass a law prohibiting farmers to engage in business on the ground that there would be more businessmen than customers. Therefore, in order to avoid such unlawful things from happening, it would be better not to make any amendment to laws which are beneficial to the vast majority of the population.

In response, the Trongsa Dzongda submitted that out of the 700 households under Draktan and Langthel gewogs, 417 households are share-croppers. Therefore, whenever any development work is to be implemented, it is very difficult to make these people work as their main excuse is that they do not own any land. For instance, he said that during the 5th Plan, a programme to construct an irrigation channel was started under Langthel gewog. However, due to lack of cooperation between the land owners and share-croppers, the canal has not yet been constructed. In his view, the share-croppers were like people who did a full day's work but received only a half day's wages.

He further submitted that with the establishment of many big industries, the country's revenue generation has increased substantially. But, for most of the people who depend upon

agriculture, their only source of income is from their land which makes it very difficult for share croppers who do not own any land. If the economic conditions of the share croppers are to be improved in keeping with the national policy of self-reliance, it will be necessary to enable them to own land. To that end, the share croppers are requesting for an amendment to the Land Act in due course of time and not immediately, he said.

The Finance Minister expressed the opinion that after listening to the Secretary of Survey, the Deputy Minister of Agriculture, the Trongsa Dzongda and the Trongsa Chimi it was apparent that the reason why the share croppers in Trongsa felt share cropping was unfair for them was because they were not following the provisions of the Land Act. The division of crops between cultivators and land owners are governed, to a large degree, by the size and fertility of the land holding and, in most cases; the cultivators get the better bargain by receiving upto 70 percent of the produce. There were cases of share croppers cultivating land belonging to the Dratshang and Rabdeys not even bothering to give 30 percent share of one crop from fields yielding two or three annual crops. As a result, the Royal Government had to write off many tonnes of paddy left unpaid by share croppers to the Dratshang and Rabdeys over a period of four to five years, he said.

The Finance Minister also pointed out that if the Royal Government was to adopt a policy of buying land on a mandatory basis from land owners and then sell it at subsidised rates to share croppers, as proposed by them, it would not be in keeping with the Land Act and would also result in major expenses for the government. Regarding loans for buying land, the Minister said that everyone knows, most of the loans given by the BDFC in the 20 Dzongkhags are for buying seeds, fertilizers, agricultural machinery, development

of agriculture land and cash crops. He said that since May 1995, in consultation with the Board of Directors of BDFC, a new scheme for giving loans of Nu. 20,000 to 50,000 to farmers for buying land was started with the objective of assisting the landless people to buy land. Although this new scheme has been in existence for about a year, perhaps the Trongsa Chimi is not aware of it. He said that the people's representatives must be aware of the policies and programmes that are framed by the Royal Government for the welfare of the people, and they should disseminate such information to the people. He said that loans for purchase of land upto an amount of Nu. 20,000 can be obtained through the DYT's while the authority for sanctioning loans above Nu. 20,000 rests with BDFC head office. If all the loans sanctioned by the BDFC are utilised properly and installments paid on time, the Dzongkhags will be authorized to sanction loans upto Nu. 50,000 in future. Moreover, the loans are repayable within a period of eight to 10 years only and the interest rate is 14% per annum.

The Finance Minister also informed the members that loans are also being made available under another scheme for transportation of cash crops and other agricultural produce from the farms to the markets; marketing of village handicrafts made out of wood, bamboo and cane; hand-woven cloth materials; wooden bowls and cups and other such products. He requested the hon'ble members to keep this in mind so that the people could make full use of these various loan schemes. In view of all the above, there is no need to amend the Land Act, he said.

The representative of the Bhutan Chamber of Commerce and Industry said that if a law which had been enacted by the National Assembly for the benefit of all the people in the country is amended just for the benefit of the share-croppers, it could set a bad precedence. Likewise, tenants in rented

houses could also ask for ownership of houses after residing in them for a few years. He felt that the problem of the share croppers could be resolved if they were addressed accordingly to the relevant clauses of the existing Land Act.

The National Assembly, noting that the difficulties faced by the share croppers of the two gewogs in Trongsa Dzongkhag could be resolved by following the Land Act, decided that all concerned should accordingly implement the provisions of this Act, and no separate resolution was adopted.

74-VIII (6). SURVEY OF PANGSHING AND TSERI

The people's representatives of Korphu, Tangsibi, Langthel and Nubi gewogs of Trongsa Dzongkhag submitted that during 1995-96, when the land under Trongsa Dzongkhag was resurveyed and measured, it was found that trees and bushes had grown in the dry land and Tseri registered in the names of individuals for many years, which had not been cultivated for some time. The survey team refused to measure these dry lands and Tseris unless a No Objection Certificate (NOC) was produced from the Forestry Division. As a result, many such lands have not been included in the recent survey.

Therefore, he said, the people would be grateful if they are allowed to retain such land in their respective Thrams without any problem since they require cultivating them from time to time to meet their food requirement. As for the trees grown on these lands, as and when the people are able to cultivate the land, they should be allowed to fell them in accordance with the rules and regulations of the Forestry Division.

In response, the Secretary of Survey informed the Assembly that the resurvey of land in all the Dzongkhags was started in

keeping with the decision taken by the National Assembly in 1979, when it enacted the Land Act.

He said that the resurvey of land in Trongsa Dzongkhag was started in September last year and completed in June this year, during which only those land which were being utilised or those which were in the process of being utilised were surveyed. Those Tseri land and Pangshing which had turned into forest were not surveyed in keeping with sections Ka 3-6 and Ka 3-9 of the Land Act, Ka 1-8 of the Thrimzhung Chhenpo and Resolution No. 16 of the 28th Session of the National Assembly. If such lands are to be surveyed, the land owners are required to produce a No Objection Certificate from the Forestry Division. He said the reason for not surveying these lands was because they had already turned into forest. He, however, assured the Trongsa Chimi that there is no reason for the people to be apprehensive of losing land which are already in their Thrams.

The Secretary informed the Assembly that the present exercise is only to resurvey the land and not to make any changes to the Thrams. Later, during the course of amendment of the Thrams, whenever desired by the government, the land owners will be able to retain the ownership of land in their respective Thrams provided they clarify the growth of trees on their land with the Forestry Division well in advance.

The resurvey of land in 18 Dzongkhags of the country, except in Zhemgang and Haa, has already been completed, and in all the Dzongkhags the same modalities and procedures were adopted. There was no complaint from any Dzongkhag except Trongsa. He felt that the reason why the people of Trongsa were not satisfied with the survey was because the need for resurvey of land and the provisions of the Land Act were not properly explained to the GYTs and the DYT.

The concerned people's representatives submitted that the people were of the opinion that if they could not sort out the ownership of their land during the resurvey process, it would be more difficult in the future. Hence, they had submitted this point to the National Assembly, bearing in mind that the laws may also need to be amended and updated in keeping with the changing times.

The people's representative of Nubi gewog under Trongsa Dzongkhag informed the Assembly that many people in Trongsa were dependent on Pangshing and Tseri cultivation and that there were very few households who owned paddy fields. As a result, the people were very concerned when they could not get their land resurveyed. In view of this, the problem faced by the people had to be submitted to the National Assembly, she said.

The people's representative from Thimphu Dzongkhag supported the submission made by the Trongsa Chimi. He said that according to the Secretary of Survey even if some land are not resurveyed now it does not mean the owners would lose the ownership of the land, and that as and when NOC from the Forestry Division is produced, the land can be resurveyed and registered in the Thram without any problem. He, however, felt that between the Forestry Division and Survey Division the provisions of the Land Act were being undermined because as per Ka 3-6 of the Land Act, except for orchards, Sokshing and Tsamdrog, trees grown on any other category of land registered in an individual's name in the Thram can be felled without any permit and no NOC from the Forestry Division is required.

According to Ka 3-9 of the Land Act, the ownership of the trees, if the land is allotted to an individual after 1969 is clearly laid down in the Forest Act. However, there is no need to obtain approval from the Forestry Division for clearance of

trees on land which is registered in one's name prior to 1969. Therefore, asking the people of Trongsa Dzongkhag to produce clearance certificate from the Forestry Division for the land registered in their Thrams many years ago and not newly allotted by the government is like asking a person to put food in his mouth by stretching his hand from behind his neck, and will cause a lot of difficulties for the people.

To this, the Secretary of Survey replied that if a piece of Tseri land is left fallow for less than 12 years, the owner can continue to cultivate it as Tseri land, whereas if the fallow period exceeds 12 years it has to revert back to reserve forest. But while surveying on the ground, it is very difficult for the surveyors to ascertain the age of such trees, and hence, the need for obtaining NOC from the Forestry Division, as per Ka 1-8 of the Thrimzhung Chhenpo.

He felt that the main reason why the people of Trongsa Dzongkhag are facing a problem in this regard is because they are not aware of the need for proper protection of watershed areas in the country as per the provisions of the Forest Act and other regulations. The Forestry Division is required to ascertain the impact on the watershed and environment from cutting down trees on Tseri land which have turned into forests. If such conversion is likely to affect the watershed and environment, such land shall be taken over by the government and substitute land as per the area registered in the Thram shall be given to the owner from areas which will not be harmful to the environment.

The Home Minister clarified that although there is a system of allotting substitute land, as per Ka 1-8 of the Thrimzhung Chhenpo, no substitute land is required to be allotted if a Tseri land is left fallow for more than 12 years and has already turned into forest.

The people's representative from Chukha Dzongkhag submitted that although the people dependent on Tseri are paying annual land taxes regularly, they are not able to cultivate the land when, as per the provisions of the Land Act, they approach the Forestry Division and are not given NOC for clearance of Tseris which have turned into forest. As a result, with every passing year the trees get bigger, he said. In view of the serious difficulties faced by these people, he requested the National Assembly to consider allotting ownership of trees grown on such land to the owner of the land itself.

His Majesty the King informed the National Assembly that many owners of Tseri land had approached His Majesty to allot trees grown on such land to them in spite of the fact that in most of the Dzongkhags, government reserved forests are being claimed as Tseri, and in some Tseri land there are trees which are more than 50 to 60 years old, suitable even for construction of Dzongs.

His Majesty also informed the Assembly that where a Tseri land is reflected as five acres in the Thram, on actual measurement it is invariably more than 25 acres. Therefore, it is extremely important that the government and the people abide by the provisions of the Land Act and the Forest Act. His Majesty said that the National Assembly should discuss and try to resolve issues which are in the overall interest of the country and the people. It should not be sidetracked into discussing the amendments of laws which were enacted for the benefit of all the people in the country, just for the benefit of a few people.

In consideration of their Kidu, the people are still allowed to cultivate Tseri land so long as the trees on such land are not very big, even though the Government policy is to reduce Tseri cultivation. Although registered acreage of Tseri in the

20 Dzongkhags is only about 300,000 acres, on the ground the area is many times larger. As the members are aware, during Tseri cultivation in the second and third Bhutanese months, for every acre of Tseri burnt and cleared large areas of nearby forest are also burnt and destroyed.

Nevertheless, if the majority of the members agree to give ownership of such Tseri land which have not been cultivated for more than 12 years to the land owners, it would be all right to consider discussing the need for amending the existing law. However, if the majority of the members decide not to allow cultivation of Tseri land on which there are trees which are more than 12 years old, in accordance with the provisions of the Forest Act, the government could consider paying cash compensation to the owners of such land, since it will not make sense for the Forestry Division to allot them substitute land from another forest area, said His Majesty.

The representative of the Bhutan Chamber of Commerce and Industry submitted that in spite of the fact that the provisions of the Land Act are very clear regarding utilisation of Tseri land which has not been cultivated for over 12 years, and neither substitute land nor cash compensation is required to be given to the land owners as per the Land Act, His Majesty the King has very graciously commanded that cash compensation could be given to such land owners in consideration of their Kidu. He suggested that the National Assembly should adopt a decision as proposed by His Majesty for the Kidu of people dependent on Tseri cultivation.

Pointing out that the majority of the populations are dependent on agriculture for their livelihood, he submitted that the house should not consider amending the Forest Act which was enacted by the 73rd Session of the National Assembly for the benefit of future generations after carefully considering each and every clause in the Act. Retaining the

Forest Act unchanged would be in the long term interest of our country, he said.

The people's representatives of Haa and Pemagatshel Dzongkhags expressed their deep appreciation and gratitude to His Majesty the King for graciously commanding payment of cash compensation to Tseri land owners in consideration of their Kidu, in spite of the fact that in accordance with the provisions of the Land Act, Tseri land which have not been cultivated for more than 12 years and which have turned into forest revert back to reserve forest with neither substitute land nor cash compensation being payable to the owner.

They submitted that the main difficulty faced during the land survey and also the main reason why all the land cannot be surveyed at the same time is because of the need for producing NOC from the Forestry Division for Tseri land on which trees have grown. They suggested that to overcome this difficulty, the survey team should be accompanied by an official of the Forestry Division who could physically verify the age of trees on the Tseri land as per provisions of the law, and give on the spot decision as to whether the Tseri land can be used by the owner or not. This, they said, would be in the interest of both the government and the people.

The Dagana Dzongda also expressed his deep appreciation to His Majesty the King for commanding cash compensation to those land owners whose Tseri land have not been cultivated for more than 12 years and therefore revert back to government reserve forest. He informed the Assembly that most of the Tseri land fell in the watershed areas where there is very high risk of landslides. According to the provisions of the Forest Act, such areas should not be cultivated. He also informed the members that where a piece of Tseri land is recorded in the Thram as one acre, its actual size on measurement is usually as much as 40 to 50 acres. He

submitted that, if possible, and as provided in the Land Act, the excess Tseri land should be allotted to the land owners provided it is within the land ceiling of 25 acres, and also provided that it does not affect the forest and environment. If this amendment is made to the Land Act, the government would not have to pay cash compensation for Tseri land which reverts back to forest.

To this, the Speaker said that if two-thirds of the members agree to amend the Land Act, the Assembly could deliberate on it, otherwise there is no provision for amending a law which was enacted so recently as during the last session, just for the benefit of a few individuals.

The people's representative of Trongsa Dzongkhag submitted that although according to the Land Act, Tseri land which have not been cultivated for more than 12 years and turned into forests, have to revert back to reserve forest without substitute land or cash compensation being given, His Majesty the King has very graciously commanded payment of cash compensation for such land during this session of the National Assembly. He expressed his deep gratitude to His Majesty the King for this gracious command which will benefit the people in all the Dzongkhags in the country.

The National Assembly, noting the fact that although as per the provisions of the Thrimzhung Chhenpo and the Land Act, no substitute land or cash compensation is liable to be given by the Royal Government for Tseri land which has not been cultivated for more than 12 years and turned into forest, decided that as commanded by His Majesty the King, the Royal Government will henceforth pay cash compensation to land owners whose Tseri land have reverted to government reserved forest. The rate of compensation to be paid will be decided by the Lhengyel Shungtshog along with the issue of increasing the price for private land required for townships

and developmental activities, and cash compensation for such land will be paid by the Royal Government.

74-VIII(7). TRADITIONAL SYSTEM OF PADDY LAND DEMARCATION

The people's representative of Kawang gewog in Thimphu Dzongkhag submitted that right from the past, there was no system of recording the boundary descriptions for paddy land. The government fixed the number of Langdo and Soendey approximately based on the number of terraces recorded in the Chhazhag Thram (land record maintained by the government) which actually should coincide with the actual number of terraces in use. And there was no practice of excluding any land as excess.

Although as per Ka 4.2 of the Land Act, the numbers of terraces are considered as boundaries of the paddy field, with the commencement of the cadastral survey, measurement of paddy land is carried out area wise and boundaries are fixed accordingly, foregoing the traditional practice of considering the number of terraces as the boundary of a particular paddy field.

The people are therefore concerned that when the terraces are not considered as boundaries, they may be liable to penalties under Ka 6.2 of the Land Act. Hence the public would be grateful, if the terraces are considered as boundaries for paddy fields like in the past.

One of the Royal Advisory Councillors stated that in the past paddy land was registered in the Chhazhag Thram with details like the name of the owner, the name of land, and size of the land given in Langdos based on the number of terraces and dreys (measure) of seed sown. Therefore, the boundary of the paddy land was based on the number of terraces.

However, in keeping with the pace of development in the country, the cadastral survey with the land measured in acres was introduced for more accurate survey and registration of land. Under this system of measuring the land, the people are concerned that the area measured within a terrace will be found to be much more than the size given in the Thram derived from measurement in Langdos and will therefore result in much difficulty for the people.

Therefore, the people were requesting for the number of terraces in the Thram to be taken into consideration while measuring the paddy fields in keeping with section Ka 4.2 of the Land Act.

In response, the Secretary of Survey clarified that in keeping with Clause Ka 4.2 of the Land Act, excess land measured in a paddy field with specific descriptive boundaries is not liable for payment. However, land tax for the excess land shall be paid from the time that the land was registered in the Thram. Also, in line with Clause Ka 4.3 of the Land Act, if plots do not have any descriptive boundary all excess land is liable for extra payment and land tax shall be levied from the time that the land was used.

Accordingly, the admissibility of excess land in line with Ka 6.2 and 6.3 for Chhuzing, Kamzhing, Tsesa and Pangzhing is 12 decimals per acre, and 25 decimals per acre for Tseri and Rizhing.

Although the submissions by the Chimi of Kawang and the Royal Advisory Councillor gives the impression that the Survey Division is not abiding by Ka 4.2 of the Land Act, the actual fact is that for plots having only the number of terraces given in the Thram but no fixed boundaries, the number of terraces are not admissible as boundaries.

Intervening in the debate, His Majesty the King commanded that if the numbers of terraces are registered in the Thram, they should be considered valid as boundaries for paddy fields, and the relevant clause of the Land Act should be modified accordingly.

The Thimphu Chimi submitted that the point had been raised because of the concern felt by the people since the cadastral survey has been completed in Thimphu Dzongkhag and the Thrams are being updated. He expressed his deep gratitude to His Majesty the King, on behalf of the people, for commanding that the number of terraces should be considered as boundaries for paddy fields.

The National Assembly decided that, as commanded by His Majesty the King, if specific boundaries of paddy fields are recorded in the Thram or if the number of terraces are registered in the name of the owner, both will be considered as boundaries for paddy fields, and excess land measured within these boundaries shall not be considered as excess land. Section Ka 4.2 of the Land Act shall accordingly be modified.

74-VIII(8). COMPENSATION FOR ACQUISITION OF PRIVATE LAND BY GOVERNMENT

The people's representative of Chang gewog in Thimphu Dzongkhag submitted that when the government is in need of taking over people's inherited land (Phazhi), the people have to offer the land without complaint as per Ka 6.8 of the Land Act. In this connection, the clause pertaining to the allotment of land replacement from government land, in addition to the cost of land fixed as per category of land prescribed according to the government norms, was amended by the Lhengyel Shungtshog. In the amendment, land replacement and land cost entitlement are made in two categories. He requested that consideration may be granted to follow Section Ka 6.9 of

the Land Act as enacted without change in view of the Kidu caused by the decision of the Lhengyel Shungtshog.

In response, the Secretary of Survey said that as submitted by the people's representative of Kawang gewog, when the government has to acquire private land for development activities or townships, it is done so in accordance with Ka 6.8 of the Land Act. Under Section Ka 6.9 of the Land Act, the acquisition can be divided into three categories; firstly, to provide land replacement from Pangtsel land (undeveloped land not under forest cover), secondly, payment of cash compensation, and lastly, if Pangtsel land is not acceptable, no land replacement is required to be given.

In keeping with the progress and development taking place in the country, and in consideration of the overall interest of the people, the government has been increasing the land compensation rates on a regular basis. For instance, land compensation rates were increased under three different categories of land (Rab, Ding and Thar) in 1986 during the 77th Lhengyel Shungtshog meeting. In 1992, the 135th meeting of the Lhengyel Shungtshog amended the decision of its 77th meeting pertaining to section Ka 6.9 of the Land Act as follows:

- a. If private land is acquired by the government and the owner is left landless the owner will be given land replacement and monetary compensation for the land.
- b. The government will try to give replacement of land, to the extent possible, instead of paying monetary compensation when acquiring private land.
- c. If the government acquires cultivated land which is recorded in the Thram, and if replacement happens to

be uncultivated land, the owner will be paid half the cost of land taken over in addition to the replacement.

- d. If uncultivated private land is taken over by the government and the replacement is also uncultivated land, the owner is not entitled to any additional monetary compensation.
- e. If the government acquires uncultivated land which is recorded in the owner's Thram and if replacement is Chhuzhing or Kamzhing, the owner need not pay the difference to the government. Moreover, the replacement land should be given from the respective Dzongkhags.

The Secretary of Survey said that the above decisions were taken by the Lhengyel Shungtshog in consideration of the Kidu of the people. The land compensation rates for Kamzhing and Chhuzhing fixed by the 77th Lhengyel Shungtshog meeting into three categories of Rab, Dring and Thar were done away with, and instead it was decided to pay the compensation at the highest rate given for Rab Category of land.

The people's representatives of Mewang, Geney, and Dagala gewogs in Thimphu Dzongkhag submitted that the main reason why they had to submit the issue of land substitution and compensation to the National Assembly was due to the fact that large areas of private land were taken over for the industrial estate at Bjimena and the Sewerage Project at Babesa. And, also this particular point was submitted by the people through the GYTs and DYT. They requested the government to consider giving both land substitution and monetary compensation as per Ka 6.9 of the Land Act since the people have not understood the amendments made during the 135th Lhengyel Shungtshog meeting.

To this, His Majesty the King enquired about the difficulties and problems the people of Kawang gewog of Thimphu Dzongkhag had faced as a result of the decision taken by the 135th Lhengyel Shungtshog meeting.

The people's representative of Chang and Kawang gewogs of Thimphu Dzongkhag submitted that their Kidu would be taken care of when the Lhengyel Shungtshog, as commanded by His Majesty the King, reviews and increases the price of land required for townships and developmental activities.

He further submitted that with the amendment made by the Lhengyel Shungtshog regarding the implementation of section Ka 6.9 of the Land Act, a land owner will receive cash compensation, as per existing government rates, as well as substitute land from undeveloped government land, if his land is acquired by the government; if an individual still has some land left, he will not get any substitute land; if he takes substitute land, he will not get land compensation; if he receives land compensation, he will not get land substitute, but if he were to become landless, he will be given land substitute free of cost from government land. However, the people were of the opinion that when private land is acquired by the government, since the land compensation rate is fixed, it would be more beneficial for their Kidu if the Royal Government could consider allotting substitute land free of cost from within one's own Dzongkhag, as provided for in the Land Act.

His Majesty the King informed the members that as already submitted by the Secretary of Survey, the Lhengyel Shungtshog had also decided to allot substitute land from within one's own Dzongkhag. If the replacement land for private land acquired by the government for development activities was of poorer quality the owner will be provided with substitute land and also half of the land cost as Kidu.

Similarly, if the owner had to forfeit all his land to the government, he will be provided land substitute as well as land compensation as a special Kidu, and if the owner does not have enough land after part of his land has been acquired by the government, he will be provided with land substitute.

His Majesty reminded the members that the Royal Government had already agreed to increase the land compensation rates of Chhuzhing, Kamzhing, Pangshing and Tseri as requested by the people. The government would have no objection to increasing the price of land required for development infrastructure. But it should be kept in mind that the people would have to pay the same rate when they buy land or pay for excess land in their Thrams. It is important for the members to keep the interest of all the people in mind, and not just a few individuals, while submitting or deliberating such proposals in the National Assembly.

The people's representative of Monggar Dzongkhag submitted that while those people living in big towns may be having the above Kidu, the National Assembly should consider the issue very carefully so as not to create problems for the general population, in the future. When the land survey was first carried out most of the surveyors were expatriates since there were not enough trained Bhutanese who could do the work at the time. As a result, in some areas the land was not even measured and only a rough estimation was recorded. But today, when the resurvey of land is being carried out with the help of proper technical instruments, a lot of excess land will be found during the survey. If we decide to increase the land compensation rates based on the request from just one Dzongkhag, the land price in all the Dzongkhags will go up, thereby putting all the people under tremendous Kidu, he said. Therefore, the interest of the population at large should

be given priority over the interest of a few people who have submitted this request.

The people's representative from Trongsa Dzongkhag supported the view submitted by the Monggar Chimi, pointing out that the request of the Thimphu Chimi was like the saying "if you give a person a space to sleep, he will soon ask for a place to live". The request of the Thimphu Chimi is likely to have a negative impact on land transaction in the country, he said. While the government will have no problem in paying high land compensation to the people when taking over private land, it will not be possible for the people to pay the same rates when buying land from the government, particularly in the future when land becomes scarce due to increasing population. Even land transaction among the people would become difficult as a result of the increase in land prices. Therefore, he requested the National Assembly to maintain the decision taken by the Lhengyel Shungtshog regarding land substitute and rate for monetary compensation.

The Thimphu Chimi submitted that there was a slight difference between the decision taken by the Lhengyel Shungtshog during its 135th meeting regarding land compensation and land substitution for the general Kidu of the people and His Majesty the King's command received today on the one hand, and the procedure adopted when the land in Bjemenang and Babesa were acquired on the other. As a result, he had to submit the Kidu of the people to the National Assembly. Regarding the land compensation, he submitted that His Majesty the King's command to increase land compensation was much more than their expectations in requesting for land compensation to be given as per Section Ka 6.9 of the Land Act, he said.

The Home Minister informed the members that the land at Bjimena for the industrial estate was taken over by the Town Committee after consulting the village Tshogpas and carrying out a proper survey. Regarding land compensation and land substitution, it was done in accordance with the amended provisions of Ka 6.9 of the Land Act. Those who wanted land substitute were assured they would be given land substitutes after receiving their individual applications, while those who did not want land substitute would be paid land compensation. The land substitute will be given from vacant government land in their own villages after they have identified the areas themselves. Out of consideration that the people may not be very clear about the provisions under the Land Act, the Secretary of Survey was sent personally to explain to the people the various provisions of the law. Therefore, since the land transaction had taken place in keeping with the amended provisions of the Land Act, there was no problem at all to the people.

The National Assembly, noting that the Royal Government is already implementing the amended provisions of the Land Act with regard to the point submitted by the people of Thimphu Dzongkhag concerning land substitution and compensation, decided there was no need to discuss the issue any further as it was a problem of just one gewog in one Dzongkhag. Regarding the increase in land compensation rates, the National Assembly decided that, as commanded by His Majesty the King during the earlier discussion on the issue of land required for townships and developmental activities, the Lhengyel Shungtshog shall review and accordingly increase the price of land.

76th SESSION OF THE NATIONAL ASSEMBLY:

76-X. ISSUE OF RESETTLEMENT PROGRAMME

1. APPRECIATION FOR RESETTLEMENT PROGRAMME

The Chimis of Pemagatsel, Sarpang, Trongsa and Samdrupjongkhar Dzongkhags expressed the deepest gratitude and appreciation of the people to His Majesty the King and the Royal Government for implementing the resettlement programme in accordance with the resolution of the 75th Session of the National Assembly, and said it was a boon for the landless people of their Dzongkhags.

Similarly, the public of Chuzangang, Umling and Jigmecholing geogs in Sarpang Dzongkhag expressed their heartfelt gratitude to His Majesty the King and the Royal Government for settling landless people like themselves on fertile areas of land in Sarpang Dzongkhag.

Joining the vote of thanks for the resettlement programme, the Trongsa Chimi expressed his gratitude to His Majesty the King for granting land Kidu in southern Bhutan to the landless people of Trongsa Dzongkhag. He also expressed the hope and prayers of the people that such land Kidu will be granted to all landless people as per the decision of the 75th Session of the National Assembly as this would go a long way in improving the living standards of the general public.

Likewise, the public of Samdrupjongkhar expressed their deep gratitude to the Royal Government for allotting land Kidu to 103 landless households in Sarpang and Tsirang. They said that the resettlement programme has greatly benefited the poor landless people of their Dzongkhag and requested for the remaining landless people to be granted Kidu land under the resettlement programme.

Supporting the above submissions, the Sarpang Dzongda said that those people who have been resettled in Sarpang are deeply grateful to His Majesty the King for granting them Kidu land. They have been expressing their gratitude in the District Development Committee and in every Zomdu (meeting) attended by them.

Further, the Southern Bhutanese in Sarpang have also expressed their heartfelt gratitude to the government for settling landless people in their Dzongkhag. They said that the incidence of terrorist raids and attacks by the ngolops had greatly reduced with the resettlement of the landless people.

The Secretary of Survey informed the members that, in keeping with the resolution of the 75th Session of the National Assembly and the command of His Majesty the King, the Home Ministry had received applications for resettlement from 3,504 households who either did not have any land in their Thram or were solely dependent on Tseri (shifting cultivation). After thorough investigation of the applications which were all received through the respective Dzongkhags, the Resettlement Committee selected 1,574 of these households for immediate resettlement. However, only 1,027 households could be resettled upto now. The resettlement of the remaining households will continue after the rainy season, he said.

The National Assembly placed on record the deep satisfaction and heartfelt gratitude of all the members to His Majesty the King for granting Kidu to the landless people and people dependent on shifting cultivation by including them in the resettlement programme. Regarding the request for the resettlement programme to be continued, the National Assembly resolved that resettlement shall be carried out in

accordance with the resolutions of the previous sessions of the National Assembly.

2. RESETTLEMENT PROGRAMMES

The public of Gelephu, Leopani, Sarpangtar, Hilley, Singey and Kalikhola under Sarpang Dzongkhag submitted that the resettlement of landless people in Umling, Chuzangang and Jigmecholing geogs in Sarpang Dzongkhag have enhanced the living condition of the local people. Those families who had left their land due to fear of terrorist attacks could return and begin re-cultivation of their lands as they could now avail the company of the new settlers. They said that with the increase of people in these geogs, security has been strengthened and infiltration of ngolops and their terrorist activities in the region has been, to an extent, controlled. Therefore, the people of Sarpang once again reiterated their request to the Royal Government to continue resettlement of landless people in the remaining geogs of the Dzongkhag as well.

The public of Kilkhorthang, Tsokhana, Tsirangdara, Phuntenchhu, Patali and Gosheling geogs in Tsirang Dzongkhag expressed their happiness and gratitude to His Majesty the King and the Royal Government for resettling landless people in Tsirang Dzongkhag. They requested that the resettlement programme be continued in the Dzongkhag so that all the vacant land could be allotted to the landless people which would help in providing the farmers in the area with neighbours and enhance their security.

The Samtse Dzongda submitted that the public of Samtse had repeatedly requested for resettlement of landless people on the vacant land in Samtse Dzongkhag in the Block Development Committee and District Development Committee meetings. The request of the people was also conveyed to the Home Ministry and the Planning Ministry. When His Majesty the King visited Samtse Dzongkhag for the Eighth Plan

meeting with the people in April this year, many people attending the meeting reiterated this request to His Majesty.

He added that as Samtse is a border district which is very close to the ngolop camps across the border, the ngolops have been frequently infiltrating into the district to carry out terrorist activities against the people. He said that there are two main reasons why the public of Samtse are requesting for landless people to be resettled in the Dzongkhag. Firstly, it will solve the difficulties and hardship of the landless people. Secondly, the presence of the resettlers will provide them with the company of more people and thereby help to reduce the incidence of terrorist attacks by the ngolops. He, therefore, reiterated the public's request for resettlement of landless people to be carried out soon in Samtse Dzongkhag just as it was done in Sarpang and Tsirang.

Similarly, the Samdrupjongkhar Dzongda expressed his deep appreciation to His Majesty the King for the resettlement, last year, of landless people and those dependent on shifting cultivation. He informed the house that Samdrupjongkhar had sufficient vacant land to resettle people in the thousands and requested for landless people to be resettled in his Dzongkhag. He submitted that this would have the benefit of landless people receiving land and also contributing towards reducing the incidence of forest fires in the dry months of March and April, thereby protecting the environment. Further, as the members are fully aware, ULFA and Bodo militants have taken sanctuary in the jungles of Samdrupjongkhar, and the resettlement of people on the vacant land in the Dzongkhag could help towards displacing these militants from Bhutanese soil. He, therefore, requested that landless people be resettled as soon as possible in Samdrupjongkhar Dzongkhag.

The Samtse Chimi said that as submitted by the Samtse Dzongda, since the vacant land in Samtse Dzongkhag have turned into forest and the villages are all far-flung, the ngolops have taken advantage of the situation and have been carrying out frequent raids on the villages. He, therefore, requested for the resettlement of landless people in Samtse Dzongkhag to be expedited.

The National Assembly resolved that the Royal Government shall carry out the resettlement of landless people in accordance with the resolutions of the previous sessions of the National Assembly.

78th SESSION OF THE NATIONAL ASSEMBLY:

78-XII(13). RURAL-URBAN MIGRATION

The Chimi of the Bhutan Chamber of Commerce and Industry submitted that under the visionary guidance of His Majesty the King, schools had been established even in the remotest corners of the country to provide education to the youth. He said that when the students graduated from the schools, they moved to the urban areas in search of job opportunities, and gradually their parents came to stay with them. As a result of this situation, the villages in the future might be left with only a few aged people who would not be able to do agricultural work, thereby leading to a very low yield of crops. He, therefore, urged the Assembly members to discuss this matter thoroughly and formulate strategies to prevent such an undesirable situation from the very beginning itself.

Similarly, the Chimis of Haa and Zhemgang said that the Royal Government had generously established schools all over the country and provided free education, both western and Bhutanese, to make every Bhutanese equally educated. Since most of the children went to the urban areas in search

of jobs commensurate with their level of education, the Chimis expressed their concern that only old people would be left behind in the villages. They added that this would not only lead to the decline in the number of people capable of working on rural development activities, but also pose the danger of reducing agricultural production and emptying of villages. They pointed out that one difficulty in preventing rural-urban migration was in the case of parents with only one child, where the parents would have to follow the child when he/she moved to the urban areas after receiving a position from the Government. Since this was a situation characteristic of human life, they said that it was important for the Government to carefully consider the matter and accordingly prepare strategies to prevent rural-urban migration.

The Secretary of Agriculture informed that as everyone was aware, His Majesty the King had been providing full support to the goal of making the country self-sufficient in food and increasing the income of the people. Efforts continued to be made to effectively promote the economic development and environment of about 85 % of the people working on the farms. Consequently, the living standard of the rural people had almost doubled with the improvement of their food production, income from cash crops, and nutrition. He said that it was important to focus on the goal of developing the villages in order to retain the people in their own villages as far as possible.

He reported that there was an increasing trend of rural people and school leavers migrating to the urban areas. To mitigate this rural-urban migration, the Ministry of Agriculture had been implementing many programmes which were as follows:

1. In consultation with the Department of Education, the students were given training during their winter

holidays to generate interest among them in agricultural activities and to make them aware of the revenue generating potential of such activities. Agriculture had also been incorporated into the school curriculum.

2. As per the Royal Command of His Majesty the King, training on agriculture was started at the Natural Resources Training Institute (NRTI) for school leavers. In addition to the loans provided by the Bhutan Development Finance Corporation (BDFC) to help the trainees start their own enterprises after the completion of their training, the Ministry of Agriculture helped them develop a management strategy of their project proposal.
3. The Ministry of Agriculture trained the rural people in the management of small enterprises in their own villages and helped them in obtaining loans from the BDFC.
4. Since Bhutan's altitude and climate were favourable for cash crop production and the income generated from it was great, cash crop activities were considered an important source of income for the people. Therefore, financial assistance was secured from outside during the 8th Five Year Plan for the promotion of cash crop activities.
5. Since the marketplace for cash crops was very far from the villages, the Ministry of Agriculture had prepared guidelines for the construction of farm roads after the Government entrusted it with the mandate to develop and construct farm roads, which would connect the production areas to the markets. In accordance with the guidelines, the public would be

consulted while deciding on the construction of a road.

6. Research offices had been established in different parts of the country to conduct research on the villages' production and climate with the aim to enable the people to receive lasting benefits from agricultural and related activities.
7. In accordance with research results, the distribution of new seeds and training programmes on related work skills were being undertaken in the 202 geogs.
8. As decided during the review of the 7thFive Year Plan, a marketing division was set up in the Ministry of Agriculture to assist the people in marketing their cash crops. The main role of the division was to conduct market research and disseminate business information in close collaboration with the Bhutan Chamber of Commerce and Industry, the Ministry of Trade and Industry, and the Food Corporation of Bhutan (FCB).

In conclusion, the Secretary submitted that since the responsibility of fulfilling His Majesty's aspiration of providing peace and happiness to all the people, and mitigating rural-urban migration fell on the Ministry of Agriculture, it had been serving the people to the best of its ability. The Secretary said that the migration of rural people adversely affected not only the Ministry of Agriculture but also the other Ministries and the people. Therefore, if everyone shouldered their responsibilities with one mind and implemented the above programmes, the time would come when the people in the urban areas would return to their own villages.

The Chimis of Punakha, Wangdue Phodrang and Bumthang said that the Royal Government had been looking after the welfare of the people as best as it could until now. However, the formulation of legislation that did not exist in the past to stop rural people from migrating to the towns might actually worsen the problems of the people.

Although the present workload of the Royal Government was heavy enough, they said that if the Government were to provide facilities such as marketplaces and electricity for business transactions in as many villages within one to two years, there would be no need to formulate a separate Chathrim on rural-urban-migration.

As a result of the benevolence of the Government, children living in the urban areas got jobs commensurate with their qualifications in the towns, and their parents from the villages moved in with them. This caused inconveniences during the collection of land and other taxes in the villages.

On the issue of rural-urban migration, they said that besides the past resolutions of the Assembly, if the submission made by the Secretary of the Ministry of Agriculture was agreed to, it would encourage the people to take up agricultural activities and fulfill His Majesty the King's aspiration and policy of making the country self-sufficient.

The Thimphu Chimi pointed out that the children were leaving behind their parental homes and land without any regret and were instead more interested in roaming about the towns. While some of the children had left the rural areas due to the lack of electricity and road facilities, others did so because they had no manpower and land, while others were not interested to work even if they had land. The Royal Government, out of great concern, had initiated the policy of

providing new lands, and the Gups and Chimis had visited areas in the south to study the feasibility of new settlements.

He suggested that if new settlements were started in the southern areas where the land was broad and open, it would solve the problem of landless people besides helping safeguard the country's security and reducing the number of rural people migrating to the urban areas.

The Secretary of the Ministry of Health and Education said that with the changing times, the number of rural people migrating to the urban areas had been increasing each year which was of great concern to the Ministry. He said that firstly, the basic facilities in the towns would not be sufficient and the health and education services would not be provided adequately, thereby leading to the problem of outbreak of many diseases from unhygienic situations. Secondly, he informed that all types of health units and schools that were built with great expenditure in the various villages by the Government would not be properly utilized and face the risk of going to waste. Thirdly, he expressed his concern that when many people flocked to the towns, there would be inadequate job opportunities which would lead to various youth-related problems. He explained that the Ministry of Health and Education had prepared many additional strategies as mentioned below:

1. As service infrastructure such as hospitals and schools had been set up more in remote villages than in urban areas, over 90 % health coverage and 72 % education coverage had been achieved so far. Moreover, everyone was aware that the colleges, teacher institutes and polytechnic institutes were not established in the capital or the big towns, but in the distant Dzongkhags.

2. New schools would henceforth be constructed in the remote areas after studying the needs. Based on the population of the community, the community schools were being upgraded to primary schools, and primary schools to junior high schools, thereby making the villages better learning places than the towns.
3. Besides providing proper training to school teachers, the plan was underway to increase the teaching allowance given as *soelra*, from 15 % of the monthly pay to 30 % in order to mitigate the problem of the shortage of teachers.
4. The reason why students who came from outside the urban areas and were relatives of civil servants were not admitted into the schools in the urban areas was not to deny them learning opportunities but rather a strategy to make them utilize the facilities in the villages.
5. Plans and programmes were made to further improve the health facilities and treatment in the villages by using communication facilities and equipment to the best extent possible. The Secretary also submitted to the Assembly the following proposals for alleviating rural-urban migration:
 - i. Improve communications and revenue generating strategies of the villages through the combined efforts of the Ministries and Departments, private sector and business people, lamas and the general public.
 - ii. Emphasize the building of colleges and technical institutes, and conducting training

programmes in the rural areas even more than at present.

- iii. Develop the model villages properly in the different villages of the various Dzongkhags so that there would be no difference in facilities in the rural and urban areas, thereby making the youth content with staying in the villages.
- iv. Finally, since the problem of rural-urban migration would be incessant, it was necessary to work out strategies to develop the private sector, commerce and industry to provide jobs to the youth according to their education and capability.

The Samdrup Jongkhar Dzongda said that like any country in the world, where the people moved from the rural to urban areas for the benefit of jobs, medical treatment, education and visits, there had also been similar movements in Bhutan since a long time ago.

Although the Royal Government had been consistently looking after the welfare of the people, he said that as submitted by the Ministry of Health and Education, if the people were provided with better facilities and roads than before, the movement of the rural people to urban areas would be reduced.

On the submission by the Assembly members for stopping rural-urban migration by expanding the rural facilities, the Secretary of the Ministry of Communications informed that the Department of Urban Development and Housing had proposed to establish 31 satellite towns in the country during the 8th Five Year Plan. He said that with the assistance of US\$

13 million from the World Bank, the facilities of the towns in the country would be further improved.

Since the areas for the above satellite towns had already been studied by the Department of Urban Development and Housing, he said that after discussions in the Dzongkhag Yargay Tshogchhungs, the 31 satellite towns would be established during the 8th Five Year Plan itself. He expressed his hope this might help in stopping people migrating from the rural to urban areas.

The Chimis of Trashigang and Thimphu mentioned that one of the problems faced by both the Government and the private sector was the rural people migrating to the urban areas. Once the people moved into the towns, they found it difficult to earn their livelihood and being unable to provide learning opportunities for their children, they allowed their children to loiter about the town. These children influenced each other and became involved in many illegal activities. Since such people illegally constructed huts on vacant government land in the urban areas and adversely affected the environment and sanitation, the Chimis submitted that it was important for the Government to come up with ways to stop rural-urban migration from the very beginning itself.

A Royal Advisory Councillor and the Paro Chimi expressed their happiness with the reports submitted by the various Ministries on the approaches being adopted by the Royal Government to stop the rural people migrating to the urban areas. They said that of the many programmes initiated by the Government, the establishment of the National Technical Training Authority (NTTA) and the National Employment Board, the introduction of a curriculum in all types of schools to get students interested in agricultural activities, and programmes for the development of rural facilities would help achieve the objective of stopping rural-urban migration. They

submitted that the above goals would be achieved if the Government worked on the basis of His Majesty's visionary policies of balanced rural and urban socio-economic development, and Gross National Happiness.

The Deputy Minister of the Ministry of Communications said that the first reason for the rural people moving to the urban areas could be attributed to the population increase each year in both the rural and urban areas. As the lands in the rural areas were limited, the people were unable to meet their expenditure from their share of land holdings, thereby compelling them to move to the towns. Secondly, due to the good education coverage in the country, the youth got the opportunity to enroll in schools and after receiving proper education had to flock to the urban areas in search of job opportunities, as there were none in the rural areas. Thirdly, since the migration of people from the rural to urban areas had become a common problem all over the world, experts had estimated that about 50 % of the total rural populace would move to the urban areas within 25 years. Therefore, unless the migration problem could be reduced through brilliant measures, it could never be stopped completely through legislation.

The Deputy Minister said that it would be more important to devise ways to increase the rural incomes and strengthen efforts to develop the rural areas with each passing year.

As the policies and plans for developing towns during the 8th Five Year Plan had been clearly submitted by the Secretary of the Ministry of Communications, the Deputy Minister explained that 10 towns in the country would be developed first, followed by other small towns successively. He underlined the importance of developing both the rural and urban areas in order to make the country's populace self-sufficient.

The Finance Minister said that although the movement of youth from the rural to urban areas had become the norm all over the world, the many problems associated with it had necessitated thorough discussions in the National Assembly. As anywhere else in the world, rural-urban migration was compelled by the increase in the population and consequent dwindling of rural land holdings whereby the people were unable to meet their expenditures from the income of rural land holdings. It also occurred when the people received good education and proper sanitation as a result of the health and education facilities, but did not have the jobs, houses and food of their choice.

He reported that with His Majesty's grace, 90 % of the people from all parts of the country had easy access to health facilities and 70 % to education facilities. The reason why more and more youth moved to the towns was because they felt that they would have the benefit of better jobs and living standards in the urban areas.

Although the Government had been aware from the very beginning of the problems that could arise from rural-urban migration and the importance of devising ways to stop such movement, it had not been able to frame laws to stop the rural people moving to the urban areas due to its unfeasibility. The Minister said that it was a known fact that the true purpose of the Royal Government's policies and development plans was to ensure the happiness, comfort and peace of all Bhutanese. Since the majority of the people in Bhutan lived in the rural areas, the plan budget had been spent in developing the rural and not the urban areas. This had earned the praise and admiration of donor countries for Bhutan for spending its budget on activities that would directly benefit the people.

The Minister informed that any policy framed by the Government was eventually for the welfare of the people. All the members were aware of the activities continued to the present day by the Government to provide development facilities throughout the country. He said that given the fact that 85 % of the population in Bhutan lived in the villages as opposed to 20 % in other countries, it would be impossible to stop the Bhutanese youth from migrating to the towns. However, in order to prevent rural-urban migration in large numbers, it was important not only to make rural facilities highly beneficial, but also make income generating schemes and opportunities widely accessible. He informed that in keeping with the rural development programmes, the Ministries and Departments had expanded hospitals and schools in the rural areas, besides continuing their efforts in cash crop activities, electricity supply, agriculture-related activities and construction of feeder roads.

As rural-urban migration could not be stopped completely, he underlined the importance of developing the towns in the different Dzongkhags so that the population in the two biggest towns, Phuentsholing and Thimphu, increased only marginally. This was the reason why the Government had secured funds from outside and placed emphasis on the provision of easy access to the necessary facilities in many Dzongkhag towns.

The Minister said that keeping in mind that the population migrating to the urban areas in the next five to six years was estimated at 50,000, it was important for the Government to come up with good policies to provide employment to the Bhutanese youth. However, as everyone was aware, the salaried civil service was limited. Therefore, it would be impossible for the Government to provide jobs immediately to all the youth. The solution to this issue lay in the expansion of commerce and industry that was presently underway. He

said that if the private sector were strengthened, ten to hundred thousand people could be provided with jobs. Since Bhutan had an unlimited source of income from natural resources such as rivers, forests and minerals, the Government had been properly implementing the sound national policies. The Minister said that as efforts were being made to provide jobs to the youth, there was no need for the Assembly members to be worried about the matter.

All the economically powerful countries were dependent on their commercial and industrial sector. A country like the United States of America, which was powerful in every sense of the word, had only 20 % of its population living in the rural areas, of which no more than 5 % worked on the farms. In spite of this, it had been able to provide material, food and any kind of assistance to any country in the world where there was a need or a problem. This had all been possible because it had developed its commercial and industrial sector.

The Minister said that as the issue of rural-urban migration was important, it must be discussed thoroughly. In order to resolve the issue, it was also important to properly implement the population policy and programmes by balancing the country's resources and its population growth through a manageable population that does not adversely affect development.

With the increasing population growth rate of Bhutan, it was important for the master plan for town development to be prepared judiciously by incorporating the future needs. He said that the infrastructure and their location must be reviewed properly and be included, at all cost, in the master plan.

The Speaker reminded the Assembly members to consider that with regard to the people living and earning their livelihood in the various Dzongkhags, a resolution had been passed during the 73rd Session of the National Assembly that allowed the rural people to live in any town of the 20 Dzongkhags.

Regarding the restriction of rural people migrating to the towns, the Speaker said that in view of the past resolution, there was no need to devise stronger measures. However, since the people had started migrating to the towns in large numbers, it had been generally agreed that it was important to concentrate on various means to reduce this migration. If the people were to totally vacate the rural areas and come to the towns, it would adversely affect the agricultural activities in the villages besides resulting in the shortage of housing, health, education and other facilities in the towns. In addition to all these problems, the Government was also aware of the possibility of some people engaging in activities against the *Tsa-Wa-Sum*.

The Speaker submitted that the equal and impartial development of social service infrastructure such as hospitals, schools, agriculture and animal husbandry, drinking water, roads, satellite towns, electricity and telecommunications in the various regions, Dzongkhags and villages had been the main goal of the Government. Therefore, the Government had accorded highest priority to the policies of improving the living standard and socio-economic development of the people, and programmes aimed at controlling the population growth rate. The Speaker said that the main subject of discussion was on providing development facilities to the people and increasing their incomes. This had been repeatedly commanded by His Majesty the King in the past and had accordingly been faithfully implemented by the Government to the present day. To fully realize the goal of

Gross National Happiness envisioned by His Majesty, and to address the concerns raised by all the members of the Assembly, the National Assembly decided that it would suffice if the activities reported by the Government representatives were continued henceforth.

78-XII(14). RESETTLEMENT

The Chimis of Umling, Doban, Kalikhola, Senge, Deorali, Hiley and Ninchula geogs under Sarpang Dzongkhag expressed their gratitude to the Royal Government for resettling landless people in their Dzongkhags. They also requested the Royal Government to continue the resettlement programme on vacant lands in the other geogs under Sarpang Dzongkhag. They reported that the resettlement programme had given the people of Sarpang Dzongkhag a sense of security from Ngolop terrorists and the militants.

The Chimis said that the resettlement programme, which was initiated by the Royal Government out of its concern for the landless people had greatly benefited the people and resulted in an improvement in their socio-economic well-being. They were keen to request for the resettlement programme to be continued in Sarpang Dzongkhag after having seen poor people under the earlier resettlement programmes become self-sufficient and observing how their presence in the Dzongkhag had also reduced the risk of terrorist attacks by the Ngolops, and destruction of crops by wild animals.

Similarly, the Dagana Chimi said that in order to grant land to the poor and landless people, His Majesty had initiated the resettlement programme in the southern Dzongkhags which had been of immense benefit to the landless people of all Dzongkhags. Not only had many new villages been established in the southern Dzongkhags, but the landless people in the resettlement areas were working very hard on the lands granted to them, as a result of which they were able

to meet their basic necessities without any difficulty and enjoy many benefits.

He said that before the resettlement programme was implemented, the people living near the vacant lands in the southern Dzongkhags faced many problems from the Ngolops and wild animals. The implementation of the resettlement programme had not only benefited the landless people but it had also greatly strengthened the nation's security. The people in the resettlement areas had a greater sense of security from the Ngolops, the problem of crops damaged by wild animals had also reduced and development programmes were being implemented more effectively. The people, therefore, requested for the resettlement programme to be continued wherever there was suitable land in the southern Dzongkhags.

The Samtse Chimi expressed his gratitude to His Majesty the King for the resettlement programme in the geogs of Samtse, Ghumaoney, Nainital, and Chargarey in Samste Dzongkhag. He said that besides benefiting the landless people, the resettlement programme had also brought about peace and security in the border areas.

The BCCI Chimi and the Paro Chimi pointed out that since Bhutan had very limited arable land and the nation's population was increasing every year, fragmentation of agriculture land was taking place and rendering more people landless. The resettlement programmes had greatly benefited the landless people and Tseri cultivators of all Dzongkhags for which the Chimis expressed their deep gratitude to the Royal Government. Noting that the ULFA and Bodo militants were hiding in the forests inside Bhutan they suggested that clearing the forests for resettlement of landless people would deprive the militants of their hideouts.

The Samdrup Jongkhar Chimi said that, as everyone was aware, the security of the Dzongkhag had suffered because people had emigrated and left the country for their own motives during the Ngolop problem in 1990-1992. This had allowed the ULFA and Bodo militants to set up camps in the Dzongkhag. He said that the implementation of resettlement programmes for Tseri cultivators and landless people would enhance national security and greatly benefit the country and the people. He requested the Royal Government to start the resettlement programme as soon as possible in Samdrup Jongkhar.

The Haa Chimi expressed his appreciation to the Royal Government for resettling the landless people living in the remote and rugged inaccessible terrain. While the hon'ble members had pointed out the benefits for national security in implementing resettlement programmes in the security affected areas, he cautioned that the concerned Dzongkhag Administrations would face problems if incapable people were resettled in their areas, even if the land given to them was suitable for cultivation. He suggested that a proper study of the people to be resettled should be carried out to ensure that they will benefit from the resettlement programmes.

The Home Secretary said that land was very important in Bhutan since 85 percent of the population was dependent on agriculture for their livelihood. He reminded the house that His Majesty the King had been continuously granting land to landless people ever since his ascension to the Golden Throne. His Majesty had started the resettlement programme in 1974 with the first phase in the southern Dzongkhags under the Sukumbasis programme with the grant of land to landless people. Since then there had been as many as 78 resettlement schemes in different parts of the Kingdom. Because of the repeated requests made by the Chimis from the southern Dzongkhags, since the 72nd session of the

National Assembly, the government had decided to continue resettling landless people on suitable land in the south through the resettlement programmes. The Chimis had submitted that fallow government land surrounding their villages had turned to forest and left them vulnerable to Ngolop attacks and their crops were being damaged by wild animals. As per the Assembly resolution on resettlement, His Majesty the King had formed the National Resettlement Committee chaired by the Home Minister. He expressed his appreciation to the Assembly members for their support for the resettlement programme.

Summing up the debate, the Speaker noted that, as submitted by the Sarpang Chimi, many Chimis from other Dzongkhags had also expressed their appreciation for the resettlement programme and requested for the programme to be continued since it had reduced the damage caused to crops by wild animals and provided security for the villages from the Ngolops and the militants. He also noted the Home Secretary's report that the Royal Government had been implementing the resettlement programme in keeping with the resolutions of the National Assembly since its 72nd Session.

The National Assembly decided that the Kidu of the landless Bhutanese people and those dependent on Tseri cultivation must be solved without undue delay through the implementation of the resettlement programmes in keeping with the policies of the Royal Government and the resolutions of the past Assembly sessions.

80th SESSION OF THE NATIONAL ASSEMBLY:

80-VIII(3). COST OF EXCESS LAND

The people's representative of Mongar Dzongkhag submitted that the people are unable to pay for the cost of excess land

measured from their ancestral land. The difference in excess land had resulted from the measurement method and technology between chain and cadastral survey. The Chimi said that the land had been cultivated and passed on from generation to generation and recorded in the *Sathram*.

The people in eastern Dzongkhags lead a life of dry-land subsistence farming, without enough income from cash crops. They face a lot of problems even in day-to-day living. Therefore, they appealed to the Royal Government either to exempt the cost of excess land or waive the cost of excess land measuring up to five acres. If these could not be considered, they pleaded to extend the time period to pay for the cost of excess land.

The Mongar Dzongdag submitted to the Assembly in support of the Mongar people's submission that out of 6,517 households surveyed in 16 geogs under Mongar Dzongkhag, excess land totalled up to 15,000 acres amounting to Nu. 242.088 million. Based on this calculation, each household would have to pay an average of Nu. 37,000.00. So far, only 984 households, or 15 percent, had paid for about 263 acres of excess land. This represents a little over 1 percent of the total excess land holdings.

The Assembly deliberated on the subject, basis and reasons of the lack of income to pay for the excess land. The Home Minister said in response to the grievances submitted to the Royal Government to grant *kidu* that land related issues were deliberated and resolved since 1960 in close consultation between the people and the Government. He reminded the members about the Land Act, 1979 passed by the Assembly. He said that re-measurement of land by cadastral survey with modern methods and technology started from Paro Dzongkhag in 1980 to have final and definite land records. However, re-measurement process had to be suspended due

to the Ngolop uprising in the south in 1992. The re-measurement and registration process resumed again in 1998 and 1999. Since then, updating land records in 12 Dzongkhags have completed. It is expected to cover all the 20 Dzongkhags by 2005.

Three reasons of difference due to the re-measurement of land are:

1. Difference between inaccurate method of chain survey and accurate method of cadastral survey of land.
2. The chain survey was initiated to fix and impose land tax. As such, the people under-recorded their land in the *Sathram* to evade land tax.
3. The encroachment of government land and illegal conversion of *Sokshing* and *Tsadro*.

According to the provisions of Land Act Ka 6-2 and Ka 6-3, excess land measured during re-measurement from un-demarcated cultivated land up to 12 decimals and 25 decimals of *Tseri* is permissible for *Kidu*. Moreover, in accordance with the resolution of the National Assembly, the holder of the *Sathram* can purchase the excess land if it is within 25 acres and inherited. Similarly, the excess land, where clear statement of demarcation of boundary is mentioned in the *Sathram* within 25 acres, can be recorded in the *Sathram* free of cost.

Likewise, in accordance with the decree of His Majesty the King, 50 percent of excess land in less productive and high altitude areas can be owned free of cost. If the numbers of terraces in paddy fields were recorded accurately in the *Sathram*, cost of excess land would not be required to pay. Moreover, half acres of land can be recorded in the *Sathram* free of cost for the house constructed before 1979.

It was submitted that illegally occupied land totalled up to 122,000 acres from most of the Dzongkhags and were acquired by the Government. The government re-distributed most of these lands to insufficient landholders and landless people. The Department of Survey and Land Records is computerizing all types of matters related to the ongoing re-measurement of land. It was submitted that although some of the pleas submitted by the people are genuine, yet the amendment of Land Act before the completion of re-measurement and creation of new *Sathram*, would entail lot of inconveniences and confusions.

The summary of the clarifications offered by the people's representatives on the issue of excess land during two days of deliberation in the Assembly are as follows:

1. Land is the only means of present well-being and future assets in the lives of all the Bhutanese, especially the people in the rural areas. All the people are deeply concerned and worried of not being able to buy the excess land measured from their ancestral legacies and being taken over by the government.
2. In line with the principles, policies and wishes of His Majesty the King in granting *Kidu* to the insufficient landholders and landless people, they appealed the Government to exempt the people from paying for the cost of excess land.
3. It is important to consider that types of land differ in the same country depending upon the altitude, location, fertility and quality of land. Moreover, there is a big difference in land related transactions and economic value of land between the rural and urban vicinities.

4. In spite of all the difference, it was the Government that initiated and co-ordinated the land survey with both chain and cadastral methods. As such, the people could not understand the difference between these survey methods. Moreover, the system of excess land between the maximum and minimum land holdings is enshrined in the Land Act. Besides, there are many people holding less than five acres of land. Therefore, the people's representatives submitted that the Government should examine these kinds of classifications differently.
5. Although the boundary demarcation of all registered land may not be recorded in the *Sathram*, yet real evidential and physical boundaries are marked in all the cultivated lands. Moreover, it would not be difficult for the government to verify whether the *Sokshing* and *Tsadro* had been encroached.
6. Whereas, the government can choose to take up land from the people, the people cannot encroach upon any other areas than the land immediately nearby their own land. Therefore, the people pleaded to have different pricing system of the excess land.
7. More than 73 percent of Bhutanese people depend their livelihood on agriculture. The Land Act only states that the excess land can be recorded in the *Sathram* after paying the cost. However, there is no separate provision enshrined in the Land Act regarding the rate of excess land. Therefore, granting the cost of excess land as *Kidu* does not contravene the provisions of the Land Act.
8. The government is not only aware that there are many people who had not been able to repay the rural loan

taken to improve their livelihood but also know that there are not many people who make income from cash crops and other jobs. Even now, the people in most of the remote areas struggle to afford square meals a day, without having adequate shelter.

9. In case of wetland, if the number of terraces in the paddy fields were mentioned in the *Sathram*, the excess land granted as *Kidu* by allowing updating the *Sathram* free of cost. Similar *Kidu* should be granted to the people who do not possess wetland, especially the people at the higher altitudes and people in the eastern Dzongkhags, where they do not have the system of counting the cultivable dry fields.
10. Ever since the cadastral survey started, people are faced with the problem of not being able to pay for the cost of excess land to record in the *Sathram*. Therefore, starting from the domestic conversation to the community meetings and GYT to DYT, one of the main concerns and subject of discussions was the problem of lack of income to pay for the cost of excess land. There had never been the opportunity to submit the expressed grievances and problems to the Assembly till now.
11. If at all there were no possibility of waiving the cost of excess land, they appealed to extend the period of payment to 10 years. Like a saying, *the child's place of crying is near his parents*, the peoples' submission for *Kidu* is towards the Royal Government. Therefore, this problem has to be certainly considered seriously either to waive the calculated cost of the excess land or allow recording the excess land up to five acres in the *Sathram* without having to pay any cost.

The Speaker said that land is an important asset for the present and future well-being of the people. However, till the re-measurement of land in all the Dzongkhags is completed, immediate decision to waive the cost of excess land would aggravate more problems. He instead suggested that it would be better to look at the convenience of the Royal Government to re-examine and analyse the possibility of granting Kidu to lessen the burden of the cost of excess land on the people in accordance with the grievances submitted by the people.

The National Assembly resolved that the elected Council of Ministers and the Councillors should thoroughly analyze every minute detail of issues and justifications submitted by the people's representatives with concerns and grievances in 11 points during the 80th session of the Assembly. After distinguishing that the problem of excess land is not the same throughout the country, the elected Council of Ministers and the Councillors should come up with practical proposal for further deliberation in the next session of the Assembly.

80-VIII(4). REGULARIZATION OF EXCESS LAND

The people's representative of Chang and Kawang, included in the Thimphu municipality, submitted on the regularization of excess land from dry land holdings registered as cash crop orchards. They requested the registration of excess land in the name of the *Sathram* holders after verification as per the *Thram* record. While the issue was included in the agenda of the Assembly, the concerned people submitted that the admissibility and inadmissibility could be verified by comparing the Land Act and *Thram*. A petition was submitted to the Speaker for the exclusion of the issue since similar subjects were deliberated in the Assembly. Therefore, the Speaker cancelled the deliberation of this agenda.

81st SESSION OF THE NATIONAL ASSEMBLY:

81-XI. COST OF EXCESS LAND

The people's representatives of Wangdi Phodrang, Thimphu, Tsirang, Sarpang, Dagana, Gasa and Mongar submitted that the people are unable to pay the cost of excess land measured from their ancestral land cultivated and passed on from generation to generation. Excess land had been measured as a result of difference in measurement method and technology between chain and cadastral survey. Discussions were held on the possibility of those lands being taken over by the government if they were not able to pay for the cost of excess land. As discussed in the 80th session of the Assembly they submitted that they would be grateful if the Lhengye Zhungtshog would present a feasible report on the 11 agreed points.

The Home Minister informed the Assembly that since land is an important source of livelihood for the Bhutanese people, discussions on the issue of land were held time and again in the earlier sessions of the Assembly. Moreover, a draft Land Act was submitted in the 47th session held in 1976 and was accordingly passed during the 48th session of the National Assembly. The Home Minister reiterated on the issue of land re-measurement being carried out in accordance with the command of His Majesty and the resolutions of the past Assembly sessions that was passed during the 80th session of the Assembly. So far, re-survey of land and the allocation of new Sathram had been completed in 15 Dzongkhags. The re-survey of land in the remaining Dzongkhags of Chukha, Dagana, Tsirang, Zhemgang and Samdrup Jongkhar has been already started. It is estimated that the land re-measurement and allocation of new Sathram would be completed in all 20 Dzongkhags by 2005.

The Council of Ministers and the Lhengye Zhungtshog discussed at great length in accordance with the resolution of the 80th session of the Assembly. While waiving off the cost of excess land, it is imperative to have uniform system of Kidu in all the Dzongkhags. Since the work on excess land in most of the Dzongkhags was completed except five Dzongkhags, the amendment to the Land Act and granting of Kidu on cost of excess land at this stage would create lots of discrepancies. However, as resolved during the 80th session, the council of ministers, considering the welfare of the people reported on the following five points during the 81st session;

1. The measurement of land through cadastral survey and updating of new land records will be continued till all the 20 Dzongkhags have been covered.
2. Payment for genuine excess land could be postponed till the end of the Ninth Plan, June 30, 2007
3. Until then the people who own those excess land will be allowed to continue cultivation on the land as their own.
4. The cost of excess land will be maintained at the existing government rate.
5. Sale or conversion of excess land will not be allowed unless the land is regularized through payment or other means.

It was hoped that the five points would be agreeable to the Assembly members and accordingly resolved.

To this, although many representatives of the people, in general, agreed with the five points submitted by the Lhengye Zhungtshog, they pleaded that the government should

exempt payment for excess land to the humble people owning less than five acres as Kidu and not to everyone owning excess land. They further clarified that this would not apply to the general public but only to those people who had less than five acres of land. Since the National Assembly has the power and the responsibility to amend any Act, it was hoped that the Land Act would be amended accordingly to fulfil the wishes of the people with changing times.

Although the Speaker agreed with the submissions made by people's representatives, he said that changes in the Land Act would have been possible before the re-measurement of land and completion of new land records. Since the re-measurement of land has already been completed in the 15 Dzongkhags it would not be fair to those Dzongkhags if the payment of excess land were reduced at this time as would also create great inconvenience for the country. He expressed his satisfaction with the five points submitted by the Lhengye Zhungtshog.

The Assembly resolved to adopt the five point recommendation made by the Lhengye Zhungtshog and decided that, in future, if any changes were required in the Land Act, it would be submitted in the National Assembly after the end of the Ninth Five Year Plan and necessary changes would be made accordingly.

81-XV(24). NON CPMPLIANCE TO LAND ACT

The Thimphu Municipality submitted that the procedures regarding the transfer of land thram seem not to be done as per the Land Act of the Kingdom of Bhutan. The representative of Chang and Kawang, which is included under Thimphu Municipality, submitted that unless His Majesty the King issued a Kasho to this effect, if not, only the Court of Justice is vested with the authority to transfer land thram as per the Land Act. However, the Chimi requested for

clarification as to whether the ministries, departments and agencies have the authority of transferring land thram.

In response, The Chief Justice who was invited by the National Assembly as the Guest Speaker informed the house that the Court of Justice had been implementing the sale/purchase, exchange and transfer of land as per the provisions under Ka/5-1, Ka/5-2 and Ka/5-3 of the Land Act. If the land were within the urban area, the sale /purchase of land and transfer of thram would be in accordance with Section 69 of the Municipality Act, which was passed by the National Assembly. Therefore, except the Court of Justice and the City Corporation, the ministries and departments have no authority to transfer land thram.

The Chang and Kawang Chimi submitted that it is enshrined under Ka/5-1 of the Land Act that before sale/purchase, or exchange of land, both the parties shall approach the local Court and submit proper application for that purpose. The Drangpons would keep such an application pending for one month without making any decision. However, some of the Drangpons concur with the land buyer, and without any consent from the land seller, transfer the thram with an agreement. Likewise, despite being acquainted with the provisions under Ka/5-6, where it states that if a member of a family has only five acres of land, the land cannot be sold or purchased; there are lots of people who sale/purchase the land. Therefore, sale/purchase and transfer of land as well as the transfer of thram should be done from the Court of Justice according to the provisions enshrined in the Land Act. Penalties should be imposed to those Drangpons and persons violating the Land Act while selling/purchasing and transferring of land thram.

Similarly, the Chimi submitted that provisions under Ka/6-14 of the Land Act, 'if any land inherited, purchased, allotted

through Kasho, received as gift, new allotment by Government etc., is not registered in the main Thram within 360 days from the day of acquisition, the same will be treated as Government land and the owner will not have any claim to it,' is not acceptable to the people. As there are no provisions under the Land Act on the authority to examine whether the land sold/purchased less than 5 decimals would be enough for house construction, the authority could be bequeathed with the City Corporation.

The Home Secretary informed the house that the transfer of thram, after the land had been sold/purchased, should be done as per the order of the Court of Justice. However, under the credibility of Home Ministry, the landowner cannot transfer the thram and the Home Ministry does not have any authority to transfer the land thram. When the land within the urban area approved by Royal Government is being transferred to the concerned municipality, the municipality has the right to transfer the land thram in accordance with the Municipality Act.

Likewise, while the restrictions of thram transfer for land less than 10 decimals are the land in the urban areas and not in the rural or villages, the humble people did not suffer any Kidu. The City Corporation had framed rules restricting the transfer of thram for land below 10 decimals as the land below 10 decimals did not accommodate standard house. As per the Land Act, although sale /purchase is not permitted if the land did not exceed 5 acres, the thram owner has the full authority to inherit the land. Therefore, these kinds of landowners divide the land into 2 to 3 decimals and as the land is not enough for construction, they encroach on to government land and then ask for kidus. This entails enormous inconvenience to the government and after having appellants to the Court of Justice; the transfer of thram for land measuring less than 5 decimals had been restricted.

Some of the people's representatives submitted that during either the sale/purchase of land or inheritance of land, the transfer of thram should be done within one month through proper legal arrangement of land thram transfer. However, the Court of law and the city corporation with a pretext of either having to restrict temporarily or whimpering on their inconvenience and grievances, delay the transfer of thram by more than 9 to 10 months, and sometimes by around 2 to 3 years. Thereby, when the cost of land rise up, disputing trouble arise between the seller and the buyer of land, which is because of the work habits of the City Corporation and the lack of concern of the Court of law.

Furthermore, when the thram is transferred for the inherited land or the land acquired through inheritance among the family, there are lot of instances of delaying the transfer of thram on the pretext of land transaction tax. Therefore, tax should be exempted on land acquired through inheritance. They requested that the concerned City Corporation and the Court of Justice should transfer the legally binding land thram within the designated timeframe.

Similarly, some of the Chimis submitted that though the owner would have right of inheritance and sale/purchase of land under individual thram, as per the advice of the Home Ministry, the Court of Justice has issued Kasho disallowing the transfer of thram in the urban areas for land measuring less than 5 decimals. As this has created immense inconvenience to the people, the thram transfer of any volume of land should be done as per the Land Act. As of the sufficiency and insufficiency of land for construction in the urban areas, it would be better to carry out the works in accordance with the Municipality Act.

In support, some of the Chimis submitted that these days as a result of having to deal with the government on several

issues, individual thram number should be registered correctly. Therefore, when transfer of thram is not incorporated in time, even acquiring permit for the firewood in the rural areas is delayed as thram number is required to be included in the permit. Therefore, transfer of thram name should not be delayed.

Likewise, unless His Majesty the King has issued a Kasho to this effect, transfer of thram for the legal inheritance and sale/purchase of land in the municipality and rural areas should only be done as per the Land Act endorsed by the National Assembly. The ministries, departments and the Court of Justice cannot alter and restrict the provisions of the Act by issuing Kasho related to laws. Therefore, the Kasho issued by the Home Ministry and the Court of Justice should be cancelled and implement as per the respective Acts.

The Chief Justice of Bhutan informed the house that it is enshrined under provision under Ka/1-14 of the Land Act that if any land inherited, purchased, allotted through Kasho, received as gift, new allotment by Government etc., is not registered in the main Thram within 360 days from the day of acquisition, the same will be treated as Government land and the owner will not have any claim to it. Since this would cause huge Kidu to the people, His Majesty the King has cancelled this section for the welfare of the people. As for the restriction of thram transfer in the urban areas for land less than 5 decimals, the submission made by the Home Secretary would be befitting. As submitted by the members, it is not known whether the Drangpons also commit some errors. However, the errors would be corrected and reduced and the Assembly was informed that no commitment would be made to eradicate the errors.

The Chairman of the Municipality, the Deputy Minister for Communications, informed the house that as there is a

minimum requirement for the construction of house as per the Municipality Act, there had been difficulties of thram transfer for such land failing to meet the requirements. However, inheritance and transfer of thram are implemented in accordance with the Inheritance Act and Land Act. When the construction of house is implemented as per the Municipality Act, there had been no inconveniences. When dispute arise between the plaintiff and defendant or among the family, naturally the inheritance and transfer of thram get delayed not by 8 to 9 months but sometimes by years. As it is not the responsibility of the City Corporation to solve the case when dispute arise between the plaintiff and the defendant, the Municipality does not have any inconvenience if the cases were routed through the respective Courts.

The Speaker noted that as submitted by the people's representatives, if the Drangpons transferring the land thram not in compliance with the Land Act is true, the Chief Justice should send intimation as per the legal system. From now on, if the allegations arising on the illegal transfer of thram appear to be true, the erroneous Drangpons should be cross-examined by the Court of Justice.

The National Assembly resolved that Kashos issued by the Home Ministry and the Court of Justice on the restriction of thram transfer for land less than 5 decimals would be invalidated. The Court of Justice and the Municipality should implement the transfer of land within the stipulated timeframe not to impose Kidu on the people. It was resolved that transaction tax would not be imposed for the transfer of thram of legally inherited land. It was also finalised that from now on, no other than His Majesty the King and the National Assembly shall have the authority to issue Kasho and announcements. If there were no inconveniences during the transfer of thram in the municipality, land thram should be transferred within a month and if inconvenience arose

through the incidence of disputes, the case should be forwarded to the Courts. Further, the National Assembly resolved that the Chief Justice should carry out assessments whether the Drangpons are committing errors while implementing the issues related to transfer of land and submit a report during the 82nd session of the Assembly.

82nd SESSION OF THE NATIONAL ASSEMBLY:

82-V(13). ILLEGAL STRUCTURES WITHIN THE RIGHT-OF-WAY OF ROADS

The Ministry of Works and Human Settlement had made a three-point submission to the National Assembly on the construction of illegal structures within the right-of-way of roads along the National Highway, Dzongkhag roads and feeder roads.

The Minister for Works and Human Settlement informed the House that the main reason for the submission of agenda on illegal structures within the right-of-way of roads to the National Assembly was to facilitate in the endorsement of the Road Act of the Kingdom of Bhutan. Since there was no separate Road Act, the road rules and regulations stated that the construction of houses on both sides of the road was illegal, which would be a problem when implemented.

Road encompassed the National Highway, Dzongkhag roads and feeder roads. During its 136th meeting held in 1993, the Lhengye Zhungtshog had framed a rules and regulations which clearly stated that the construction of buildings/houses was illegal within 50 feet on the right-of-way of roads. In case it was necessary, buildings/houses would be built outside 50 feet of the right-of-way of roads. All the construction of buildings/houses within the right-of-way of roads was made illegal after March 1, 1988, and the Royal

Government granted authority to the Dzongkhag Administration to constitute a committee to identify and approve those buildings/houses constructed prior to March 1, 1988.

Similarly, construction within 50 feet of the road was prohibited. If illegal construction of buildings/houses were taking place against the provisions of the rules and regulations, the Ministry of Home and Cultural Affairs and the Dzongkhag Administration were authorized to stop or remove the structures. Moreover, the Dzongkhags, Dungkhags and the geogs were required to form committees to implement the provisions of the rules and regulations. Although the Royal Government had later handed over the authority and responsibility relating to roads to the Ministry of Communication in 2000, the rules and regulations stated that the Dzongkhags, geogs, the Department of Roads and the Forestry Department would be involved in its implementation.

Following this, the Lhengye Zhungtshog had decided in 2001 that the rules and regulations framed by the Ministry of Communications would remain in force until the Road Act was enacted. The Assembly was aware that Chapter 10 section 20 of the DYT Chathrim; and Chapter 9, Section 9 of the GYT Chathrim enacted by the National Assembly in 2002 as per the decentralization policy empowered the DYT to identify all illegal construction of buildings/houses while the Dzongkhag Administration was responsible for its implementation. The GYT Chathrim also clearly stated the responsibilities of its prohibition and implementation.

Even though motor road was a necessity for public service and socio- economic development, wide roads could not be constructed in the past due to financial constraints. Therefore, it was important to widen and shorten the distance of the roads to reduce the expenditure of both the government

and the people. Moreover, as per the policy of the Royal Government, there was a need to expand, maintain and repair the roads to provide travel safety services. Therefore, a distance of 50 feet on the right-of-way of roads should be maintained. Furthermore, since the land was not stable, space was required on both sides of the roads to avoid landslides, flood and road accidents.

As per the list, about 1,700 illegal constructions were reported from the Dzongkhag branch offices till April 2004. However, after carrying out a detailed study, it was found that the number was actually 1,600. A difference of 100 had occurred as the illegal constructions might have been removed after they were aware of the rules.

It was important to solve these problems before the enactment of the Road Act of the Kingdom of Bhutan. Three point recommendations were submitted to the National Assembly through the Legislative Committee to facilitate the implementation of the Draft Road Act.

1. The buildings/houses on legally registered within the right-of-way of roads before 1 March 1988 and those buildings/houses constructed after 1 March 1988 on legally registered land with prior approval of competent authorities should be acquired by the Royal Government after paying compensation for land and houses or providing substitute land;
2. Buildings/houses constructed within the right-of-way of roads on government land or legally registered land without approval from competent authorities should be demolished and removed without compensation for the buildings/houses;

3. In future, as soon as a road alignment was finalised, legally registered land and/or buildings/houses falling within the right-of-way of roads should be acquired and registered in the name of the road agencies concerned to prevent construction of structures within the right-of-way of roads.

It would be convenient to the Department of Roads if the National Assembly would decide to allow the Government to take over both the government and private land falling on the road alignment.

If the problem on the points submitted were not resolved by the National Assembly, lots of difficulties would arise in the construction of roads in the future. Moreover, it would be appreciable if the members would cooperate to decide since the point submitted was not new but in accordance with the provisions of the road rules and regulations.

The Speaker informed the House that the Legislative Committee had reviewed the draft Road Act of the Kingdom of Bhutan which was drafted by the Ministry of Works and Human Settlement for endorsement by the National Assembly. A copy of the draft Act was distributed to the members to facilitate in the deliberation. The Speaker reminded the House that any difficulties or inconveniences should be discussed to facilitate the deliberation on the draft Road Act.

A Royal Advisory Councillor, the Thimphu Dzongdag and some of the members said that one of the main problems being faced in the Dzongkhag was the illegal construction of buildings/houses on the right-of-way of roads. For instance, in Thimphu many constructions had taken place along the motor roads from 1970 to 2001. The constructions were carried out both with and without the approval from the

Dzongkhags and the geogs. Moreover, some were constructed on dry land as well as on wetland based on temporary agreements reached with the Government agencies.

A committee should be formed in the Dzongkhags to conduct a detailed study on the construction of illegal structures. The representatives from the Ministries and Departments would assist the Dzongkhags. After having conducted a case-by-case study, reports should be submitted to the Ministry of Works and Human Settlement. If the government acquired the land, with or without the approval of the competent authorities, land would be replaced or compensated considering the benefit of the people despite incurring heavy loss to the government.

Some of the members said that since the respective authorities did not have the power to approve the construction of buildings/houses on the government land, no compensation was paid for the buildings/houses, and points 2 and 3 needed to be distinguished further. It was also important to study the procedures for granting approval by the concerned authorities. In case the approval was not in conformity with the rules and regulations, the National Assembly should decide on the penalty and punishment that would be imposed. As the people had already constructed houses on the right-of-way of roads, the welfare of the people should also be considered. The Assembly should take a decision considering the betterment of the road plan as well as the welfare of the people.

Some of the members said that both the government and the people would be at fault with the construction of buildings/houses on the right-of-way of roads. Therefore, the buildings/houses that had been already constructed should be reconsidered. They also submitted for a briefing on the

mode of compensation when the road alignment fall on the houses those were already constructed in the villages.

When the rules and regulations came into force in 1993, the Dzongkhag Administration had the authority either to prohibit or permit the construction of buildings/houses on the right-of-way of roads till 2002. Houses were constructed with the intention of benefiting the people and the travellers. Some people needed to be told only once to demolish their house while others refused to listen despite insistence, often resulting in the matter being left unsettled.

Some of the members said that the government had acquired 30 feet of land on the right-of-way of roads after paying compensation when the road construction was initiated. However, it was not understood whether it was not deleted from the sathram or given back to the people by the concerned authorities. This had been the practise since the endorsement of the Land Act by the National Assembly in 1979. The framing of rules and regulations, formalities and Kashos made the laws passed by the National Assembly insignificant.

As it has been enshrined under KA/3(3) of the Land Act that construction of buildings/houses other than *sokshing* and *tsamdrol* in a legally registered land was allowed and the construction of house on the registered land was not a violation of the law. If buildings/houses were constructed on the illegal land, it should be based on the provisions under KA/12(2) of the Act that no activity should be allowed on illegal land as the land belonged to the government. If the compensation was being based on the provisions of the Land Act, the deliberation should be concluded. There would not be any problem if the Land Act was strictly adhered to.

Moreover, buildings/houses constructed on the legally registered land should be compensated and others should be dealt with accordingly to the law. However, it would be against the Land Act if compensation were not paid to those buildings/houses constructed on the legally registered land. Moreover, it was important to include provisions on the permit and restrictions of construction on the right-of-way of roads from the day the Road Act was enacted. It was not necessary for the government to take over 50 feet of land on the right-of-way of roads. The farm roads of the people should not be included in the Road Act.

Some of the members submitted that it was important to examine the issues based on one's application and agreement submitted to the Dzongkhags as per the Land Act. Moreover, if there were cases of not adhering to the Kasha, it was imperative to forward the case to the Court of Justice. If the land was taken over by the Royal Government as per the policies and plans, it should be in strict compliance with the provision under KA/6(8) of the Land Act. Based on the expediency, compensation should be paid even for the construction of buildings/houses on land without thram.

The Minister for Works and Human Settlement said that the rules and regulations of 1993 had classified road into three parts, viz. the National highway, Dzongkhag roads and feeder roads. Construction of buildings/houses was not permitted on the right-of-way of these roads from 1 March 1988. Compensation was paid for the buildings/houses existing in the area falling on the road alignment. However, it could not be carried out due to certain difficulties. As submitted by the people, it would be appropriate to carryout the works as per the provision enshrined in the Land Act, the decision of the Lhengye Zhungtshog or the provisions of the Rules and Regulations, 1993, despite incurring heavy expenditure to the

Royal Government. Moreover, the decision of the National Assembly should be final and binding.

The National Assembly resolved that provided the buildings/houses constructed within 50 feet on the right-of-way of roads were on the government land, no compensation would be paid as per the law irrespective of the approval being obtained from higher authorities. Moreover, if the construction was on the legally registered land, compensation should be paid as per the law irrespective of having approval or not from the competent authorities considering the welfare of the people. It was also resolved that in the instances of the government taking over the legally registered land according to the road construction policy and plans, compensation should be paid as per the provisions of the Land Act and the policy of the Royal Government. The deliberation on illegal constructions on the right-of-way of roads concluded on 6 July, 2004.

82-XV(5). RESETTLEMENT PROGRAMME

The People of Mongar Dzongkhag submitted that the Royal Government had provided land to the landless citizens under the resettlement programme in order to improve the livelihood of the people and to attain food self-sufficiency. The people requested the government to continue providing such Kidu land to the landless people.

Responding on the issue, the Prime Minister said that late His Majesty the King initiated resettlement of the landless people in 1956. The policy of resettlement of the landless people had been continued under the benevolence of the present King. Until the 7th round of the resettlement programme, 3184 households had applied for agricultural land from different parts of the country, out of which 621 households were provided with special Kidu. The Royal Government should continue to implement the resettlement programme.

One of the people's representative said that His Majesty the King with heartfelt compassion for the welfare of the landless people had granted Kidu land. However, some of the beneficiaries of the Kidu land were believed to be selling land. It was very important that the Ministry of Home and Cultural Affairs should conduct a thorough investigation to prevent transaction of Kidu land.

The Minister for Home and Cultural Affairs clarified that no beneficiaries of the Kidu land were allowed to sell the land. While no one was allowed to sell such land for a minimum period of ten years, the land was not registered in their name nor was the people allowed to transfer thram during the period. However, the Ministry had not received any report of this kind till date. In case, instances of deceiving the Royal Government were reported, the members of the Geog Yargay Tshogchung and the Dzongkhag Yargay Tshogdu should report such matters to the Royal Government through the Dzongkhag Administration. The Royal Government will then accordingly investigate the matter and deal with according to the resettlement rules.

The Samtse Dzongdag said that although no cases were reported in Samtse Dzongkhag, regular investigation was still being carried out on the transaction of Kidu land. All the Kashos received by the Dzongkhag for granting of land to the landless people were being conveyed to the people concerned through the Gups and Chimis.

The National Assembly resolved that while cases of transaction, inheritance and transfer of thram of the Kidu land should be reported to the Geogs and Dzongkhags, investigation should be carried out in the event there were people indulging in such malpractices by the respective Dzongkhag and the Ministries. It was also resolved that transfer of thram should be implemented strictly as per the

policies of the government and the laws of the land. The deliberation on the Resettlement Programme concluded on July 16, 2004.

82-XV(8). TRANSFER OF LAND OWNERSHIP

The Thimphu City Corporation submitted that a person need not produce or fill up additional documents while transferring the land ownership. The Royal Court of Justice and the City Corporation should abide by the Land Act and the decisions of the National Assembly. While the Royal Court of Justice would be submitting a report on the land ownership transfer as per the decision of the 81st Session of the National Assembly, opportunity should be given to make further submission on this matter.

The Chang and Kawang Chimi said that as per the resolution of the 81st Session, an investigation report on any errors or wrong judgment passed by the Drangpons during transfer of land ownership and other legal issues would be submitted to the 82nd Session. However, the report was not submitted by the Royal Court of Justice.

The Speaker informed the House that in accordance with the decision of the 81st Session, the Royal Court of Justice had made a detailed investigation in the 20 Dzongkhags on the transfer of land ownership and other legal issues. The outcomes of the investigation, printed in two volumes, had been submitted to the National Assembly Secretariat while copies had also been submitted to His Majesty the King.

The National Assembly recognized that all rights relating to lands in the Kingdom were vested with His Majesty the King. The National Assembly was not in a position to deliberate on this issue unless there was a definite command from His Majesty the King. The discussion on transfer of land ownership concluded on 19 July, 2004.

82-XV(23). REVISION IN LAND COMPENSATION

The people of Bumthang Dzongkhag submitted that the compensation paid by the government to the people at the rate of Nu. 5,000 per acre for Pangzhing acquired by the government were inadequate. The compensation rate should be increased taking into consideration the present increase in land price.

The Bumthang Chimi and some other members said that land was the only source of sustenance to the farmers. Some farmers holding 25 acres of land were facing problems as the Pangzhing were converted into forest and if it exceeded 12 years with out cultivation, agricultural activities would not be possible. Therefore, the government should either provide substitute land or increase the present compensation rate of Nu. 5,000.

The BCCI Chimi said that despite the justification on the revision of land compensation, the rate was not increased following the command of His Majesty the King during the past session of National Assembly considering the benefit of the rural people. His Majesty the King had said that in case the price was revised, the people would have to purchase the excess land from the government at the increased rate. As the re-survey of land was underway, it was imperative to consider the implication of increasing the compensation rate for Tseri and Pangzhing.

The Minister for Agriculture informed the House that the existing land compensation rate would be maintained till the completion of land re-survey in the 9thplan as decided in the 81stSession. The land compensation rate would be implemented after conducting a detailed study as per the decision of the Lhengye Zhungtshog in 1996. As submitted by the BCCI Chimi, the increase in land compensation would pose problem to the people with excess land. Moreover, while

the registration of new Sathram in Zhemgang and Samdrup Jongkhar was not completed, the increase in land compensation would burden the people of these Dzongkhags. Therefore, the compensation rate should be retained as per the resolution of the 81st Session.

The Speaker said that the Assembly was aware of the resolution on the cost of excess land during the 81st Session. As the re-survey of land was still underway in some of the Dzongkhags, the increase in land compensation rate would benefit most people while others would face the problem of not being able to pay for the excess land. The National Assembly resolved that as it was not possible to increase the land compensation for the time being, cost of excess land would be retained till the completion of the Ninth plan as resolved during the 81st Session. The deliberation on the Revision of land compensation concluded on July 23, 2004.

82-XV(24). ACQUISITION OF LAND

The Thimphu Municipality submitted that as per the decision of the 176th Lhengye Zhungtshog, anyone holding land at other places when the government acquired private land, substitute land would not be provided. However, if no other land was being owned, substitute land would be provided. Since this provision would cause problem in the future, the Minister for Works and Human Settlement should clarify on this issue.

Some of the members said that when the Royal Government acquired private land, substitute land was not provided and the compensation paid for the land was also very low. This had greatly affected the lives of the people. Moreover, it was imperative to consider the benefits of the people while the government provided substitute land on the isolated barren land in lieu of their land in the prime areas. The Royal Government and the Lhengye Zhungtshog should amend the

Chathrim relating to private land being acquired by the government so that the land compensation was fair and equal.

In response, the Minister for Works and Human Settlement said that the issue of acquisition of private land by the government had been submitted by the people of Chang Geog and discussed in the 74th Session of the National Assembly held in 1996. Accordingly, the National Assembly had amended the Land Act to comply by the rules formulated by the Lhengye Zhungtshog. Moreover, the increase in land compensation during the 81st Session was resolved to be decided by the Lhengye Zhungtshog. Likewise, it was also decided to increase the land compensation as per the decision of the 176th Lhengye Zhungtshog and the resolution of the 74th Session.

The handbook released in 1996 on land compensation rate not only contained procedures for compensation of land in towns and geogs but in case the government required any private land, it would be verified whether the landowner possessed any land in other geogs and towns. If no other land was owned, substitute land would be provided in the new township for the construction of a house according to the Royal Edict issued by His Majesty the King. Although substitute land was not provided in case the owner had land in other places, the government acquired private land when required and when there was shortage of government land as per section KA/6-9 of the Land Act. The government was acquiring the private land only for the benefit of the town residents.

An explanation was provided on the towns of Trashigang, Ranjung and Khuruthang. As per the command of His Majesty the King for the ultimate interest of the people, a plot was provided free of cost in the new township along with land

compensation to the people when the government acquired private land.

Although there would be some inconveniences in adhering to the Lhengye Zhungtshog rules and regulations, there would not be any problem in implementing as per the provision under section KA/ 6-9 of the Land Act. According to the land pooling procedure, the government need not acquire private land for the city corporation. Therefore, while there was no requirement for any changes, amendments would be affected in case there were inconveniences in the future.

A Royal Advisory Councillor along with some of the members submitted that it was appropriate to abide by section KA/6-9 of the Land Act. Moreover, since not more than 25 acres of land could be owned in the villages, the land substitute should be provided as per the Land Act. For the interest of the people, problems of impediment should be avoided till the completion of the work.

When land was provided only for a house construction after the government acquired one or two acres of land from the poor people, the compensation paid was not even enough to buy a house. Therefore, proper measures should be adopted for the welfare of the people. It was imperative for the Assembly to resolve whether section KA/6-9 of the land Act or the decision of the 176th session of the Lhengye Zhungtshog should be followed.

In the event the government required to acquire land after receiving kidu land from His Majesty the King, arrangement should be made to provide substitute land by the DYT, GYT and the Dzongkhag Administration. If it was possible, decision should be taken as per the section KA/6-9 of the Land Act as submitted by the Minister for Works and Human

Settlement. If not, the Gups and Chimis would be permitted to participate in the committee.

The Prime Minister said that as per the resolution of the 74th Session in 1996 after deliberating on the land compensation, the Department concerned would form a committee of experts and carryout detailed study on the situation in the rural and urban areas, following which the Lhengye Zhungtshog should take appropriate decision.

The committee would conduct a detailed study on the consonance of the Land Act and the Lhengye Zhungtshog rules and regulations, the difficulties faced by the people and the basis of fixing land compensation. It was hoped that the difficulties of the people would be adequately resolved. In the event that the Lhengye Zhungtshog did not come up with amicable solution, a report would be submitted in the 83rd session of the Assembly.

The National Assembly resolved that superseding the cases before 2004, the public land in the town areas, required to be acquired by the government from 2004 would be compensated and land substitute provided as per the decision of the committee. Members from the municipality should also be included in the committee and a report should be submitted for deliberation in the 83rd session of the Assembly. The discussion on the Acquisition of land by the government concluded on July 23, 2004.

82-XV(25). PROMOTING CASH CROP MARKET IN BHUTAN

The people of Bumthang Dzongkhag submitted that the Royal Government should conduct a study to promote cash crop market in Bhutan for the benefit of the farmers. Moreover, additional auction yards should be established and explore potential markets in the neighbouring states of India and other countries.

The people's representative of Bumthang said that the Ministry of Agriculture had enhanced the agriculture productivity through scientific innovation to achieve the objective of food self-sufficiency for 80 percent of the Bhutanese people depending on agriculture for their livelihood. Therefore, the Royal Government should endeavour to enhance the cash crop market for Bhutan.

Some of the members said that due to limited number of auction yards to sell the agriculture produce in the country, the auction dates were postponed causing unnecessary inconvenience often resulting in selling the produce at low prices. A cold storage facility was required to store the agriculture produce for a longer time and to sell the agriculture produce at all times. Moreover, as the people tend to lose interest in farming, the Royal Government should explore the possibility of expanding the cash crop market not only in India but also in other countries for better earning by the farmers. The income of the farmers would increase if the market were opened for cereals, cash crops and handicraft products.

The Minister for Agriculture informed the House that the efforts of the Royal Government to increase the yield of crops, transporting cash crops to the nearest road-head within the fastest time possible and expansion of cash crop markets within the country was as per the expectations of the people. The generation of income in the country through electricity and cash crop were the fundamental priority of the Vision 2020. Therefore, in 2003 alone, cash crops worth Nu.683.42 million were exported. The Royal Government had spent a sum of Nu. 6 million and Nu. 2 million to buy equipment and pesticides to increase the cash crop yield in 164 geogs respectively.

While the machine (SILO) to preserve maize corn established in Pemagatshel and Mongar was found effective, it would be introduced in other Dzongkhags also. Efforts were being made to conserve the medicinal herbs, flora and *Shitake* mushroom (*Sangay Shamu*). Moreover, His Majesty the King considering the welfare of the people had commanded to legalise the harvesting of Yartsa Goenbub (*Cordeyceps*).

The Food Corporation of Bhutan would be revamped in consultation with foreign expertise to increase the cash crop markets. It was imperative to establish the auction yards after conducting a feasibility study of the location. Till now, the location, expertise and less manpower and many cash crop owners were also careless, which had caused some inconvenience. It was imperative for all the people to be fully responsible in increasing the agriculture produce with the support of the Royal Government.

The Speaker noted that the Agriculture Ministry should enhance the auction system in conformity with the international standards by increasing and improving the quality of agriculture produce considering the present and future benefits. There was a policy to explore the possibility of market in other countries by using the organic seeds and fertiliser. Therefore, other countries appreciated the recognition of Gasa Dzongkhag as the model Dzongkhag. Even though there was only one auction yard in the eastern Dzongkhags which was causing inconvenience to the people, the construction of additional auction yard would require feasibility study and availability of fund.

The National Assembly noted that out of 79 percent of the Bhutanese people depending on agriculture, most of them were concentrating on enhancing the cash crop farming. However, they were facing hardships due to lack of cash crop market. It was resolved that the Royal Government should

continue supporting the farmers and as submitted by the Agriculture Minister, feasibility study should be conducted on the establishment of a cold storage facilities and auction yards in the country. The Ministry of Agriculture in cooperation with the Ministry of Trade and Industry should explore potential markets not only for agricultural produce but also textiles and other products from rural places. It was also resolved that the Agriculture Ministry should continue to plan and explore new markets for domestic cash crops. The deliberation on Promoting cash crop market in Bhutan concluded on 26 July, 2004.

82-XV(26). PURCHASE OF EXCESS LAND

The Thimphu Municipality submitted that people of the two geogs falling under urban boundary were allowed to purchase the excess land. However, the people of three villages under Chang and Kawang geogs were not allowed to purchase the excess land. Therefore, the people of the two geogs should be allowed to purchase the excess land.

When the land in all the Dzongkhags were surveyed as per the resolution of the 58th session of the National Assembly, the private land of the residents of Jungzhina and Changtagang falling under the municipality were allowed to be purchased by the excess land owners on square feet basis. The villages of Ladrong, Ludrong and Zilukha under Chang and Kawang geogs were also included under the urban area in 1994. While the people had approached the Dzongkhag and the organization concerned for the purchase of the excess land, their submissions were not considered. Therefore, the Royal Government should constitute a committee and adopt a standard practice that would apply impartially to all the people under the same Geog.

Some of the members said that with the rapid changes taking place with the development of the country, all the

Dzongkhags would face the problem of excess land. Therefore, it was important to adopt proper and uniform measures to mitigate the problem. The problems of not being able to purchase the excess land when the land in the two geogs was included under the urban area were attributed mainly to the people involved in implementing the government policy. While the City Corporation should be made more responsible to oversee the welfare of the people, the procedure for submitting agenda to the National Assembly was a necessity under the prevailing circumstances. Since Thimphu Municipality was larger in size without much supervision, surveillance inspectors should be deployed to supervise the area.

The Minister for Works and Human Settlement said that the villages of Lhadrong, Ludrong and Zilukha were included in the urban area in 1994. During the land resurvey conducted in 2000 and 2001, the grievances of the people were submitted in the Lhengye Zhungtshog. The Royal Government, after detailed study had observed that the purchase of excess land was not admissible as per the resolution of the 58th session of the National Assembly. However, in case of wetland, the people could buy the excess land, provided the boundaries and the number of terraces in the paddy field were clearly mentioned in the Sathram as resolved in the 74th session of the National Assembly. Further, the excess land was required to provide urban amenities like road and water resorviours.

Although Khepnying was eligible for the purchase of excess land, it was difficult to differentiate between Khelnying and Khelsarp. Therefore, it was difficult to allow the purchase of excess land as per the resolution of the National Assembly and the Land Act. Since there were not many cases pertaining to excess land, it would be fitting for the National Assembly to adopt appropriate measures. The people of Chang had

submitted applications to the Thrompon to go ahead with the urban development plan in lieu of excess land. Moreover, since the people had recognised land pooling as one of the planning tools of urban development it would not be considered as acquisition of land. Henceforth, the Thimphu Municipality should submit the agenda to the National Assembly through the Town Committee and the Ministry of Works and Human Settlement. As a Chathrim had been drafted covering all the urban areas in Thimphu, there was no requirement to deploy surveillance inspectors in the town at this stage.

The representative of Thimphu Municipality submitted that His Majesty the King had commanded to abide by the Land Act till the land survey in all the Dzongkhags was completed. The resolution of the 58th session of the National Assembly and the Land Act did not specify whether the excess land included in the urban area could be purchased. Therefore, considering the welfare of the people, the Royal Government should differentiate between Khelnying and Khelsarp and adopt a uniform system for the purchase of excess land by the people.

The National Assembly resolved that the Ministry of Works and Human Settlement, the City Corporation and the Department of Land Records should constitute a Committee to conduct detailed study on the Khepnying and Khelsarp and submit the findings to the Lhengye Zhungtshog for final decision. The deliberation on the Purchase of excess land concluded on 26 July, 2004.

82-XV(27). CONTRUCTION OF HOUSE ON WETLAND AND ORCHARD

The people of Thimphu Dzongkhag submitted that the Royal Government should accord approval to construct houses on their wetland and orchards.

During the deliberation on this issue, the people's representative of Thimphu said that the people in the rural areas possessing only wetland had no other land to construct their houses. While it had been enshrined under KA/3-3 of the Land Act that any activity could be carried out in the legally registered land, the authorization to construct houses was not mentioned. Moreover, the Lhengye Zhungtshog had issued a separate circular prohibiting construction of houses on wetland in the villages. As a result, the people in the villages without dry land were facing lots of inconvenience. Therefore, the Royal Government should categorise the construction approval of houses on the dry land and orchard. Some of the members submitted that although it had been enshrined in the Land Act that the construction of houses on the legally registered wetland and orchard was not permitted, some of the wealthy and influential people had been violating the Act. To solve the problems faced by the people, the Act should be amended allowing all the people to construct permanent houses on the legally registered land. The approval to construct houses on the wetland was not specified in the Land Act. In the event that a household with only wetland and *Tseri* were not permitted to construct houses, they were compelled to do so due to lack of other land. Those who have constructed houses on the orchard without any approval should be penalised.

Some of the members submitted that the Land Act only specified the use of the land for any purpose on the registered land. It also stated that orchard could not be converted for other types of cultivation but without specific mention of house construction. Furthermore, the Land Act did not mention on the inclusion of orchard within the ceiling of 25 acres of land. However, there were instances of where people owning the orchard were converting their land for the construction of houses and schools. The members wanted to know as to which laws were being followed. When the

population increased in the future, the people would face the problem of land shortage. Therefore, the orchard and the land ceiling of 25 acres should be reconsidered.

Some of the members said that although the government had restricted the construction of houses on the wetland till now, people had been carrying out such activities in violation of the laws. Therefore, even if the construction of houses were approved from now on, the people would suffer when higher level and influential people joined hands. It had been enshrined under Ka/3-10 of the Land Act that houses were not allowed to be constructed on the wetland unless land category was converted by conducting joint study by the Ministry of Agriculture and the Dzongkhag on the soil fertility and accessibility of water. Moreover, Sokshing and orchard within the ceiling of 25 acres had not been included under Ka/3-4 of the Land Act, 1979. However, some of the people were converting all of their land to orchard in violation to the laws while the others with only a decimal of land were required to conform to the laws. This matter should also be reconsidered.

Approval should be sought from the Ministry of Agriculture and the National Environment Commission to carryout developmental activities as per the policy of the Royal Government. However, the conversion of land into orchard had not been accounted and controlled. If the construction of houses were approved at this time, some of the people would even sell their orchard for construction of houses. While clarification should be provided on this issue, deliberation should take place on the inclusion of Sokshing and Tsamdro within 25 acres of land. Even if these issues were not resolved in the 82nd Session, a report should be submitted in the next session of the Assembly. However, if the issue on the ownership of the orchard was clarified, it required no further deliberation.

Some of the members said that 60 families in Wangdue Phodrang Dzongkhag owned only wetland registered in fathers' name. The people would face difficulties when the families expand in the future as they would not be allowed to construct houses on the wetland. Considering the welfare of the people without dry land should be permitted to construct houses on the wetland even if the Land Act required amendment. It had been enshrined under the Land Act that more than 25 acres of land could not be owned. However, as there were no laws to permit some people to own more than 25 acres of land, the issue should be seriously considered.

House was and is a basic necessity for all the people. Moreover, the size of the families would grow with the increase in population in the future. People without permanent houses would face the problem of shelter like the people in Punakha and Wangdue Phodrang without apple orchard, dry land and Tseri. As they had only the wetland, the Royal Government should accord approval for the construction of houses on their wetland.

The Minister for Agriculture informed the House that as per Ka/3-3 of the Land Act, orchard, wetland, Sokshing, Tsamdro and Tseri were not allowed to be converted for any other purpose including construction of houses. As per the command of His Majesty the King to amend the Land Act considering the welfare and inconvenience of the people, the Ministry of Agriculture would review the Land Act and submit it to the National Assembly for amendment.

The Minister for Works and Human Settlement said that as per the provision under KA/3-10 of the Land Act, the wetland would be converted notwithstanding the areas of wetland if included under the urban planning. Moreover, provision KA/3-3 stated that orchard would not be converted to agricultural land including construction of houses even if the

area fell under the urban planning. When the city expanded from Changtagang till Ngagpai Rongchu, the orchards would be sold illegally with the increase in land cost. Similar to the permission to convert wetland included under the municipality as per the provision KA/3-10 of the Land Act, amendment should be made to allow conversion of orchard for construction of houses.

Furthermore, in accordance with the requirement of the municipality, trees and flowers were planted alongside the roads and steep slopes to prevent floods and landslides. However, it had been enshrined under the Land Act that the land would not be converted. Therefore, the National Assembly should resolve this problem.

The Thimphu Dzongdag said that although only a few people owned wetland and orchard, the Land Act had prohibited the construction of houses. However, considering the welfare of the people, approval should be accorded to construct the houses to avert future problems. The orchard had not been included within 25 acres of land and the construction of houses had also been prohibited. However, some people were allowed to construct houses even when the land was not included in the urban planning as per the city plan while others in the villages were restricted from doing so. The issue should be reconsidered by looking into the convenience and welfare of the people.

The National Assembly noted that His Majesty the King had commanded to amend the Land Act as submitted by the Minister for Agriculture. It was resolved that the Land Act should be reviewed allowing construction of houses on the wetland and orchard in the villages submitted to the National Assembly for amendment. The construction of houses on the wetland and orchard included under the municipality should be worked out as per the plan of the municipality. It was also

resolved that until the amendment of the Land Act, the Land Act of 1979 should remain in force. The deliberation on Construction of house on wetland and orchard concluded on 26 July, 2004.

83rd SESSION OF THE NATIONAL ASSEMBLY:

83-VIII(4). AMENDMENT OF LAND AND OTHER ACTS

The people of Bumthang Dzongkhag requested for the amendment of the Land or other relevant Acts since the people were facing problems regarding the ownership of standing trees within 25 acres of their land holdings and on land compensation and substitution. The people of Mongar Dzongkhag also submitted that Section A) 6-9 A in the Land Act should be reviewed.

Deliberating on this issue, many members said that land compensation or substitution for forest covered private land acquired by the government should be given without delay. The people should be granted rights over trees to convert into private forests and procedure thereof should be made simpler and easier for the people. Further, the government should take over the infertile land instead of fertile land of the people for developmental activities. Since the Ministry of Agriculture is an important organization keeping contact with the people, members requested that land substitution be granted by the Ministry. A clause should be incorporated in the land Act whereby the existing Thram will remain valid until the replacement is made available.

The members said that it is important to formulate procedures for land compensation to be made as simple as the land acquired by the government and educate the people thereof. It was also reported that there was not only the problems caused by the differences in the Land and Forest

and Nature Conservation Act but the Dzongkhags have not submitted any report on conversion of private land into private forest land to the Ministry.

The members submitted that the requirement to have separate census while segregating the Thram should be reflected in all the relevant Acts as well as in the Land Act which is being amended. It was also suggested that the problems faced by the people should be sorted out before the amended Land Act comes into effect. As per the relevant Act, even one or two acres of land in the rural areas which has remained under forest cover for more than 12 years had to be surrendered to the government. This system does not cover the orchards since it does not fall within the maximum land holding ceiling of 25 acres. Therefore, it is imperative to incorporate suitable changes in the Land Act.

The Minister for Agriculture said that though there were few differences in the provisions of the Forestry Act and the Land Act, the Land Act was in force.

Since the amendment on Land Act is near completion, there was no need to revise the clauses in the present Land Act before the amended Act is submitted to the National Assembly for enactment. Guidelines for solving problems related to land substitution had been distributed to the Dzongkhags and the geogs but till now the Ministry has not received any feed backs. Nonetheless, the Ministry will expedite work in close consultation with the Committee, in compensating or substituting private land acquired by government.

The amendment of the Land Act would automatically lead to the amendment of the Forest and Nature Conservation Act which was enacted two years back. Therefore, the National Assembly resolved that while the amendment would not be

effected for the time being, the Ministry of Agriculture considering the submissions of the people should arrange to solve the problem of the people.

The discussion on the amendment of Land and other Acts concluded on 2nd day of the 5th month of the Bhutanese calendar year corresponding to June 8, 2005.

83-VIII(5). REVIEW OF SOME PROVISIONS IN MARRIAGE, INHERITANCE AND LAND ACTS

The people of Mongar, Trashiyangtse and Punakha Dzongkhags submitted that the husband had to pay *So-thue* and alimony even when the divorce was caused due to wife's fault. This has compelled the husband to sometimes sell off his parent's properties and land. Therefore, in order to reduce such problems, the people requested that the Marriage Act be amended. The people also submitted that in case of divorce, proper provision regarding the inheritance of property by the children was also required in the Act. It has been almost 26 years since the enactment of the Marriage Act and the Inheritance Act which were enacted in 1980. Therefore, it is necessary that the two Acts and other Acts should be amended in keeping with the socio-economic development in the country.

During the deliberation, the members submitted that it was important that the Land Act, Forest Act, Loan Act, Marriage Act and the Inheritance Act were amended in keeping with the socio-economic development and the changing needs of time.

Similarly, some of the members submitted that since water is an important part of land, a Water Act was also required. They sought clarification as to whether the government had any plans to formulate this Act. The members also raised the issue of inconsistency arising in the payment of alimony in

case of a divorce and the expenditure incurred on marriage ceremonies. They submitted that it was imperative to amend the above Acts in keeping with modern living standards.

They said that it was important to resolve whether the above Acts would be amended by constituting a committee by the concerned ministries or by the representatives from the government.

The Minister for Agriculture said that since it was important to conserve land, a land use management programme would be initiated commencing from Trashigang in the east and solicited support from the people in implementing the programme. The Minister suggested that land substitutes for unproductive land acquired by the government could be made available in the resettlement areas.

The Minister reminded the house that it was important to accord serious consideration for the amendment of the provision A) 6-9 because it was beneficial to both the government and the people at large. He explained the implication it would have on the Ministry of Agriculture and the environment policies. The Minister clarified that the Deputy Minister for National Environment Commission would be the right person to elucidate on the water bill. The Minister sought more time to enable the Ministry to carefully review the Land Act before the Forest Act was actually amended.

The National Assembly resolved that until such time that the Land Act was amended; the Dzongkhags and the Departments should forward all the cases to the Ministry for appropriate and timely decisions. The Legislative Committee in consultation with the Judiciary will make necessary amendments in the Marriage, Inheritance and the Land Act in keeping with the changing needs of time and submit it in the 84th Session for enactment. The deliberation on the review of

some provisions in Marriage, Inheritance and Land Acts concluded on the 2nd day of the 5th month of the Bhutanese calendar year corresponding to June 8, 2005.

83-VIII(9). RESURVEY OF PRIVATE REGISTERED LAND UNDER FOREST COVER

The people of Geling Geog under Chukha Dzongkhag submitted that theregistered private land under forest cover was not surveyed in 2003. Accordingto the Forest and Nature Conservation Act and Land Act, the individuals are notallowed to register their private land once the land is covered by forest. Therefore, the people requested the government to carry out the resurvey of theforested land and consider allotment of Thram to the respective landowners who are dependent on farming for their livelihood.

Some of the members said that during the resurvey exercise, land could not besurveyed because the Gups and Chimis were out of station on official duty. According to the policy of the government, the *Tseri* land remaining fallow formore than 12 years can not be cultivated. This has caused problem to the peopleof Khenrig Namsum who depend mostly on *Tseri* cultivation. Therefore, themembers requested the government to study lands belonging to the people inthose areas and facilitate the conversion of *Tseri* into *Kamzhing*.

The Minister for Agriculture informed the house that there were 16 Dzongkhagsbesides Geleng Geog under Chhukha Dzongkhag where land could not besurveyed. Currently, lands are being re-surveyed under Samdrupjongkhar Dzongkhag. According to the resolution of the 74th Session of the NationalAssembly and section Ka 3-10 Kha of the Land Act, *Tseri* land, after 12 yearswill be taken over by the government by compensating the land owners.

Therefore, the Department of Survey and Land Records after detailed study has initiated the payment of compensation. In addition, the Land Act has no clear provisions regarding dry and wet land.

This issue has been discussed in the Annual Conference of Renewable Natural Resource and it was decided that a committee of experts would be constituted to study the implications of trees that have grown in both *Pangzhing* and *Tseri* in the country and to the people at large. It was also important to study whether or not the land of the people turned into forest fell under the park areas and prone to flood and landslide risks. The land was not surveyed as per the request of the people because it was not in compliance with the Forest and Nature Conservation Act which causes lots of problems. However, it is hoped that the Ministry of Agriculture would be able to carry out detailed research and study of such lands to generate substantive results.

The National Assembly resolved that keeping in view the submissions of the people and the assurances given by the Minister for Agriculture, a team of experts would conduct comprehensive study and report in the 84th Session of the National Assembly. The deliberation on the resurvey of registered private land under forest cover concluded on 2nd day of the 5th month of the Bhutanese calendar year corresponding to June 9, 2005.

83-VIII(23). TRANSFER OF LAND BELOW MINIMUM PLOT SIZE IN URBAN AREAS

The Minister for Works and Human Settlements submitted that the transfer of land below minimum plot size resulted in encroachment of government land and illegal construction. According to the Bhutan Municipal Act 1999 and Urban Area and Property Regulations 2003, transfer of land below the minimum plot size in urban areas is not entertained.

However, the land owners approached the court and got clearance creating innumerable problems to the City Corporation.

The court seems to issue orders for such transfers based on the resolution no. 24 passed in the 81st Session. Since this resolution is contradictory to the provisions of the Municipal Act of Bhutan 1999 and Urban Area and Property Regulations 2003, the said resolution should be amended.

Some of the members said that the people would face problems if the transfer of land below the minimum plot size is not permitted. The procedure for the inheritance of land would also be affected. Therefore, the resolution passed in the 81st Session should be retained. The members also submitted that since the Municipal Act contained provisions restricting construction, the land for both the buyer and the seller is rendered useless if it did not meet the required plot size for construction. Therefore, the people should be allowed to purchase the adjacent government land to meet the requirement of plot size. In case, there is no government land in the surrounding area, the government could take over the private land and provide compensation or give substitute land accordingly. The National Assembly decided that the resolution of the 81st Session on the transfer of Thram below the minimum plot size in the urban areas would be retained without amendment. The construction of houses in the urban areas should be strictly dealt in accordance with the Municipal Act of Bhutan. Further, a committee comprising members from the Ministry of Works and Human Settlement and the City Corporation should be constituted to look into the possibilities of allowing the land owners owning land below the minimum plot size to club their land or allowing them to purchase the government land and submit a report in the 84th Session. The deliberation on the transfer of land below minimum plot size in urban areas concluded on the 7th

day of the 5th month of the Bhutanese year calendar corresponding to June 14, 2005.

83-VIII(24). TRANSFER OF LAND

The people of Haa Dzongkhag submitted that although all land holdings of the public of Sama and Uesu geogs were under Haa Dzongkhag during the land survey in 1988-89, the Thrams were recorded under Samtse Dzongkhag. Therefore, the people submitted that Thrams recorded under Samtse Dzongkhag should be transferred back to Haa Dzongkhag because the people in these two geogs are facing problems in availing developmental services from either Dzongkhags.

During the deliberation on the issue, some of the members submitted that although the maintenance of road and bridges including a Lhaxhang at Rangotakshing is carried out by Haa Dzongkhag, the Thram of this area is registered under Samtse Dzongkhag. The household and *Tsamdro* tax are paid to Haa Dzongkhag. Moreover, the Sama and Uesu geogs were nearer to Haa Dzongkhag than Samtse. Therefore, this has caused inconvenience between the two Dzongkhags and the concerned people.

The Minister for Agriculture informed that inclusion of Uesu and Sama geogs under Samtse Dzongkhag was discussed in the 52nd, 53rd and the 70th Sessions of the National Assembly. The Minister pointed out that if the Dzongkhag was far away from a particular Geog, it had to be included into the nearer Dzongkhag to provide efficient services and development activities. It was reported that about 93 *Sathrams* were not transferred during the 1988 land survey. However, the *Sathrams* of the Sama and Uesu geogs were transferred under Samtse Dzongkhag in 2002 as per the resolution of the Assembly and the notification of the Ministry for Home and Culture Affairs.

Similarly, the Samtse Dzongda said that although Samtse is the main business hub for the people of Mo-Chhu village, it would be convenient to include the area above Mo-Chhu under Haa Dzongkhag. He suggested that this issue may be reviewed by the Council of Ministers and a report submitted in the National Assembly.

The National Assembly resolved that the Ministry of Agriculture, Haa Dzongkhag and Samtse Dzongkhag would study this issue and submit a report in the next session of the Assembly. The deliberation on the transfer of Thram concluded on 7th day of the 5th month of Bhutanese calendar year corresponding to June 14, 2005.

83-VIII(25).URBAN LAND COMPENSATION AND SUBSTITUTE
The Ministry of Works and Human Settlement submitted that as per the resolution of the 82nd Session, a committee comprising of members from the Ministry of Works and Human Settlement, Ministry of Agriculture, Ministry of Finance, Department of Survey and Land Records, Thimphu Municipality and Thimphu Throm was constituted to review the procedure for land compensation and substitution. The committee had found contradiction on land substitution between clause 2(c) of the Land Compensation Rate of 1996 and provision Ka 6.9 (b) of the Land Act 1979. Section 2(c) of the Land Compensation Rate 1996 stated that the land owner was eligible for a substitute land if he or she had only one plot and no other land either in the municipality or in the rural area registered in his or her name while provision KA 6.9 (b) of the Land Act stated that as far as possible the government would provide substitute land instead of cash compensation while acquiring land.

The findings on the review of the Land Act 1979 and the Land Compensation Rate, 1996 are as follows:

Firstly, the landowners would be paid land compensation at the prevailing market rate on the day of declaration by the government. Market rate subsequent to the day of government declaration will not be applicable.

Secondly, if the area of land acquired by the government is less than the standard plot size, the affected land owner will be paid in cash only.

Thirdly, if acquisition of land by the government renders the affected land owner landless, the owner would be eligible for substitute plot equivalent to the standard plot size in addition to cash compensation.

Fourthly, incase the area of the substitute plot size is more than the area acquired; the affected land owner would pay the cost difference to the government.

During the deliberation on the report submitted by the committee, the Minister for Works and Human Settlement explained that it was important to have fixed rate when the government acquired land from private people. The Minister submitted that the price fluctuation would be worked out every year by the Lhengye Zhungtshog.

Some of the members said that the government acquiring prime private land and giving unproductive land as substitute is not fair. They pointed out that it would immensely benefit the land owners if the government provides land or pay adequate compensation to buy another plot in lieu of the private land acquired by the government. The members also submitted that a committee should be constituted to fix the land price at market rate and review it every year depending on the market force. The convenience of providing extra land besides paying adequate land price should also be considered. The payment of land compensation and land

substitution should be expedited to reduce the loss on the government.

The National Assembly commended the performance of the committee constituted by the Ministry of Works and Human Settlement according to the resolution passed in the 82nd Session. The Assembly resolved that the committee on land compensation and substitution be formed with representatives from the Ministry of Works and Human Settlement, Ministry of Agriculture and the Municipality to look into the problems of land compensation and substitution and report to the Lhengye Zhungtshog. The deliberation on the urban land compensation and substitution concluded on 7th day of the 5th month of the Bhutanese calendar year corresponding to June 14, 2005.

83-VIII(26). COMPENSATION FOR PRIVATE BUILDINGS AND LAND LYING WITHIN RIGHT-OF-WAY OF NATIONAL HIGHWAYS AND ROADS

The people of Trashiyangtse, Haa and Trongsa Dzongkhags expressed their concern that if the existing road alignment passes through unstable and unsuitable areas and has to be realigned in the future, it would entail substantial costs to both the government and the people. Therefore, the government and the concerned Ministry should carry out a thorough study before actually acquiring the private land and property by the government. As per the resolution of the 82nd Session, the right-of-way of the National Highways and roads extended to 50 feet. The people appealed that the right-of-way of roads be reduced to 30 or 40 feet. The people also submitted that the three different types of roads should be distinguished from each other and the compensation for the affected residential buildings should be paid according to the prevailing market rate.

During the deliberation on the issue, the Minister for Works and Human Settlement said that the implementation of the right-of-way of road was to be executed as per the decision taken by the Lhengye Zhungtshog in 1993. The problems of the roads have been discussed in the past three or four Sessions of the Assembly. The Road Act of Bhutan was passed in the 82nd Session. While affirming the submissions of the members, the Minister said that as per the Road Master Plan formulated by the Ministry of Information and Communications, around 4,000 km of roads needs to be constructed. About 2,700 km of Highways and feeder roads needs to be constructed within the next twenty years. The roads could not be constructed with proper feasibility study in the past mainly because of lack of technical expertise and financial constraints. However, it is the policy of the royal government to make the Highways with shortest possible distance ensuring minimum expenditure for the transportation of goods. The work to shorten the National Highways has already commenced.

Henceforth, the construction of National Highways would be carried out after detailed study on the socio-economic and environmental impacts with minimum possible expenditure. During the realignment and road shortening works, some roads have remained as feeder roads which also benefit the people. The Ministry of Works and Human Settlement and the Department of Roads are continuing to work as submitted by the people. Due to heavy landslides and unstable land, the construction of the Thrimshing road has been decided to be carried out from a different location in consultation with the Dzongkhag Administration. The heavy rain in 2004 in the east has destroyed the roads and rendered the soil unstable. The alignment of Trashigang-Ranjung road had to be changed. Therefore, it is important that the Ministry and the Dzongkhag Administration jointly finalize the road realignment.

The Trashigang Dzongda said that the change in road alignment and the 50 feet right-of-way of road has caused problems in the Dzongkhag. He reported that about 14.5 km of road starting from Trashi Yangphu to Thrimshing Dungkhag was damaged because of wrong alignment and unstable soil. When the report was submitted to the Ministry, it was discarded and included in the plan. If the road is discarded, the government may have to pay cost of land and building amounting to 2.7 million. Similarly, huge expenditure may have to be incurred on the Trashigang-Ranjung road. Therefore, the Ministry should first study the implication on the people, stability of the land and carefully plan the construction of roads.

The National Assembly reminded that while formulating the road policies and plans, the Ministry of Works and Human Settlement and the Department of Roads should consider the budget implications to the government and the benefits and detriments to the people. The house resolved that the payment of compensation for the buildings and land would be done as per the decision of the 82nd Session of the National Assembly. The deliberation on the compensation for private buildings and land lying within right-of-way of National Highways and roads concluded on 8th day of the 5th month of the Bhutanese calendar year corresponding to June 15, 2005

83-VIII(27). RIGHT-OF-WAY OF NATIONAL HIGHWAYS

The Minister for Works and Human Settlement proposed an amendment to Section 14 (2) of the Road Act of the Kingdom of Bhutan, 2004 which states that the horizontal distance of the road-right of way be 50 feet on both sides of the road. The Ministry had then formulated the rules and regulations according to the Act for its implementation. Practical difficulties were faced and the people were adversely affected with its implementation. Therefore, the Minister proposed that the last sentence of section 14.2 of the Road Act to read as

“The horizontal distance between the centerline and the boundary of the road right-of-way shall be 50 feet on both sides.”

During the deliberation on the issue, some of the members submitted that the government would have to bear substantial costs financially towards payment of compensation for the acquired land if the provision of the Road Act is implemented. Therefore, if the decisions are carefully made and proper policies were formulated before the implementation, the government would not incur such heavy expenditure and also avoid double work. In the event, the alignment needs to be changed, it would be appropriate to reduce the size of the Dzongkhag roads, and feeder roads but retain the Thimphu-Phuentsholing Highway as per the Act to meet the future expansion requirement. The members suggested that the current work on road construction should be stopped by the Department of Roads until the plans are finalized. Although it has been decided that illegal constructions on either side of the roads would be demolished, this decision is not implemented. The members submitted that the people would be benefited if the right-of-way of Dzongkhag and feeder roads is reduced.

In response, the Minister for Works and Human Settlement informed that if the 50 feet of road right-of-way is measured from the centerline, it would be in line with the standards set in the Asian Highway Network. Moreover, experts have suggested that it would be in the best interest if the road right-of-way of Dzongkhag and feeder roads is retained as that of Highways.

The National Assembly resolved that the provision 14.2 of the Road Act enacted in the 82nd session would be amended to read as “from the centerline of the road 50 feet” instead of **“the horizontal distance between the edge of the carriage**

way and the boundaries of the road right-of-way shall be 50 ft”.

The deliberation on the right-of way for National Highways and roads concluded on 8th day of the 5th month of the Bhutanese calendar year corresponding to June 15, 2005.

84th SESSION OF THE NATIONAL ASSEMBLY:

84-VII(3). RESETTLEMENT PROGRAMME

The people of Samdrup Jongkhar submitted that there were thousands of acres of vacant arable land between the geogs of Jomotshangkha and Samdrupchoeling. If the government resettled the people in these vacant lands, it would not only help in protecting and conserving the forests and ward off the wild animals, but would also strengthen the security of the country. Furthermore, it would greatly benefit those people who could not be covered under the previous resettlement programmes. Similarly the people of Sarpang Dzongkhag requested that the 8th Resettlement Programme should be started in the vacant government land in 14 geogs.

This would not only reduce the problems faced by the people but would also strengthen the security of the border areas. Furthermore, it would help in preserving our culture and tradition. Some of the members said that although the resettlement programme initiated by the government has helped in strengthening the security of the country, many people living in these areas have left their lands fallow because of the destructions caused by the wild elephants. As such, it was pertinent that the people should be allowed to use electric fences as was done in Lhamoizingkha. Since the Bhutan Power Corporation has restricted the use of electric fencing, the people and the forest guards have improvised

strategies such as the use of chili powder, to keep away the wild elephants.

But these methods and strategies have not proved very effective and people continued to face the problem of wild elephants. Therefore, it would benefit the people if the Ministry concerned could discuss the issue with Bhutan Power Corporation and permit the people to use electric fences at no cost to the government.

Some of the members submitted that the resettlement programmes initiated by His Majesty the King had not only helped in the socio-economic development of the country but had also helped in integrating the people from all places of the country which was crucial for the post-constitutional governance.

In response, the Minister for Home and Cultural Affairs said that it had always been the noble aspiration of His Majesty the King and the policy of the government to provide land to the landless as only 7.8% land was arable in Bhutan. Ever since His Majesty the King ascended the Golden Throne, several policies on resettlement were put into place since the early 1970s.

Till date, resettlement programmes in seven phases have been implemented. The Minister also informed the Assembly that those people who were resettled before the 83rd Session of the National Assembly have, in defiance of the resettlement procedures, indulged in illegal practices such as selling off *kidu* land and leasing them for monetary gain. Therefore, the government had kept the 8th Resettlement Programme in abeyance. Taking into consideration the factors such as culture, language and socio-economic developments of these resettled families, proper studies and assessments would be carried out and the 8th Resettlement Program would be

continued after careful scrutiny and affecting necessary changes in the Resettlement Policy and Procedures.

The Minister for Agriculture informed the members that the government was very much aware of the problems of the wild animals in the communities. Although the government has framed and outlined many preventive measures, the government has not been able to implement them due to lack of adequate time and budget. With regard to the use of electrified fence at Lhamoizingkha, the Minister informed that the strategic idea was improvised and initiated by the people themselves and not by the Agriculture Ministry. Although similar pilot programmes have been implemented in the geogs of Umling and Chuzeygang, the effectiveness of the system and its disadvantages need to be studied before it was implemented in other geogs. However, it was important that people themselves, like the Lhamoizingkha experience, make efforts to solve the problem of wild animals. Other countries in the world were also facing similar problems and although they have invented numerous methods and strategies, they have not been able to wholly eliminate this problem.

Similarly, it might not be possible for us to eliminate the problem completely. However, the Ministry of Agriculture was in the process of carrying out a detailed study to curb this problem.

The National Assembly resolved that based on the submissions made by the Ministry for Home and Cultural Affairs, proper investigation with regard to illegal activities like selling and leasing of land for monetary gain, in the resettlement areas would be carried out. The report of the investigation should be submitted to the council of ministers and the 8th Resettlement Programme should be continued based on the discussions and decisions of the council of ministers. The problem of wild animals was not only faced in

the south but was also prevalent in other regions of the country. The National Assembly resolved that the people and the communities together with the ministries concerned should make every effort to come out with various strategies to solve the problem caused by wild animals. The National Assembly also resolved that the Ministry of Finance should look into the possibilities of providing financial support to the ministries concerned to help them take adequate measures to curb the problem of wild animals.

The deliberation on resettlement programme concluded on November 24, 2005 corresponding to the 23rd day of the 9th month of the Bhutanese calendar.

84-VII(4). LAND RECORD AND CENSUS, RETENTION OF SEPARATE GEOGS AND DZONGKHAG AND GEOG BOUNDARY DEMARCATION

The people of Paro Dzongkhag submitted that the *Gungs* and *Thrams* of the people of Martolongchu, Wangjokha and Barjo Toep Chaksa of Barp Geog of Thimphu Dzongkhag have been merged with Punakha and Wangdue Phodrang Dzongkhags. This merging of *Gungs* and *Thrams* has been causing hardship to the people in matters relating to census and land. Therefore, it was submitted that the above villages be retained under Barp Geog. Similarly, the villages of Mewang, Bjemi Shelgana, Tshelung, Chimithangka and Geda have been merged with Thimphu, Punakha and Paro Dzongkhags respectively. Due to the merger, the implementation of the decentralization policies and development activities was greatly hampered.

Therefore, the people requested the government to carry out proper assessment and ascertain the possibilities of retaining Hungrel Geog under Paro Dzongkhag and Bjemi Geog under Thimphu Dzongkhag. During the deliberation on these issues, the members submitted that since the census and

land records were under different geogs and Dzongkhags, the communities faced problems in the implementation of developmental activities. The members urged the government to come up with measures to solve the problem faced by the people in these geogs.

In response, the Minister for Home and Cultural Affairs informed the house that His Majesty the King, had issued a Royal Kasho to carry out studies on the boundaries of the geogs and Dzongkhags. In a survey which was carried out from 1990 to 1998, in accordance with the resolutions of the 70th and 76th sessions of the National Assembly, it was found that various changes had to be made to the boundaries of 15 Dzongkhags and 26 geogs.

Accordingly, a 12 point measure for the demarcation of boundaries was formulated and submitted to the council of ministers. Although the council of ministers had already reviewed the plan in detail, it had to be deferred because people raised various issues that conflicted with the culture and history. The Minister also submitted that it was of utmost importance to finalize the boundaries of the geogs and Dzongkhags before the Constitution was adopted. One of the main responsibilities of the Election Commission would be to delimit and finalize the boundaries of electoral constituencies. Therefore, it was imperative to establish the Election Commission as soon as possible to solve these problems. The Zhung Kalyong and some of the members submitted that the Royal Government should complete the demarcation of Dzongkhag and Geog boundaries based on the map prepared during Lyonpo Thinley Jamtsho's tenure as the Minister for Home and Cultural Affairs. If the Geog and Dzongkhag boundaries were clearly set out and defined, the problems relating to census, land record and other issues would be automatically solved. This would also facilitate the smooth implementation of election procedures after the adoption of

the Constitution. The members also submitted that it would be more convenient if the demarcation works commenced from the Tenth Plan.

The National Assembly resolved that since it was important for the Royal Government to finalize the border demarcations as soon as possible to solve the problems faced by the people due to the merger of geogs and census and land records, the Ministry of Home and Cultural Affairs, the Ministry of Works and Human Settlement and the Ministry of Agriculture should discuss and reviews the past boundary maps and submit a report to the 85th Session of the Assembly. The Assembly also resolved that the Election Commission should be established as soon as possible so as to finalize the electoral constituencies before the Constitution was adopted. The deliberation on Land records, retention of separate geogs and Dzongkhag and Geog boundaries concluded on November 25, 2005 corresponding to the 24th day of the 9th month of the Bhutanese calendar.

84-VII(6). MERGER OF PEOPLE UNDER ONE THRAM

The people of Chang Geog under Thimphu Dzongkhag submitted that earlier although the census was recorded under the head of the household, the children lived in separate household. After inheriting land from the parents, the lands were registered under different Thrams. In a resurvey of land carried out in 2000, these separate lands were once again merged under one household. Due to the merging of Thrams, problems were faced by the people while inheriting the land from their parents according to Section KA- 1/8 of the Land Act. Therefore, the people submitted that the Thrams that were earlier legally separated through the Court should be retained as before. In case it was decided that the *Thrams* should be retained as before, the Department of Survey and Land Records should carry out the separation of *Thrams* for the convenience of the people.

Some of the members submitted that in order to register the land in an individual's name after having privately purchased or inherited the land; it had to be submitted to the Ministry. The Ministry based on the census record of the individual, registered the *Thram* under the head of the household. This only led to disputes within the family. To solve such problems, the Ministry and Department concerned should allow the registration of inherited land and land bought, under different *Thrams*.

Incase the registration of *Thram* needed to be changed; it should be carried out as per the provisions in the Land Act. Some of the members submitted that, the new *Thrams* lacked consistency and accuracy since either a *Thram* number or the gung number was missing.

During the resurvey of land, land that were not surveyed before were to be surveyed again. The people hoped that the problem they faced would be looked into during the resurvey. If the households having the census recorded under one head were considered *Khe Gu Chigpa*, problem would arise during the inheritance of properties and in the registration of *Thrams*.

Moreover, the Dzongkhag Court requires a validation letter signed by the Gup, in order to change the *Thram* registration. Therefore, the people submitted that considering the risk that the Gup has to take, it would benefit the people if the Ministry of Home and Cultural Affairs, Ministry of Agriculture and the Judiciary could discuss the issue and submit a report in the 85th Session of the Assembly. It was also important to keep in mind the Sections KA- 1/6 and KA- 1/8 while deliberating on the amendments to be made in the Land Act.

In response, the Prime Minister submitted that, during the cadastral survey carried out it came across many problems, because there were many people who had *Thrams* without *gungs* and *gungs* without *Thrams* and couples living together had separate *Thrams*. Therefore, the Ministry of Home and Cultural Affairs and the Department of Survey and Land Records had decided to merge the *Sathram* and *gung* under one household. If an individual living in a separate household had land legally registered in his/her name, the *Thram* was included as “rangwang” although the census was recorded under the head of the household. However, it was submitted that the Ministry of Home and Cultural Affairs and the Ministry of Agriculture would jointly review the provisions of the Land Act so as to solve the problem faced by the people.

The National Assembly noted that problems were faced in the registration of *Thrams* and *gungs* due to the merging of *Thram* under the head of the household. Therefore, the National Assembly resolved that, the Ministry of Home and Cultural Affairs, the Ministry of Agriculture and the Judiciary should discuss the registration of *Thram* and census records in accordance with the Land Act and submit a report in the 85th Session of the Assembly.

The deliberation on the Merger of people under one *Thram* concluded on November 25, 2005, corresponding to 24th day of the 9th month of the Bhutanese calendar.

84-VII(7). CONVERSION OF LAND

The people of Chang and Mewang Geogs under Thimphu Dzongkhags submitted that during the cadastral survey carried out by the Department of Survey and Land Records, land with some cash crop which was cultivated for personal consumption was converted into orchards. The people requested that, in accordance with Section KA-3/10 and KA-

3/11 of the Land Act, such land should be retained as recorded in the previous *Thram*.

Deliberating on the issue, some members submitted that under Section KA-3/11, people had the right to cultivate cash crops like oranges and cardamom on private land registered as dry land and *Tseri*. However, the Department of Survey and Land Records, in the last cadastral survey, had converted land with some cash crops into orchard and excess land as government land.

Therefore, the people requested that the government allow them to buy this excess land after making payments. The members also submitted that since the people in Trongsa Dzongkhag were not able to cultivate cash crops due to the climatic condition, the people would be greatly benefited if they were allowed to convert these orchards into dry land.

Some of the members submitted that unless the Department of Survey and Land Records had an explicit right to repeal Section KA-3/10 and KA-3/11 of the Land Act, these provisions should be retained for the benefit of the people. It was also submitted that under Section KA-3/10, as long as the land were properly registered and within the legal ceiling of 25 acres, people had the right to convert their land to any other categories such as from *Tseri* to *Pangzhing* and *Pangzhing* to *Chuzhing*. The only legal requirement was that these conversions should be reported to the government for registration in the *Thram*. Similarly, under Section KA-3/11 of the Land Act, except for *Sokshing* and *Tshamdo*, all types of land legally owned by a person could be used in any manner deemed necessary by the owner.

In addition, some of the members submitted that, although orchard would boost the income of the people, the conversion of dry land and kitchen garden of the people with land

holdings of 10 to 20 decimals to orchard was a result of mis-interpretation of the Land Act. Therefore, since the people have been facing difficulties, the Ministry of Agriculture should take into consideration the anomalies while reviewing and amending the Land Act.

Responding to the submission, the Minister for Agriculture said that His Majesty the King and the Royal Government had always emphasized on the economic welfare of the people by according priority to the cultivation of cash crops. In this regard, the people have been provided with free seeds, fertilizers and agricultural equipment. The Minister also informed the members that the landowners had done the physical conversion long time back but failed to report the land conversion to the government. Moreover, while carrying out the cadastral survey, the Department of Survey and Land Records together with the committee consisting of the Gup, Mangmi, Tshogpa and representatives from the Dzongkhag concerned had verified the ground realities and reported the land status to the government.

Subsequently, an approval for registering as per ground realities was accorded by the Royal Government and thus, *Sathram* conversion were carried out as per Land Act and the decision of the government.

The Minister also added that although most of the people in the country were dependent on agriculture, only 7.8 percent of the total land was arable from which only 4 percent was fertile. The Ministry of Agriculture, under the direction of the government had framed numerous policies to expand and develop orchards in Bhutan. This had been done with the purpose of increasing the income of the people and to bring about socio-economic development. Therefore, it was important that the members should not be swayed by personal interests but consider the benefit of the people and

thewelfare of the country. The National Assembly noted that the conversion of land growing cash crops with an area of less than one acre into orchards during the cadastral survey was not appropriate. This would bring more problem than benefit to the poor people in attaining self sufficiency. The Assembly resolved that since the authority to amend and pass laws was vested with the National Assembly, the Ministry of Agriculture should consider all the submissions made by the people while reviewing the Land Act and submit the Act to the National Assembly for further deliberation and adoption.

The deliberation on the conversion of land concluded on November 25, 2005 corresponding to 24th day of the 9th month of the Bhutanese Calendar.

84-VII(8). LAND AND FOREST RELATED ISSUES

The people of Bumthang Dzongkhag requested the government to consider the conversion of *Tsheri* into *Pangzhing* in their land records since shifting cultivation had been phased out. Likewise, the people also expressed their difficulties in the establishment of private/community forest according to the government policy.

Deliberating on the issue, members said that the people were facing inconveniences in acquiring No Objection Certificate from the local residents while processing for land substitution for land acquired by the government. While most of the people faced difficulties, only a few succeeded in obtaining the certificate. The members, therefore, requested the Land Act Revision Committee to consider the submissions made while revising the Land Act. The members also suggested that it would be convenient to both the government and the people if the GYT was authorized to issue the No Objection Certificate.

The Minister for Agriculture reminded the house that the 72nd and 77th National Assembly Sessions had decided to phase out *Tsheri* cultivation in order to promote productive cultivation for sustainable livelihood and to prevent environmental degradation. He said that the conversion of *Tsheri* to other types of land was possible and should be based on the recommendations of the concerned Dzongkhag through the facts of field reality. However, *Tsheri* land left without cultivation for more than twelve years and has become naturally forested would be reverted to government and the land owner would be eligible for cash compensation according to the Land Act. The policy of creation and development of private and community forests has also been very successful but has been delayed for the time being since the Forest Act has to be reviewed in keeping with the needs of the changing times. The members were assured that the rules were under review and would be implemented at the earliest possible. Regarding obtaining of NOC from local residents for land substitution, the Minister said that since the information on land holding of *Sokshing* and *Tsamdrog* were not surveyed and covered in cadastral maps, only the local residents could provide reliable information on the status of vacant land. It was therefore imperative to obtain their clearance so that the allotted land did not invite any discrepancies from the local residents at a later date. However, the issue would be discussed while reviewing the Land Act and the problems would be solved as soon as possible.

The National Assembly resolved that the conversion of land from *Tsheri* into *Pangzhing* and the obtaining of certificate for the establishment of private/community forests should be implemented according to the rules and the policy of the Ministry concerned. The National Assembly also resolved that the Land Revision Committee should make a detailed study on the problems raised by the people for acquiring NOC from

local residents for substitute land acquired by the government, while revising the Land Act.

The deliberation on Land and Forest related issues concluded on November 25, 2005 corresponding to the 24th day of the 9th month of the Bhutanese calendar.

84-VII(12). KIDU TO BUY EXCESS LAND

The people of Gasa Dzongkhag submitted that new cadastral survey carried out under Gasa Dzongkhag found many households possessing excess land.

Although the land owners were asked to pay for excess land, payments could not be made due to the limited time. Similarly, the people of Wangdue Phodrang Dzongkhag submitted that during the land survey carried out in 1990 and 1999, excess land was measured from the land holdings of the people. However, due to the problems faced by the people in making timely payment for the excess land, such excess land was deleted from their *Thram*.

The people therefore, requested that their excess land be restored after payment of cost of excess land. Deliberating on this issue, the members submitted that inherited landholding which had no space for extension should be assessed for regularization if the cases were found genuine. Moreover, people should be allowed to buy back the excess land which could not be done due to limited time. The members also requested that the government should consider the regularization of excess land of poor farmers whose landholdings were of 1 or 2 *Langdos* after submitting to His Majesty the King.

The Agriculture Minister informed the house that the final *Sathram* compilation for Gasa and Wangdue Phodrang Dzongkhags was carried out in 1998 and 1999 respectively. A

geog committee was formed representing both the government and the geog. All landholdings were then verified plotwise so as to ascertain the true and bonafide holdings. The entire decision for retaining legally owned excess land was left to the landowners. Majority of the land owners had agreed to pay for the excess land and the *Thrams* were updated after receiving the cost. At the same time, there were other people who had willingly surrendered their uncultivable land which had been subsequently reflected as government land. However, some excess land could have been surrendered by the land owners due to financial constraints in the course of *Thram* compilation as they were required to make immediate payment. Under such circumstances, the government could review such cases and if found genuine, such land could be considered for regularization. The Minister also reminded the members that the payment for excess land has already been extended until 2007.

The National Assembly resolved that the payment of excess land should be made in accordance with the decision passed in the 81st Session. Further, as informed by the Minister for Agriculture, assessment of legal excess land should be made and considered for regularization. A report should be submitted if the request was beyond consideration and payment for excess land should be made within 2007.

The deliberation on the issue of Kidu to buy excess land concluded on November 25, 2005, corresponding to the 24th day of 9th month of the Bhutanese calendar.

85th SESSION OF THE NATIONAL ASSEMBLY:

85-IX. LAND RELATED ISSUES

The public of Wangdue Phodrang, Pemagatshel, Zhemgang, Bumthang, Lhuentse, Trongsa and Gasa Dzongkhags made

their submissions on the construction of houses on wet land, acquisition of private land for infrastructure development, land compensation and substitution, exchange of land, payment of cost for excess land and *Khimsa* entitlements.

Some of the members submitted that due to disintegration of families and fragmentation of land holdings, many families did not own dry land or other types of land except wet land as their share. For such families, the government should, after proper verification grant permission to build houses on their wet land. The members submitted that 25 households from Thedthso Geog had submitted applications to the Ministry of Agriculture for permission to construct houses on their wet land. Since permission was granted only to 6 households, people have begun to doubt the fairness in the procedure. Although people were willing to surrender their private land to the government for development infrastructure, the restriction imposed on the change of *Thram* from private to public ownership has been a setback. Therefore, it has become necessary to amend this policy.

Moreover, the fixation of the cost for excess land should not be uniform on all types of land but should be based on the fertility and location of the land. The people of Zhemgang also requested that the time for payment for cost of excess land be extended by 5 to 6 years.

Some members submitted that people who owned land away from the place of their residence which could not be cultivated should be allowed to exchange the land with the government land located nearby. It was also submitted that a mechanism to provide land substitution and land compensation should be put in place for those people facing hardships due to loss of land as a result of flood and landslides. Moreover, during the cadastral survey, most of the farmers who owned marginal landholdings had to surrender

their excess land. It was submitted that the farmers with less than 5 acres of land should be allowed to retain the excess land without payment as *Kidu*. Some members submitted that the people of Gasa Dzongkhag were moving seasonally to practice farming on their land situated at different locations but under the same *Thram*. Most of these people built their houses at different locations. However, as per the Land Act, a *Tharm* holder was entitled for only one *Khimsa* and was not entitled for *Khimsa* on the other land on which they have built their house. It was therefore submitted that the government should devise appropriate measures to solve this problem faced by the people.

Deliberating on the issue, some of the members pointed out that the right to convert land was clearly mentioned under Section KA-3-3 of the Land Act.

Furthermore, it was submitted that due to extreme scarcity of agricultural land, the government should acquire only those private land not suitable for cultivation for the construction of development infrastructure.

Some of the members submitted that those families owning only wet land should be permitted to build houses on fixed decimal (area). Alternatively, the government should look into the possibilities of granting certain area of vacant government land to the people as *Khimsa*. It was also submitted that when the government acquired private land for developmental purpose according to Section KA -6-8 of the Land Act, the land substitution should be simultaneously provided. Responding to the submissions made by the members, the Prime Minister said that the Department of Survey and Land Records was carrying out the responsibility of *Tharm* transfer in strict adherence to the Land Act, resolutions of the National Assembly, the Orders and Notifications of the government and the policies of the Ministry of Agriculture.

Moreover Sections KA-3-10 and KA-3-10A of the Land Act were very clear on the issues raised by the people. The Prime Minister added that although the 69th Session of the National Assembly had resolved that construction on wet land would not be permitted in accordance with the Land Act, the Ministry was carrying out studies to solve the problems faced by the people.

The Prime Minister informed the House that a guideline for allotment of land substitution was formulated based on the compensation rate of 1996. A land substitution allotment Committee was instituted as directed by His Majesty the King. The Prime Minister also informed that the Ministry of Agriculture was issuing orders and directives to other ministries and Dzongkhags not to acquire wetland and farmland.

As the Land Act was in the process of being reviewed, the National Assembly resolved that the problems encountered by the people should be submitted to the Ministry of Agriculture through the GYT and DYT duly signed by their respective Chairman so that this problem could be adequately addressed while amending the Land Act.

The deliberation on land related issues concluded on June 22, 2006.

86th SESSION OF THE NATIONAL ASSEMBLY:

86-IX. LAND RELATED ISSUES

1. Payment for Cost of Excess Land

The people of Dagana, Kurtoe and Menbi Geogs under Lhuentse Dzongkhag, Gomdar and Orong Geogs of Samdrup Jongkhar Dzongkhag, the people of Trashiyangtse and

Trongsa Dzongkhags, and people of Jokhar and Nangla Geogs of Zhemgang Dzongkhag requested the Government to grant *Kidu* by waiving off payment against the cost of excess land to those having land holdings of less than five acres. They also appealed that the people with land holdings of less than five acres and who had surrendered the excess land due to their inability to pay the cost of excess land be allowed to buy back the excess land at the existing Government rate. The people also requested the Government for extension of time for the payment of cost of excess land from June 2007 to June 2008. His Majesty the Fifth King speaking for the first time in the 86th Session of the Assembly after ascending the Golden Throne said that His Majesty was fully aware of the problems faced by the people in all the twenty Dzongkhags arising from land related issues. His Majesty the King said that He had not forgotten the submissions made by the people during his visit to the twenty Dzongkhags.

As it is the sacred duty of the King to look after the people's welfare at all times and in all respects, His Majesty said that the problems faced by the people due to land related issues and the submission made by the people would be carefully considered. Landless people most deserving of *Kidu* would be granted *Kidu* without fail. His Majesty the King commanded that no precedent should be set for people to gain *Kidu* through false means and submissions. His Majesty further commanded that the deadline for the payment of cost of excess land would be postponed.

His Majesty the King informed the Assembly that He would be visiting all the Dzongkhags to hold talks directly with the people in an effort to resolve their deepest difficulties. His Majesty the King assured the people that the matter would soon be solved and people facing genuine problems would be granted *Kidu* without fail.

The Speaker said that the Bhutanese were the most fortunate to be ruled by a King whose first consideration was the welfare of his people. The Assembly resolved that the issues on excess land and other issues related to would be carried out in accordance with the Royal Command.

The deliberation on payment for cost of excess land concluded on 28th December, 2006.

2. Need to Expedite Land Registration

The people of Mongar Dzongkhag submitted that there was only one year left for the completion of construction activities of various sectors of the Dzongkhag and planned activities of the Geogs which are earmarked for the Ninth Five Year Plan. Since these activities are subject to land registration, the people requested the government to expedite the land registration.

Similarly, the people of Paro Dzongkhag submitted that since 1979 many people had illegally converted *Sogshing* (tree grove reserved for collection of leaves), *Tsamdo* (pasture land), *Chhuzhing* (wet land), orchard and Government land for cultivation and to build houses. In compliance to the Executive Order of the Government, surveys and investigations on illegal land conversion and house constructions were carried out in all the twenty Dzongkhags, and detailed field reports, along with photographs of the converted land and illegal structures were submitted to the Government a long time ago. However, till now there was no specific decision from the Government on what was to be done. Because of this the Dzongkhag and Geog administrators were facing lot of problems in monitoring and controlling illegal land conversions and house constructions. Therefore, the people submitted that the Government should frame long-term rules, regulations and guidelines for

immediate implementation before the adoption of parliamentary democracy in 2008.

During the deliberation, some of the members reiterated that in order to achieve the planned developmental activities of the Ninth Plan, it was imperative to finalize the identification of land and its registration. His Majesty the King, considering the welfare of the people had issued a *Kasho* in 1979 which regularized and allowed registration of land as *Khimsa* in the *Tharm* for those houses built before 1979. In compliance to the Orders of the Government, surveys and investigations on illegal land conversion and house constructions which were carried out post 1979 were done by the community leaders and detailed field reports, along with photographs of the converted land and illegal structures were submitted to the Government. The people submitted that the Assembly should pass a resolution directing the Government to solve these problems which people had been facing before 2007 and before the end of the Ninth Plan.

The Minister for Agriculture informed the Assembly that in accordance with the Royal Command, the Government had issued directions to all the Government ministries, departments and agencies occupying Government land to get the land registered in the *Tharm*. However, most of these agencies have failed to register the land in the *Tharm*. Since it is the responsibility of the concerned agency and the Dzongkhags to process the registration of land, the Ministry of Agriculture have been reminding the concerned Agencies and the respective Dzongkhags to process the registration at the earliest to avoid future difficulties.

The Minister for Agriculture also informed the Assembly that the use of Government land or conversion and construction in *Sokshing*, *Tsamdro* and *Nyekhor Tsamdro* (community grazing land) was prohibited under the Land Act. In

obedience to His Majesty's command to strictly implement and enforce the Land Act, the Ministry of Agriculture had issued several circulars. For strict compliance and implementation of the Land Act, the Ministry for Home and Cultural Affairs constituted a committee comprising members from the department of forest and agriculture, the Dzongkhag and the GYT members. The Committee was entrusted with the responsibility to keep vigil on any illegal occupation and constructions in *Sokshing*, *Tsamdro*, government land and *Nyingkhor Tsamdro*. However, the committee so constituted had not been effective in carrying out its functions and people were not aware of the existence of such committees.

The committee was authorized to directly forward offenders to respective courts in accordance with Section KA – 6 (20) of the Land Act. In addition, when the Department of Survey and Land Records was processing the new *Tharm*, it was discovered that 894 households had illegally built houses on Government land prior to 1979.

Moreover, His Majesty the King, considering the welfare of the people had commanded the regularization as *Khimsa* in the *Tharm* for those houses built after 1979 up to 2003. As per the Land Act, orchard land cannot be used for house construction. However, based on the report submitted by the Ministry on the difficulties faced by the orchard owners, His Majesty granted approval to allow construction of a single storied house within a maximum area of 10 decimals of land in the orchard.

The National Assembly resolved that the concerned agencies and departments who have not registered the land which they occupy should complete their registration before the start of the Tenth Plan. Landless people deserving of *Kidu* would be looked into as per the Royal Command. Illegal constructions of house on *Sokshing*, *Tsamdro*, *Chuzing*, Orchard and

government land would be dealt with in accordance with the Land Act.

The deliberation on the need to expedite land registration and matters related to conversion of land concluded on 28th December, 2006.

3. Establishment of Land Commission

The people of Chang and Kawang under Thimphu municipality submitted that since the amendment of Land Act was under process, it was imperative to establish a Land Commission in order to solve all land related problems before the institution of parliamentary democracy.

During the deliberation, the members, including the Deputy Speaker and Royal Advisory Councilor reiterated the importance of the establishment of land commission before the institution of parliamentary democracy.

The members raised their concern that in the years ahead, with the increasing population there would be less land holdings and the land related issues would become more complicated. The members suggested that the present Department of Survey be made into an independent Land Commission that would be directly accountable to His Majesty the King on land issues.

The members also submitted that establishment of Land Commission was indispensable in order to streamline the procedures for transfer of *Thram* and for its smooth functioning. The members also submitted that during the amendment of the Land Act, earlier rules and procedures regarding land should be given due consideration but at the same time amendments should be made keeping in pace with the changing times.

The members also said that both the Courts and the City Corporation had the authority to transfer *Thram*. This dual system has only caused more inconvenience to the people. Therefore it was important that the Royal Government streamline the procedures and come out with a uniform procedure for transfer of *Thram*. The members also requested that a draft of the amended Land Act be distributed to the members in advance so that people would be aware if all the land related issues have been incorporated and taken into consideration.

The Minister for Agriculture recommended that all the issues related to land be discussed when the amended Land Act is tabled in the National Assembly before 2007. In order to ensure that proper land substitution was given to those whose land was acquired by the Government, His Majesty the King issued a *Kasho* formally constituting a five member *Satshab* Allotment Committee under the chairmanship of the Agriculture Minister and comprising of the Secretary, Ministry of Home and Cultural Affairs, Secretary of the Ministry of Works and Human Settlement, the Attorney General and the Surveyor General as members. Although the Committee had been doing all it could to solve the problems faced by the people, most people do not honour and accept the monetary compensation that the Government was offering. Instead, people ask for land substitution and in most of the cases people do not accept the land that is given to them as substitute. The Minister said that the Ministry was working and making every effort towards reducing such difficulties.

His Majesty the King said that He would continue to grant *Kidu* to those facing genuine difficulties and that people had nothing to worry about. His Majesty commanded that, as submitted by the Agriculture Minister, all the land related issues should be solved based on the revised Land Act before the introduction of parliamentary democracy in 2008.

The National Assembly resolved that the members should raise their doubts during the endorsement of the Land Act in the 87th Session of the National Assembly. The Assembly also resolved that the establishment of the Land Commission would be discussed during the adoption of the amended Land Act in the 87th session of the National Assembly.

The deliberation on establishment of Land Commission concluded on 28th December, 2006.

87th SESSION OF THE NATIONAL ASSEMBLY:

87-IV(8): With regard to the plots below the minimum required size owned by an individual which are not permissible for construction purposes, such individuals should be allowed to purchase the Government land adjacent to their land or the Government should acquire the adjacent private plot at the standing market rate through joint discussion between the Ministry of Works and Human Settlement and the *Thromde Tshogde*.

87-XII(8). THE LAND BILL OF THE KINGDOM OF BHUTAN, 2007

Preceding the deliberation on the Bill, the Agriculture Minister made a brief presentation on the aims, objectives, and the background of the Land Bill of the Kingdom of Bhutan, 2007. The Minister informed the House that after His Majesty the Fourth Druk Gyalpo commanded the amendment of the Land Act of 1979, the Ministry for Agriculture initiated the review and amendment of the Land Act of 1979 from 2004.

Although the existing Land Act of 1979 has served its purposes and people have been benefitted, the development of

the country and the changing socio economic scenario demands a different legal framework.

Some of the problems that have surfaced have been discussed in the past sessions of the National Assembly. In addition to informing the Assembly on the problems faced in the land administration, the Minister expressed his gratitude for all the comments, support and assistance received by him while drafting the Bill. The Minister also informed the House that the Bill had been reviewed by the Committee of Secretaries, the *Lhengye Zhungtshog*, Council of Ministers, the Judiciary and the Legislative Committee.

The Land Act of Bhutan, 2007 consist of 19 chapters and they are arranged in logical sequence. However, the processes of topographic surveying and mapping are outside the purview of the Act. With a request to the House from the Minister to allow the Legal Officer to make clarification on the Bill, if any, the House commenced its deliberations on the Bill enacted the Bill with the following amendments:

The House directed the Legislative Committee to review and amend Section 2 (Repeal and saving).

In section 4 (h) under Chapter II, “One representative from Thromde Tshogde” was amended as “One representative from **Gelyong** Thromde Tshogde”.

In section 4 under Chapter II, a new sub-clause (k) “**One representative from the National environment Commission**” was incorporated.

The House resolved to define the phrase “protected agricultural areas” in section 6 (g) under Chapter II.

The gender specific term “**his**” in Section 8 under Chapter II was deleted.

In section 8 (d) under Chapter II, “Decisions may be taken by majority of the quorum”, was amended as “**Decisions may be taken by majority of not less than two thirds of the total number of members present and voting**”.

The House resolved to incorporate a definition clause to define the phrase “**Chhazhag Sathram**” in Chapter III.

The Legislative Committee was directed to find an appropriate Dzongkha word to replace “Unique household number” in Section 17 (b) (2) under Chapter III.

In Section 17 (c) under Chapter III, the Legislative Committee was directed to insert a provision with regard to an individual holding as clause (d).

In Section 39 under Chapter III, the dzongkha word “**dab**” was replaced by “**Kel**”.

In Section 43 under Chapter III, the word “**his**” was deleted from both the texts.

The Dzongkha text of section 50 (a) under Chapter III was amended.

In section 50 (c) under Chapter III, “...in accordance to Sections 50 (a) and 50 (b) of this Act”, was amended as “...in accordance to Sections **50 (a) and (b)** of this Act”.

In Section 53 and 54 (a) under Chapter III, the word “his” was deleted from both the texts.

The House resolved to exclude industrial land from the land ceiling of 25 acres as provided in Section 64.

In Section 92 under Chapter VI, “A landowner without a house and having only inherited Chhuzing in his Thram may apply for one plot of 13 decimals in urban areas or 50 acres in rural area for residential land.....” was amended as **“A landowner without a house and having only inherited Chhuzing in his Thram may apply for 50 acres in rural area for residential land.....”**

During the deliberation on Section 118 under Chapter VI, the House resolved to exempt the Gerab Dratshang from payment of land tax if it was feasible. If it was not feasible, the House resolved that the Dratshang Lhensthog should be made to pay the land tax on behalf of the Gerab Dratshang.

In Section 148 under Chapter VII, the House resolved to retain the existing procedure in the 1979 Act for payment of compensation for land acquired.

In section 156 under Chapter VII, “The landowner shall have no choice over the location of substituted land provided by the Government” was amended as **“The landowner should be substituted with land equivalent to the value of the land acquired by the Government”**.

The clerical error in the Dzongkha text of Sections 165 and 168 was corrected. In Section 167, **“A landowner with only inherited Chhuzing in his Thram may apply for 13 decimals of residential land in urban areas and 50 decimals in the rural areas from such Chhuzing to the Local Authority”** was amended as, **“A landowner with only inherited Chhuzing in his Thram may apply for 50 decimals in the rural areas from such Chhuzing to the Local Authority.....”**

After an extensive deliberation on Section 239 under Chapter X, the House resolved that the Ministry of Agriculture, Department of Livestock and the landowners should discuss and initiate the livestock development programmes at the earliest in order to comply with the time limit stipulated in Section 239. However, if inconveniences continued to exist, the time limit of 5 years in Section 239 should be increased to 10 years.

With regard to the lease Tsamdrol to the Dratshang, the resolved that the issue should be discussed by the Council of Ministers and come up with appropriate measures.

Regarding the lease of Government land and Government Reserved Forests in Section 306, the Legislative Committee was directed to incorporate an appropriate time limit.

The Assembly resolved that the Land Commission should correct all the errors in the Tharm in the Geogs at the earliest. During the comprehensive discussion on the Bill, the doubts raised by the members were elucidated by the Agriculture Minister, members of the Legislative Committee and the Legal Officer of the Ministry of Agriculture.

The National Assembly enacted the Land Act on 27th June, 2007 corresponding to 12th Day of the 5th Month of the Fire Female Pig Year.

XIII. EXPRESSION OF APPRECIATION

3. Gratitude for the Royal Kasho on Land Use

The people of Thimphu Dzongkhag expressed their sincere gratitude to His Majesty the Fourth Druk Gyalpo for the Royal Kasho on land use. They submitted that the Kasho has enabled the utilization of 10 decimals of cash crop land as

residential plot. Excess lands during the cadastral survey were permitted to be registered under the respective Thram of the people and they were permitted to retain the parent Thram of the land as before. The people submitted that they were also allowed to retain Tseri land that has not been cultivated for more than 12 years as their private forest.

Annexure II: Final Draft National Land Policy of the Kingdom of Bhutan, 2010

National Land Commission
Royal Government of Bhutan
Thimphu, Bhutan

GLOSSARY

Alienable land: Land under State forest delineated and demarcated as disposal area for development purposes.

Land Acquisition: Taking over of a registered land by the Government for public purposes after providing compensation in accordance with this Act.

Chhazhag Sathram: The sole authoritative document that shall record and establish the legitimacy of title to land of a juristic person in the country maintained under the custody of National Land Commission.

Chhuzhing: Irrigated and/or bench terraced agricultural land for paddy based cropping systems.

Commercial agriculture: Crop and livestock production for sale by employing modern production management and techniques established by an entrepreneur under the terms and conditions certified by the Ministry of Agriculture.

Eminent domain: Power of the State to extinguish or acquire any title or other interest in land for a public purpose subject to payment of compensation.

FDI: Foreign Development Investment

Freehold land: A state of tenure that confers full right of use, management, transaction and control over the land.

Green belt: An area of greenery for environment

Highlanders: High altitude herders whose livelihoods are directly and traditionally dependent on *Tsamdro*

Juristic Person: Persons above the age of 18 years; family; the Institution of Monarchy; Government institutions; Gerab Dratshang; and civil society organizations, corporations and religious institutions of Bhutan

Kasho: An edict from His Majesty the King granting *Kidu* or rehabilitation land

Khimsa: Land for dwelling house

Kidu Land: Land granted by His Majesty the King through the *Kasho*

Land tenure: Defined relationship among people as individuals or groups and with Government on land ownership and use

Leasehold Land: State of tenure that confers only a right of use of land for defined period of time and purpose. It does not imply the ownership of land.

Nye: Sacred site of cultural, traditional or religious significance

Sokshing: A plot of the State land alienable for leaf litter production and collection

State forests: Any land and water body outside a *Thromde*, the ownership of which is not vested in any person and is under the custody of the State.

State land: Any land and water body that comprises of State forest or any land and water body within the territory of a *Thromde*, the ownership of which is not vested in any person and is under the custody of the Municipal Authority.

Tsamdro: State land alienable for grazing and improved pasture management

Vulnerable groups: Community groups that unable to provide an adequate livelihood for the household for reasons of disability, illness, age or some other characteristic and groups whose resource endowment is inadequate to provide sufficient income.

Zoning of land: Process of planning for land use by allocating land for different appropriate uses. It includes restrictions that enable appropriate use of the land for the defined purpose.

**THE NATIONAL LAND POLICY OF THE KINGDOM OF
BHUTAN, 2010**

1 PREAMBLE

The Royal Government and the People of Bhutan;

Cognizant of the fact that land is critical for supporting wholesome development including economic growth, poverty eradication, social integration, national identity and environmental sustainability and that it is an inter generational asset or *Phazhing*

Acknowledging that the rapid economic growth, increasing population, high rural urban migration, transition from subsistence agriculture to a modern economy, changing lifestyle and consumption patterns and institutionalization of the democratic form of government are significant changes the country has seen recently. As a result, the demand for scarce land resources including prime agriculture land in particular, has become more competitive for different form of uses and users.

Realizing that fragmented sector approaches to land and land use management by different ministries, agencies and other entities are no longer capable of fulfilling the demand for land and that fragmentation of agricultural land will undermine sustainable agriculture production.

Appreciating that appropriate governance, management and development of land are imperative for national food security, good ecosystem services, hydropower generation, human settlements, *Nye* and religious monuments, forest management, mines and minerals management, infrastructure, tourism, industries and supply of raw

materials for all economic sectors. It eventually influences and defines the general quality of life and achievement of Gross National Happiness.

Therefore, recognizing the need for an integrated, coherent and comprehensive framework for governance, management and development of limited land under the stewardship of the National Land Commission.

Hereby adopt the National Land Policy of the Kingdom of Bhutan, 2010, for sound governance, administration, sustainable use and development of land to guide all relevant sector policies, programmes and planning processes affecting the land resources in the country.

2 POLICY AND LEGAL CONTEXT

Economic Development Policy of the Kingdom of Bhutan, 2010, calls for a comprehensive land use policy with clear zoning for industrial, tourism, environment conservation, prime agriculture land for agricultural and horticultural use shall be developed by 2011. It identifies agro and forest based production, natural resources, as a priority area of growth. It facilitates availability of land for large scale commercial farming where sustainable and provides for long term land lease to businesses based on the type of activity as a general incentive. It allows businesses to register land in the name of the company and enables local investors/promoters to put land as equity component in case of FDI. The policy permits mineral based industries that bring about value addition, availability of raw materials, participation from broader sections of the society and equitable distribution of income from mineral resource exploitation.

Review of the Land Act of Bhutan, 2007

Water Policy, 2002, requires the maintenance of surface water sources to prevent water pollution, to reduce the risks of flood and landslide damage and that water resources development shall include programs and activities on source protection, groundwater abstraction, rainwater harvesting. It recognizes land-use planning at the natural river basin level to be crucial for water resources management to resolve water use interest conflicts.

National Forest Policy, 2010, calls for integrated landscape level approach to sustainable forest management and requires all Government Reserved Forest to be brought under management schemes focused on the sustainable supply of forest products or ecosystem services. While enabling conservation of a significant representation of the country's biodiversity, it emphasizes poverty reduction and promotion of forest-based industries through sound resource assessment, environment friendly value addition and waste minimization. The policy recognizes both science-based and cultural values for forest governance and management including integration of climate change, disaster management and payment of environment services.

The Constitution of the Kingdom of Bhutan calls for sustainable use and management of land and efficient land administration services in the context of the following provisions:

- The right of a Bhutanese citizen to own property but not the right to sell or transfer land or any immovable property to a person who is not a citizen of Bhutan.
- The right and ownership over mineral resources, rivers, lakes and forests belong to the State.
- Requirement to maintain a minimum of 60 percent of country's land area under forest cover for all times.

- Protecting the ownership of property except for public purpose by acquisition or requisition on payment of fair compensation in accordance with the provisions of the law.
- Requiring the Parliament to declare any part of the country to be a National Park, Wildlife Reserve, Nature Reserve, Protected Forest, Biosphere Reserve, Critical Watershed and such other categories meriting protection.

The Land Act of Bhutan, 2007, places various responsibilities relating to land administration on the National Land Commission. Although the Land Act provides for a central coordinating agency, the problem of lack of overall policy framework on coordinated use and management of land prevails. It also protects *Chhuzhing* for sustained production of food with the allowance of 50-decimal *Chhuzhing* as *Khimsa* if the landowner has no other land category. In view of the need to identify and protect *Chhuzhing*, the Land Act provides for zoning of land for different purposes. However, in absence of national land policy, fragmented and sectoral approach to use land continues and is likely to continue in future. It maintains the provision on upper limit on land holding of 25 acres.

The Forest and Nature Conservation Act of Bhutan, 1995, recognizes the traditional and cultural rights of local people to access and use forest resources and provides for private forestry to be practiced in privately registered lands and for community forests to be established on government forest lands including the protected areas.

Environment Assessment Act, 2000 and *National Environment Protection Act, 2007*, requires environmental clearance as a prerequisite for issuance of development consent and calls for conservation and protection of wetlands, alpine regions,

watersheds, and other vulnerable ecosystems in addition to the existing protected areas.

Mines and Minerals Management Act, 1995, stipulates that all rights of ownership of minerals found in private or government land are vested exclusively in the Government and provides a legal framework for regulating the mining industry. Mines shall be leased out to individuals or organizations based on Final Mine Feasibility Study that includes Mine Plan, an Environment Management Plan and a Mine Restoration Plan with due respect to efficient use of resources, protection of environment, worker and public health and safety.

The Electricity Act of Bhutan, 2007, accords authority to the Minister responsible for electricity to acquire land for the purpose of providing or maintaining electricity supply services to the public without causing jeopardy to public property and life. In exercising the right of way for work related to electricity projects, the licensee of the operation shall observe the environmental guideline or regulation in force and must do as little damage as possible and make full compensation to the owner of the land for any loss of income derived from such land or damage caused to the land in consequence of the exercise of the rights.

3 STRATEGIC DEVELOPMENT CONTEXT

There are already various development visions and strategies expressing an urgent need for a national policy framework to guide the country in coordinated and sustainable use of its land and land-based resources. The most important of these visions and strategies are highlighted below.

Firstly, **Bhutan 2020: A Vision for Peace, Prosperity and Happiness** adopts Gross National Happiness (GNH) as the central development concept based on its four pillars of Equitable and Sustainable Socio-Economic Development, Environmental Conservation, Preservation and Promotion of Culture and Good Governance and their linkages. The Vision provides strategic direction to development policy making, particularly in the areas of use and management of land and land-based resources.

Secondly, **Strategy for Gross National Happiness and Economic Development Policy** of the Kingdom of Bhutan, 2010, emphasize on the management of Bhutan's land resources as the most important precondition for sustainable economic development and poverty alleviation. Both call for a national spatial policy which will use zoning as the overall approach to land and space use in Bhutan on the premise that majority of the country's population live in rural areas and secured and increased access to land and natural resources for them is a key means of achieving food security and broadening their economic opportunities.

Thirdly, **Economic Development Policy of the Kingdom of Bhutan, 2010**, further expresses the need to allow leasing of land for large scale commercial farming and businesses. Leasing of land will require the use of land from government forest which is critical to maintain the fragile natural ecosystem and other services in the country. More importantly, at any cost leasing of land under government forest should not undermine 60% forest cover as required by the Constitution.

Fourthly, **Bhutan National Urbanization Strategy, 2008**, envisages urban development through regional growth centers and towns. The Strategy calls for a balanced approach to urban development in view of the demand for land also for

other national priorities. Such balanced approach can materialize only from zoning of land into different use categories based on physical land limitations and land capability.

Finally, as member of international community, Bhutan has a role in global environmental affairs and other related issues. Bhutan's international land related commitments already include membership, among others, to Convention on Biological Diversity, the United Nations Convention to Combat Desertification, the United Nations Framework Convention on Climate Change, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, UNESCO World Heritage Convention, the Millennium Development Goals and the SAARC Development Goals.

4 THE NATIONAL LAND POLICY OF THE KINGDOM OF BHUTAN, 2010

4.1 VISION

The National Land Policy of the Kingdom of Bhutan, 2010, will provide an overall and consistent guiding policy framework for sustainable use of limited land and landbased resources for fulfilling the long-term aspirations and needs of all Bhutanese people while conserving the natural environment.

4.2 SCOPE

The National Land Policy of the Kingdom of Bhutan, 2010, shall be the country's umbrella policy on land and land-based resources and will apply to all land categories.

4.3 GUIDING PRINCIPLES

The National Land Policy of the Kingdom of Bhutan, 2010, has been developed based on the following principles.

- Right of access to land enabling **Bhutanese** citizens to secure an adequate livelihood.
- Right to secured land tenure to **Bhutanese** citizens regardless of gender, religion, ethnicity or way of life and without being deprived of best practices of customary rights and by acquisition except for public purposes for which prompt and fair cash compensation and/or land substitution **shall** be provided.
- Governance, management and sustainable use of land in harmony with overall national goals, development priorities and strategies considering the need to maintain a minimum of 60 percent of land area under forest cover at all times.
- Zoning of land for different uses considering physical land limitations and capabilities.
- Application of good science and indigenous knowledge for efficient and optimum use of limited land resources
- People centered and people-friendly land management practices, decision making and information dissemination.

4.4 GOAL

The goal of the National Land Policy of the Kingdom of Bhutan, 2010, is to strive for sustainable use of land through efficient and effective land management and prudent land administration for socio-economic development and conservation of the natural environment in the country.

4.5 POLICY OBJECTIVES AND INSTRUMENTS

The objectives of the National Land Policy of the Kingdom of Bhutan, 2010, and policy instruments to achieve them are promulgated below.

Objective 1: To coordinate and harmonize the use of land by different users.

1. The National Land Policy of the Kingdom of Bhutan, 2010, shall be the apex policy framework for all matters related to land in the country and it shall require alignment of all existing land related policies and management under various user groups along the policy directives contained in it. The Government may alter any part or review the National Land Policy of the Kingdom of Bhutan, 2010, as a consequence of changing environmental and development needs of the country.
2. The National Land Commission shall be the apex body to coordinate the implementation of the National Land Policy of the Kingdom of Bhutan, 2010, with concerned stakeholders and its branches carrying out delegated functions in all local governments.
3. The National Land Commission shall be the central depository for *Chhazhag Sathram* wherein ownership and mortgages of freehold land shall be registered and for maintenance of record of State alienable land on lease.
4. The National Land Commission shall be the apex body to administer and approve all land transactions and issuance of land title certificate.
5. The National Land Commission shall be the national agency responsible for geodetic, geophysical, levelling, control surveys at different orders and precision and topographical base mapping at appropriate scales.
6. The National Land Commission shall be the national agency to coordinate the development of spatial data infrastructure by different user agencies in the country.

Objective 2: To provide access to land for **Bhutanese** citizens and juristic persons

7. Allotment of freehold land shall be the prerogative of His Majesty the King.
8. Except for members of the Royal Family, there shall be ceiling on freehold land.
9. The Government shall facilitate access to land through
 - Identification of State forest land as alienable land for leasing and allotment;
 - Easy and transparent processes for transfer of ownership of private land;
 - Adoption of prompt and transparent procedures to lease alienable land; and
 - A well-functioning and easily accessible land information system.
10. **Royal Kasho** lands shall be dealt as per the contents of the **Royal Kasho**.
11. The Government shall allow access to State forests land where leasing of such land would contribute to socio-economic development, conservation or other strategic purposes of national, regional or local development priorities without undermining national security and sovereignty.
12. The Government shall allow highlanders who are mainly dependent on livestock farming to inherit leasehold rights on *Tsamdro* and to engage in traditional land management practices with appropriate interventions and technical support from the Government to improve land productivity.
13. Farmers who practice and depend mainly on agriculture shall be allowed to lease *Sokshing* from State forests.

Objective 3: To provide secured land tenure and rights to title holders.

14. There shall be freehold and leasehold land tenure in the country.
15. State Land and state forest land shall be made available only on leasehold basis except in the case of:
 - Satshab
 - Royal Kasho
 - Rehabilitation (Both Freehold & Leasehold)
 - Or any other instances as may be permitted by law.
16. Leasehold land shall be State property on lease from State forests or state land to Bhutanese citizens or any juristic person of the country including agencies and corporations for specified purpose and time. 100% FDI companies shall have access to land only on lease hold basis.
17. Freehold land shall be registered in *Chhazhag Sathram* regardless of gender, religion, ethnicity or profession of the title holder.
18. Leased land shall not be registered in *Chhazhag Sathram*; a lease deed between the Government and the leaseholder shall be maintained to provide sanctity of ownership of use to the leaseholder.
19. Freehold landowners shall have the right for all actions on registered land subject to land use obligations imposed as per national priorities and other laws.
20. The use and management of leased land by the leaseholder shall be governed by the terms of lease.
21. The ownership of the subsurface mineral deposits on freehold land shall belong to the State.
22. If **non strategic minerals** are found in private land and the government intends to give the

- mining/extraction right to private parties, then the first offer for the extraction right shall be given to the land owner.
23. Freehold land belonging to recognized religious institutions in the name of any individual shall be registered in the name of institutions.
 24. Freehold land registered in the name of recognized religious institutions shall not be allowed to be alienated in favour of any private party. In the event of abolishment of such religious institutions, such land shall be State land.
 25. Boundaries of land parcels shall be **demarcated clearly** and accurate cadastral surveys conducted to record and ensure the sanctity of the ownership of the land and associated rights.
 26. Right of Way through State forest land or freehold land for public and community utilities & services shall be permitted through legal provisions.
 27. Mechanisms to create and maintain easements for enabling individual landowners to deliver utility services provide right of way, and other customary rights through property owned by another persons should be addressed by law.
 28. The Government shall exercise the right of eminent domain to acquire or expropriate freehold land for public purposes when the reason for such acquisition is vital. In such cases, **fair** cash compensation or land substitution or both shall be provided.
 29. Development cost of the land under acquisition and transitional and resettlement costs if the household has to be relocated as a consequence of acquisition shall be paid to the landowner as per the rules approved by the Government.

30. Land occupied by *Nye* and religious monuments recognized by the state shall not be used for other purposes through acquisition or expropriation.

Objective 4: To generate land revenue and control land speculation

31. The Government shall levy progressive tax on freehold land proportionate to landholding and by differentiating rural and urban land to control excessive land holding.
32. The Government shall impose capital gains tax from commercial land transaction based on market value developed and maintained by the National Land Commission. Conveyance through inheritance shall be exempted.
33. Rent on Government leased land shall be fixed by the Government.
34. Thromde authorities may levy service fees, development charges, non-development fees on land within their jurisdiction as per approved legislation.

Objective 5: Broad zoning based on land use capability to fulfil land needs for different purposes.

35. The Government shall delineate land into different zones capable of supporting different development activities and conservation purposes, considering environmental and development needs of the country. Zoning of land shall specify prime agricultural land, *Chhuzhing* in particular for food production, urban and human settlement areas, industrial areas including areas for hydropower development, rural infrastructure areas and State forests.

36. While upholding the constitutional requirement of maintaining a minimum of 60 percent of forest cover, the Government shall not also delineate forest areas that do not provide biodiversity values nor have any implications on local ecosystem, as alienable areas to use for development purposes.
37. The Government shall conduct periodic review of all land under declared zones to:
 - Enable informed and timely decision-making on land management and utilization.
 - Monitor the maintenance of a minimum of 60 percent forest cover.
 - Provide information on the status of State forests and alienable land.

Objective 6: To enhance **equitable**, sustainable and efficient use of land resources.

38. The concerned ministries and agencies shall use and manage the declared zones for specific purposes in rural and urban Bhutan. This shall happen on the basis of explicit mandates and legal provisions.
39. The Government shall endeavour to increase and sustain production from land by adopting technologies and land management practices that are economically, environmentally and socially acceptable.
40. The Government shall provide incentives to landowners whose optimal use of land has been compromised for public purposes, such as conservation, national security, cultural heritage and for food and nutrition security.
41. The Government shall allow a specified acreage of *Chhuzhing* to be converted to *Khimsa* for those landowners who own only *Chhuzhing*. Should these *Chhuzhing* fall under declared prime agricultural zone, the alternative to provide *Khimsa* from proximate

alienable state land shall be considered as a strategy to save *Chhuzhing*.

42. The Government shall adopt land pooling, except in those cases where it is technically not feasible, as a mechanism to implement local development plans and to provide adequate infrastructure and service facilities.
43. The Government shall promote swapping of unproductive marginal agricultural land with alienable state land to offer better livelihood options to the landowners and improve access to service delivery, while contributing to the conservation of environment. The vacated land shall be State land.
44. In order to ensure that land holdings are economically and environmentally sustainable, a periodic review of land use practices with the objective of reorganization of rural settlements and land consolidation should be conducted under the coordination of the National Land Commission.
45. Flat areas and lowlands that are prone or affected by flood must be protected or reclaimed through flood mitigation and protection or reclamation measures for use for productive purposes.
46. The Government shall implement a national strategy to ensure that declared prime agricultural areas are not left fallow and are used optimally for food production.

Objective 7: To ensure protection and conservation of ecology

47. "Green belt" concept shall be applied to area based development plans to establish and maintain green areas to maintain local ecology and to enhance local landscape.
48. A minimum buffer of land along banks of major rivers, streams and lakes should be maintained to protect water bodies from pollution and other associated

risks. Residential and infrastructure development shall not be allowed in the buffer zone.

49. The Government shall limit anthropogenic activities on watersheds and catchment areas to protect all sources of streams, creeks and rivers that provide water for drinking, irrigation and hydropower generation.
50. The Government shall allow underground construction schemes that ensure public safety with minimal environment impact and contribute sustainability to socio-economic development.

Annexure III: Summary Record of Stakeholder Consultation Meetings on Review of the Land Act of Bhutan, 2007

1. Consultation meeting with officials of Ministry of Works and Human Settlement and ThimphuThromde Office held on 15 august 2011 at 09:30 hrs at the MoWHS conference hall

The following officials were present:

1. Rinchen Dorji, Director, DUDES
2. Meghraj Adhikari, Specialist, DUDES
3. Thukten Choda, Urban Planner, DUDES
4. Tshewang Penjor, Sr. Legal Officer
5. Kezang Jigme, Planning Officer, PPD
6. Leki Dorji, Legal Assistant
7. Peka Rabgay, Sr. Land Registrar, Thimphu Thromde
8. Ugyen Dorji Tshenden, Legal Officer, Thimphu Thromde
9. Sailesh Humagai, Urban Planner, Thimphu Thromde
10. Sonam Jatsho, Urban Planner, ThimphuThromde
11. MB Mongar, Chief Engineer, Department of Roads

Issues discussed:

1. Land Policy: The draft policy did not address the concerns of MoWHS. So, MoWHS had prepared its own comments, a copy of which was made available to NLCS as well;
2. Land record and land administration: The present centralized system had posed tremendous difficulties jeopardizing the urban development plans. So, it should be decentralized in keeping with Section 1, Article 22 of the Constitution of Bhutan. For example,

LAPS of Gelephu and Samtse which were prepared in consultation with the land owners and endorsed by them were waiting for approval by NLC for a long time besides compromising its integrity when ad hoc changes were made by the NLC;

3. Inconsistencies between 2007 Land Act and Local Government Act 2009: The problem arose with the nullification of the Thromde Act, 2007, during the revision of the Local Govt. Act, 2007, and the concerns of MoWHS were addressed through Local Government Act of 2009 but NLC did not give credence to LGA 2009 but stuck to the provisions of the Land Act thereby creating problems for addressing urban planning and land management issues;
4. Declaration of Thromdes: As NLC did not have the capacity as well as technical expertise, urban development ministry should be responsible for vetting such proposals before approval by the Govt./Parliament;
5. Land lease duration: Should be increased beyond 30 years in keeping with changing times and socio-economic scenario;
6. Land pooling: Land pooling was not practical in already fully built-up areas. It can be applied in places where built-up area is less than 25 per cent. So, Section 111 should be amended and rephrased, for which a draft will be made available;
7. Registration of apartments: Provision should be incorporated for which suggested formulation will be made available;
8. Settlement of land disputes: Some further clarity to Section 56 and 57 needed to be provided as at present it was too broad and had caused confusion and difficulties to land owners;
9. NLC: It was informed that the NLC had recently approved allotment of excess land to land owners of

Langjophakha where in 2005 during the preparation of the LAP, the land which the owners claimed as excess was treated as Govt. land for land pooling based on the National Assembly resolution and earmarked for infrastructure such roads, footpaths, etc. After numerous consultations with the land owners and many years of waiting for the urban development plan for the area, the LAP was endorsed for implementation under the World Bank Project. Now with the allotment of excess land earmarked for infrastructure building after pooling by NLC, the integrity of the LAP had been compromised and could not be implemented any more. As a result, the residents may have to do without roads and other essential services. The World Bank project also may not be able to provide support to this area any more in view of the pre-conditions which now stood withdrawn. It was further informed that similar was the situation in case of Gelephu and Samtse.

10. Urban Planning Act: If the Urban Planning Act, a draft of which was prepared in 2007, had been enacted, the present difficulties vis-à-vis NLC would have been overcome. But in the absence or till this Act is in place, the difficulties faced by MoWHS and Thromdes needed to be addressed through the current revision of the Land Act;
11. Traditional footpaths: A clear provision to protect the traditional footpaths in the villages in line with Tsalam-Chhulam principle needed to be incorporated in the Act;

2. Consultation meeting with officials of National Environment Commission (NEC) held on 15 August 2011 at 14:00 hrs at the NEC

Present:

1. Dr. Ugyen Tshewang, NEC Secretary
2. Ms. Kunzang, Legal Officer

1. Land substitution: Strict and clear rules necessary as it is being misused by land owners;
2. Protection of watershed and catchment areas: a strong provision was required;
3. Land compensation: compensation rates must be fair and realistic;
4. Environment clearance: Should be made pre-requisite for land lease of any kind;
5. Water: Less water demanding technology should be promoted by MoAF;
6. Easements: Provisions regarding water channel had been reflected in the Water Act, 2011; and
7. River protection: Strict legal provisions enquired.

Enquired about draft land policy and its present status;

Enquired about the public complaint about Thrams being issued only in Thimphu and lengthy procedures involved;

Enquired about NLC not being able to meet regularly due to quorum problem, and as a result land cases getting delayed.

3. Consultation meeting with BCCI Secretary General held on 17 August 2011 at 09:30 hrs at the BCCI office

Present:

PhubTshering, Secretary General

It was decided to have another meeting on 25 August 2011 when representatives from various business associations will be present to articulate their individual concerns and views.

4. Consultation meeting with Chairperson and Members of Natural Resources & Environment committee of National Council of Bhutan held on 17 August 2011 at 14:30 hrs at the Royal Banquet Hall

Present:

1. Hon'ble Ugyen Tshering, Chairman of Natural Resources and Environment Committee
2. Hon'ble Tshering Dorji
3. Hon'ble Sonam Dorji
4. Hon'ble KuenlayTshering
5. Hon'ble SonamYangchen
6. Hon'ble SangayKhandu
7. Hon'ble Karma DonnenWangdi
8. Hon'ble SangayZam
9. Hon'ble Naichu
10. Hon'ble Dr. Jagar Dorji
11. Hon'ble TashiWangmo

Issues put forth:

1. Land conversion: Where there was not enough water for irrigation, if the government could come up with crops and technology which did not need water;
2. Sokshing: If status quo could be maintained as it was customarily inherited along with land parcel, and in line with the policy of organic farming;
3. Tsamdros: Communal/local conflicts needed to be addressed during implementation of the law;
4. Sokshing: Should be kept as private or community forest depending upon the ground situation;
5. Tsamdros; Cattle migration should be allowed to continue because those who owned Tsamdros in other Dzongkhags felt a sense of ownership and was also of sentimental value, and Tsamdros provisions contained in the 2007 Land Act should be implemented for equity reasons;

6. Sokshing: *Jana Jashing* in Haa maintained as community forest, Sokshing could be maintained in the same manner;
7. Public education of the new Land Act was necessary to remove apprehensions and misunderstanding;
8. As requested by NLC, the 2007 Land Act should not be revised before their completion of the cadastral survey of land throughout the country;
9. Land transaction: Land transaction restriction of 10 years on Kidu land needed to be reviewed or lifted;
10. Easement: In urban areas, issues such as shades from other taller buildings, electric lines, etc. which may create problems in the future needed to be kept in mind;
11. Land exchange: Rules needed to be revised so that it was more liberal. For example, land substitute in the same Gewog principle, or land located in the middle of the forest and not cultivated due to wildlife problem not being eligible for exchange at present did not seem justified;
12. Land dispute (Section 56): Besides the lengthy procedure, a clear rule should be incorporated saying that once a transaction had been completed with full payment made, the Thram transfer should be completed within one year;
13. Lamdro: Protection of interests of nearby farmers whose crops get damaged by migrating herds needs to be reflected in the Land Act;
14. Land compensation: PAVA rate not being applied uniformly;
15. Agriculture land protection: Because of restriction on conversion of Chhuzhing, value of Chhuzhing was less than dryland. But dry land also needed to be protected as food diversification was necessary;
16. Chhuzhing protection: Not fair to people who were in the vicinity of urban areas;

17. NLC: Govt. was not at all fair when it came to giving land substitution or compensation as well as its dealing with the issue of excess land; too much of centralization of authority with NLC;
18. Thimphu Green Area: Govt. decision was not at all fair;
19. Land compensation: Govt. had not paid land compensation for the private land falling under road construction to Gasa which needed to be looked into;
20. Protected areas: Roads as well as shops should be allowed on the roadsides within park areas for the benefit of the inhabitants living in the park areas.

5. Consultation meeting with officials of Ministry of Economic Affairs held on 18 august 2011 at 10:00 hrs at the MoEA conference hall

Present:

1. Sonam Yangley, DG, Department of Geology and Mines
2. Dophu Tshering, JD, Department of Industries
3. KB Biswa, IIOD, DOT
4. Tempa Tshering, Intellectual Property Division
5. Karma Yeshey, CRD
6. Hari Prasad Sharma, DoE
7. Sherab Zangmo, DCSI
8. Tashi Penjor, Legal Officer, PPD

Issues discussed:

1. Apprised about the possibility of some of the provisions of the Electricity Act being inconsistent with the provisions of the Constitution of Bhutan;
2. Land substitution: Needed to be made more specific;
3. PAVA rates: Needed to be revised more frequently,
4. Survey of land: Present system needed to be changed either through the Act or the Rules thereof;
5. Lease of GRFL: Small businesses should also be eligible for such leases;
6. Lease of land for petroleum dealers: At present, private individuals or businesses approached the Dzongkhag concerned for recommendation for lease and based on it the NLC approved the lease. It was then sent to the MOEA for final execution of the lease agreement;
7. Power transmission towers and lines falling on private land: Since the some of the provisions in the Electricity Act may be inconsistent with the Constitution of Bhutan and the Land Act, proactive measures required to be taken by MOEA so that government projects were not stalled in future;

8. Strategic Environment Assessment: As the central authority responsible for spatial planning, this responsibility should be given to NLC;
9. Transfer of ownership of land (Sections 80, 127, 159, 178, 179 and 182): Time frame within which transfer should be completed should be mentioned in the Act;
10. Land acquisition for power and mining projects: Private individuals or companies approached the MOEA to acquire private land for the above or even for building access roads. This needed to be addressed and responsibility clearly spelt out in the Act.

6. Consultation meeting with Secretary of Ministry of Agriculture & Forests held 25 August at 10:00 hrs at the MoAF Secretariat office

1. The Secretary was informed that the reason for seeking a meeting with him was 3-fold which were: in view of his being a member of the NLC, to get an insight into the Thai system of land allotment from him as he had mentioned about it briefly recently and to discuss new instructions given by the Sanam Lyonpo yesterday during the a reception at the Riverview hotel;
2. Land policy: On inquiry why the draft policy prepared by a multi-sector task force was superseded by a new draft prepared by a local consultant which seemed to be lacking in depth and which was found not acceptable to MOWHS, the Secretary said it was already approved by the GNH Commission and was probably approved by the Cabinet as well;
3. Concerns of MoWHS with regard to the present Land Act and need to address their concern was conveyed;
4. Membership of NLC: He agreed that the commission could not meet regularly due to lack of quorum which hampered their effective functioning. He suggested that a solution could be to have a fewer full-time members who could also look after different departments like the current RCSC;
5. Restriction on transaction of rehabilitation land: Thai system of leasing it instead of ownership could be considered;
6. Chhuzhing protection: Land consolidation and development with government investment could be mentioned;
7. Land fragmentation: Serious concern of MOAF, and hence new ideas and initiatives being considered and put into place;

8. Village expansion and rural spatial planning:
Dedicated areas to be identified for location of service facilities, house construction, etc.

7. Consultation meeting with officials of Bhutan Chamber of Commerce and Industry (BCCI) and business/private sector associations held on 25 August at 11:00 hrs at the conference hall of Department of Forest and Park Services

Present:

1. Phub Tshering, Secretary General, BCCI
2. Chen Chen Dorji, Vice President, BCCI
3. Thinley Palden Dorji, Vice President, BCCI
4. Yeshey Chen Chen Lham, CRO, BCCI
5. Kesang Wangdi, Secretary, PSDC Secretariat, BCCI
6. Dasho Tobgay Sonam Dorji, VP, Hotel Association of Bhutan
7. Sonam Dorji, General Secretary, ABTO
8. Tek Bahadur Khatiwara, ABTO
9. Aum Dago Bida, Etho Metho Travel Services
10. Aum Phub Zam, Yarkay Group
11. Dasho Bap Kinga, Bhutan Engineering Power Company Pvt. Ltd.
12. Dasho Tenzin Yonten, Director, Royal Thimphu College
13. Tsenchok Thinley, Tour operator
14. Dasho Chang Ugyen, former RAC
15. Dasho Nob Tshering, former RAC
16. Jattu Dukpa
17. Singye Dorji, ED, Lhaki Group

1. Section 4: It was suggested that the private sector representatives should be increased to 4 members from 2 on the NLC at present and accordingly government representatives should be brought down to 7. Dasho Chang Ugyen said that Govt. Secretaries being on the commission had negative implication

since the concerned sectors exercised almost veto power when it came to their sectoral proposals. He felt Gyalpoi Zimpon should also not be on the commission for obvious reasons. A smaller commission with full-time membership but with fixed term of about 5 years was what was finally endorsed;

2. Section 8(c): Quorum for the meeting could be brought down to simple majority;
3. Section 18: Land category for service industries such as hotels not included;
4. Section 43: For mistakes in the Thram, accountability should be fixed;
5. Section 68(f): Should not be confined to corporations only but should be extended to include private enterprises, commercial agriculture, real estate development, etc. Draft formulation provided;
6. Section 85: Local guardian should be identified by a court of law. Draft formulation provided;
7. Section 92: Conversion for house construction should be allowed if it is for use as farm house;
8. Section 130: Some reservation on under-utilization penalty;
9. Section 148: Needs to be made clearer;
10. Section 156: Further clarity required;
11. Section 167: Needs to be made clearer;
12. Section 182 and 183: Needs to be reviewed to include auction clause or proper court procedure;
13. Section 271: Protection of the interest of the land owner needs to be incorporated. Suggested formulation requested;
14. Section 294: Further clarity required as it may be inconsistent with provisions of the Road Act;
15. Land ceiling: Reservation expressed on the ground that disparity cannot be bridged through land. The concept of land ceiling was outdated, equity concern could be addressed through other measures. What

was the purpose of land ceiling other than limiting the scope of development?

16. Minimum land ceiling: No support;
17. Problem with Thromde land as MoWHS and Thromdes had no authority on land any more;
18. Registration of apartments: Clear provisions should be incorporated.

8. Consultation meeting with Secretary, Ministry of Home and Cultural Affairs and current Chairman of National Land Commission held on 26 august 2011 at 10:00 hrs at Tashichhodzong

1. National Land Commission: Should be reconstituted with full-time members for fair and transparent decision as well as land cases needed to be understood thoroughly, to be able to see it through before giving one's opinion and taking decision which may have ramifications if not done properly;
2. Sathep/excess land: It was the Royal Prerogative of His Majesty the King;
3. Process: Everyone should be given an opportunity of proper hearing unlike at present even if the decision may not be in their favour;
4. Land fragmentation: Shared the concern of MOAF;
5. Land ceiling: Required to bridge the gap between the rich and the poor;
6. Thram issue: Thrams should be available through one-stop shops in the Gewogs in keeping with present policy of taking services to the doorstep. A time-frame should also be set;
7. Tsamdro: Should be enforced as per 2007 Act;
8. Land exchange: Very subjective at present, fair decision difficult, being misused. So, needed very clear procedure if not done away with;
9. Land compensation: For highways and farm roads, land compensation should be paid so that the poor were not deprived of fair compensation for whom the loss of their land could be substantial;
10. Land administration: Everything was centralized at present, needed to be decentralized but with a check and balance mechanism for fair and transparent decisions;

11. Chhuzhing protection: One house in every Dzongkhag should be allowed;
12. Land substitute for Kidu land: Should be the prerogative of His Majesty the King;
13. Rehabilitation land: The present arrangement should be continued.

9. Consultation meeting with Chairperson of Natural Resources, Land and Urban Development Committee and Chairperson of Legislative Committee of the National Assembly of Bhutan held on 26 August at 11:30 hrs at the MoAF office

Hon'ble Ugyen Tenzin, Chairman of Natural Resources, Land and Urban Development Committee

1. Land ceiling: He felt this should be maintained;
2. Wider consultation: He suggested that wider consultation at the Dzongkhag level should be done;
3. Tsamdro: He fully endorsed what was recommended last year as even in Haa migratory herding was on the decline;
4. Sokshing: A thorough study was necessary.

Hon'ble Ugyen Wangdi, Chairman of the Legislative Committee

1. Comments from his committee will be conveyed later;
2. We may have to go for revision of the Act rather than amendment for ease of deliberation and approval;
3. NLC: 3-5 full-time member commission may be more effective and efficient;
4. There was time frame for individuals or land owners but none for government agencies involved in decision making and delivery of services. Time frame for agencies a must;
5. Land ceiling: For individual land owners, the ceiling could be brought down from 25 but the same can be maintained for joint ownership. For commercial and industrial purpose, it may have to be treated differently;
6. Land transaction: Besides the cooling period, a time frame required for every process. For certain issues, the process was repeated at the LG level and again at

the NLCS level unnecessarily, particularly in dealing with Thromde land. To avoid this, authorization at the LG level was important and must be incorporated into the Act;

7. Tsamdros: Clear procedure how it was going to be dealt with at the LG level was required;
8. Sokshing: Status quo should be maintained with a ceiling if necessary and appropriate fee;
9. Minimum land acreage: For farming families, a minimum viable area for subsistence should be decided and fixed in keeping with the government policy of poverty alleviation;
10. Dispute settlement: Needs to be made clear as it was ambiguous at present and courts did not accept cases if not gone through NLC, and at the NLC level the process was lengthy, cumbersome and not people friendly. Cases which needed to be decided by NLC and those by a court of law needs to be clarified, and a clear mechanism put in place. Committees at the local level may be considered;
11. Share cropping: Needs to be incorporated as the 1979 Act had this provision;
12. Land fragmentation: Should individual Thrams be allowed? This needs in-depth deliberation and thinking as no ready made solution seems to be in place;
13. Chhuzhing protection: People now prefer dry land to Chhuzhing, Kamzhingfetch higher price in the market because of the restriction on conversion of Chhuzhing. It was also not economically attractive and viable as dry land on which one can grow any commercial crop. Appreciated and support the government policy on Chhuzhing protection due to various reasons such as food self sufficiency policy, cultural reasons. So, the government has to subsidize paddy cultivation and put in place other incentive and support measures.

Exchange of GRFL for Chhuzhing should be considered;

14. Minimum land ceiling: Should be 13 dec. uniform across rural and urban areas;
15. Rehabilitation land: Land Kidu is His Majesty's prerogative, so 10-year moratorium may not be necessary as once a plot of land is given to an individual he/she should have absolute right over it;
16. Land categories: Chhoezhing owned by Goendeys and Rabdeys should be allowed to be sold but to the share croppers only.

10. Consultation Meeting with Secretary and Officials of National Land Commission Secretariat held on 30 August 2011 from 14:00 to 17:00 hrs at the NLCS Office

Present:

1. NLC Secretary: (a) Because of clash of interests of the two major sectors, namely, MOAF and MOWHS, NLC is faced with difficulties in the discharge of its functions. (b) While supporting the exercise in view of the shortcomings of the 2007 Land Act as well as in keeping with changing socio-economic scenario, timing of the amendment should be such that it is not hurried through which may require amendment again, and enforcement of the new Act should be only done after completion of the on-going NCRP;
2. National Land Policy: The Land Act must be amended based on the NLP which is under finalization with the Govt. When the reservation expressed by MOWHS was raised, it was informed that MOWHS Secretary was a member of NLC as well as GNH Commission;
3. Composition and membership of NLC: 5 full-time members was proposed;
4. Effective monitoring of encroachment/illegal occupation of government land: A separate and dedicated agency required with offices at the Dzongkhag level. When it was pointed out that the LGs should be made responsible, it was pointed out that they had been irresponsible in the past;
5. Dispute resolution: (a) Clear delineation between NLC and courts required. (b) Establishment of a Tribunal was suggested for this as was the case elsewhere. Again the LGs were irresponsible in the past, and continued to be so at present. It was pointed out that if a full-time NLC was established, the role and function of the tribunal could be assumed by the NLC.

- (c) Provision should be incorporated to challenge court verdicts which were not in keeping with the provisions of the law in force. One example was, not honouring the minimum plot requirement of 10 decimals. (d) Protection from false allegations and defamation required. (e) Authority to summon the disputants to be included;
6. Lease of GRFL: (a) Lease should be extendable up to a maximum period of 99 years. (b) Strict terms and conditions should be included such as should land use change take place, it will revert to the government, etc. (c) the new FDI element should be included;
 7. Land exchange with GRFL: Conditions should be included such as only Phasa-Busa being made eligible for exchange, and land must be under active cultivation during the occurrence of natural calamities to be eligible for exchange;
 8. Conversion of Chhuzhing to Khimsa: (a) Strengthen the present provisions which were weak in keeping with MOAF's food policy. It was pointed out that this was a priority area of amendment as far as MOAF was concerned, and shared their proposal of reducing the size to 13-15 decimals, allotment from GRFL in the vicinity, rural spatial planning for the purpose;
 9. Issue of Lagthrams: Centralized issue will continue till NCRP is completed after which it can be decentralized to LG level;
 10. Section 16: Mention of Sathram copies being maintained at Dzongkhag, Drungkhag and Gewog level;
 11. Section 17: Remove map sheet number from the Act;
 12. Section 32: Specific to NCRP, needs to be made more general;
 13. Section 38: ChhagzhagThram along with maps in the archive;

14. Section 118: Land tax payment on line will be encouraged particularly by absentee land owners;
15. Section 128: Penalty for encroachment on other's land to be incorporated as in the 1979 Act;
16. Section 132: 10 decimal to be replaced with 13 decimal. Plot consolidation of undersized plots if situated adjacent to each other by facilitating transaction;
17. Section 142: If land owners refused to submit to government acquisition, legal tool to take over land was required;
18. Section 143: Needs to be made more specific as it was ambiguous at present;
19. Section 167: Land owners with insufficient Kamzhing, say less than 13 dec. or if the Kamzhing is located far away, should be allowed conversion of Chhuzhing to the extent it is not sufficient. It was informed that MOAF had proposed to bring it down to 13-15 decimals. It was further informed that during the recent consultation process, it had been brought to the notice that NLC/MOAF had arbitrarily been approving 20 decimals instead of 50 allowed by LA 2007, to which NLCS justified by saying "up to 50 decimals" was allowed in the Act. It was also informed that cases for conversion were submitted through MOAF as well as LGs;
20. Section 185: Land lease: authority needed to be defined, at present NLC was exercising the authority as per HM's command conveyed by GyalpoiZimpon to NLC;
21. Section 190: Rehabilitation-contradicts with existing practice?
22. Section 268: Footpaths, power tiller, farm and feeder roads needed to be mentioned;
23. Mistake in ownership type: (a) In the absence of Contract law, land contract agreement signed between

- 2 parties should be submitted for conveyance record within 360 days or land handed over to the buyer within 360 days. (b) Besides the NLCS staff, the seller should also be liable, and made to pay liquidity damage to the buyer. (c) Legal liability of surveyors should also be included. (d) A transfer fee should be charged;
24. Old cases: Some which were under process during the time of the Old Act needed to be dealt as per old Act, and courts also passed judgment based on the laws prevailing at the time of filing the case. This needed to be made clear. 1979 Act had provision on this;
 25. Satshab for farm roads: Should be included?
 26. Disputants not turning up for survey on the appointed day: DSA for community leaders should be paid by the disputants;
 27. Land of private and community religious institutions: Should get clearance from Religious Organization authority;
 28. Kidu and Kasho land: (a) Registration should be done within 360 days of issue of Kasho. (b) 10- year time frame should be calculated from the date of registration. (c) 10-year moratorium to be applied to 2 acres out of 5 acres of land;
 29. Dzongkhag and Gewog boundary: LGs following the EC's delimitation decision although, Dzongkhag and Gewog boundaries can be altered with the approval of Parliament only. NLC should be formally informed in the change of boundaries;
 30. Sokshing: Mostly owned by well off, absentee and large land holders, actual occupation on the ground much more than what was recorded in the Thram; hence 2007 Act provisions should be enforced. Requested for Dzongkhag and Geogwise data similar to Tsamdro for analysis;

31. Land belonging to companies: On winding up or liquidation, clear disposal clause required;
32. Thram transfer: (a) If someone tried to withdraw the land conveyance proposal after crossing the 90-day cooling period, a penalty clause required. (b) Nyogzin or objection should be submitted with proper justification within 30 days.

11. Consultation Meeting with Secretary and Officials of National Land Commission Secretariat held on 31 August 2011 from 9:30 to 13:00 hrs at the NLCS Office

1. Excess/deficit land issues in the urban areas: Legal provision required to address the issue. It was pointed out that firstly, there were NA decisions on this, secondly, all such issues were supposed to have been addressed by MOH/DOS before handing over to MOWHS/Thromdes, and thirdly, it was the stand of Department of Survey and Land Records that once an area was included within the urban boundary, they were not eligible for excess land;
2. Land pooling: For land pooling, clear principles for pooling and re-allotment criteria were necessary as it was alleged not to be done transparently;
3. Urban planning: Before any urban plan is prepared, Thram records should be updated;
4. Undersized plots: 87th NA decision allowed purchase of adjacent government land for consolidation;
5. Standardized size of plots to be decided for each LAP;
6. Executive Order issued by the Govt. not to implement the provisions of LA 2007 on Tsamdro and Sokshing were inconsistent with Article 20, Section 8, of the Constitution of Bhutan which states, “The Executive shall not issue any executive order, circular, rule or notification which is inconsistent with or shall have the effect of modifying, varying or superseding any provision of a law made by Parliament or a law in force”.
7. Urban land boundary: Needed to mention “hierarchy of boundary evidence” with details being mentioned in the Rules;
8. Encroachment on government land such as illegal constructions carried out on undersized plots: Strict penalty clause needed to be mentioned;

9. Peri-urban land: Separate taxation policy to be incorporated;
10. Alternate dispute resolution mechanism proposed, for which appropriate formulation was requested;
11. Land taxes should be collected based on the Thram issued by NLCs as cases had been detected where taxes had been collected by LGs on land without Thrans;
12. Land compensation and payment for excess land: Irrespective of when the deed was executed, it should be applied on the day of Thram transfer;
13. Capital gains tax: Should be mentioned to prevent land speculation;
14. Land for foreign embassies: Should be on leasehold basis or on reciprocal arrangement;
15. Land occupied by foreign entities: Should be on lease but renewable on annual or 3-yearly basis;
16. Land to foreign businesses and FDI companies: As per FDI policy;
17. Flats/apartments/condominiums: Provision should be included;
18. Registration of land belonging to criminals and traitors: Agreed not to include as it should be taken care by other provisions such as requirement of citizenship, etc.;
19. Urban plot allotment: Authority and procedure needed to be mentioned;
20. Physical boundary monuments for urban plots requirement should be mentioned;
21. Survey Act: In the absence of Survey Act, which should be promulgated later, a chapter on land survey to be included for which an appropriate formulation was requested.

The Secretary further added

1. Mortgage deeds should be noted by LGs and NLCS;

2. Secretary, NLC: Not mentioned in Section 4 of the Land Act 2007 as he was appointed by His Majesty the King;
3. Section 51: Adjudication or dispute resolution mechanism to be made clear;
4. Section 143: Clarity required as substitute land as well as compensation may not be advisable;
5. Section 232: When do you consider it as sold? Sale deed or Thram transfer? This should be made specific;
6. Sokshing: (a) If it was already misused for constructions or cultivation, provision for penalty and how to deal with standing structures should be specified. (b) Sokshing should be given only user right, and the area should be proportionate to the area of agriculture land owned so as to encourage organic farming.

Other issues

1. Kidu and Rehabilitation land: Cannot be gifted, cannot be exchanged;
2. Penalties which can be imposed by NLCS should be defined;
3. Other penalties not in the Penal Code should be incorporated;
4. Land ceiling: Do not support removal. Industrial land should be used only for the purpose for which it is allotted. Ceiling will not apply only for registered or listed companies but not for private enterprises;
5. Land held by refugees: A copy of the recent regulation was received.

Definitions

1. Family: Inconsistent with Inheritance Act and Revenue and Customs Act: Harmonization required;
2. Juridic person: Insert “a Bhutanese” citizen;

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3. GFRL: Should now be as per Land Policy, harmonize with Forest Act;
4. Section 229: Should include both rural and urban land, and delete “excess” land beyond;
5. Mortgage land: Harmonize with MIPA as MIPA did not require to go to court whereas LA 2007 does;
6. Housing on leased land: How to be treated?
7. Section 219: Institutional or preferential land if not utilized, how to be treated?
8. Monitoring mechanism and responsibility to be made clear;
9. Would like to see the draft before submission to the Parliament.

12. Consultation Meeting with Chairpersons of 20 Dzongkhag Tshogdus held on 15 September 2011 from 9:00 to 17:00 hrs at the MOAF Conference Hall

Present:

1. Sonam Dorji, Chhukha
2. Lhawang Dorji, Dagana
3. Pema Dorji, Gasa
4. Tshewang Tandin, Haa
5. Dechen Yeshe, Mongar (Deputy Chairperson)
6. Phub Tshering, Paro
7. Chencho Gyeltshen, Mangmi, Paro
8. Pema Dorji, Pemagatshel
9. Sangay Wangdi, Samdrup Jongkhar
10. Sonam Norbu, Samtse
11. Sherab Jamtsho, Sarpang
12. Sonam Dorji, Thimphu
13. Cheku, Trashiyangtse
14. Tashi Penden, Trongsa
15. Yshey, Tsirang
16. Phurba Namgyel, Wanduephodrang
17. Dorji Wangchuk, Zhemgang

On behalf of the MOAF and on his own behalf, the Consultant extended a warm welcome to the Chairpersons of Dzongkhag Tshogdus, and expressed his appreciation for making it possible to come all the way to Thimphu for this very important consultation meeting. He congratulated them on their election as Gups of their respective Geogs first and then as Chairpersons of their Dzongkhag Tshogdus under the new Constitution of Bhutan, and wished them the best of luck in the discharge of their important responsibilities during the next five years.

A brief background to the exercise being carried out to amend the Land Act of Bhutan 2007, the role of the Consultant and

the purpose and importance of the consultation meeting were highlighted. He informed that this meeting was the idea and initiative of Hon'ble Sanam Lyonpo, and therefore, they were here on his invitation. He thanked the Ministry of Agriculture and Forests for organizing this meeting.

The following is a summary record of the issues discussed:

1. Agreed that the exercise was very important and that we should not think of our own present personal interest but of our future generations as well as not just the problems faced by individual Gewogs or Dzongkhags but the general benefit of the people and country as a whole while deliberating on the issues;
2. **Tsamdro:** There was unanimous support to enforce the provisions of the Land Act 2007 as it ensured equity, the previous system was unfair and now outdated with changing socio-economic scenario. Earlier acquisition of Tsamdro land for development activities was fraught with difficulties as individual owners would resist such acquisition, and also many had misused Tsamdro land through transaction, conversion to other forms of land use such as cash crop land and construction. However, the DT chairperson of Haa informed that in some parts of Haa their cattle grazed 8 months of the year in Samtse as it was not possible to keep them in Haa during winter months. It was agreed that removal of Section 239 which does not allow grazing in other Dzongkhags after 10 years would address the difficulty of the migrating cattle herds, as already proposed by the Consultant last year. Doubts were expressed whether Tsamdro belonging to the Dratshang and Members of the Royal Family would also be nationalized to which the Consultant shared information contained in his

report on Tsamdro submitted to the Government last year;

3. **Sokshing:** There was unanimous support to uphold and enforce the provisions of the Land Act 2007 as Sokshing was mostly owned by larger land holders, the ownership was skewed and not fair as well as what was used on the ground was many times more than what was reflected in the Thram. Besides, in many Dzongkhags, Sokshing was rampantly converted to orchards and put to other forms of land use such as construction of houses;
4. **Compensation for Tsamdro and Sokshing:** It was agreed that compensation as provided by the Land Act should be paid both for Tsamdro and Sokshing. But the payment should be proportionate to the period of use if there were more than one owner involved. It was informed that in Zhemgang there was an overlap between Tsamdro and even private land. (Serious thought needs to be given if compensation should be paid at all if Tsamdro and Sokshing did not belong to the individuals);
5. **Peri-urban areas:** A clause should be included to reflect the special status of peri-urban areas as it did not fall under either rural or urban land. This should be treated differently keeping in view its special status as buffer area including for taxation;
6. **Land exchange:** It was pointed out that the present system lacked clarity and transparency, was fraught with problems, the procedures were lengthy, amenable for misuse by both the applicants and MOAF/NLCS officials. For example, people were buying unproductive land in remote areas and then asking for land exchange. It was also pointed out that exchange of institutional land with private land even if it was done in the larger interest of the public was denied by NLCS creating difficulties in locating development

centers in the Gewogs. So, after lengthy deliberation, it was agreed that only inherited land should be eligible for exchange with GRFL in future;

7. **Land substitution:** This was one of the issues which took up considerable time for discussion as reportedly tremendous difficulties were being faced on the ground during implementation. It was pointed out that land acquired by the government even 20-30 years ago had not been provided with substitute land, substitute land when provided was mostly inferior in quality and further away from the village, areas less than 10 decimals was not eligible for land substitute even if it was the only piece of land the owner had, and sometimes substitute land was not available within the Gewog forget about the village. It was also pointed out that in places like Paro large areas of government land were illegally occupied by influential people due to lack of will on the part of the various government machinery to enforce the law of the land and take over such land when on the other hand people who had lost land to the government for development purposes were not able to get substitute land in these same Gewogs. Many also said that it was always the poor, ignorant villagers and those without a voice who suffered such a fate while those who were influential and well off always managed to find a way to even bypass laws and rules. The example of the plight of poor and small land owners of Wangdue whose land had fallen under Punatsangchhu Project was cited as a glaring example. It was noted that in Bajo constructions were allowed on as small plots as 2-3 decimals. It was agreed that land substitute should be provided to even those plots which are less than 10 decimals particularly to those owning this as the only plot of land or who owned less than 5 acres. A clear policy, vision and strategy were also required to

address this difficult issue. In addition, it was agreed that private land will be surrendered to the Govt. for any development purpose only after substitute land was provided in conformity with the Land Act, 2007. It was suggested that for plots which were below minimum size, additional land from the Govt. should be made available as a one-time measure. It was also suggested that Section 147 and 150 should be thoroughly reviewed;

8. **Land compensation:** It was agreed that fair compensation should be given for land acquired by the Government, and also that PAVA rates should be realistic and such rates revised annually instead of every 3 years;
9. **Land substitute for farm roads:** It was reported that by not providing substitute land for private land falling under the farm roads, the poorer section of the society was very seriously affected as in some cases the owners were rendered landless further multiplying their woes. It was also not in keeping with the spirit of the Constitution of Bhutan. It was therefore unanimously agreed that private land falling under farm roads should be provided with land substitute if the area owned by a family was less than 5 acres in total. (It may be worthwhile to decide on a cut off date before which such cases will not be entertained given the Government's concern about huge budgetary implication -Consultant's thought);
10. **National Land Commission:** It was pointed out that the NLC was perhaps not able to discharge its functions effectively resulting in delays in decision making as it was supposed to meet only two times a year, with as many as 11 members most of who were the senior most bureaucrats in the Government, and with two-third quorum required. It had become too centralized and lacked check and balance mechanism.

It was felt that this serious flaw needed to be corrected by restructuring the composition as well as clearly delineating responsibilities between NLC, relevant sectors and Local Governments. The meeting endorsed the suggestion made during the previous consultation meetings that NLC should be a 5-member commission with full-time members looking after various responsibilities of the commission in a manner similar to RCSC;

11. **Conversion of Chhuzhing:** It was reported that rampant conversion of Chhuzhing was taking place in places like Sarpang where plots of 15 decimals were carved out and land transactions carried out in most of which influential people were involved. Besides, NLCS was taking ad hoc decisions on such cases by even making exceptions. In some cases, double standards were being applied as if there were different laws for different individuals. The area allowed for conversion also varied from place to place by not sticking to 50 decimals allowed under the Land Act which sometimes meant taking impractical and unrealistic approach such as not allowing few decimals of area left after approval for conversion. It was reported that in places like Paro, although a family had large area of Kamzhing, they applied for Kewa-Gobsha for Chhuzhing only so that conversion can be done. As this was apparent violation of the law, a thorough verification of such applications was felt necessary. There was almost unanimity in agreeing that scarce Chhuzhing land in the country needs to be protected not only from the perspective of food self sufficiency but also because Chhuzhing cultivation was a part of our way of life and our age old culture. Therefore, it was agreed that Chhuzhing conversion presently eligible under the Land Act should in future be restricted to inherited (Phasa-Busa) land and to

those which were technically not feasible for paddy cultivation;

12. **Lease of Government land/GRFL:** The lease of government land should be considered only in cases where there is benefit to the community or larger population and not where only individual purposes are served. The purpose and lease terms including the lease period should be clearly spelt out, and thereafter strictly monitored for any violations which should result in cancellation of the lease. Besides compulsory environment clearance, clearance from the local community should also be made mandatory for such cases;
13. **Land acquisition:** No Chhuzhing should be allowed to be acquired for development purposes in the future;
14. **Rehabilitation land:** There was confusion regarding the status of this category of land at present with the Government sending out conflicting signals from time to time. It was agreed that this needed to be made clear as well as how it was going to be treated in the future by spelling it out in the new Act;
15. **Constructions on Chhuzhing:** Many illegal constructions had taken place and many continued to take place on Chhuzhing land because no agency was willing to enforce the law strictly. Politicians and Dzongdas did not want to take the drastic step of forcing people to pull down such illegal constructions. Besides, nobody wanted to take such drastic measures and the authority responsible for such action was also not clear. The NLCS had started to regularize such illegal constructions by levying a fine of Nu 30,000.00 per occasion but such practice was full of loopholes as proper verification was not done because in some cases the house constructed was found to be on Kamzhing and not on Chhuzhing. Besides, such post facto regularization could indirectly

encourage land owners to opt for illegal construction on Chhuzhing land particularly in places where prices of such land were high. A clear protocol and also a provision on this was required to be incorporated in the Land Act;

16. **Constructions within Road Right of Way (RROW):** It was reported that houses falling within RROW required renovations and repairs even if it was illegally constructed, and sought clarification as to how to deal with such cases. Doubts were expressed as to who was responsible for monitoring constructions taking place within 50 feet of the road. It was clarified that there were a number resolutions adopted by the previous National Assembly of Bhutan regarding constructions within RROW as well as the Road Act of 2004 which fixed such responsibility on the Department of Roads, Dzongkhag Administration and Gewog Administration. It was informed that in Mongar, such cases were dealt by the Departments of Roads whereas in other Dzongkhags there was no one to enforce the law which could become more complicated later;
17. **Illegal occupation of Govt. land:** It was reported that in many places Govt. land was being occupied by individuals, particularly influential people. In southern Dzongkhags, land left behind by emigrants was being occupied by people with the misplaced notion of getting it as excess land during the NCRP. In some places, while the Government was not able to identify and provide substitute land to land owners, influential people had occupied large areas of government land illegally with no sign of any government agency responsible taking action to repossess such land. Strict provision was required to prevent such transgression of the law;

18. **Registration of Kasho land:** The current law required that such land be registered within 360 days but in practice this was not happening. Strict penal provision was required to address such deliberate disrespect of the law;
19. **NOC for land conveyance:** It was reported that the requirement of NOC from neighboring plot owners during land transaction including during transfer from the deceased to the children was not only difficult but unnecessary as the latter did not involve any issue of boundary change. It was also pointed out that getting NOC from the entire community in every case was not realistic. It was suggested that this requirement be reviewed and done away where possible. It was agreed that such requirement be made mandatory only for acquisition of land for industries, and development purposes;
20. **Section 13 and Section 15 of the Land Act 2007:** These provisions have yet to be implemented. So, NLCS should implement it as soon as possible;
21. **Land ceiling:** There was general consensus that for equity purposes and also in view of the Govt.'s policy focus on poverty alleviation and building an egalitarian society, land ceiling is an important instrument to ensure peace, happiness and stability in the country. The chairpersons expressed serious concern on the rampant flouting of the land ceiling law in the past as well as at present by influential and well to do persons. They also felt that while the ceiling does not apply to companies, there must be very clear and strict regulations to ensure that this provision was not misused. They also felt that the present provision was not very strict and thus proposed that individual Thrans should be issued only to families which should consist of at least three members instead of individuals;

22. Land Fragmentation and Fallow land management:

MOAF's concern on this issued was conveyed and the views of the DT chairpersons sought as they were fully aware of the situation on the ground. They did not support the above view that as a result of large scale land fragmentation particularly after the NCRP, more land was going to be left fallow impacting on agriculture production. It was reported that the situation differed from Dzonkhag to Dzonkhag. For example, Paro and Thimphu were not at all affected whereas in Trashiyangtse, during land distribution within the family, usually the unproductive and uncultivated areas were given to civil servants who left their land fallow. It was pointed out that the current government's policy pursuit of 100 per school enrolment for children was already starting to have negative impact on agriculture and livestock farming, and it will definitely have serious negative impact in the future. For example, the scenario along our northern regions was changing fast with people now being able to buy land in the lower valleys such as Punakha with earnings from Cordiceps collection. Ironically, the Cordiceps boon seems to be turning into bane as Yak rearing for many Highlanders had become secondary and they were showing signs of settling down permanently in the lower valleys. This would ultimately impact on our national security as well. There was unanimous support in suggesting that any land which is left fallow for more than 3 years should be taken over by the Govt. Restriction on individual land ownership was also suggested. The MOAF should be made responsible for strict monitoring of this provision. Share cropping should be encouraged with favorable terms for the share croppers with such provisions being reflected in the Land Act. It was also felt that MOAF needed to

redouble its efforts in fully protecting the Chhuzhing and Kamzhing, supporting farmers in development of farm infrastructure such as irrigation channels, enhancing agricultural productivity and increasing production, making agriculture more paying to attract youngsters to take up farming and providing direct subsidy to farmers so that our national objective of food self sufficiency and national security were not compromised;

23. **Land taxation:** While taxation on land was mentioned under various sections and more so the clause regarding penalty for non-payment of taxes for more than 3 years, tax exemption clause was not mentioned anywhere. It was felt that at least crown properties should be exempt from paying any taxes as some of the DT chairpersons informed that members of the Royal Family continued to pay annual taxes. During the course of the discussion, it was pointed out that people of Pemathang and Phuntshothang Gewogs under Samdrup Jongkhar had not been paying land taxes since 2003 based on the exemption granted by His Majesty the King due to the then prevailing situation. The DT chairperson was advised to refer the case to Home Ministry. It was generally agreed that non-payment of taxes for land by any one could ultimately impact on the issue of ownership of land as had happened to the Doyaps in Samtse in the past. Regular tax payment was proof of ownership, and for the Local Governments, it was a source of revenue for local development;
24. **Right to use road on Government land:** It was suggested that more clarity was required on this clause including the need to mention the category of roads;
25. **Challenges faced during the NCRP:** The NLC Secretary had publicly declared in the public meeting

that under Thimphu Dzongkhag up to 10 decimal of excess land would be eligible for every one acre of excess land although excess land is eligible as per law. But even this declaration was not honored by the surveyors during the actual survey. There was lack of transparency and many decisions were taken on an ad hoc basis, and similar cases were handled differently depending upon individual staff. Taxes paid by land owners for deficit land which was not available physically on the ground should have been refunded, but this was not done. In cases where there was excess land in the buyer's area but shortfall in the seller's area should have rightly be given to the seller, but this was not entertained. Mistakes had been found made by the NLCS staff in the names of land owners as well as places which when pointed out could have been easily corrected by them after verification of documents available with them. But they refused to accept such cases and the land owners had to follow a long and tortuous route of getting it corrected for no fault of theirs. With respect to disputed and even controversial cases, the surveyors sometimes took the word of the Tshogpas as final without verifying the facts which only helped to serve the vested and narrow interest of the Tshogpas. In Zhemgang, during the earlier cadastral survey in 2004, large tracts of land belonging to the private individuals were registered as belonging to Dratshang-Goendey although according to 1979 Act, no land belonging to the Dratshang can be transacted. Such mistakes committed by the surveyors had yet to be corrected. Discrepancies between Thrams and maps had sometimes resulted in the omission of one's land for no mistake of the owners depending upon which document the surveyors gave more weightage. In Mongar, on receiving the new Thrams after the NCRP,

there were numerous omissions and commissions such as Thrams showing “Z” plots being omitted from the Thram and “Y” plots appearing in the Thrams. Names of owners and names of places had also been wrongly spelt. The Gewogs and Dzongkhags were therefore overwhelmed with applications for corrections. So, it was recommended that the mechanism for such corrections should be made easy which could be done by saying that corrections for such mistakes should be made by referring to the Old Thram, and an accountability clause for such careless mistakes by staff should be included in the Act. Where there was discrepancy between the Thram and the map, priority should be given to the Thram. In addition, for fair and transparent decisions on such sensitive issues as land, institutions such as Local Governments rather than individual officials should be relied upon. All these difficulties and areas of doubt and possible areas of misuse should be made clear in the Act to redress the grievances of the people;

26. **Problems created by Dzongkhag and Gewog boundary re-alignment:** Tremendous problems had been created for the people as a result of careless handling by concerned agencies. In Haa, precious land had been omitted from their Thram during transfer from one Gewog to another. While influential people had managed to get it restored through their own initiative and resources, it was the poor and ignorant villagers who had to suffer the loss of their precious land. It was advised that the case be taken up with NLCS. In Dagana, 5 Gewogs were affected where the land and houses were physically located under one Gewog whereas the Thram was in another Gewog. When this issue was referred to the NLCS, they were asked to wait till the NCRP. Similar problems existed in Trashiyantse and Trashigang Dzongkhags. They

were advised to take up these issues with Home Ministry;

27. **Crop damage by wildlife and fallow land management:** It was reported that in some places land had to be left fallow because of severe wildlife problem which MOAF was fully aware of. Elephants were a major problem in the south sometimes resulting in the death of people and destruction of houses. In Zhemgang, people could only harvest one-third of the crop they cultivated. As a result, some people did not cultivate their land but worked for daily wages on development projects. In places like Zhemgang, unlike other Dzongkhags there was no shortage of land but most land was left fallow because people either lived and worked in other Dzongkhags such as Thimphu or because of wildlife damage to crops. In Samdrup Jongkhar, elephants were a major problem because of which land was left fallow. Besides, there were still vacant Government lands between cultivated plots because the land left behind by emigrants had become habitat for wild animals. It was requested that the Royal Government resettle landless people on these vacant Government land to redress their grievances, and that MOAF consider some kind of compensation for damages to crops, houses and for people killed by wild animals such as elephants. It was also felt that the Government had to do more than what is being done now to address these issues if it wanted agriculture to flourish;
28. **Plight of marginal land holders:** It was reported that the situation in Trongsa was quite different in that there were many marginal holders who were on the brink of poverty such as the Dangreps who had served the Royal Government for generations but had to move away from near the Dzong area and now having to survive on 15-20 decimal of land. It was requested

that a mechanism to address their woes should be found;

29. **Cardamom land:** Concern was expressed regarding this category of land which was now a very good excuse for applying for substitute land running into thousands of acres of land. It may not be possible for the Govt. to provide substitute land for such large areas. Some of these areas of land were initially Tsamdros which were transacted in spite of a ban in the 1979 Land Act, then converted into cash crop land and now taking advantage of the provision in the 2007 Act for land exchange, many were misusing this for personal gain;
30. **Changra and Shoda in Paro:** During the recent NCRP, Changra had been deleted from the Thram of individual owners as it was treated as Sokshing based on the definition given to it during Lyonpo Dago's time while Shoda had been retained in the Thram as in the past. Since it was part and parcel of their land inherited for generations, it was requested that this category of land be restored in the Thram of individual owners. They had made a similar request to Lyonpo Khandu Wangchuk as well;
31. **Laws being broken by Government agencies:** It was pointed out that the authority to approve hotel constructions was with the Tourism Council of Bhutan. However, as they did not involve the Local Governments nor other relevant central authorities, laws were being flouted. For example, there were a number of hotels under construction in Paro which did not comply with the 50 feet RROW requirement of the Road Act 2004;
32. **MOAF policies:** It was requested that MOAF disseminate their policies, rules and regulations to all the various other sectors in the Government as well as to the Local Governments for strict enforcement on the

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ground because it was quite often the other sectors and agencies which did not honour the policies, laws and rules than the general public.

Annexure IV: Summary Record of Stakeholder Consultation Meetings on Revision of the Land Act of Bhutan, 2007

1. Summary Record of Meeting with Secretary, National Land Commission Held on 31 October 2011 at 16:00 hrs at the NLCS Office

The meeting was sought to follow up on the issues raised during the consultation meetings with NLCS and others as well as to seek clarification on some of the issues brought up during the various other consultation meetings. The following is a summary record of the issues discussed:

1. Section 17: On seeking clarification on why the map sheet number should be deleted from the Act as was suggested during the consultation meeting, the Secretary informed that NLC did not use map sheet numbers any more. Besides, the mention of plot number was adequate to take care of the individual identity of the land belonging to different owners.
2. Section 17(c): On asking whether it would be prudent to mention the mortgage clause in the Thram of an individual as was currently required under the Act, the Secretary said that it was not a prudent practice and therefore should not be done so. Instead, mortgage conditions should be noted by the relevant government authorities such as the Gewog Administration, Thromde Administration, NLCS, etc.
3. The suggestion made by the private sector to incorporate a clause for auction of mortgaged land was raised when the Secretary felt that this was beyond the purview of the Land Act, and that this

could perhaps be done through the individual loan agreements.

4. With regard to inconsistent clauses of the Land Act with that of the Inheritance Act, Movable and Immovable Property Act and the Sales Tax, Customs and Excise Act, the Secretary said that the main problem was with the definition of “family”. According to the Land Act, “family” was defined as individuals registered under the same census whereas according to sales tax rules only parents and their direct descendant children were considered as a family. As a result, the land ceiling of 25 acres was applicable to all the members of the same household registered under the same census which could include uncles, aunts and cousins of an extended family, whereas sales tax exemption for inherited land was eligible only when the land was being passed down from parents to children although not specifically defined as such in their Act.

In this connection, the Consultant pointed out that Section 2 of the Land Act, 2007, which stated that “Any provisions of any law, by-law, rules or regulations that are inconsistent with this Act, unless otherwise specified, shall be superseded” should take care of their concern. But in reality, nobody, including the judiciary, seemed to follow this. Such provisions were reflected in almost every Act, yet not implemented by those responsible for enforcement as well as the judiciary. That is why sometimes court verdicts on land cases were in contradiction to the Land Act. Hence, it was very important to correct this unfortunate situation which the Consultant intended to do so during the revision of the Land Act by specifically mentioning those inconsistent clauses in

the revised Act itself and suggesting for repeal in the Revised Act.

5. Section 32: A separate chapter on survey was suggested for inclusion in the revised Act for which a formulation was requested from NLC which had not been forthcoming. The Secretary said that they were in the process of finalizing the draft and would be made available as soon as possible. He also said that the Consultant could incorporate whatever he thought was most appropriate from their draft.
6. Section 56: On enquiry about the dispute resolution process at present, which was not clearly reflected in the current Act, the Secretary said that there was a mechanism at the Local Government as well as the NLC Secretariat level where proper hearings were conducted and decisions conveyed. If the applicants were not satisfied with such decisions, they had the recourse to approach courts of law. It was agreed that this provision should be reflected in the Act, and that with the reconstitution and redefining the role of NLC, it could act as the Tribunal for resolution of land disputes. But this should be reflected in the Act clearly.
7. Section 68(e): The current relevance of Community owning land for social and religious purposes was questioned when the Secretary said this clause should be made more specific and strict as many cases of misuse and exploitation by individuals had come to their notice.
8. The Consultant conveyed his own view that although laws should be broad and should not go into too much of details, in the case of land as it had a bearing on almost every individual in the country and land being a basic necessity for economic and social security, the law on land should be very clear and specific to avoid unnecessary complications and to ensure social

harmony. Besides, no room should be left for individuals to exploit the ambiguity of the law. Most of the past problems could have been avoided if the provisions of the law were more specific. The Secretary fully endorsed this view and said that the past lapses and mistakes could be attributed to this.

9. The Consultant informed that he had gone through the resolutions of the 1st to the 87th sessions of National Assembly of Bhutan when he found that a large number of decisions on land were taken, which he had compiled into a book. These additional provisions on land had legal status some of which were unfortunately not incorporated in the new Act but were being followed by those authorities dealing with land and in some cases even by the judiciary. He requested for copies of amendments to the Land Rules and Regulations which he felt could be useful for him to incorporate some of the details which were lacking in the current Act. A copy of the Interim Guideline on Lease of GRFL for Commercial Agriculture was made available immediately while agreeing to make the following available soon:
 - a. Copies of Royal Kasho on land,
 - b. Amended rules and regulations, and
 - c. Draft formulation on survey of land.
10. Section 190: A clarification was sought to their earlier statement that the provision on granting Rehabilitation land in the Land Act was inconsistent with the current practice. The Secretary said that the applications for rehabilitation land were now required to be submitted to the Zimpon's office and not the NLC.
11. On seeking an elaboration on the "hierarchy of boundary evidence", the Secretary said that it referred to Satsham-Dotsham, map and area of the individual plot.

12. On enquiry about the current status of the National Land Policy document, the Secretary said that it was still with the Cabinet and expressed his doubt whether the current government will approve it as it had been long overdue. The Consultant informed him that he was a bit surprised with the views expressed during the GNH Commission meeting but said that he was advised by the Minister of Agriculture and Forests to follow the draft land policy in revising the Land Act.
13. An elaboration on alienable and disposable land as foreseen in the National Land Policy was sought. The Secretary said that such land will be demarcated in each and every Dzongkhag and possibly even every Gewog where industries, government infrastructure, land substitution and even rural settlements could be located. This could help in overcoming the present challenges of identifying land for the above purposes and getting clearances from various agencies. He also said that NLC was currently working on zoning of the country which will also help in demarcation of alienable and disposable land in the Dzongkags.
14. The Secretary informed that at present the authority for approval for lease of GRFL was with MOAF as per the Land Act but had since been transferred to NLC on Royal Command. The Consultant agreed to reflect it accordingly in the Revised Act for the sake of check and balance mechanism.
15. On enquiry about the regularization of illegal constructions on Chhuzhing through payment of Nu 30,000.00 as penalty as reported by the DT chairpersons, the Secretary said that they had categorized such cases into three categories, and final approval for those which were illegal rested with His Majesty the King.
16. On the issue of NOC from neighbours being sometimes impossible on personal reasons rather than

legal or technical, the Secretary said that there was a system in place for tackling such obstacles in genuine cases. But the NOC had to be made a mandatory requirement as cases of misuse by land owners and surveyors through connivance had come to the notice of NLC. In any case, this may not be required in the future after the NCRP is completed.

17. The concern expressed during the meeting with the DT chairpersons regarding possible misuse of cardamom land for land substitute was raised when the Secretary informed that NLC and MOAF had worked out mechanism to address this concern.
18. The Secretary was informed about various issues raised by the chairpersons of the Dzongkhag Tshogdus such as the problem created by realignment of Dzongkhag and Gewog boundary, cadastral survey, Changra and Shoda in Paro, etc.
19. The Secretary informed specifically that industrial land included land used for all types of industries such as hotels, schools, etc. which was wrongly reported in the media.

2. Summary Record of Meeting with Secretary, National Land Commission Held on 8 December 2011 from 14:00 to 16:00 Hrs at the NLCS Office

The meeting was arranged based on the indication given to the Consultant by the NLC Secretary on 3 December 2011 at the RBG Mess in DechhENCHHOLING when he had said that NLCS had few more points which needed to be incorporated in the Draft Revised Land Act.

1. The Consultant enquired about the position of NLCS vis-à-vis land sold by the Tibetan refugees to Bhutanese citizens as some of the Gups from Thimphu and Punakha had raised the issue during the consultation meeting at Lobeysa. The point they had made was that earlier the Thram for land sold by Tibetan refugees to Bhutanese citizens were allowed for transfer but was frozen recently during the cadastral survey.
2. The Secretary informed that although the 1979 Land Act did not allow refugees to sell the land, the Royal Govt. had made exception for two batches of refugees who left for India and allowed them to sell their land to Bhutanese citizens or to the Govt. More recently, 24 such cases were also allowed for Thram transfer by the NLC after seeking approval from His Majesty the King.
3. Kezang Phuntsho raised the issue of subdivision of land below 10 decimals based on the Inheritance Act and the need to address this problem in the revised Act. The Consultant informed that this issue was also raised by the Gups particularly with respect to houses which were built for one family but later divided. The Secretary said that they had tried to address such cases as a one-time measure through Kasho from His

Majesty the King. The Consultant informed that in the revised Act he was thinking of proposing that the Inheritance Act will apply to division of land and property among family members provided such division does not involve land below 10 decimals or creation of plots of less than 10 decimals.

4. Section 6 (j): The Secretary informed that this responsibility had since been transferred to Gyalpoi Zimpon's office.
5. Section 28: The Secretary said that more clarity was required on this and suggested for inclusion of specific mention of tampering of maps as a criminal act and also fixing of responsibility and penalty thereof.
6. The Consultant informed that the LAs were not effective because they were not paid any incentives nor sitting fees, which the Gups had suggested should be paid like the NLC members. The Secretary said that incentive or DSA provision for involving local leaders in land cases should be reflected, and further clarified that only the 2 members from the private sector were paid a sitting fee of Nu 5,000 each during NLC meetings.
7. The Consultant sought views on whether it should be the LA or LG and drew the attention to the definition of LA in the Act. It was agreed that it should remain LA and the accountability should be fixed on the chairperson.
8. Section 46: The Secretary said that the word Surveyor General should be removed.
9. Section 48: The Secretary said that the transaction time should be reduced from 90 to 30 days.
10. Section 51: The Secretary said that the authority to summon parties to land cases, fine those found guilty and circumstances under which such cases can be sent to the court should be clearly reflected in the Act.

11. The Secretary said that the time frame for dispute resolution should be mentioned as 30 days, from the registration of the complaint, when the decision in writing should be made.
12. The Secretary suggested that the Consultant study the Sections 45 to 57 and try to make it more coherent.
13. Section 64: Kezang Phuntsho enquired about the land ceiling.
14. Fallow land: The Secretary suggested for inclusion of progressive penalty from year one itself.
15. Section 80: Suggested for reconciliation with MIPA under which such cases did not required to go to the court. The Secretary also suggested that the NLC could transfer the Thram if there were no complications. Only if there was a dispute between the lender and the borrower, NLC could refer the case to the court.
16. Section 84: Transfer in the name of a minor should be allowed only incase of death of the owner of the land and/or structures.
17. Section 85: Identification of legal guardian identification should be left with LA as against the suggestion made by BCCI to transfer it to a court of law. A release clause should be incorporated.
18. On the suggestion of the Consultant, it was agreed to include a definition of Head of Family as “in whosoever’s name the family decides to register the land and property”.
19. The Secretary said that with the conversion of Chhuzhing to other uses, the proportionate water right should also be forfeited so as to discourage conversion.
20. Kezang Phuntsho suggested that clear provision for conveyance of land belonging to private or community lhakhangs should be reflected.
21. Definiton of Phasa-Busa to be made more strict.

22. Land substitute: If no claim is made within 3 years, it will not be eligible.
23. The Consultant enquired about e-Sakor.
24. Enquired about the form for verification of 25-acre ceiling as pointed out by the Gups.
25. Enquired about land substitute approval procedure as pointed out by the Gups.
26. Enquired about fines being imposed on illegal constructions on Chhuzhing.
27. Enquired about allegation of lack of action on illegal constructions on Govt. land.
28. Enquired about the possibility of retaining the old Thrams by the land owners as requested by the Gups.
29. Enquired about the compensation for land development cost, and the current basis of compensation for crops based on land category.
30. Enquired about the land compensation for Taktse ILCS.
31. Conveyed the allegation that every survey on the same piece of land produced different results in terms of acreage of the land.
32. Informed about the problem faced by MHPP.
33. Informed that some of the claims for old land substitute cases may not be genuine.

3. Summary Record of Consultation Meeting on Revision of the Land Act of Bhutan with Gups and Officials of Ministry of Agriculture and Forests, National Land Commission and Dzongkhags Administration of Bumthang, Trongsa and Zhemgang Dzongkhags Held on 19 November 2011 at 09:00 hrs at Yozerling Resort, Bumthang

On behalf of the Ministry of Agriculture and Forests, Mr. Ugyen Tshering, Legal Officer, extended a warm welcome to all the participants and the Consultant. He gave a brief background to the meeting being organized throughout the country in connection with the revision of the Land Act 2007.

The Consultant, while extending a warm welcome to all the Gups, Legal Officers, Land Record Officers, CFOs, DFOs, DAOs, and DLOs of the 3 Dzongkhags to this important consultation meeting, gave a short background to his involvement in the exercise, and the work he had done so far in respect of consultations he had had with various agencies, organizations including the private sector, individuals and the chairpersons of the Dzongkhag Tshogdus. He informed that as a result of the above consultation meetings, it was felt that wider consultation particularly with the Gups of 205 Gewogs was necessary. It was also felt that as against the proposed amendment of the Act, complete and thorough revision was felt necessary although time was short. He emphasized the importance of the consultation with the Gups as they were not only important actors in the implementation of the Act but also because they were the most familiar with the ground realities and challenges faced in the field. In addition, with the revision of the Act, their responsibility was likely to become more important.

Land Ceiling

1. DzFO Bumthang, Rinchen Wangdi, felt that a minimum land ceiling was required if we were serious about addressing the issue of equity as well as poverty, since without such a restriction it was possible that families could become landless through reckless and unscrupulous land transaction.
2. Shingkar Gup, Ngedup, felt that the Govt. should consider granting additional land for those who did not have enough land, to which the Consultant informed that there was provision for approaching His Majesty the King for such Kidu.
3. Ura Gup, Dorji Wangchuk, pointed out that when land cases were filed in a court of law, the judges seemed to give precedence to the Evidence Act and hence fair judgment was not received. In fact, Evidence Act seemed to prevail over all other Acts such as Land Act, Inheritance Act and Marriage Act. He said that the minimum land ceiling which existed under the 1979 Act could not be implemented due to situations which were sometimes not under the control of the land owners. While supporting the need for upper land ceiling, he strongly felt that the ceiling should not be applied uniformly across the country but should be based on the productivity of the land in different regions. He said that he had also made this point during the revision of the Land Act by the National Assembly of Bhutan in 2007.
4. Goshing Gup, Sangay Letho, felt that since a minimum land ceiling would restrict division among eligible family members if their holding was small, the Govt. should consider grant of additional land to those who did not have enough land.

5. Trongsa Legal Officer, Kunzang Dorji, felt that a land ceiling for the members of the Royal Family could perhaps be twice the amount of land ceiling for others.
6. Trongsa LRO, Sangay Chhophel supported the need to have a land ceiling for various reasons.
7. Chhumei Gup said that irrespective of the size of the land holdings, fragmentation through inheritance cannot be stopped and should be allowed.
8. Shingkar Gup, Ngedup, reiterated that the Govt. should consider granting additional land as Kidu for those who did not have adequate land.
9. Bumthang CFO, Dhendup Tshering, supported the need to have a minimum land ceiling in view of the MOAF's concern on land fragmentation but expressed his apprehension as to who would be responsible for monitoring the existence of people without land and reporting their cases to the right authorities.
10. Goshing Gup, Sangay Letho, said that there should be a differentiation between rural and urban land based on the value of land.
11. Ura Gup, Dorji Wangchuk, submitted that what he had said earlier was different from what Goshing Gup had just said. He had not implied that a different land ceiling for different regions should be based on the value of land but his proposition was to base it on the productivity of the land.
12. Chhoekhor Gup, Sangla, said that while he supported the upper land ceiling at 25 acres, he felt that the minimum ceiling of 10 or 13 decimals should be removed.

Chhuzhing protection, and spatial planning for rural settlements

13. Trongsa LRO, Sangay Chhophel, submitted that in keeping with the policy of Chhuzhing protection of MOAF, acquisition of Chhuzhing should be banned.

14. Shingkhar Gup, Ngedup, said that 13 decimals for house construction was too small in a village setting and hence it should be increased.
15. Trongsa Legal Officer, Kunzang Dorji, suggested for removal of Section 169 of the Land Act in the light of new proposal to allot GRFL from the vicinity if available for house construction to protect Chhuzhing.
16. DOA Land Management Officer, Karma Galey, however said that this provision should be retained as it will give flexibility in case there was no government land in the vicinity.
17. Shingkhar Gup, Ngedup, informed that the people in his Gewog had to contribute 30 per cent of the cost of construction of irrigation channels which was not only unrealistic for one of the most remote and backward Gewogs but also unfair as such practice was not applied elsewhere in the country. He requested that this policy be reviewed and revised in keeping with the current realities.

Land Fragmentation and fallow land management

18. Ura Gup, Dorji Wangchuk, said that since inheritance cannot be stopped, land fragmentation was inevitable. Besides, sale of land due to economic compulsions and land acquisition by the Govt. also contributed to land fragmentation. As far as fallow land management was concerned he did not see this as a major problem which had to be addressed through legal framework. Although construction of farm roads had improved access, there were other factors such as shortage of farm labour, fluctuating market prices of farm produce such as the low potato price this year, etc. which contributed to this problem. It was more of land management and administration problem than legal

issue. Therefore, he said this problem should be addressed through policy and programs of MOAF.

19. LRO of Trongsa pointed out that the restrictive use of land was another problem; hence liberal use should be promoted. He cited the example of compensation cases where if a farmer had grown fruit trees on dry land, on acquisition he was not eligible for compensation because it was not grown on orchard land. To be eligible for compensation in such cases, the land category had to be got changed first. Otherwise, NLCS had returned such cases without approval.
20. Shingkhar Gup said that in his Gewog there were no problems of fallow land management.

Land substitution and compensation

21. Chhoekhor Gup informed that with the extension of Bumthang Throm boundary to Kurjey, Garpang and Jalikhar, the provision in the current Act that a land owner will be eligible for land substitute only if it is the only plot he owns had created lot of problems. So, he suggested that this provision should be reconsidered. He also said that both, provision for substitute as well as compensation, should be kept. He suggested that substitute land should be provided from the same area if it was urban or semi-urban land.
22. Ura Gup explained why such a provision was incorporated in the 2007 Act, and hence, he said, it should be retained.
23. Bumthang DzFO felt that a clear procedure as well as time line for land acquisition should be prescribed but the requirement of NOC from family members should be done away with as it acted as a major hurdle. He also felt that the responsibility to process for

substitute land should fall on the agency acquiring the land.

24. Bumthang LRO clarified that no NOC was required for land which was purchased from an individual but if it was a family land which belonged to the whole family such requirement was necessary. He also agreed with the statement made by Chhoekhor Gup that the boundary extension of Bumthang Throm had created lot of problems with regard to land substitution and acquisition. He said land transaction time frame should be reflected in the Act.
25. Ura Gup suggested that the Govt. should consider buying private land if available in the area and providing it as land substitute since this was not only a cumbersome and difficult issue but important for the land owner who was losing his only land and livelihood. He also pointed out that getting NOC from the community was a major hurdle although even His Majesty's Kasho mentioned that NOC from the community was required. Although no NOC was required for individually owned land, problems were sometimes created by courts of law based on the so-called provisions in the other Acts. This needs to be addressed by the Land Act.
26. Chhumei Gup said that the requirement of NOC from the community was done away within their Gewog. During the NCRP, NOC was required for family land but not for land owned individually.
27. Goshing Gup submitted that land compensation rate for rural land within the Dzongkhag should be same irrespective of location.
28. Chhoekhor Gup suggested that service centers should be located on government land as far as possible, if it was unavoidable for acquisition, market rate should be paid as compensation because finding Satshab was the biggest problem faced in his Gewog.

29. Goshing Gup informed that in his Gewog people were reluctant to give land as land prices were likely to go up in the future with the start of Chamkharchhu Project in the area.
30. Karma Geley, LMO of DOA, provided clarification on the issue.
31. Goshing Gup wanted to know when the NCRP will be completed as the delay in the completion of the survey had posed serious problems to the people.
32. Trongsa LRO felt that the NOC requirement from the local community should be done away with. He highlighted the difficulty faced in the field in case of land compensation payment as compensation for crops were eligible based on the land use recorded in the Thram. Cash crops grown on Kamzhing was at present not eligible for compensation and such cases were rejected by the NLCS. He said that such cases should be eligible for compensation as the land owner had invested labour and capital on it. The date of application of rate of compensation should also be made clear as at present two different rates for the land acquired for Taktse Institute for Language and Culture was being applied based on the year of payment and not acquisition. He also suggested that land development cost should be included if developed land is being acquired.
33. Chhoekhor Gup said that a sitting fee should be paid to the members of the land acquisition committee so that it can work efficiently and also be held accountable for its decision.
34. Bumthang CFO suggested that dotted settlements in the forests should be considered for resettlement programs by allotting government land.
35. Chhumey Gup submitted that land substitute should be provided for land above 10 decimals acquired for farm roads. He pointed out that according to NLCS

circular, only cultivated land and land on steep slopes were eligible for exchange with GRFL although it was not mentioned as such in the Land Act 2007. Besides, there was inconsistency between the Land Act and the Forest Act. He informed that Bumthaps owned land in other Dzongkhags where the local people were no longer willing to share crop. He wanted to know the government policy in such cases so that the land was not left fallow.

36. Karma Geley provided explanation to some of the issues raised.

Tsamdro and Sokshing

37. On the issue of Tsamdro, Shingkhar Gup submitted that the people of his Gewog were faced with tremendous difficulties as a result of the ad hoc decision on the boundary re-demarcation of Thrisa under Shingkhar Gewog and Jawaling under Bardo Gewog by the authorities in 1992 which in fact went directly against the decision conveyed by the RAC based on the appeal made to HM the King in 1988.
38. Chhoekhor Gup requested that the compensation for Tsamdro on nationalization should be increased above Nu 200 per acre. He informed that during the NCRP, Tsamdro and Sokshing were already deleted from the Thram of individuals although he requested if the Sokshing could be retained in the Thram as in the past.
39. Ura Gup submitted that Tsamdro was either purchased by individuals or received through Kasho by those who had served the Gongms well or inherited. So, he had earlier proposed for a separate Act on Tsamdro which was unfortunately not supported by others. He suggested that high altitude Tsamdro and those at the lower elevations should be

treated differently. He also requested for enhancement of compensation rate for Tsamdro from Nu 200 to Nu 500-800 per acre. As far as Sokshing was concerned, he wanted it to be restored in the Thram as both ways it was more beneficial if looked after by individual owners than the government.

40. Bumthang DzFO informed that most of the Sokshings had been converted to community forest under which there was better opportunity for improvement and benefit to the community.

Share cropping

41. On the issue of share cropping, Chhumey Gup informed that as result of the restriction on construction as well as land use change on Chhuzhing, it had to be left fallow. He requested that the government consider support and subsidy to enable them to cultivate the land or the government should consider allotment of land substitute from other places.
42. Goshing Gup felt that a provision on share cropping in the Land Act was not necessary. Instead, he wanted the government to expedite the NCRP.
43. Ura Gup said that it was very important to keep in mind, when revising the Land Act, that the judiciary gave supremacy to the Evidence Act and as a result, justice was not served. So, harmonization of laws which were inconsistent with each other was extremely important and should be done.

Dispute resolution

44. On the issue of dispute resolution, Bumthang LRO said that the Land Act and the Loan Act should be harmonized.

Farmland/river bank protection

45. The Consultant informed that a provision on this issue will be incorporated in the revised Act, which was fully supported by the participants.

Thram issue: record and administration

46. The Consultant felt that after completion of NCRP, Thrams should be issued by the Local Authorities as against the present practice of centralized issuance by NLCS.

Land administration and survey

47. On the issue of land administration and survey, Ura Gup informed the reason why NLC was established with lots of hope and expectation, but was disappointed that in the course of implementation, the NLC had become a bottleneck in land administration due to lengthy and cumbersome procedures, delayed decisions and sometimes unfair acts. For example, allotment of Satshab did not have to go to the highest authority in the country. Lot of problems were created during land survey yet there was nothing in the Act regarding land survey. For the same piece of land, every survey produced different acreage which could not be explained by anyone.
48. Shingkhar Gup supported the above comment and said that a study needs to be conducted to find out why the same piece of land measured differently every time a survey was conducted.
49. On the issue of dispute resolution, Bumthang DzFO said that the mechanism for dispute resolution needs to be made clearer. He suggested for inclusion of an

accountability clause for serious errors committed by surveyors.

50. Trongsa LRO said that if the reconstituted NLC can undertake the responsibility of dispute resolution, it will be the correct thing to do.
51. Chhoekhor Gup pointed out that after every survey, many land owners had to knock at the doors of the judiciary as the outcome of the survey created more problems for the land owners. He said that even when the same machine was used, the survey results on two different occasions were completely different, and so also was the result when measured by two different surveyors. Since the land committee did not get any incentive such as sitting fee, the members were reluctant to participate in the meetings as while those in whose favour their decision went were not appreciative, those against whom their decision went were bitter and held a grudge against them. So, a clear mechanism to pass correct and fair judgment by the land committee should be reflected. He also said that the NLC should be restructured and its role clearly defined.

Land lease

52. On the issue of land lease, Trongsa LRO felt that a ceiling was required besides the requirement of NOC from the community. He wanted to know who was responsible to sort out the difficulties faced by projects such as MHPP if one or two individuals were to hold them for ransom.
53. Bumthang CFO said that besides harmonization with other Acts, it was necessary to clearly reflect the authority and mechanism to lease and monitor land as at present it had become some sort of nobody's baby.

54. For lease of private land, Shingkhar Gup felt that lease rates should be fixed and applied uniformly.
55. On inquiry, Langthel Gup informed that at present MHPP had created more problems for the people than benefits as in the name of the project everything was being bulldozed without consultation with the people or local leaders. Private land was being taken over without paying compensation.
56. Zhemgang DFO pointed out that most of the decision making authority was centralized and various ministries which were responsible before for monitoring of encroachment, lease, etc. were kept out of the loop. As a result, there was no one to monitor whether the land leased out were being used as per lease agreement or annual lease fee was being paid, etc.
57. Trongsa LRO reiterated that the effective date for compensation payment should be made clear as otherwise problems were faced in the field.
58. Chhoekhor Gup reiterated that for lease of state land or GRFL, NOC from the community must be made mandatory.

The LO and the Consultant expressed their appreciation to the participants for their active participation and useful contributions.

The meeting was closed at 5:30 pm.

4. Summary Record of Consultation Meeting on Revision of the Land Act with Gups and Other Officials of Thimphu, Paro and Haa Dzongkhags Held on 22 November 2011 at 09:00 hrs at Pelri Cottages in Paro

Organization of land administration

1. Thimphu DT chairperson, Sonam Dorji, said that with so many members on the NLC at present, the commission was not able to meet regularly, and as a result, development activities and land cases were affected badly due to delayed decisions. If it was kept as it is, nothing could be done. So, the NLC needs to be reconstituted with smaller number of members who could work full-time on land issues and its role clearly defined.
2. Gakiling Gup, Tshering Wangdi, supported the above view and said that as the Bhutanese saying goes, “Too many carpenters will not be able to install the door of a house”, it needed to be reconstituted and its role redefined.
3. Thimphu DT chairperson, Sonam Dorji, wanted to know why the members of NLC were being paid Nu 5,000 per sitting as sitting fees and yet decisions were getting delayed.
4. Dagala Gup, Gado, said that Sanam Lyonpo could be the chairperson of the NLC.

Issuance of Lag Thram

5. Dagala Gup, Gado, felt that Lag Thrums should be issued at the Dzongkhag level and not at the Gewog level as there could be conflict of interest if land transaction and conveyance was approved by the same authority at the Gewog level.

6. Haa LRO, Tenzin Thinley, felt that Lag Thrams should be issued at the Gup's office for the convenience of the land owners.
7. Lingshi Gup, Wangdi, supported the idea of issuance of Lag Thram at the Gewog level.
8. Wangchang Gup, Thinley Dorji, also supported the proposal of issuing Lag Thrams at the Gewog level.
9. Tsento Gup, Chencho, felt that if Lag Thrams were issued at the Gewog level, the importance of Chhazhag Sathram may go down.
10. Thimphu LRO, Tashi Tobgay, informed that till recently the issuance of Lag Thram was decentralized to Dzongkhags but was centralized with the NLCS after detection of cases of tampering with the Thrams which created lot of problems. He was not sure whether decentralization would be correct as from now onwards every Thram should be accompanied with maps and also for every Thram, a fee of Nu 30 was required to be realized.
11. Haa DT chairperson, Tshewang Tandi, felt that more than NLC and Dzongkhag, Gewog Administration could address the problem of land owners. Since the basis was the Chhazhag Thram, and with computerized printout of Thrams as against hand written Thrams in the past, tampering was not possible any more. Since a copy of the Thram was required to be attached with almost every application such as for Kidu timber, house construction, etc., it made sense to issue Lag Thrams at the Gewog level.
12. Thimphu DT chairperson, Sonam Dorji, pointed out that as per Land Rules 25, the old Thram had to be surrendered on the issuance of a new Thram. This had created a problem as during land surveys if there were discrepancies, the surveyors asked for production of old Thrams as proof of earlier boundaries. He wanted that the land owners should

be allowed to retain the old Thrams, as in his experience old Thrams had been very handy and useful in sorting out boundary and other discrepancies during survey as the old Thram had specific details whereas the new Thrams lacked such details.

13. Haa DT chairperson, Tshewang Tandi, informed that in Haa they did not have to surrender the old Thrams.
14. Thimphu LRO informed that while applying for new Lag Thram the old Thram had to be submitted as a proof of the ownership of the land.
15. Haa LRO informed that old Lag Thrams were misused by unscrupulous people to obtain loans.
16. Haa DT chairperson requested that land owners should be allowed to retain the old Thrams so as to avoid future complications for the land owners, and misuse of Thram can now be controlled as there was a big difference between the old and new Thrams, and also if necessary, invalidation of old Thrams can be announced through circulars.
17. Gakiling Gup pointed out his personal case wherein he had a piece of land which was mentioned as 3.40 acres in the old Thram whereas in the new Thram it was mentioned as 2.80 acres.
18. Thimphu DT chairperson reiterated the need for retention of the old Thram by quoting examples of cases from his Gewog which were resolved based on the production of old Thrams as cases of omission from the NLC's side as well as from the land owner's side had taken place.
19. Dogar Gup, Lhab Tshering, said that from his own personal experience old Thrams had no value at all.
20. Sangbey Gup, Tobgay, said that most villagers found it very difficult to come to Thimphu to sort out land problems. Hence, allowing retention of old Thrams would be a big help to them.

Land ceiling

21. Dagala Gup felt that the minimum ceiling of 10 decimals should be removed from the Act.
22. Haa DT chairperson said that the minimum ceiling should be relaxed. He also felt that the maximum ceiling of 25 acres was not fair for large families with 15-20 members.
23. Thimphu DT chairperson said that the size of family needs to be mentioned, for example, the ceiling of 25 acres should be applied to a family of 5 members only.
24. Gakiling Gup, while supporting the above suggestions, wanted to know why there should be a land ceiling as land belonged to individuals and they should have the freedom to own as much as they could.
25. Isu Gup, Tenzing Jamba, said that consolidation of parcels of land which were less than 10 decimals should be allowed by drawing from neighbour's land.
26. The Consultant took the opportunity to explain the why the 10-decimal minimum area requirement was introduced based on ground difficulties and for practical purposes.

Kidu and rehabilitation land

27. Thimphu LRO suggested that based on his experience in Samtse the sale of up to 50 decimals of land should be allowed.
28. Gakiling Gup supported the above suggestion.
29. Haa DT chairperson pointed out that because of the above restriction the resettlers were not able to transfer census of some of their members.
30. The Consultant explained the rationale behind the restriction on rehabilitation land transaction as well as census transfer based on the initial terms and conditions laid down by the Re-settlement Committee

in the late 90s when the resettlement programme was launched based on the decision of the National Assembly of Bhutan..

Conversion of Chhuzhing to other uses/Use of Chhuzhing as residential land

31. Wangchang Gup pointed out that for inheritance, the provisions of the Inheritance Act was applicable whereas purchased Chhuzhing was not eligible for conversion.
32. Gakiling Gup said that it all depended on individuals whether one was influential or not, and hence conversion should be allowed particularly where there was no irrigation water and if the land was not productive.
33. Karma Geley, LMO, explained why Chhuzhing was required to be protected.
34. Dagala Gup felt that it should be left up to the individual owners; if not the present provision should be retained.
35. Chang Gup, Ugyen, wanted the present provision to be retained unless Chhuzhing was located far away from the village.
36. Paro Administrative Officer, Tshewang Dorji, based on his experience as an LRO for a long time, informed that rampant construction on Chhuzhing was taking place while land fragmentation was taking place due to inheritance. He stressed the need to think of the long term and future benefit of protection of Chhuzhing.
37. Gakiling Gup said that the land owner knew best what was good for him and hence it should be left up to him. Transaction should also be allowed.

38. The Legal Officer of MOAF, Ugyen Tshering, explained the importance of the protection of Chhuzhing for national interest.
39. Thimphu DT chairperson said that it was the responsibility of MOAF to take appropriate initiatives to protect prime agricultural land through its policies and programmes.
40. The Consultant intervened to bridge the gap between the views expressed by the Gups and the officials from MOAF.
41. Thimphu LRO supported the proposal for restriction of Chhuzhing transaction.

Exchange of registered land with GRFL

42. Thimphu LRO pointed out that at present such exchange was allowed for inherited land only which was gain based on local value of land which should be done away with. Instead it should be based on the area of the land and nothing else.
43. Dagala Gup said that at present the procedure was lengthy which should be made less cumbersome, and that land within the same Gewog should be treated at par in area irrespective of the location and value.
44. Chang Gup said that to restrict people who had intention of misuse of this provision, only Phasa-Busa should be eligible for exchange. He said that because of the present structure of NLC where a large number of government secretaries sat on, some decisions had take even years, and cited 2 cases from his Gewog which after being with NLCS for 2 years was turned down. He suggested that exchange of land located on steep slopes and rocky areas should also be allowed.
45. Geney Gup, Karma Gyeltshen, said that only land which were under cultivation with proper Thram and Phasa-Busa were eligible for exchange at present

although such conditions were not in the Act, and hence this should be relaxed. There should, of course, be provision to prevent misuse of this provision by unscrupulous people.

46. Gakiling Gup wanted to know whether exchange was possible from the excess land of the same owner.
47. Thimphu LRO clarified that the conditions mentioned were not in the Act but was issued in the form of a circular from NLCS.
48. Gakiling Gup again wanted to know whether one could ask for substitute land from one's excess land.

Encroachment on private and government land

There were no comments on this.

49. Under-utilization and under-development and fallow land management
50. Thimphu DT chairperson informed that land transaction in the vicinity of the Throm had resulted in creation of small plots which were left fallow. Hence, a timeframe within which such land should be brought under agriculture or construction should be mentioned, and also such concern should be addressed through taxation. MOAF should also provide necessary support and subsidy to address the issue. Creation of small plots for ultimate construction affected adjoining agriculture lands which were cultivated. A provision to address this should be included.

The Legal Officer of MOAF informed that a subsidy policy was under preparation and that provision for taxation of under-utilized or under developed land was already in the current Act.

Land acquisition – substitute and compensation

51. Paro Administrative Officer pointed out that at present land owners had to surrender the land whenever required by the government after which the responsibility to look for substitute land was also fell on the land owner. Besides, in most instances, the land taken over by the government was in prime location whereas substitute land was available in remote location which was not fair at all to the owner. He cited the example of private land acquired for Bitekha school some 10 years ago and the land owner had yet to get his substitute land.
52. Thimphu DT chairperson pointed out that the present provision was quite clear but the problem arose during implementation, and cited the example of land owners who had not received land substitute for land acquired for Paro airport decades ago. He said that the provision should not be imbalanced in favour of the government and put the land owner at a disadvantage.
53. Thimphu LRO informed that according to the current Act land substitute should be got registered before surrendering the private land to the government, but obtaining forest clearance was a major problem.
54. Isu Gup pointed out that it was very convenient for the government to take over private land but getting substitute land was the most difficult task as people had hardly any say on this issue. It had become a norm that land taken over in the village be substituted in remote areas far away from the village. He said that substitute land should be made available from the same vicinity.
55. Gakiling Gup said that land substitute should be considered from outside one's Dzongkhag as well.
56. Thimphu LRO pointed out that in most instances it was not possible to allot land substitute because of

community forest land. He felt that if this restriction was removed it would help those losing their land to the government immensely.

57. Soe Gup said that land compensation rate should be increased from time to time.

Land transaction/conveyance

58. Isu Gup pointed out that if NOC from just one neighbor was not forthcoming due to personal reasons, land transaction was held up.
59. Thimphu LRO clarified that NOC was required so that the provision was not misused in connivance with local leaders. He felt that land below 10 decimals should be allowed for transaction.
60. Isu Gup said that things had improved compared to the past; sophisticated equipments were used for survey and now we had maps with Thrangs. So, NOC should not be insisted upon.
61. The Consultant clarified on the issue based on the information he had obtained from the NLC Secretary.
62. Thimphu DT chairperson said that NOC was sometimes used by individuals to bargain for access through other's land which was not justified. In such cases, NOC from the Tshogpas should suffice. NOCs were also held up because of jealousy and sheer lack of goodness in a person.

Lease of land

63. Chang Gup pointed out that at present a trade license was first issued by MOEA for the activity/project after which application for land lease was submitted. This created difficulties for the applicant as well as the local community. So, to avoid such complications, it must be made mandatory to get clearance for the land

- proposed for lease first only after which a license for the trade should be issued.
64. Thimphu LRO said that the requirement of NOC from the community should be done away with as obtaining such NOC was not difficult for influential people thereby defeating the whole purpose. This happened in majority of the cases in thimphu.
 65. Gakiling Gup wanted to know whether villagers could also apply for government land lease.
 66. Thimphu DT chairperson said that the requirement of NOC from the community must be retained as projects must benefit the community as well. Otherwise, it will benefit the rich only and as a result the gap between the rich and the poor will widen further. He submitted during the MTR that the introduction of system of lease of land was too early besides 30 years of lease period being too long. So, he said that he did not support the idea if increasing the land lease to 99 years.
 67. Dagala Gup said that NOC from the community must be mandatory as well as the Local Govt.
 68. On enquiry about the private training institute being built across Babesa, Thimphu LRO said that the land was leased to a private individual by the NLC.

Tsamdro

69. The Consultant explained the work he had done last year on policy and legal implications of Tsamdro nationalization and what he had found and what he had recommended to the government.
70. Dagala Gup said that for those living at the high altitude areas Tsamdro was everything, and hence they should be allowed to have Thram for their Tsamdro although most of the Tsamdro in their area belonged to the Dratshang.

71. Isu Gup said that he supported the current provision in the Act. However, the people were not supportive of the 10-year time line to stop livestock migration from one Dzongkhag to others as this had been a tradition for generations as well as for people of Haa the cattle had to be taken down to Samtse in winter due to lack of fodder. Besides, Jersey cattle were not amenable for migration and instead the present practice also yielded added benefits through Nublang conservation.
72. Lingshi Gup submitted that although there was no major problem with Tsamdro utilization without Thram at present, one had to think of the future concern. There were individuals who were selling off their herds after the nationalization of Tsamdro as they could not inherit the Tsamdro. As the high altitude people played a very important role in the security of the country, it was important that their case be given special treatment so that they could continue to protect the borders of the country. He said that the government should buy the Tsamdro belonging to the Dratshang and allotted to the people living in the areas.
73. Thimphu DT chairperson said that the Drokpas were like the outer wall of the country. But now many were buying land in the lower valleys and settling down which could compromise the security of the country. So, it was very important to encourage them to continue to live in the high altitude areas by giving them incentives and looking after their welfare. Giving the Thram for Tsamdro was one such way of keeping the people happy and encouraging them to continue to live in their present locations.
74. Soe Gup said that the tourists visited their areas because of the yaks they reared. But without Thram for the Tsamdro, people might give up Yak rearing which could impact on national security. They had

raised this issue in the DYT in the past and also submitted to the Parliament. At present, they benefitted from the collection of Cordiceps but this may not be sustainable in the long run.

75. Dagala Gup said that the government's concern about transaction of Tsamdro may be misplaced.

Sokshing

No comments.

Easements

No comments.

Spatial Planning for rural settlements

No comments.

Land fragmentation

76. Thimphu DT chairperson said that land fragmentation was taking place because of land transaction with people who come from outside the Gewog and they usually left it fallow after purchase. There must be a system of fining and penalizing such undesirable practice. MOAF should also consider giving support and incentives such as fencing materials for enabling those who cultivated their land in the vicinity to protect their crops from damage by livestock grazing on fallow land.

Share cropping

77. Thimphu DT chairperson supported the proposal to include provision in the Act as difficulties were faced

on the ground in the absence of a clear legal framework. He cited the example of lack of legal framework on loans. He suggested for inclusion of the provisions from the 1979 Act.

Dispute resolution

78. Dogar Gup agreed that there was a problem at present in land dispute resolution. He was however not able to suggest any concrete proposal.
79. Thimphu DT chairperson informed that at the local level there was a land committee and at the Dzongkhag level the Dzongdas chaired the committee. He agreed that a dispute resolution committee was required at the NLC level as well because quite often the judgment from the courts was unfair and not based on any law. It was also important that the decision given by the local committee be binding on the disputants.
80. Tsento Gup said that there was no Tshogpas in his Gewog as the Tshogpa established for NCRP was disbanded. The problem he pointed out was that whether at the Gewog or Dzongkhag level, they did not have the power to impose penalty and hence their decision did not carry much weight. This must be the same at the NLC level as well. People also tended to prefer to approach courts for faster resolution.
81. The Consultant explained the rationale behind the proposal to have dispute resolution mechanism at various levels mainly to avoid going to the court.
82. Thimphu LRO informed the present system of dispute resolution at the Dzongkhag level with the Dzongda as the chair and with sector heads such as DAO, DLO, DFO, AO and FO being members. In addition, local leaders and elderly people with credibility were also inducted to resolve the issue at the local level

particularly with regard to boundary disputes. As far as land disputes arising out of land transactions was concerned, the determining factor was the terms and conditions in the sale deed. But the major disadvantage the dispute resolution committee had was that it did not have the authority to penalize those found guilty. Regarding the division of land within the family, the Inheritance Act prevailed. The most important thing was that appropriate authority and powers of the committee should be reflected in the Act otherwise it would be a futile exercise. At present such procedures took up to 6-7 months. Powers should also be defined for LGs.

83. Geney Gup said that a time line to address disputes was extremely important.
84. Dagala Gup said that the terms and conditions in the sale deed was the most important.
85. Thimphu DT chairperson said that sale deeds should be within the law.
86. Gakiling Gup felt that such issues could be left up to the individuals or parties concerned.
87. Thimphu LRO reiterated that the current provision required improvement and further clarity.
88. Dagala Gup felt that the will of the individuals left before their demise should be respected and reflected in the Act.

Land survey

89. Gakiling Gup said that the duration of survey should be made as short as possible and at the same time it should be left up to the individual land owners chose which excess land he wants to retain.
90. Thimphu DT chairperson felt that a time line for surveys was necessary. Surveyors should also be posted to Gewogs as foreseen in the Act to expedite

and facilitate survey works so that development works did not suffer.

Urban land

91. Gakiling Gup submitted that urban planning and demarcation of urban land should be expedited as in the absence of such an initiative tremendous difficulties were being faced. He cited the example of Dorokha where people were going through difficult times after the recent fire accident.
92. Thimphu DT chairperson pointed out the lack of clear Gewog and Thimthrom boundary which had posed difficulties for the Gewog Administration.

Any other issues

93. Thimphu DT chairperson said that the provision in the current Act which says, “irrigation canals constructed prior to 5 years” needed to be deleted as it left room for interpretation. The Consultant read out the clause from the Act and explained that anything such as irrigation canals and roads which had been in existence for more than 5 years would be considered as traditional Tsalam-Chhulam which cannot be closed or objected to by anyone, and hence, there was no need for deletion or change in the provision.
94. Thimphu DT chairperson also submitted that since court judgments were quite often contradictory to the provisions of the Land Act, there was a need to coordinate with the judiciary on this.
95. The Consultant sought views of the participants on the proposal received from some of the stakeholders to increase the lease period from 30 to 99 years as was the universal norm, to which Thimphu DT chairperson said that even 30 years was too long, which was

further extendable from time to time. He felt that Bhutan could become like Kalimpong or Sikkim where landed properties were all owned by outsiders. He had expressed this view to the Prime Minister during the recent MTR.

96. Gakiling Gup also expressed his reservation on the proposed increase of the lease period as it was difficult to predict whether it will be in the national interest.

The meeting was adjourned at 5:30 pm.

5. Summary Record of Consultation Meeting on Revision of the Land Act with Gups and other Officials of Gasa, Punakha and Wangduephodrang Dzongkhags Held on 28 November at 09:00 hrs at Gakiling Resort in Lobeysa

Land administration

1. Toewang Gup, Tawchung, submitted that while initially the Land Act 2007 was thought to be good for the people, with implementation shortcomings were experienced, such as the current NLC which had been facing a major problem in holding its meetings due to the problem of required quorum. Since everything had to be approved by NLC now, development activities were held up and development funds lapsed as land acquisition and other land related procedures took considerable time. So, he wanted a better and more efficient mechanism, irrespective of whether land administration was under a ministry or not. The NLC was supposed to be autonomous but in reality this seemed to be doubtful.
2. Shelgana Gup, Samten Phuntsho, said that he supported the point made by Teowang Gup.

Issuance of Lagthram

3. Toebesa Gup, Dorji Norbu, said that the Lagthram was the one which individuals could carry as proof of ownership of one's land while the Chhazhag Sathram was kept at NLC, Dzongkhag and Gewog offices. There was also a system of charging a fee for the new Lagthram. He suggested that Lagthrams should be issued from the Gup's office and an annual report submitted to the NLC which would facilitate and be of immense help to the poor and ignorant village people.

4. Shelgana Gup informed that the recent severe hailstorm had destroyed even the Thrams in his Gewog. So, it was necessary to have copies of the Thram at various levels, and also coordinated closely between the Dzongkhag and Gewogs on this issue.
5. Teowang Gup said that if Thrams could be made available online, all land holdings located in various parts of the country belonging to an individual or a family can be easily verified, and hence, there is no reason why the Thrams cannot be issued at the Gewog level.
6. Zomi Gup, Phuntsho Namgay, pointed out that when mistakes were made in the Thram such as wrong spelling or wrong name of a person as well as the address, this caused tremendous difficulties to the people. A penalty clause for such missions should be incorporated in the Act.

Land ceiling- maximum and minimum

7. Khamed Gup, Karma Tshering, said that land measuring less than 9 decimals belonging to a family or under joint ownership posed serious problem and hence minimum ceiling of 10 decimals should be removed.
8. Nahi Gup, Karma Dorji, said that there was no problem with the maximum ceiling but people had encountered lot of difficulties during the survey as those families which had more than one Lagthram could get more excess land thus depriving those more deserving ones.
9. Shelgnana Gup said that the minimum ceiling was not fair as one would buy land depending upon one's capacity.
10. Nahi Gup pointed out that there was great disparity between individual cases during the survey as

influential people who had just decimals of land measured acres and those with 1 acre measured 5-6 acres.

11. Bjena Gup, Khandu, felt that the minimum ceiling of 10 decimals was not fair, and so, subdivision should be allowed.
12. Babesa Gup, Wangchuk, said that the minimum ceiling before 2007 was 5 acres which had become 10 decimals now. This had posed another problem for the Gups as collection of annual land tax for such small area which worked out to Nu 1.50 to 2.50 was not forthcoming from the owner's side as well as follow up from their side was impossible. Hence, he suggested that a consideration for tax exemption for land below 1 acre should be looked into.
13. Kashi Gup, Sigye Dorji, informed that although subdivision of land below 10 decimal was not permitted under the law, those who were better off and influential always managed to get it done. He said that for inheritance cases subdivision should be allowed, and also taxes exempted for smaller areas of land.
14. Gasa LRO, Kinley Dorji, said that enforcement of maximum and minimum ceiling should take into account the ground situation since some of the cases of subdivision had taken place before the law came into effect, but the recent cadastral survey did not recognize the situation which existed before. He felt at least the already built areas should be regularized.
15. Khamed Gup said that even if a family owned 19 decimal of land, during subdivision among the family one side would get only 9 decimal, and hence no subdivision was allowed. He informed that they had a system of building temporary (Threlkhyim) houses and permanent (Tenkhyim) houses for which such subdivision had taken place. He also wanted the

government to prescribe the size of such temporary structures.

16. Khatoed Gup, Pema Dorji, said that there were cases where one house was built for a family, but when the members of the family could not get along, they had to divide the house and the land. The people also did not feel secure with joint ownership of a house or having joint Thram. So, he requested if the ones already built could be regularized.
17. Teowang Gup said that his Gewog had no problem with the maximum ceiling but for the minimum ceiling there was lack of clarity. He understood that for house construction, a minimum area of 10 decimal was required, but what about other categories of land such as Tshoesa which could be divided to the last decimal in the past based on internal agreement. He said subdivision of such land should also be allowed.
18. Sephu Gup, Rinchen Penjor, said that his Gewog had no problem with the upper ceiling of 25 acres because the maximum land owned in his Gewog was 5-6 acres only. But for the minimum ceiling, he said that for inheritance and Thram transfer, less than 10 decimal should be allowed for conveyance.
19. The Consultant explained the proposal of MOAF on this.

Kidu and rehabilitation land

20. Laya Gup, Kinley Dorji, said that misuse of Kidu should not be allowed and hence transaction of Kidu land should be banned by making an individual ineligible for further Kidu.
21. Toeb Gup said that Tibetan refugees who had received Kidu land from the Government could sell their land to genuine Bhutanese citizens. But this had been stopped recently during the cadastral survey. He

requested if the same rule could be applied uniformly. As far as Kidu land was concerned, it was the prerogative of His Majesty the King and thus it should be governed by the content of the Kasho. He felt that acquisition of Kidu land should be avoided since firstly, the land was granted by HM the King and secondly, it would place the affected owner into serious Kidu situation again.

Conversion of Chhuzhing to other uses/use of Chhuzhing as residential land

22. Shelgana Gup submitted that some of the Chhuzhing were situated on steep slopes while others were not suitable for paddy cultivation. He said that such land could be exchanged with government land or conversion allowed. Besides, the conversion procedure under the current Act was time consuming and cumbersome which should also be corrected.
23. Nahi Gup informed that NLC had recently fined Nu 36,000 to each of those who had allegedly built on Chhuzhing without approval from the government. But on actual verification it was found that these people had mostly built their houses on unproductive land some of which were situated above the irrigation canal. Since the procedure for conversion was cumbersome and lengthy, and now with such hefty fines being imposed, his people found it easier to build on government land.
24. Kabji Gup, Tshering Tobgay, felt it extremely important to undertake wider consultation during the drafting of laws, otherwise it would meet the same fate as that of the Tobacco Control Act. Under the existing provisions of the 2007 Land Act, conversion of Chhuzhing was quite strict particularly when the family size was large. He added that we should undertake a thorough

- assessment to find out whether it would be beneficial to continue to grow rice on Chhuzhing.
25. The Consultant explained the rationale behind the MOAF's proposal to protect Chhuzhing and at the same time incentive and support schemes being proposed to encourage rice cultivation.
 26. Rubesa Gup, Gyeltshen, informed that in his Gewog houses which were built on Chhuzhing some 30 years before were being fined Nu 36,000 by NLC which was not fair as there was no such law at that time. NLC had made the Gups responsible for collection of such fines from the people. Some of his people had no choice but to build on Chhuzhing as their only Kamzhing was high up in Khotokha while others had built on uncultivable land. If an individual could not produce the money receipt for taxes paid, his plea for correction of the past mistakes was not entertained.
 27. Shelgana Gup also said that fines were being imposed for something which was done even before the present law was in place. He felt that it was not fair to impose this responsibility of collecting the fines on the Gups since firstly, the NLC officials who had come to the villages to impose the fines could have easily collected it and secondly, the Gups had their own difficulties in being able to collect the fines. He requested for exemption of such cases. He also pointed out that one could not build on a Chhuzhing which was purchased from others, and asked if it could be allowed.
 28. The Consultant explained the Phasa-Busa principle applied in the Act.
 29. Shelgana Gup felt that transacted Chhuzhing should be allowed for conversion.
 30. Gasa LRO said that there was no differentiation between male and female children when it came to inheritance. He informed that there were lands which were reflected as Chhuzhing in the Thram but it had

not been cultivated for a long time. Such cases should be allowed for conversion easily.

31. Kashi Gup informed that numerous disputes had arisen regarding this. Many people had been fined, while some cases had been sorted out others particularly those poorer people could not get their cases settled. In his Gewog, people had Kamshing only in summer places higher up whereas in the winter place they could not construct houses because it was all Chhuzhing. Even under the new proposal, it may be difficult to allot government land for house construction in lieu of Chhuzhing conversion since government land was scarce in the villages.
32. Limbu Gup, Sonam Tobgay, said that he did not know why the law did not allow people from the higher altitudes to build houses on land they bought in the lower areas. This was the same with retired armed forces personnel who came back to the village and bought land but could not construct houses. Since they usually bought Chhuzhing, they should be allowed to build houses on it. Regarding land tax collection, he said the problem was there before and it continued at present as it was quite difficult to contact land owners.
33. LMO of DOA explained the purpose and rationale behind Chhuzhing protection policy of MOAF as arable land area had come down from 7.9% earlier to 4% now while food security and food self reliance were important national objectives. Because of our excellent relations with India we did not face acute problems at present, but should food import from India be stopped Bhutanese people might have to starve. So, while appreciating the support extended by the people in the past, he solicited their further support in the future. When our forefathers had been able to build our houses on the slopes, why do we have to build on the

flat areas and that on the most agriculturally productive land, he asked. One of the tourist attractions of Bhutan was our terraced agriculture which is very much a part of our traditional and ancient culture. Besides, being self reliant in food has national security implications.

34. Shelgana Gup informed that in his Gewog most people cultivated 3-4 acres of paddy every year, but this year due to hailstones people had realized the vulnerability of paddy cultivation. Now people wanted to sell land for food and future security under compulsion. Under such a situation, Chhuzhing protection became meaningless.
35. Limbu Gup informed that there were 5 Chiwogs under his Gewog out of which Gumakrmo Chiwog had become almost a town, and people sold their land because either there is no one to till the land or due to compulsion for monetary benefit. Hence, conversion should be allowed.
36. Zomi Gup said there was a difference in what was foreseen in the Act and the ground realities and quite often conflicted with what was reflected in the old Thram. For the people, they had to go by ground situation and in the past the government had provided subsidy and support even for construction of sheds for livestock. But now even such activities which were undertaken with not only approval of the government but also support are not being acknowledged.
37. Wangdue DFO said that there were many places which were reflected in the Thram as Chhuzhing but on the ground there was no sign of any paddy cultivation. There were other places where water sources had dried up because of climate change. When people were fined Nu 36,000 for construction of their houses on such land, since they did not have the capacity to pay this fine, they were left with no choice

but to pull down such houses. So, keeping in view the plight and Kidu of the people, MOAF should undertake a thorough assessment of the actual realities on the ground before penalizing the people. He wanted to know how trees growing on so-called Chhuzhing should be treated.

38. Rubesa Gup felt that Nu 36,000 was too high a fine as most people were unable to pay this huge amount. He had advised them that they take loans from the financial institutions to pay the fines but this was also not possible as they did not have the capacity to repay the loan. As far as reduction in the arable area was concerned, there were mistakes made by the government as well as the people. He requested that those constructions which had taken place before the law was in place should be considered as legal.
39. The Legal Officer of MOAF informed that MOAF was working towards providing support and even direct subsidy so that people continue to grow rice on their land. As far as the penalty was concerned, what was being meted out was lenient as according to the Penal Code, the penalty for such illegal constructions prescribed imprisonment from 1-3 years.
40. The Land Management Officer of DOA said that before 2007, approval for constructions were given by the Dzongda or Gup, and such cases should be accepted as legal.
41. Rubesa Gup informed that even those cases which were approved by Gups were being penalized by NLC.
42. Khamed Gup said that NLC had regularized even illegal constructions on government land which had taken before 2003 and were now eligible for Thram. On the other hand, constructions on inherited land were also being penalized. He felt such cases which had occurred before 2003 should be regularized, but all those illegal constructions which took place after

- 2003, and those on purchased land should not be allowed.
43. Sephu Gup submitted that land inherited from the family and land purchased by retired armed forces personnel should be allowed for conversion.
 44. Shelgana Gup said that in his 38 years of life, he had seen drastic changes in the structure of farming. Earlier there were no constraints but now labour shortage was a major problem besides other constraints. So, he said the ground realities had to be taken into account.
 45. Gangtey Gup said that as per the current law, 13 decimal of Chhuzhing was allowed for conversion to construct a house. He suggested that the government consider allotting government land for house construction even to those who own less than 1 acre of Kamzhing.

Exchange of land with GRFL

46. Nahi Gup informed that the farmers were faced with tremendous challenges due to their fields being far away from the settlements in the village, rampant damage by wildlife and some land were situated at the erstwhile Goenpa location. He requested if the government could consider exchanging these lands with GRFL from nearby areas of the village.
47. Shelgana Gup said that applications after applications had been received for land exchange. But the exchange taking place based on the local value of land was not fair, and so, he requested if equal area could be considered.
48. Bjena Gup felt that the same Gewog principle could not be applied in their case as they had their summer place in Phobjikha and winter place in Bjena.

49. Gasa LRO felt that the procedure was lengthy and needed to be shortened.
50. Teowang Gup said that although there was provision for land exchange in the 2007 Act, because of the unwieldy size of the NLC, it took a long time to get the decisions. Besides, the NOC requirement was more of hindrance than facilitation. So, if the decision could be left up to the Tshogpas?
51. Rubesa Gup said that there was a big difference between land at lower and higher altitudes. So, it was not fair when Pangsa given as substitute for Chhuzhing.
52. Phobji Gup, Gyamtsho, said that as it is their small land holdings were not suitable for cultivation.

Encroachment

53. Nahi Gup said that the title should be “Humchoed” rather than “Humzuel” as even entry into forests for grazing could be treated as encroachment.

Under-utilization and under development of land and fallow land management

54. Gasa LRO said that the main problem was with the poor enforcement of the law.
55. Teowang Gup said that it was important to think of new ways of utilizing the scarce land resources of the country since there were fields which could not be cultivated because of wildlife damage, those which did not have enough irrigation water and those which were far away from the villages.

Land fragmentation

56. Shelgana Gup said that due to labour shortage agriculture was becoming more and more difficult, and subdivision due to inheritance could not be stopped.
57. Bjena Gup apprised that during the earlier cadastral survey land areas were marked as “Y” and “Z” plots. But during the recent NCRP, vocal and influential people got both the areas while those poor people who were voiceless did not get even what they should have got. And those who had continued cultivating the “Z” as well as other illegal plots irrespective of the category also got the Thram for the areas. So, there was neither fairness nor equity.
58. Teowang Gup said that those who could pay earlier for the excess land got what they wanted whereas those who were unable to pay lost their land. It was not at fair to the honest and poorer people as there was no prior public announcement to forewarn the people about the new criteria adopted. He felt that the law was not applied uniformly.

Land acquisition

59. Shelgana Gup said that providing land substitute took a long time. For example, in his Gewog the land acquired by the government for the school in 1978 was not substituted so far. Since 2004, he had been working on it but he was informed by the NLC recently that the case had been submitted to HM the King for approval. He did not understand why land substitution cases had to be submitted to HM the King, and felt that such cases could be approved by MOAF.

60. Sephu Gup felt that the provision which said that or both substitute and compensation should be deleted from the Act.
61. Teowang/Nahi Gup said that land substitution cases had to be submitted to HM the King at present, which he felt could be approved at the NLC level.

Valuation of land and property

62. Laya Gup felt that the current PAVA rate was on the lower side which affected the land owner during mortgage with financial institutions for availing loans.

Land transaction/conveyance

63. Nahi Gup informed that at present there was an attached form which was supposed to verify whether the land owned by the applicant was within the 25-acre ceiling, but the form looked like the asset declaration form of the ACC. Besides, it did not mention whether the seller or buyer should fill it up. He also pointed out that there was inconsistency between the Inheritance Act and the Land Act. He felt that NOC from the members of the family was a problem and should not be required.
64. Gasa LRO informed that land transaction could become much easier if e-Sakor was implemented as per circular received from the NLCS.

Lease of government land and GRFL

65. Gasa LRO suggested that the word “temporary” needs to be made clearer.
66. Wangdue DFO said that the purpose of lease should be mentioned clearly as well as the name of the proponent and the area required.

67. The Legal Officer of MOAF apprised the meeting of the revised rules issued with regard to lease of land for commercial agriculture.

Use of Tsamdro

68. Lunana Gup said that at present there was more or less chaos in the villages as neither the old Act nor the current Act was being enforced in the field. While he had been told that the provisions of the current Act took care of all their concerns, he was not sure as he had yet to see a copy of the Land Act 2007.
69. Laya Gup said that the people of high altitude areas were not happy for not getting the Thram because for them Tsamdro was like Chhuzhing. They also played a very important role in the international border security of the country. At present, they are not able to differentiate whether a particular Tsamdro belonged to whom. He had nothing to say about Sokshing and the Tsamdro in the lower areas. Many who had just a few acres of Tsamdro in the past had now resorted to grazing on hundreds of acres. He wanted that it could be passed down to future generations. As time passed, the matter became more complicated. He wanted the government to buy the Tsamdro belonging to the Dratshang and given to them. He also said that the Tsamdro had all along been looked after by them by paying heavy taxes to Gasa Dzong. He requested that their case be looked at differently.
70. Sephu Gup informed that during the recent NCRP Tsamdro had been deleted from the Thram, so also the collection of grazing fee of Nu 100 per herd per annum since 2008. Since the high altitude residents looked after the security of the nation, the government should consider giving them the Thram for their Tsamdro.

Use of Sokshing

71. Shelgana Gup said that the Sokshing had been looked after by their forefathers, and when it was in their Thram, no one could cut down the trees. But now any one could get access to it thereby harming the Sokshing. He suggested that Sokshing should be protected by making it ineligible for felling of trees.
72. Khamed Gup said that while the law says that Sokshing will be on lease, it needs to be made clear whether the area which will be made available will be based on the area of land owned or whatever one owned before, because at present the distribution was not fair.
73. Wangdue DFO said that before the Land Act came into force in 2008, the Department of Forests used to look after the protection of Sokshing. Now it had become nobody's baby, and in many places people had converted it into community forests because they did not want to take care of it if it was only for leaf litter collection. Many more wanted it converted into community forests. He clarified that one could not avail Zhogshing or Drashing from community forests but only Dangm, Cham and firewood. According to the previous law, even such permits were not issued thereby ensuring total protection of Sokshing.
74. Khatoed Gup said that only those who had Thram earlier should be eligible to get permit to fell from the Sokshing. He said that one reason why Bhutan was able to maintain more than 60 % forest cover was because of the Sokshing protection. He said that if Sokshing was allowed to be converted into community forests felling will take place, hence conversion of Sokshing to community forests should not be allowed. He suggested that like agriculture land, Sokshing should also be protected. As the present Act allows

lease of Sokshing based on the area of agriculture land owned only, it is fair and equitable and hence it should be enforced.

Share cropping

75. Kabji Gup supported the proposal to include a provision on share cropping in the Act. He said that the Dratshang and the Royal Family owned huge tracts of land but they did not contribute a day's labour or a Nu for the development activities like irrigation canals. It was the small land holders who did everything as those owning more than 15-20 acres did not even show their face. It also needs to be made clear as to who is responsible for the labour contribution to the irrigation canal – whether it was the land owner or the share cropper. The Dratshang has also refused to pay labour wages in the past. There were many other systems which complicated the matter which should be addressed through the Act.
76. Nahi Gup said that there was a difference between share cropping GOTHUEN and THOGJAB as there was less problem with GOTHUEN since both the partners were involve equally whereas under Thogjab, contract was signed and the responsibility for irrigation canal, etc. had to be mentioned under this system.
77. Shelgana Gup said that labour or monetary contribution should be levied based on the acreage of land owned. In the past, the Dratshang had not paid for the transportation of even a bag of cement. As the saying goes, “ Tshong Machab Tsi Chab”, it was now time that every land owner bore responsibility without fail.

Any other issues

78. Wangdue DFO, Kin Dorji, said that the problems faced on the ground were quite often due to inconsistencies between the Act and the correspondent Rules so, it was extremely important to ensure that the Rules framed under the Act were consistent with the provisions of the Act.
79. Punakha LRO, Leki Dorji, said that that the upper ceiling of 25 acres needs to be brought down and at the same time the lower ceiling of 10 decimal needs to be increased because from his 38 years of working experience it was a situation of the rich getting richer and the poor getting poorer. Regarding Kidu land, he felt that it should be restricted from transaction. On the issue of conversion of Chhuzhing, he said that constructions which had taken place before 2003 and illegal constructions on Govt. should be considered on Kidu.
80. Teowang Gup said that in the 1979 Act: i) there was provision for 2 types of irrigating or using irrigation water; under the first system, it was based on past practice of who had the right irrespective of the acreage, and under the second system, it was based on the acreage of land owned. The current system was based on the acreage of land; (ii) there was provision for Langlam-Chhulam which may not be respected if a piece of fallow land through which such Langlam was made was cultivated again after many years. In future, there will be need for power tiller roads. So, this should be clearly reflected in the Act.
81. Nahi Gup said that according to the 1979 Act, one cannot widen or make the width of the road smaller, and similar yardstick would apply to irrigation canals. He suggested that this provision should be reflected in the Act.

82. Khamed Gup said that if a piece of land was left fallow for more than 5 years when it was used a thoroughfare by others, such thoroughfare should be allowed to be continued even when the land owner is able to cultivate the land again.
83. Teowang Gup repeated that the system of water sharing should be reflected as it was reflected in the 1979 Act.
84. Goen Khateod Gup said that registered land falling under farm roads should be eligible for substitution or compensation.

The Legal Officer of MOAF and the Consultant thanked the participants for their active participation and valuable contributions.

The meeting was adjourned at 5 pm.

6. Summary Record of Consultation Meeting on Revision of the Land Act with Gups and other Officials of Dagana, Tsirang and Sarpang Dzongkhags on 18 December 2011 at 09:00 hrs at U-Wang Hotel , Gelephu

Land administration

1. Lhawang Dorji, DT chairperson of Dagana felt that land administration at the center should be under a ministry, and cited the bad experience of land acquisition for Dagana school for which allotment of substitute land had been pending for a long time. He supported the proposal to restructure the national land commission by appointment of full-time members and redefining their role and functions.
2. Dorji, Tsangkha Gup said that 2/3rd quorum for NLC meetings was difficult because of the large number of very senior officials being on the commission whereas a commission like RCSC would function effectively with a chairperson and members working full time just for land issues.

Issuance of Thram

3. Dagana DT chairperson recalled that before land conveyance was required to be processed through a court of law. But now the requirement of NOC from neighbours and family members was a major hassle, and wondered why you required such NOC for transaction of land which was recorded in the Thram in your name.
4. Sangay Tshering, Chhuzagang Gup supported the earlier speaker for doing away with the requirement of NOC from neighbours. He said that such matter could be left up to the Gewog administration where at least

- 3 officials could vet such cases. He also jumped on to the issues of land ceiling and land substitute which were in the following agenda items.
5. Ugyen Norbu, Umling Gup reported that the land on which the Gup's office and community Lhakhang were built in the resettlement areas were still without Thram, and in spite of their best efforts it was a herculean task to get it registered. Although the current Land Act had a clear time line of 90 days, it was seldom enforced or achieved.
 6. Yeshe, Tsirang DT chairperson and Mendrelgang Gup, informed that different offices had issued different forms for land transaction and requested that it be made uniform. Sometimes the forms they had filled up and submitted had to be cancelled creating lot of hardship and cited the example of transfer of land from deceased parents to children. He also said that the requirement of NOC from family members was another hassle, and sometimes some members of the family would claim that their thumb impressions were not theirs for which the Gups were held responsible by the Dzongkhag Administration although it was not practical and in fact impossible for the Gups to get the thumb impression of every member of a family in front of their eyes. So, he felt that the liability for such cases should be placed on the applicants.
 7. Ugyen Dorji, Khibesa Gup, said that Yojed Lhakhangs which did not have Thrams should be given Thrams. As for the NOC, although the land was very clearly reflected in one's Thram, if there were personal differences it gave the neighbours good excuse for unnecessary harassment. So, such cases took up to 2-3 years. Since the government should know which was government land and which was not, the requirement for NOC was therefore not justified.

8. Tsangkha Gup said he supported the Tsirang Thrizin as many old cases were pending. The responsibility which was being handled by the courts in the past was now passed on to the Gewog Administration. So, it was necessary to provide training to the Gups such as filling up forms. He said that the requirement of NOC had both positive and negative implications. He informed that mistakes were found in the issuance of Thrams to the re-settlers such as acreage of land, etc. which should be addressed in the Act.
9. Sherab Wangdi, Dagana LRO, informed that the reason why there was no Thram for Lhakhangs and other institutions was because the departments concerned did not bother to process for Thram transfer once the land was acquired. He recalled the circular issued by the Home Ministry then which required the departments concerned to take such responsibility. He reiterated that this responsibility should be taken by the departments concerned.
10. Tshewang Norbu, Kikorthang Gup, reminded that under the current law land can be registered as individual owned, family owned or under joint ownership.
11. Ugyen, Sarpang LRO, informed that NOC was required from the members of the family if they were registered under the same census, and at present the land belonging to individuals, family and joint ownership were not differentiated in the Thram which created the problem. But after the NCRP, it will be done when NOC for individual land will not be required. He also said that the lack of Thram for Lhakhangs was the fault of the Land Record Department and institutions as well as departments concerned. Although private land was acquired by the government after paying necessary compensation, some individuals had continued to pay land taxes for reasons known only to

them which was creating complications now. He agreed that forms should be made uniform, and suggested that Gups should be given training on the land administration including filling up the necessary forms.

12. Tashi, Gelephu Gup, said that his Gewog had 5 Chiwogs for which in future community centres such as community halls, training centres and election offices would be required for which land needed to be identified and demarcated instead of allotting all government land to individuals now and having to acquire it backlater through painful process. Since this was not reflected in the Land Act, he suggested that this be reflected if possible. He also said that there was a need to increase the area of Gewog centers from the current 40-50 decimals keeping in mind the future needs.
13. Dagana DT chairperson cited the example of PHPA where apparently people were faced with difficulty in getting land substitute. Based on this experience, he suggested that land owners should first get the Thram for the substitute land. Besides, the location of substitute land needed to be made less restrictive.
14. Sarpang LRO informed that Section 155 of the Land Act was clear on this.

Land ceiling

15. Sherab Jamtsho, Sarpang DT chairperson and Jigmechholing Gup, said that he supported the maximum ceiling being maintained at the current limit, but was disappointed that this provision had remained only on paper in the land of Thrimdhen-gigyalkhab. This provision was easily bypassed by people of influence and power by separating the census even on individual basis which was not in

keeping with the principle of equity and justice under the democratic system. He informed that as a result of the 2007 Land Act 100s of acres of cardamom orchard, most of which overlapped with GRFL, were being sold. This was not allowed before and should not be allowed in the future.

16. Tsangkha Gup said that the land ceiling of 25 acres maintained in the 2007 Land Act was for equity which he supported wholeheartedly. But the minimum ceiling of 10 decimal was misunderstood as a result of which people resorted to selling land indiscriminately. He felt that this ceiling was set without giving much thought. So, he said that the minimum ceiling should be 5 acres.
17. Gelephu Gup said that 5-acre ceiling may not be fair to the re-settlers as they had only 5 acres of land out of which some portion had to be sold to enable them to build houses. So, he suggested 4 acres as the minimum ceiling.
18. Dagana DT chairperson said that land Kidu was the Royal Prerogative of His Majesty the King, and if Kidu land granted was 2 acres only, 4 acres became irrelevant. So, he suggested 1.5 acres as the minimum ceiling.
19. Chhuzagang Gup said that 25-acre ceiling was appropriate only if it applied to a family comprising of just parents and their children. So, he said the definition of “family” needed to be redrafted so that poorer section of the people got equal opportunity. As for the minimum ceiling, he said the individual owners should be more concerned.
20. Umling Gup said that the maximum ceiling did not require any revision, but for minimum ceiling we had to take into account the fact that in Samdrup Jongkhar resettlers were given only 3 acres of land.

21. Sarpang LRO said he also supported the maximum ceiling of 25 acres, but for minimum ceiling he suggested 1.50 acres for Kidu, Kasho and Zhisar land. He said that if there was no minimum ceiling for resettlement land, people were likely to sell all their land and go back to their former villages. For the old Thram holders the minimum ceiling could be different.

Kidu and rehabilitation land

22. Gelephu Gup said that Kidu and rehabilitation land should be dealt in the same manner as otherwise it would look like having 2 different laws for different group of people. He said that those who had Kidu land should also be required to live on the land as their land was not only left fallow and had turned into forests, they were also not paying their land taxes. He suggested that the minimum ceiling be set at 2.50 acres.
23. Shacha, Tsirang CFO, while supporting the upper ceiling said that the minimum ceiling should be fixed on percentage basis rather than a fixed number/acreage.

Conversion of Chhuzhing

24. Gelephu Gup said that the Land Act allowed conversion of 50 decimals of Phasa-Busa. If a family of 12 members had 79 decimals of Chhuzhing, it could be used for only one house. Whether it was inherited or not, conversion should be allowed as Chhuzhing below 50 decimals was not worth for agriculture.
25. Chhoeda, Tsirang DAO, informed that his Dzongkhag received 50-60 cases a year out of which only about 5 per cent was approved. Besides, in certain cases, what was reflected in the Thram as Chhuzhing, on the

- ground the situation was different. He recalled that during the implementation of Chirang Hill Irrigation Project, the government used to give Nu 300 for conversion of 1 acre of land to Chhuzhing but the actual conversion was physically never verified. He said that the current 50 decimal allowance was too high and felt that 10-13 decimal was adequate.
26. Sarpang DT chairperson said that there was no problem with regard to conversion for other purposes but there was serious problem with regard to conversion for house construction. Chhuzhing transaction just for house construction was not allowed at present which should be allowed in future. Then a team from the ministry had to come for further investigation which was not different from what was done by the Dzongkhag. So, he felt the Dzongkhag and the Gewog committees should be authorized to approve Chhuzhing conversion.
 27. Tsangkha Gup said that for those who did not have the capacity the procedure was long and cumbersome even for conversion of inherited land. He however supported the proposal for reduction of 50 decimals to 13 decimal. He also said that there were many cases where the Chhuzhing was not cultivable, unproductive and close to towns. He appreciated the proposal of MOAF to allot government land for house construction in lieu of conversion of Chhuzhing.
 28. The Legal Officer of MOAF and LMO of DOA agreed that the process was time consuming. However, this was because now they received 800 cases a year as against 100 before with only 3 people to deal with it. Their request for additional manpower to RCSC was not responsive. They informed that they entertained applications 3 times a year to expedite the process. The LMO recalled that in 1985 the government gave an incentive of Nu 300 per acre of dryland to

Chhuzhing without any proper physical verification. He informed that the ministry's committee was chaired by the Secretary with 7 other members and as such regular meetings were not possible. If the authority was decentralized to the Dzongkhag level, the technical capacity was inadequate for verification of soil nutrition and water source adequacy. Besides, a check and balance system was necessary. They tried their best to meet the expectation of the people in a fair and transparent manner.

29. Dagana DT chairperson said that in keeping with changing times it was necessary to make changes to the way land issues are handled by the government. Besides, the government initiative on G2C was doing well, and people now did not hesitate to complain when services were not delivered in time. The DAO and DFO were there to represent the MOAF at the Dzongkhag level and the DAO should know the soil capacity. In his Dzongkhag, out of many cases submitted only 2 were approved so far. So, the Dzongkhag and Gewog officials were at the receiving end.
30. Sangay Yonten, Sershong Gup, expressed his apprehension that what we were doing now may result in problems in the future. He said that the current allowance of 50 decimals should be maintained, and if changes can be made it should be made in the area of transaction. Otherwise, it should be left as it is.
31. Sarpang DT chairperson said that he wanted to respond to the statement of LMO. Under the decentralization policy, it should be decentralized to the Dzongkhag and Gewogs including specialists with the objective of providing services as fast as possible.
32. Chhuzhagang Gup said that it was important to have a clear government policy and at the same time take into account the ground realities of the Gewogs. He

- questioned the proposal for reducing the area from 50 to 13 decimals and wondered whether it was because the government was unable to allot 50 decimals. He said that 50 decimals was required as people had to keep livestock and space was required for other activities as well. He said that if government was going to allot 13 decimals in lieu of conversion, he supported the proposal. He informed that many cases where conversion was not allowed by law were allowed, and many parents transferred land immediately after purchase to their children with the aim of conversion.
33. Gelephu Gup said that the local governments had also the required specialists to handle such issues. Besides, when we tried to do everything from the centre, the delivery of services was affected. He informed that one influential person in his Gewog got the entire 5 acres of his Chhuzhing converted whereas another ordinary villager could not get even his few decimals converted which showed how such cases were not handled in a fair and transparent manner.
34. Dorji Khandu, Tsirang municipal engineer, said that the authority to approve conversion up to 13 decimals of inherited Chhuzhing should be given to the Dzongkhag. He informed that in a place called Waleytar in Tsirang there was Chhuzhing being cultivated since many years but it was reflected as Kamzhing in the Thram.
35. Tsirang DT chairperson said that the Chhuzhing conversion approval should be delegated to the Dzongkhag committee as Dzongkhag officials knew the ground situation better than the officials from Thimphu. Besides, only 2-3 officials came from Thimphu for verification. He also said that corruption was more at the central level and not at the Dzongkhag level. Further, only problematic cases were sent down to the local government.

36. The LMO from DOA said that we had to think of the national interest and not of individual interest. He also explained the importance of Chhuzhing protection for national interest and national security. The rapid loss of Chhuzhing in the country should be worrying to every Bhutanese he said.
37. Dagana DT chairperson said that in Thimphu all Chhuzhing was lost, and so was in Bajo. So, where was the principle of equity and justice, he questioned. He felt that the laws were being enforced strictly in the remote villages only which was not done at the center. So, the Gewog Administration was at the receiving end from the public. In keeping with changing times, things had to be changed. Land cases were processed through courts in the past taking lot of time, but now through Gewog offices cases could be sorted out in 1-2 days.
38. The Legal Officer of MOAF explained that the 2-3 people who came from Thimphu and the members of the land committee in Thimphu were not the same, as well as the rationale behind the current practice.
39. Sarpang DT chairperson enquired why people had to pay Nu 100 per application form for Chhuzhing conversion and why it was made available from the Dzongkhag office only.
40. The LMO clarified by saying that based on the experience of some people applying just for pot luck and thereby wasting substantial government resources and time, the new system was introduced so that only serious and genuine cases were brought up.

Exchange of land

41. Sarpang DT chairperson said that in his Gewog there were 100s of acres of cardamom orchards, some located 2-3 days walk away, which were being

exchanged with land from more accessible and favourable places although some of the so-called orchards were just rocks. He also said that hundreds and thousands of acres of Tsamdrol which originally belonged to the Members of the Royal Family were being transacted although not allowed by law for which his office had been receiving 100s of applications. He requested that this issue should be looked into thoroughly by the NLC.

42. The MOAF Legal Officer took the opportunity to explain the guidelines for orchards issued by the MOAF.
43. Chhuzagang Gup said that it was not easy to get substitute land for private land affected by floods because the rules were cumbersome and procedures lengthy, and also not implemented in letter and spirit. For this, he suggested that strict instructions were required to be issued by the government. Sometimes, when the documents were submitted for such cases, it was returned saying that there was no forest clearance, for example, which delayed the process considerably. So, the respective departments should be made responsible for submission of complete set of documents so as to avoid delays.
44. Sangay Chhophel, Planning Officer of MOAF, informed that there was no separate procedure for exchange of land affected by natural calamities. So, such cases were treated in the same manner as other land exchange cases, and cited the cases of 2009 floods. He suggested that a separate procedure should be put in place in view of the nature of the case.
45. Dagana DT chairperson said that for a small country like Bhutan there were perhaps too many government departments and agencies which hampered the delivery of services efficiently. At the end of the day, it was the ordinary people who had to pay the price. For

example, NLC would pass the buck to Department of Disaster Management and vice versa. This needed to be looked into thoroughly to have a clear delineation of institutional responsibility. With regard to land exchange there was a lack of clarity which should be addressed.

46. Tsangkha Gup said that the issue of allotment of substitute land in exchange for agriculture fields situated far away from the village, those affected by floods and those with poor soil conditions should be addressed expeditiously. Similarly, the issue of cardamom orchards mentioned by the Sarpang DT chairperson. This could be done if it was left up to the Gewog and Dzongkhag Tshogpas. There was no need for adopting the longer route when such cases could be addressed locally. There was no need to even disturb the Gyalpoi Zimpon's office.
47. Sherab Wangdi, Dagana LRO, informed that there was a land exchange committee at the Dzongkhag level of which the LRO was the committee secretary. But since 2010, this responsibility was handed over to the DAO as per instructions from Thimphu. Similarly, the DFO was the committee secretary for land lease. He felt that these responsibilities needed to be made more clearer.
48. The Planning Officer from MOAF explained why the above changes were necessary and had to be made. The DAO had to look at the land capability and the DFO had to monitor the land leased out as it came out of the GRFL. As far as how much of the land area can be exchanged, it was up to the individual land owner concerned.
49. Dagana LRO reiterated that these responsibilities and procedures needed to be made clearer.
50. Sershong Gup said that if cardamom orchards were going to be dealt in the same manner as Tsamdrol and

Sokshing, then further discussion was necessary. Otherwise, it should be dealt as per the existing provisions of the Land Act.

Encroachment

51. Sarpang DT chairperson felt that there was no provision to deal with Tstatong land in the Act.
52. The Consultant pointed out that there was adequate provision in the current Act (Sections 212 to 214).

Under-utilization, under development of land, and fallow land management

53. Chhuzagang Gup pointed out that in his Gewog there were 400-500 acres of land which was granted through Kasho, but since this land was never cultivated it had turned into forests, no taxes were paid, and had now become the habitat for wildlife which was a major source of problem for the residents of the Gewog. The people had been expressing their resentment for a long time including through the media. The Gup did not know where these land owners were. So, he requested for a thorough investigation to address the issue so that the suffering of those who lived in the Gewog could be addressed once and for all. He said that it was high time that the government addressed this issue which was prevalent in all the Gewogs of southern Dzongkhags. He informed that because of these people he had to pay their taxes from his pocket to be become eligible for the recent Local Government election. He had paid Nu 52,000.00 from his own pocket.
54. Sarpang DT chairperson felt that those who had Kidu did not get land in the resettlement areas. So, those

who had got Kasho land should also be treated at par with resettlement land.

55. Gelephu Gup said that it was not good enough to have land in one's Thram if it was neither cultivated nor looked after. So, there was a need for strict legal provision to discourage such a situation. If the Local Government had the authority, they would have already taken over such land. So, either the land owners should live on their land or there must be provision for revoking such allotment of land.
56. Tsangkha Gup expressed his support to what was said by the earlier speakers and added that paying taxes was not enough as they were required to contribute labour for community activities. So, there was a need for strict laws to address this issue.

Land fragmentation

57. Chhuzagang Gup said that some families comprised of up to 30 members, so, they had to construct houses when the family split. If the government was going to allot land for house construction, it will help Chhuzhing protection, otherwise, in 10 years time all Chhuzhing would have been built up with houses.

Land compensation and substitute

58. Tsangkha Gup said that the land compensation rate was low at present. So, he requested that the compensation rate be at market rate as was done in case of urban areas.

Land conveyance

59. Tsangkha Gup said that there should be strict laws against people selling the same plot of land to many

individuals. He also wanted that the time for Thram transfer to be shortened including the transfer from the deceased to the children to one year.

60. Dagana DT chairperson said that one year was too long and it should be brought down to 3 months, and further said that when land disputes at the Gewog level could be settled within one month, there was no reason why land conveyance could not be addressed in 3 months.
61. Sershong Gup said that at present transfer of land of deceased could be done only to the head of the family, which should be changed to allow transfer to children as part of inheritance. Besides, the penalty for illegal transaction seemed to be lenient and therefore he suggested for harsher punishment.
62. Sarpang DT chairperson informed that for every land transaction case, Nu 400 was levied as sales tax which was remitted to the Ministry of Finance. He wanted this revenue be allowed to be retained by the Gewog office as part of its local revenue for the services the Gewog Administration had to render for land cases.
63. Chhuzagang Gup said that the time line mentioned in the law is sometimes not practical in the field particularly when there was shortage of manpower in the government and there were other important factors which needed to be addressed. So, he suggested that a reasonable time frame should be incorporated. When it came to multiple sale of the same piece of land, the buyer who had signed the agreement first should be eligible for payment of the current market rate of land in case the seller reneges on the deal. For transfer of land from the deceased provision for inheritance transfer should be included.
64. Gelephu Gup said he supported the statement made by the earlier speaker. At present, if there was dispute between two parties, the Gup who had endorsed the

already signed agreement was also made liable which he felt was not fair. So, he said the liability should be placed entirely on the signatories of the agreement.

Lease of government land and GRFL

65. Sershong Gup said that if someone applied for 5 acres of land on lease for establishing a dairy farm which benefitted him but not the local community at all, such lease should not be permitted under the law.

Tsamdro

66. Tseza Gup said that there were conflicts between those who had the Thram for Tsamdro before and those who did not have in Dorona as the latter now claimed that they had equal right to the Tsamdro. He said that there should be a differentiation.
67. Tsangkha Gup said that he was present in the National Assembly when the current Land Act was deliberated and approved according to which the original Thram holder has preference for the Tsamdro, which should be retained.

Sokshing

68. Dagana DT chairperson highlighted the advantages of keeping the Sokshing as before which were availability of organic manure for agriculture and environment protection whereas the disadvantages of the current provision of the law were rampant felling of trees and conflict among the villagers.
69. Tsangkha Gup said that people may not be interested in paying lease fee just for collection of leaf litter from the Sokshing. So, it should be reverted back to the 1979 law. At present, there was tremendous impact

on the environment as the Department of Forests had started giving permits to fell trees in the Sokshing rampantly which was not done before. So, if it was reverted back, it will be looked after well by the individuals.

70. Tsirang DFO said that Sokshing should be reverted back to 1979 Land Act status but their use should be governed by the provisions of the Forest Act.

Easements

71. Tsangkha Gup said that community interest should precede individual interest when it came to easements.
72. Gelephu Gup said that when no compensation or land substitute was provided for private land falling under farm roads, the quality of farm roads was being affected badly.
73. Gomchen, Dekiling Gup, wanted to know if people who developed Chhuzhing later along the irrigation canal of downstream farmers could stop the downstream farmers from getting water, and similarly, for farm roads.
74. Tsirang DAO said that some roads were initially built as power tiller tracks but had to be upgraded to farm roads later. Such cases were likely to occur everywhere in the future. So, he said provision needed to be kept for future expansion and widening of such roads, and suggested 5-10 meters as right of way area.

Dispute resolution

75. Dagana DT chairperson said that there should be provision for incentives to the committee members as well as village elders who were required to be recruited to address land disputes as per the Act.

Survey

76. Tsangkha Gup said that there was serious problem with survey as his land which was recorded as 5 acres in the Thram became 4.50 acres during the 2004 cadastral survey. He felt that the government should make up the shortfall in area from the nearby GRFL. He felt it important to look into the grievances of the people and not be biased in favour of the government all the time. He wanted that private land falling under any kind of road should be provided with substitute land.
77. Tseza Gup recalled that land was first surveyed in 1991 followed by cadastral survey in 2004. Agriculture land which had turned into forests were recorded in Thram “Ka” did not appear in Thram “Kha” later although they had paid taxes till 2006.
78. Tsirang DFO informed that there was a Kasho from His Majesty the King according to which such land had to be converted into private forests.
79. Sarpang LRO informed that there was a system of making up the shortfall in area provided there was government land was available in the vicinity. If not, the land owner should be eligible for compensation.
80. Ugyen Dorji, Khibesa Gup said that for cases where there was shortfall of land during survey, if no government land was available in the same area, the government should consider allotting it from other areas particularly for those holding small areas.

Urban land

81. Tsirang Thromde Engineer said that at present urban land was governed under the Land Act which had many shortcomings thereby creating problems for the

administration responsible for urban planning and management.

Any other issues

82. Tsirnag CFO said that although the law gave ownership of trees on agriculture land to the Thram holders, provision should be incorporated to assess negative impact on the environment especially in the catchment and watershed areas.
83. Tsangkha Gup said that while supporting the views expressed by the Tsirang Thromde Officer, he felt that besides the trees in the environmentally fragile and water catchment areas, trees within 50 feet RROW should also be included.
84. Dagana DT chairperson said that the MOWHS should address urgently the case of land belonging to individuals falling within the RROW by providing compensation and substitute land.
85. Since there was no more speaker, the LO of MOAF took the opportunity to explain the new land exchange form which was shortened to 6 pages and prepared in consultation with NLC.
86. Sarpang DT chairperson said that the land forms should be made available in Dzongkha.
87. Umling Gup said that he was looking forward to the upcoming NCRP when he expected the boundary disputes of land to be sorted out. While appreciating the shortening of the land exchange form, he also requested that it be made available in Dzongkha.
88. Dagana LRO repeated what he said earlier about the DAO and DFO being made secretaries to the land committees dealing with land exchange and land lease respectively, but the DAO had refused to sign on the form on the pretext of there not being space for his

signature as his name did not appear on the current form.

89. Chhuzagang Gup said that sometimes the clearance was not possible when all the members were not available at the same time and instead came individually. He also asked that a clear directive as to who is responsible for what be issued from the centre.
90. Gelephu Gup suggested that land substitute should also be made available from other Dzongkhags.
91. Tsangkha Gup said that with regard to the issue raised by the Dagana LRO, the field investigation done by the AEO should be verified by the DAO.
92. The LO of MOAF and the Consultant thanked the participants for their patience and contributions.

The meeting was adjourned at 5:15 pm.

7. Summary Record of Consultation Meeting on Revision of the Land Act with Gups and other Officials of Pemagatshel, Samdrup Jongkhar and Trashigang Dzongkhags held on 22 December 2011 at 09:00 hrs at KC Hotel, Trashigang

Land administration

1. Endorsed the proposal articulated by the Consultant based on the outcome of consultation meetings held so far.

Issuance of Thram

2. Tshewang Tshering, Sakten Gup, had questions on issuance of Thram, land ceiling and Kidu and rehabilitation land.
3. Sonam Dorji, Samkhar Gup, said that it was quite a task to get one's Lagthrams, so, he said that it should be made available at the Dzongkhags so that people did not have to go to Thimphu.
4. Pema Dhendup. Lauri Gup, said that Thrams should be made available on individual, family and joint ownership basis as reflected in the Act.
5. Sakten Gup repeated what he had said earlier.

Land ceiling

6. Lepo, Shumar Gup, sought clarification on the maximum ceiling.
7. Lharib Dorji, Langchenphu Gup, said that there was a need for minimum ceiling quoting the saying, "Mi norig machig, bya purig machig." He said that if there was no minimum ceiling, chances of people becoming landless was very high as irresponsible children may

- sell everything and leave nothing for their children. So, he supported the minimum ceiling at 10 decimals.
8. Samkhar Gup endorsed the current maximum ceiling, but did not support a minimum ceiling because those who did not have land were likely to ask for at least the minimum required holding of land.
 9. Yonten Dorji, Martshala Gup, also endorsed the existing maximum ceiling. When it came to the minimum ceiling, he said that those who did not have 10 decimals should be provided with more land.
 10. The Consultant explained that the 10 decimals was not the minimum ceiling, and also told them what he was told by the NLC Secretary of their addressing the issue as suggested above.
 11. The LO of MOAF clarified on the concept of minimum ceiling and 10 decimals as the minimum area one can register in the Thram.
 12. Samkhar Gup felt that there was no need for a minimum ceiling.
 13. Kinzang Dorji, Trashigang DT chairperson, also endorsed the current maximum ceiling, and said that there was a need for minimum ceiling as well. For example, in his Gewog a person called Dophu had some excess land during the cadastral survey in 1986 for which he had to pay to the government, but was surrendered to the government as he could not pay. If the minimum ceiling was fixed at 5 acres, he should have got the excess land.
 14. Sakten Gup said that some irresponsible parents could sell all the land leaving nothing for the children, so, a minimum ceiling was required.
 15. Langchenphu Gup said that buyers should be allowed to buy even if the land was less than 10 decimals.
 16. The LMO of DOA explained why the minimum ceiling of 5 acres existing in the 1979 Act was removed from the 2007 Act as well as why minimum holding of 10

decimals was required to enable it to be reflected on the map.

17. Pema Dorji, Chongshing Gup, said that the maximum ceiling should be based on the individual family size and the minimum ceiling should be fixed between 1-2 acres.
18. Martshala Gup said that when the Land Act was being revised the issue of maximum and minimum ceiling needed to be carefully assessed based on the size of family as well as those who did not have enough land.
19. The Consultant interjected to facilitate discussion by sharing information about the acreage of land allotted to resettlers in different Dongkhags. Hethen enquired about the current resettlement project being implemented by the Gyalpoi Zimpon's office in Pemagatshel Dzongkhag.
20. Shumar Gup said that 48 Goongs were being resettled in his Gewog under which land was being given based on the number of able-bodied members of a family within the age range of 18-60 years. The land given was 1.50 to 2 acres per family along with which labour wage for 2 carpenters, free timber, CGI sheets and ration for 6 months were being made available. Drinking water supply as well as other necessary service facilities were also provided. The re-settlers came from remote isolated villages where development services could not be provided.
21. The Consultant enquired about restrictive conditions as were applied to the re-settlers earlier.
22. Shumar Gup said that land granted was only for cultivation and not for sale because if what was acquired by the parents was lost, then the children would have to approach for Kidu again. Till 10 years, the land cannot be mortgaged which created its own problems. So, mortgage should be allowed, he said.

23. Tashi Zangmo, Mangmi of Pemathang, informed that in her Gewog 140 Goongs were resettled when only 3 acres of land was allotted. So, those with larger families and more so agriculture dependent families needed more land as 3 acres was inadequate.
24. Lauri Gup informed that there were cases where those people who had got land in the south under the resettlement programme were now coming back and claiming share of inheritance, and sought advice on how to deal with such cases.
25. Jigmi Namgay, Radhi Gup, said that some re-settlers had come back and objected to construction of farm roads while some came to take a share of the crops cultivated by those who had stayed behind. He requested for a thorough investigation by the government.
26. The Consultant informed that since he was a member of the Resettlement Committee which had drafted the terms and conditions for re-settlers in the late 90s, which were then incorporated in the Land Act, he felt that there was no room for such claims.
27. Martshala Gup enquired as to how many acres of land would be made available to those who did not have adequate land.
28. Sakten Gup wanted to know whether substitute land would be made available to those who lost their land to floods and landslides.

Conversion of Chhuzhing

29. Kinzang Wangdi, Shongphu Gup, informed that there were many cases of illegal construction of houses on Chhuzhing, after which they would apply for transfer of census, loans, etc. He wanted to know the legal provisions to deal with such cases.

30. The LO of MOAF explained the existing provisions and fines of Nu 36,000 being imposed by NLCS for such cases based on the minimum daily wage rate.
31. Shongphu Gup said that restrictions and penalties should be clearly spelt out in the Act.
32. Trashigang DT chairperson said that illegal constructions on Chhuzhing were taking place everywhere including Thimphu, and if it was allowed in Thimphu there was no reason why it should not be allowed in Trashigang.

Land exchange

33. Trashigang DT chairperson enquired whether agriculture land which had turned into forests could be exchanged with GRFL.
34. Sangay Chhophel informed that this was allowed so long the land was registered in the Thram.
35. Karma Galey said that after keeping it as Ngarthram, people resorted to felling trees. Instead, he suggested that it could be converted to private forests.
36. Trashigang DT chairperson felt that it was allowed to be left as forests for 3 years after which if it was not cultivated, it would revert back to the government.
37. Karma Galey clarified that only if taxes were not paid for 3 consecutive years, the land will revert to the government.
38. Tshering, S/Jongkhar LRO, said that clever people bought unproductive land and immediately applied for land exchange.
39. The Consultant clarified that in the Act only Phasa-Busa was eligible for exchange.
40. The LO of MOAF said that NLC sought final approval of such cases from His Majesty the King although it was not a Kidu case, and sought views from the floor.

41. Shumar Gup said that agriculture land on hill slopes and mountain tops which had turned into forests as well as in fragile areas should be thoroughly investigated including whether the land owners had enough land before exchange is considered. The investigation should be carried out by a committee at the Dzongkhag and Gewog level with particular focus on those suspicious cases where clever people were trying to exploit the provision for land exchange. He clarified that what he had suggested was not to undermine the NLC. He reminded that Bhutan had committed to maintain at least 60 per cent of its area under forest cover. Yet, during the cadastral survey trees were felled indiscriminately without any consideration for environmental impact and people did not seem to have any problem getting forest clearance as well. He added that since Pemagatshel Dzongkhag had serious water shortage problem, strict ban on felling of trees should be imposed, which was already endorsed by the DT. But in doing so and in the protection of water catchment areas, the local people had to bear tremendous hardship for which the government should consider at least providing land substitute to those whose land were affected. In spite of the critical nature of the above issue, some surveyors refused to cooperate during the survey process while some were fully supportive of their concern.
42. Shongphu Gup said that all development facilities were built on private land whether the land owner had adequate land or not, but when it came to providing substitute land it was quite an ordeal for the land owners.

Encroachment

43. Tandin Wangchuk, Lumang Gup, cited cases where individuals had occupied government land illegally, yet when those land owners who had lost their land to the government had to look for substitute land, it was almost impossible to get land as they were not able to find vacant government land.
44. The LO of MOAF gave a clarification on the issue and said that what was most important was proper and effective implementation of the law.
45. The LMO of DOA said that according to the current Act, land owners need not surrender their land till they got substitute land.
46. The Consultant said that firstly, it had to be properly reflected in the Act, and then it has to be enforced effectively.
47. Singey Dorji, Trashigang LRO, said that the Act was quite clear and the responsibility for identifying substitute land now fell on the concerned government departments.

Under-utilization, under development of land and fallow land management

48. Langchenphu Gup informed that there were many who had land but no census in the Gewog as they resided in other Dzongkhags; as a result, their land had become the habitat of wildlife which created serious problem for the village residents. He suggested that strict provision should be made to discourage such practices.
49. Radhi Gup said that his Gewog which had an area of 29 square km, used to grow maize, wheat, potato in the past. But now with those who went to school

refusing to work on the farms, production had gone down by 30-40 per cent.

50. Trashigang DT chairperson said that many farms had to be left fallow because of wildlife damage. He requested that the government consider giving fencing materials to protect their crops as well as allow killing of wild animals.
51. Nagwang Dorji, Thrimshing Gup, said that many people who had gone to Thimphu had left their land fallow in which wildlife were in abundance thereby creating serious problem for those who cultivated their land. He suggested for strict law that would ensure that no land was left fallow.
52. The Consultant said that there were 2 reasons why land was left fallow, and emphasized on the need for support and subsidy from the government to encourage people to cultivate their land.
53. The LO of MOAF informed about the initiatives taken by MOAF such as crop compensation, crop insurance and Chhuzhing compensation.

Land fragmentation

54. There were no comments on the subject.

Land acquisition

55. Pema Dorji, P/gatshel DT chairperson and Chongshing Gup said that no one should surrender the land for development activities until land substitute was received.
56. Shumar Gup said that same treatment should be given to private land acquired by the government for development activities and private land falling under farm roads. Although a 50-foot RROW had to be kept on both sides of roads, during the cadastral survey,

land owners were allowed to survey their land right from the edge of the road, but during the widening of the roads again private land will have to be acquired for which land substitute and compensation should be paid.

57. The Consultant clarified on the RROW and the work done on this during his tenure in the MOWHS on this issue.
58. Langchenphu Gup said that larger community benefit should precede individual interests, and cited the example of the farm road to Lauri and Serhtig Gewogs which passed through Langchenphu Gewog. He also said that land substitute should be provided for land falling under farm roads.
59. Radhi Gup said that during the NCRP, RROW was not honoured. So, he enquired as to who had the right over the land falling within the RROW.

Valuation of land and property

60. Shumar Gup informed that while land owners were paid land lease fee for low voltage power transmission poles falling on their land, there was nothing for land on which high voltage power transmission pylons were erected. The people had requested the surveyors during the NCRP to exclude such areas from their Thram which was not entertained. So, land substitute and compensation should be paid for such cases.
61. Trashigang DT chairperson said that when private land was acquired by the government the compensation rate was low as compared to sale of land to private people when the price obtained was high. So, the government also should pay the market rate or whatever one could get from the private buyers.

Land transaction

62. Sakten Gup asked as to how to deal with multiple transactions carried out by unscrupulous land owners, to which the Legal Officer of MOAF provided clarification as reflected in the current law.
63. Samkhar Gup said that until the Thram transfer took place, the authority over the land was with the land owner under the current law.
64. Lanchenphu Gup said that there were cases where children did not look after their parents when the parents gave their land to people who looked after them. Dispute arose when the children would ask for the land to be given back. Then there were other cases where the children would look after their parents till they got the property in their names and then neglected the parents. He wanted provisions included in the law to address such issues.
65. Ghayden, Merak Gup, said that such cases were expected to be sorted out by courts of law but this was not the case.
66. Shongphu Gup said that the provision on this should be made clearer and strict.
67. Trashigang LRO informed that provisions to address such issues were reflected in the Inheritance Act.
68. Trashigang DT chairperson also said that there was adequate provision in the existing law, and also cited an example.
69. Lumang Gup said that the most important aspect was how the sale deed was worded when it went to the court.

Lease of government land

70. There were no comments.

Tsamdro

71. The Consultant highlighted the work he had done on Tsamdro nationalization last year including the consultation meeting he had in Trashigang, his findings and the recommendation he had submitted to the Ministry of Agriculture and Forests.
72. Sakten Gup said that this was a great opportunity to express their views and try to articulate the grievances of the people as it was his responsibility. The people of Merak-Sakten had a unique culture and dress which helped to preserve our rich culture. But after they came to know that the Tsamdro was going to be taken over by the government, the people were disheartened and many had sold their Yaks, communal harmony was broken, people had started grazing their livestock indiscriminately on others' Tsamdro so much so that physical fights had ensued and some were now in prison for physical assault. He believed that the misinterpretation and misunderstanding of the law on Tsamdro was because the NLC did not carry out any education or awareness campaign. He expressed his apprehension that when the Tsamdro was leased out some would get good Tsamdro while some would get poor quality Tsamdro thereby creating disparity. The restriction on migration of livestock to other Dzongkhgas after 10 years was another serious grievance. He said that Brown Swiss and Jersey were not suitable for their area nor can their Gewogs be compared with Bumthang and Trongsa as 80 per cent of their population was fully dependent upon livestock rearing. He requested that the large areas of Tsamdro belonging to Dratshang and other well to do families should be taken over and given to the people.
73. Merak Gup said that according to the 2007 Land Act although they were not eligible for Thram they could

get on lease whatever Tsamdro they had in their Thram irrespective of whether they owned livestock or not which was not bad, but they were apprehensive of the future. The present problem was ambiguity about the law and as a result apprehension among the people due to ignorance.

74. Trashigang DT chairperson informed that at least he had taken the trouble to visit 5 villages under Kanglung and 6 villages under Uzarong Gewogs to explain to the people the content of the 2007 Land Act. He said that the government was supposed to pay compensation to the Tsamdro owners before nationalization which was not done so far. The present provision was fair in that only those who own livestock should have the right to use Tsamdro.

Sokshing

75. Trashigang DT chairperson, informed that he had conveyed to the people the new provision regarding Sokshing after which people who had been looking after their Sokshing for ages had not only started to neglect it but started cutting down the trees indiscriminately. He suggested that the earlier system should be restored for the larger interest of environment protection as the Department of Forests was unable to look after Sokshing.
76. Shumar Gup said that we should promote natural fertilizer by banning chemical fertilizer which would have numerous benefits. Sokshing was looked after by our forefathers for centuries and now to have to take on lease did not seem to be fair. There were also areas in which different types of bamboos for different uses grew which should also be allowed to be looked after by the people.

77. Trashigang LRO pointed out that there were Sokshing from which one could collect leaf litter and others which were Sokshing just in the Thram but with no trees on the ground which should definitely be taken over by the government for environmental protection.
78. Trashigang DT chairperson wanted to know the legal status of those areas which were recorded as Sokshing in the Thram but without any trees on the ground.

Easements

79. Radhi Gup said that in his Gewog there was a serious dispute between 2 villages due to the perceived risk of landslide from the irrigation canal as a result 15 acres of Chhuzhing had to be fully dependent on monsoon rain. The upper village had not allowed the lower village to take irrigation water through their village alleging landslide risk. So, he wanted to know what the law said about such cases, to which the Consultant clarified on the existing provisions of the Water Act as well as what he was intending to incorporate in the revised Land Act to address such issues.

Share cropping

80. Samkhar Gup felt that this issue had to be reflected in the Act so that disputes could be avoided.

Dispute resolution

81. Sakten Gup wanted to know how to deal with a case in which there were 3 siblings of which one had left the family but later came back to claim the inheritance.

Survey

82. Lumang Gup wondered why every individual survey produced different results in the area of the same piece of land.
83. Shumar Gup also questioned the accuracy of the equipments used for the survey, and cited his experience of a land case in the court when the Drangpon and community leaders attended the survey of the land in dispute when to their utter consternation the survey result was of no help to solving the case. He also cited the example of the land identified for Denchi town which measured 116 acres when surveyed by the Dzongkhag surveyors, 114 acres when measured by MOWHS surveyors and 98 acres when measured by NLCS surveyors. The latest survey had managed to create lot of apprehension and worry among the land owners.
84. Trashigang LRO said that the difference might have been because of the plane table survey before and total station used now.

Urban land

85. Shumar Gup informed that the old Pemagatshel town was established in the 1990s during Dasho Yonten's time as Dzongda when the land was given to individual shop keepers after proper survey and measurement. Since then they had been paying their taxes annually. He wanted to know how such land would be treated now that the town was being shifted to Denchi. He also informed that there were 5 houses built illegally on the government land just below the school. He wanted to know why the government has not taken any action against such illegal cases.

86. Langchenphu Gup and DT deputy chairperson of S/J said that places like Jomotsangkha, Samdrupchholing and Rangjung were declared as satellite towns way back in 1991 and the people have been paying urban taxes since then. Now their status was a big question mark. He requested that the government do something about the present uncertain situation and restore their status to its earlier position.
87. The LO of MOAF took the opportunity to respond to the issue raised by the Radhi Gup.

Any other issues

88. Samkhar Gup wanted to know who were liable to pay land taxes and who were not.
89. Trashigang DT chairperson, on behalf of 36 Gups, expressed appreciation to MOAF and the Consultant for giving them the opportunity to express their views on the Land Act.
90. The LO of MOAF proposed a vote of thanks

The meeting was adjourned at 6:05 pm.

8. Summary Record of Consultation Meeting on Revision of the Land Act with Gups and other Officials of Lhuentse, Mongar and Trashiyangtse Dzonkhags held on 23 December 2011 at 08:00 hrs Druk Zhongar Hotel, Mongar

Land administration

1. Mongar DT chairperson informed that he was one of the members of the Legislative Committee which was responsible for vetting the 2007 Land Act when he had opposed the current structure of the National Land Commission with so many senior officials as members. He said that under the present setup the authority was fully centralized with the NLC and the Dzonkhags and the Gewogs had no power at all although they had to do all the groundwork. He also said that there was no need for a representative from the private sector on the NLC.
2. Mongar DT chairperson submitted that in Mongar Dzonkhag the issue of the revision of the Land Act was discussed at all the 17 Gewog Tshogdes and finally at the Dzonkhag Tshogdu level and the outcome submitted to the Speaker of the National Assembly, a copy of which was shared with the Consultant. He briefly highlighted the points they had submitted as under:
 - a. the minimum size of land for registration in the Thram should be relaxed for the benefit of the poorer section since houses could be built even on 5 decimals of land,
 - b. restriction on construction of houses on Chhuzhing should be relaxed,

- c. “Z” plots should be given back to the people as Kidu from His Majesty the King as it has been done in some cases already, and
 - d. Sokshing should be restored to pre-2007 Land Act status in the larger interest of environment protection.
3. Mongar Gup further added that the “Z” plots were also lands which were looked after by their forefathers for ages but because of their lack of capacity to pay for the so-called excess land, they had no choice but to surrender to the government under dire compulsion.

Issuance of Thram

4. Mongar Gup said that during the 2009 NCRP a plot of land which was reflected in the Thram as 1 acre was found to be 5 acres but the excess area was not eligible to the land owner. He wanted to know whether such land could be given to the owner in lieu of the shortfall in area in other places but belonging to the same owner.
5. Taula, Trashiyangtse DLO, said that there were many households which did not own adequate land yet their excess land was not given back to them.
6. Mongar DT chairperson said that Thrams should be issued from the Dzongkhag and Gewog offices since it was time consuming and costly to go all the way to Thimphu to get the Lagthrams.

Land ceiling

7. Sonam Yeshe, Saleng Gup, said that the minimum ceiling should be 5 decimals.
8. Dechen Wangdi, Tetscho Gup, said that earlier one could register even 1 decimal of land which was not possible now.

9. Tandin Tshewang, Chhali Gup, said that he did not have any comments on the maximum ceiling, but with regard to the minimum ceiling, we had to take into account the area of Kidu land as well the size of the family.
10. Wangdi Duba, Ramjar Gup, said that he had no problem with the maximum ceiling but the minimum ceiling should be 1 acre as 50 decimal was too small even for vegetable cultivation.
11. The LMO of DOA explained why and how 10 decimals was fixed as the minimum size of land required for registration in the Thram.
12. Tetsho Gup said that there was problem with 10 decimal size when it was owned jointly by a large family.
13. Saleng Gup said that a minimum ceiling was likely to influence/affect Kidu land, and the Inheritance Act allowed division of land up to the last decimal.
14. Phuntsho, Ngatshang Gup, informed that land below 10 decimals was registered under joint ownership and cited the example of one owner owning 9 decimals and the other 1 decimal being registered in joint ownership. He said he had no problem with the maximum ceiling but minimum ceiling for agriculture needed to be considered carefully.
15. Mongar Gup also supported 25 acres as the maximum ceiling.
16. Jigme Tshewang, Minjey Gup, informed that people could not transfer their census as they wanted when small and inadequate land holdings could not be divided as inheritance.
17. Mongar DT chairperson said that because of large population, many applications were received for new house construction when they had to verify the land on which construction was going to take place, transfer the census and submit application for Kidu

timber. But on the instructions of the NLC, the authority to approve rural constructions was now centralized with the Dzongkhag Administration as against the authority vested with the Gup before which has created its own difficulties for the people. He said that if the government was going to give land for house construction to protect Chhuzhing, this would help a lot; otherwise, houses should be allowed to be constructed on the land owned by families without restriction.

18. Sithar Tshering, Khoma Gup, said that for those who did not have land for construction of their houses, the government could authorize the Dzongkhag and the Gewog Administration to identify government land and allot it without having to disturb His Majesty the King.

Kidu and rehabilitation land

19. Mongar DT chairperson said that land allotted to re-settlers could not be sold, mortgaged or given as inheritance until 10 years after allotment although one had the Thram. He suggested that while restriction for transaction could be maintained, such land should be allowed for mortgage and inheritance.
20. Tethso Gup said that Kidu land could not be sold because it was granted as Kidu since the applicant did not have any land. So, he felt that such land should not be allowed to be sold for ever although mortgage and inheritance should be allowed.
21. Kinzang Minjur, Lhuentse DT chairperson, informed that excess land granted as Kidu land by His Majesty the King were categorized as Thramlhag after the NCRP which could not be transacted or given as inheritance land.
22. Phub Thinley, Lhuentse LRO, informed that those so-called excess land for which people had already paid

- during the 2001 cadastral survey became Kidu land after granting Kasho by His Majesty the King with the concomitant restrictions.
23. Ramjar Gup said that Kidu land should be restricted for transaction whereas mortgage and inheritance should be allowed for family purposes only.
 24. Mongar Gup said that there were many families who were working as national work force since they did not own any land or did not have adequate land. He requested that such people be given land as Kidu in their respective Gewogs.
 25. The LMO of DOA informed that Kidu land could be sold after 10 years.

Conversion of Chhuzhing

26. Mongar DT chairperson said that there was no problem with conversion for other purposes, but for house construction, as explained by the Consultant, if government land could be allotted within the same village, it would be a big help in protecting the ever shrinking Chhuzhing area. But such relocation should be done after proper and thorough study including consultation with astrologers to avoid harm by Lu and Don.
27. Mongar Thrizin also said that although the law allowed conversion of 50 decimals of Chhuzhing for house construction, this was not being followed during the implementation as only smaller areas were allowed. He stressed on the importance of enforcement of laws in letter and spirit as well as equitable treatment irrespective of the background of the people.
28. Mongar Gup said that he had no problem with the first point but for the second point he wanted 50 decimals to be retained.

29. Karma Sonam Wangchuk, Tsakaling Gup, said that because of shortage of irrigation water, some Chhuzhing had to be converted. But to protect the scarce Chhuzhing, he suggested that we should avoid construction of farm roads through Chhuzhing.
30. The LO of MOAF informed that the area for house construction on Kamzhing was also 50 decimals.
31. Mongar Thrizin said that in other Dzongkhags 50 decimals was allowed for conversion whereas under Mongar Dzongkhag only whatever was available was allowed which was much smaller in area.
32. Ngatshang Gup said that there should be no restriction on construction of houses whether it was on Chhuzhing or Kamzhing since as a result of the 2009 earthquake many houses had to be built mostly on new sites.
33. Ramjar Gup asked if 50 decimals was the upper limit for house construction area. He felt that the actual approval given the ground was much smaller based on the size of the house.

Land exchange

34. Mongar Thrizin said that although the government had initiated the G2C project, the time taken for delivery of certain services had become longer than before. As for people trying to exploit this provision for their personal benefit, hopefully this would be overcome once such cases could be processed online or the law made more strict and transparent. But the most important aspect was the need to reduce the time for delivery of such services.
35. Lhuentse Thrizin wanted to know the location from where substitute land would be provided in terms of village, Gewog and Dzongkhag.
36. Tsakaling Gup asked the same question.

37. The LO of MOAf explained that the procedure being followed for allotment of land substitute and land exchange was the same.

Encroachment

38. Mongar Thrizin said that there were instances of encroachment even on private land, so, the provision should be kept after further improvement.

Under-utilization, under development of land and fallow land management

39. Mongar Thrizin said that land was being left fallow due to shortage of farm labour as well as many people now lived in Thimphu and other places. There should therefore be provision for cancellation of Thrams on one hand as well as incentives from the government to discourage keeping one's land fallow on the other.

Land fragmentation

40. Mongar Thrizin informed that agriculture lands with overgrown trees were taken over by the government for the benefit of the natural environment protection although it was a big loss to the individual land owners. Now with the law allowing registration of land on individual, family and joint ownership basis which facilitated division among members of the family, a large number of applications for new house construction and timber Kidu were being received at the Gewog offices. In such a situation, they had to give permission to build even on 5 decimals of land. Then there were families who could not get along and had to be separated. These were the reasons for fragmentation of land which could not be stopped. If

strict restrictions were imposed strictly, it was likely to hasten the rural-urban migration process further.

Land acquisition

41. Mongar Thrizin informed that there was a serious problem with land and houses falling within the RROW as those houses requiring immediate repair and maintenance were not allowed even routine maintenance. In some instances, houses had to be pulled down by using bulldozers. This problem should be sorted out by the government at the earliest before it was too late.
42. Tsakaling Gup cited the example of the RNR center in his Gewog which was constructed on private land. As the land could not be acquired, the land had to be returned to the owner after pulling down the government structure. Similarly, there was a problem with the health staff quarter, which were huge losses to the government and wastage for the country. These happened because of the lengthy procedure involved in processing land compensation and substitution cases.
43. Mongar Gup said that in his Gewog certain development facilities had to be shifted 3 times. After declaration of Yakpogang as the water catchment area of Mongar Throm, this had created further problem. In Kidekhar, there were 3 electric poles within the school compound for which the former Dasho Dzongda had agreed to allot 3 plots in Mongar Throm as land substitute but had not materialized yet. He also said that land substitute should be provided for private land falling under farm roads as well as private land falling within the RROW.
44. Mongar Thrizin said that some of the private land falling under farm roads had already been included

within the Thram of land owners and accordingly taxes had also been paid. So, land substitute is fully justified which should be reflected in the Act.

45. Mongar Gup supported the above argument.

Land transaction

46. Lhuentse LRO informed that NLC had introduced online transfer of Thram with which Thram transfer could now take place at the Dzongkhag level. The time line had also been reduced by 30 days.

Lease of government land and GRFL

47. Mongar Thrizin informed that the authority to lease GRFL up to 3 years was now decentralized to the Dzongkhag, and only those requiring beyond 3 years and up to 30 years had to be submitted to the NLC. He said that uniform rules and procedures should be followed in such cases.

48. Lhuentse LRO clarified that the Dzongkhag Tshogpa was authorized to approve lease of 3 years which was not renewable.

49. The LO of MOAF expressed his concern on the ambiguity of authority regarding land lease as nobody seemed to be responsible for monitoring on the ground and even regular and timely collection of lease fees. He said that according to the Land Act, MOAF was the approving authority for lease of land for commercial agriculture and MOEA for other commercial and industrial lease.

50. Tsakaling Gup said that there was an urgent need to identify sites for Gewog Throms as land was getting scarcer every day.

51. Mongar Thrizin said that the local authorities were not aware of the land lease fee. He suggested that such

- approvals be made available from one office as far as possible.
52. Lhuentse LRO said that for land lease the DFO was responsible and for land exchange DAO was the officer responsible at the Dzongkhag level. He also said that the lease fee was circulated by NLCS and monitoring was done by the forestry staff.
 53. Ramjar Gup said that community and village forests should not be given on lease. He wanted to know the lease fee as well as the authority approving such cases.
 54. Ngatshang Gup said that we had to think about the future interest of the state as there might be applicants for lease of government land in the name of public benefits but with other intentions. So, such cases had to be thoroughly assessed in every aspect. He did not see any problem when it came to urban land. He felt that many would apply for such lease with the ultimate aim of gaining ownership of government land, and also felt that 30 years lease was too long. He suspected that those applying for such leases would already have more than adequate land in their names.
 55. Tsakaling Gup pointed out that sometimes the government took back the land on lease before completion of the lease period causing difficulties to the lessee which should be avoided.

Tsamdro

56. Lhuentse Thrizin informed that during the recent NCRP Tsamdro had already been removed from the Thram.
57. Tetscho Gup said that the 2007 Land Act provisions should be enforced as it was for the larger benefit of those owning livestock.

Sokshing

58. Tetscho Gup said that this issue was discussed at the Dzongkhag Tshogdu but could not reach a conclusion. He felt that it should be restored to pre 2007 status although it had already been removed from the Thram during the recent NCRP. Besides, the people continued to look after what they had been looking after for ages.
59. Lhuentse Thrizin said that although it had been deleted from the Thram the people continued to look after their Sokshing, and requested that the children should be allowed to stay where the forefathers had lived for ages.
60. Ramjar Gup said that it was the general belief of the people that if the Sokshing was allowed to be retained by the land owners as in the past it would not only benefit the environment but also agriculture through organic manure. So, it would benefit both the government and the people.

Easements

61. Tetscho Gup expressed his reservation on the clause that if there was not enough water those who developed Chhuzhing later will not get water because in some places even where there was enough water people refused to share the water.
62. Ngatshang Gup said that whether it was irrigation canal or roads, sometimes individual interest took precedence over community interest which was not fair. In such cases, he felt the individuals should be compensated for the sacrifice they had to make for the larger community benefit. He also said that sometimes individuals held the community for ransom in the name of individual rights such as not allowing public

facilities through alternative routes even if it was physically feasible.

63. Mongar Thrizin said that the respect for traditional saying “Drowai Lam, Babi Chhu” should be maintained. It was usually the ignorant and the poorer section who were exploited. He felt that there should be a provision to compensate such affected people. Such people were also the ones who did not get any justice from the courts.
64. The LO of MOAF informed that Section 268 of the Land Act addressed this concern.
65. Mongar Thrizin said that unless the law was specific, because of interpretation justice was rare in such cases.

Spatial planning for rural settlements

66. Mongar Thrizin said that while appreciating the initiative, it may not benefit the already existing village settlements. It may be nonetheless useful for the future particularly when new resettlement programmes were implemented.
67. Ramjar Gup said that it would definitely help remote villages where service facilities such as drinking water, electricity, etc. could not be reached for their resettlement. He cited the example of Pinphu village under Kengkhar Gewog.

Share cropping

68. Saleng Gup informed that nowadays the share croppers demanded $2/3^{\text{rd}}$ of the crop on top of which all inputs had to be provided by the land owner.
69. Mongar Thrizin said that Rabdeys traditionally collected “Tshotsi” from the share croppers which was a fixed quantity of crop if the land was cultivated and

if not in cash. He cited the example of Karibi Chhuzhing belonging to Mongar Rabdey and also Drametsi Goendey. The share croppers however were not exempted from Woola or other community services.

Dispute resolution

70. Mongar Thrizin pointed that the time taken for land dispute resolution was too long and should be shortened.
71. Lhuentse LRO informed that according to Section 45-50, there was an investigation committee which was responsible for addressing the disputes. During the 2008 NCRP, many disputes were resolved. But quite often it was not possible to get the parties to the dispute as well as the members of the committee which hampered the expeditious resolution of the disputes. This impacted on the TA/DA budget. 3 prominent people from the community were required to be on the committee. While the present arrangement seemed adequate, the penalty should be elaborated and made stricter.
72. Chhali Gup said that there were cases of individuals who had opted for resettlement earlier and now coming back to claim a share of the inheritance, and wanted to know the legal provision to deal with such cases.
73. Ramjar Gup supported the idea of providing incentives or TA/DA to the committee members as well as making the law strict on the guilty.
74. Mongar Gup felt that instead of the present system if such cases could be sent directly to the courts.
75. Lhuentse LRO said that such disputes were quite often not just about land but involved other issues which made the dispute resolution complicated and

more difficult, and the committee did not have the authority to penalize even on the land issue which made the present system ineffective.

76. Lhuentse Thrizin supported the statement made by the Lhuentse LRO and added that responsibility and accountability was not clear. So, what was decided by the committee did not carry much weight, and that is why it took a long time to settle such disputes.
77. Mongar Thrizin said that the reason why the provision for such resolution was kept was because when a dispute went to the court, all the members of a family involved in the case had to attend the court for months thereby creating untold difficulties for the people.

Survey

78. Ngatshang Gup said that land survey was never fair either due to corruption or problem with equipments. So, he wanted that such deficiencies be addressed through the law.

Urban land

79. Mongar Thrizin said that the government declared Thimphu, Phuntsholing, Gelephu and Samdrup Jongkhar as Thromdes so far leaving the administration and management of other Dzongkhag Throms unclear forget about the satellite towns. This was amply addressed in the Thromde Act which had since been annulled. Even the responsibility of the member of the Dzongkhag Tshogdu representing the Throm was not clear. Since this had relevance to land he felt it could be addressed through the land Act.
80. Mongar Gup said that he supported the earlier speaker, and added that people living in the

Dzongkhag Throms and even the satellite towns paid urban taxes, urban plans were prepared for these, but whether it was responsibility of the Dzongkhag or Gewog was not clear. Mongar Throm did not have a Thuemi in the DT, and satellite towns also needed to have Thuemis.

81. Gangzur Gup said that Lhuentse Throm had numerous problems because its management was not clear and they did not have a Tshogpa.
82. Saleng Gup said that they needed to know the categorization of Throms which was not clear at present.

Any other issues

83. Mongar Thrizin said that if they had any more points on the revision of the Land Act, they would submit to MOAF within 2 weeks, for which the LO of MOAF provided his mail address.
84. The LO of MOAF and the Consultant expressed their appreciation to the participants.

The meeting was adjourned at 3:20 pm.

9. Summary Record of Consultation Meeting on the Revision of the Land Act with Gups and other Officials of Chhukha and Samtse Dzongkhags held on 16 March 2012 at the Centennial Hotel 2008 in Phuentsholing

Organization of land administration

1. The Consultant introduced the subject and informed the meeting of what had transpired in the previous consultation meetings and what the Consultant was going to propose in the new Land Act including the restructuring of the National Land Commission and clear delineation of functions and powers among various agencies and authorities.
2. Gedu CFO, Tashi Tobgay said that committees and commissions had inheritant disadvantages, so it was only proper to correct the mistakes we had made in the past. Other than private registered land, all land fell under Government Reserved Forest Land the responsibility to look after which fell on the Ministry of Agriculture and Forests. But after enactment of 2007 Land Act, there were lot of problems of coordination and implementation. To overcome this, he suggested that there should be a forestry cell under NLC.
3. Samtse Land Record Officer, Nidup said that while supporting the restructuring of NLC as proposed by the Consultant, the qualification and experience criteria for those eligible to be appointed on the NLC should be people with either agriculture or administration background.

Issuance of Thram

4. Samtse Thromde Thuemi, Yeshe Dorji said that since land was the basic foundation for GNH, its administration and management was extremely important. So, if Lagthram was going to be made available online, it was well and good. But it was equally important for wider consultation with DT and GT members while revising the Land Act as good law was the basis for peace and happiness in the country. So far we are very proud of how we have managed to manage things in the country. It is also important not to amend or revise a particular law frequently which can be achieved by ensuring that when we draft a law it is well thought through, properly researched and futuristic. As for the protection of forests, the involvement of the people in the management is crucial for success.
5. Samtse LRO wanted to know whether Thrans should be issued at the Dzongkhag or Gewog level.
6. Samtse Thromde Thuemi said that during the election campaign it was promised that everything will be decentralized to the Gewog level, and hence it has to be at the Gewog level.
7. The consultant informed that according to the NLC Secretary, Thrans will be continued to be issued from Thimphu till the completion of the on-going NCRP after which it will be decentralized. In fact, with the recent launch of e-Sakor, land transaction can now be done online.
8. Gedu CFO informed that although e-Sakor has been officially launched, it has not been working as his efforts to access it has always met with failure.
9. Samtse LRO informed that there were technical problems which NLC is trying to overcome by bringing in experts from outside the country.

Land ceiling: maximum and minimum

10. Samtse Thromde Thuemi pointed out that cash crop land was not included under the land ceiling before and as a result there were a number of restrictions on use of such land such as construction or conversion. He wanted to know whether such restrictions have been removed after cash crop land has also been brought under the land ceiling. He said that the present minimum ceiling of 10 decimals has posed difficulties to those who had inherited such plots.
11. Samtse LRO said that in Thimphu land falling under E-zone had to have a minimum area of 26 decimals which was not uniform with requirement in other areas. He said that minimum size of plots should be uniform across the country. In the rural areas, there was hardly any difference whether it was kept at 10 or 13 decimals. In fact, in the rural areas 5-6 decimals was more than adequate for house construction.
12. Bjabchog Gup, Gyeltshen said that while he supported the maximum ceiling of 25 acres, the minimum ceiling of 10 decimals had posed problems to those who own 5-6 decimals, and in some cases a 5-decimal plot is shared by 2 Goongs but under one roof after separation.
13. LMO of DOA, Karma Galey explained why the minimum area of 10 decimals had to be adopted, and said that those who had less than 10 decimals before the law came into existence were allowed to retain the same area in the Thram. Besides, we have a Kidu system and many had approached His Majesty the King to redress their problem.
14. The Consultant elaborated on the maximum and minimum ceiling and shared what had transpired in the other consultation meetings. He informed that

while discussing about minimum area requirement, many tried to justify why it should be less than 10 or 13 decimals, but when discussing about bringing down the Chhuzhing conversion area for residential purpose from 50 to 13 decimals, many argued that in the rural areas you had to have livestock sheds, agricultural machinery sheds, etc. outside the house. So, taking all these arguments into account, 13 decimals was felt to be the ideal size for rural residential purpose.

15. Getana Gup, Galey said that in the rural areas also the area required for residential purpose was substantial as they had to construct toilets outside the house; they had to have water taps outside. While people constructed smaller houses before, now most built much bigger houses thereby requiring larger areas. As for the maximum ceiling, he felt that this needs to be reviewed by experts in terms of advantages and disadvantages for people. Land which had been cultivated for ages by forefathers has now been declared as excess land. Sanam Lyonpo was apprised of the dissatisfaction of the people regarding the unfair decisions taken by the recent NCRP team. He said that the maximum ceiling should be based on the size of the family.
16. Chhukha DT chairperson and Chachha Gup, Kencho said that he supported the maximum ceiling of 25 acres as more and more of those having larger land holdings seem to be left fallow.
17. The Consultant explained that most supported the maximum ceiling of 25 acres which he had proposed to be retained in the Act. There were also suggestions to fix the maximum ceiling based on the size of the family, but it was easier said than done. There was no concrete proposal because of divergent views.

Kidu and rehabilitation land

18. The Consultant informed the meeting that under this topic the point to be discussed was whether land received under Kidu for resettlement should be allowed for transaction before completion of the 10-year moratorium as many had already sold their land violating the terms and conditions of the resettlement agreement they had signed with the Government initially and now the provisions of the Land Act 2007. Besides, land received under Kasho will be governed by the content of the Kasho.
19. Samtse Thromde Thuemi wanted to know whether 10 years with regard to the re-settlers becoming eligible for transaction of their land was reckoned from the day of allotment or registration in the Thram as it was not mentioned clearly in the Act. He said that we had to keep in mind the purpose behind such allotment besides huge Government expenditure incurred on supply of agricultural tools, seeds and even ration in the initial period of resettlement. So, there was no room for transaction of such land as many who had sold their land appealed again to His Majesty the King for Kidu.
20. Samtse LRO said that it was clearly mentioned under Section 137 of the Land Act and Section 188 of the Land Rules. He informed that over 200 Goongs of Doyas received land Kidu from His Majesty the King who had sent HRH Prince Jigyel Ugyen Wangchuck as His Representative to bestow the Kasho. Now most of these families were in pathetic condition after having sold their land even for bottles of alcohol. These cases were detected during the recent NCRP. He also said that some people had availed the Kidu repeatedly.
21. Tendu Gup, Pema wangchuk informed that in his Gewog most of the people who had received land

under the resettlement programme did not live on their land, and many of these people also managed to keep on exchanging their land with Government land. They managed to get all the best Government land which could aptly be described by the saying, “where there is water, there falls the best rainfall”.

22. Samtse DT Deputy Chairperson and Dorokha Gup, Chandra Prasad Phuyel informed that after receiving 5 acres each of Kidu land from His Majesty the King, the land owners hardly lived in the village. On the other hand, there were many local residents who did not have even an acre of land deserving such Kidu.
23. Samtse LRO tried to clarify on the above issues and said that during the recent NCRP, those resettlers who had shortage of their land were given additional or new land whereas those who did not live on their land were issued with warning to come and live on the land by end of March 2012.
24. Tendu Gup informed that one of the re-settlers had received cardamom plantation on Kidu, and he had harvested good cardamom crop from this land for many years. But in spite of this he managed to get this land exchanged with Government land 3 times, so, he wondered how one person could manage to get his good land exchanged for better land so many times. On the other hand, the former Gup had submitted 200 applications for exchange of land belonging to local residents, all of which were returned saying it will be looked into during the NCRP. This was however not done and now the people are complaining saying why they were not eligible for exchange when the re-settlers were able to get their land exchanged many times.
25. Karma Galey informed that this issue was deliberated in the Legislative Committee of the National Assembly during the last Land Act revision. Since land cannot

- be borrowed, rehabilitation land should not be allowed for transaction.
26. Samtse DAO, HP Adhikari informed that when the Kidu land was left fallow it turned into habitat for wildlife and became a source of problem for the other villagers.
 27. Samtse Thromde Thuemi said that he supported the argument that rehabilitation land should not be allowed for transaction.
 28. Tendu Gup also wanted that rehabilitation land should be barred from transaction.
 29. The Consultant informed that based on the feedback he had received during the earlier consultation meetings, with Dzongkhags which had sent re-settlers as well as with Dzongkhags which had received re-settlers, he was of the opinion that certain percentage may be allowed for transaction so as to enable the re-settlers to have a roof over their heads. But this will all depend on the location of the land.
 30. Dorokha Gup said that in such a case it should be verified by a local committee as to who should be allowed transaction based on their individual and actual need on the ground.

Conversion of Chhuzhing for other purposes as well as for residential use

31. The Consultant briefed the meeting on the importance of protection of Chhuzhing in the national interest and the initiatives being taken by the Ministry of Agriculture and Forests to address this issue including the proposal to allot Government land for house construction in lieu of conversion of Chhuzhing as well as other measures.
32. Chhukha DAO, Ngawang said that approval of conversion of Chhuzhing for other purposes is

- delegated to the Dzongkhag but not the conversion of inherited Chhuzhing for residential purpose. He suggested that this may also be delegated to the Dzongkhag Administration.
33. Karma Galey said that conversion of Chhuzhing is being strictly enforced as per the provisions of the Land Act. So, exceptions can be made only if there is a Kasho from His Majesty the King.
 34. Samtse DAO pointed out that while conversion of Chhuzhing is restricted, transaction of Chhuzhing even in decimals is allowed, and this was the root cause for so many applications for conversion. After the 18 September 2011 earthquake, some families did not have any other land than Chhuzhing for reconstruction of their houses which merits special consideration.
 35. Chhukha DT chairperson said that the Phasa-Busa condition was restrictive if one had Kamzhing located far away from the village.
 36. Chhukha Legal Officer, Yeshe Phuntsho informed that if the crime was graded as misdemeanour, the penalty had to be imprisonment of 1-3 years, and illegal conversion or illegal construction on Chhuzhing was graded as misdemeanor under Section 298 of the Land Act. But the NC has been imposing a fine of Nu 36,000.00 and regularizing such illegal constructions particularly during the recent NCRP which was not in keeping with the provisions of the Land. He suggested retaining the same penalty for illegal conversion of Chhuzhing.
 37. MOAF Legal Officer also felt that the NLC had violated the provisions of the Land Act.
 38. Samtse LRO said that the penalties being imposed by the NLC was based on the age of the cases. So, some cases were treated as misdemeanor while others were treated as less serious. He wondered how Phasa-Busa

was to be defined. He said that if a family did not have Kamzhing in all the 15 Gewogs of the Dzongkhag, they were eligible for conversion provided that it was either inherited or Phasa-Busa.

39. Getana Gup informed that in his Gewog there were 2 families who had constructed on Chhuzhing without conversion more than 20 years ago, and as far as he was aware the restriction on construction on Chhuzhing was imposed since 2000 only.
40. Chhukha Legal Officer felt that perhaps what the NLC had followed was the provisions of the 1979 Act for cases before 2007 and the provisions of the 2007 Act for those cases which had taken place after 2007.
41. Dorokha Gup wanted to know whether a person from Dorokha who had purchased a plot of Chhuzhing in Samtse will be allowed to construct on it if his census was still with the family in Dorokha. He also wanted to know if someone's land was destroyed by floods or if a person had Kamzhing but on which he could not build whether he will be allowed to build on Chhuzhing.
42. Samtse Thromde Thuemi reminded that it was extremely important to ensure that laws did not have to be revised frequently. So, we have to ensure that what we propose to incorporate in the revised Act should be very carefully considered. He said that while on one hand Chhuzhing transaction was allowed freely, on the other conversion was restricted. He felt that there should be some restriction on transaction as well in terms of number of years between which transaction of the same piece of Chhuzhing is restricted. This was necessary if our national policy of self-reliance is to be achieved. He also said that conversion should be allowed only in the place where one's census is registered. Having to pull down houses after construction was not easy for the house owners even if they had done it illegally. But the fault should

not be placed on the land owners alone. Where were those officials who were supposed to enforce the laws and rules? They should also be held accountable for the lapse. He had noticed that some people had set up shops on Chhuzhing recently and nobody seemed to be acting against it. He felt that if such illegal acts were stopped by those responsible for law enforcement right from the beginning, it will be less painful later.

43. Samtse Thromde Thuemi also felt that towns need not come up on Chhuzhing only, which we should avoid as far as possible in the future. He pointed out that land owners were restricted from using their land situated under the so-called buffer zone. If it was absolutely necessary, the Government should acquire it. He said that we had demarcated a large area as buffer zone along the international border and restrictions imposed on the land owners. But from the Indian side there did not seem to have any element of reciprocity as they had cultivated and built houses right up to the border. So, why should we keep the buffer zone?
44. Chhukha DAO informed that there were cases where people from other Dzongkhags had come and settled down in Chhukha including transfer of census. In such cases, they were not eligible for conversion because of the Phasa-Busa principle which he felt should be considered. He also said that the Government taking over fallow land may not be wise nor practical.

Land exchange, and land substitution and compensation

45. Getana Gup informed that education, forest and livestock centers were built on Government land since 2000 but so far they were not able to get the Thram for these development facilities.

46. Phuentsholing Thomde Chief Urban Planner, Tshering Phuntsho said that there were many places within Phuntsholing city where private land had fallen under easements such as power transmission lines, Green areas and also land owners not being allowed to build on land with more than 30 per cent slope. Since he was not aware of any legal provision to address such cases, he felt it should be reflected in the revised Land Act.
47. Bjabchog Gup pointed out that at present land substitute was provided from within the same Gewog which was sometimes difficult to find suitable land. So, he requested for provision to allow land substitute to be provided from within the same Dzongkhag.
48. Gedu CFO said that the system of providing Government land in exchange for unproductive private land was not justified since unproductive will be of no use to the Government as well. Besides, many such cases had ulterior motives. So, he suggested that in such cases instead of land exchange or providing land substitute, the Government should provide compensation.
49. Samtse Thomde Thuemi said that private land which had turned into forests should not be eligible for land substitute but cash compensation only. Similarly, if private land in the urban areas was required to be acquired by the Government, he felt there was clear provision in the Act.
50. Getana Gup said that he appreciated the argument put forth by the Gedu CFO as well as the Samtse Thomde Thuemi, but the point he wanted to make was that substitute land for private land acquired by the Government for school, agriculture and livestock centers was still pending because the Government land identified for the purpose had been objected to by

the Department Forests, which was unfair to the land owners who had lost their land many years since.

51. Samtse LRO suggested that in the revised Land Act, acquisition of Chhuzhing by the Government shall be avoided because this was one of the causes for many problems in land administration and management. This was also the reason for delayed decisions. He admitted that the inability of the NLC to meet regularly was another reason for delays in the land administration and delivery of land services. Because of long delays and not being able to wait any longer, people took the law into their own hands such as illegal construction on Chhuzhing. Construction of development centers also could not wait once it was programmed and budgeted by concerned sectors, nor did they care about the woes of the land owners forget about the land substitute. So, the system for providing land substitute and compensation needs to be made clearer in the Act. Land substitute is to be provided from the same village, same Gewog and same Dzongkhag in order of preference. But this was being misused by people with ulterior motives. So, the new Act should clearly spell out what is to be allowed and what is not to be allowed for fairness and justice.
52. Chhukha LO pointed out that the circular issued by the NLC restricting land substitute to just the Gewog violated the provisions of the Land Act and can have legal implications if challenged in a court of law.
53. Tendu Gup reiterated that land exchange or land substitution should be allowed in a just and fair manner.
54. LO, MOAF said that we need to differentiate between land substitute for land acquired by the Government and land exchange.
55. The Consultant informed that the suggestion for avoiding acquisition of Chhuzhing was made in the

other meetings as well. So, he was going to include this in the revised Act. The Land Act clearly says that private land may not be surrendered on acquisition by the Government until the substitute land is registered in his Thram. Henceforth, the responsibility to find and provide land substitute will fall on the acquiring agency.

Encroachment of private and Government land

56. Samtse Thromde Thuemi said that cases of encroachment should be a thing of the past after the recent NCRP when iron boundary pegs have been installed as well as the boundaries are now clearly defined. In the past, encroachment used to take place particularly on land belonging to absentee landlords.
57. The Consultant said that encroachment whether on private or Government land should be considered as a serious crime which did not seem to be the case at present. (So, he had proposed for repeal of Section 252 of the Penal Code.)

Under-utilization, under development of land and fallow land management

58. Samtse LRO said that if the Government were to take over fallow land or even land for which the owners had not paid taxes, the land owners may have to be paid land compensation.
59. Chhukha LO said that if the Government were required to take over private land, the Government may have to think of how it is going to be put to good use in the light of rapid rural-urban migration taking place. In the revised Act, there should be clear provision, and he would prefer fines to imprisonment.

60. Samtse Thromde Thuemi said that if land owners cannot cultivate their land resulting in it being left fallow, we should try to find out why this is happening. It may not be fair on the part of the Government just to take it over after 3 years. If taxes are not paid on time, we should charge penal interest. But we should make sure that Chhuzhing is cultivated by all means.
61. Samtse LRO felt that if the Government had to take over private land it will hardly be due to non-payment of taxes as there will hardly be anyone who would not pay land tax. But the provision for the Government to take over fallow land may have to be thoroughly weighed.
62. Gedu CFO said that in his home Dzongkhag of Wangduephodrang, potato was the most important cash crop, as a result, land for potato was used intensively. But should there be marketing problem with potato, people may be forced to leave the land fallow. Under such a situation, it may not be fair to take over the land by the Government.
63. Chhukha DAO said that land taxes had to be paid annually which is invariably done. But most of the lands being left fallow at present seem to belong to civil servants. So, if the Government had to take over such land, the Government should have clear policy and plan on how to use it or dispose it off.

Land Fragmentation

64. Samtse LRO said that during the recent NCRP as well as during fragmentation, NOC is required from the neighbours, which was not easy if the relations were strained even with one of the neighbours. He felt that this should be done away with in the future given the

fact that it is sometimes used to settle scores among neighbors.

65. Samtse Thromde Thuemi echoed the same sentiments, and felt that it should be done away with after completion of the NCRP.
66. The Consultant explained the rationale of the NLC behind this requirement and their future plan as personally communicated by the NLC Secretary to the Consultant.

Valuation of land and property

67. Since the participants were not forthcoming with any views, the Consultant explained the present system as well as what had transpired in the other meetings one being the suggestion to revise the compensation rate yearly.
68. Chhukha DAO said that at present the annual standing crop on the land being acquired was not included in the valuation for payment of compensation to the land owner. He felt that this should be included since some projects could not wait for the land owners to harvest their crop after which only the project works could be started.

Land transaction/conveyance

69. Samtse LRO said that once a land transaction deed has been signed, a definite time frame within which Thram transfer should be completed needs to be mentioned in the Act. He pointed out that sometimes a case is on-going in the court on a piece of land, and at the same time that same piece of land is being transacted by the owner. The Gewog and Dzongkhag authorities had to process the case as per the provisions of the Land Act although they were aware

of the court case. He felt that there must be system of the court issuing an order to stop any transaction of such land till the court case was concluded. He also felt that there was too much of paperwork involved in the land transaction, and added that the 2 forms prescribed by NLC was more than adequate. So, there was no need for a separate agreement except that the form should have a sentence stating that “this was a legally binding agreement, and should any party not abide by the terms and conditions of this agreement, they are willing to bear the consequences resulting out of it as per the laws of the land”. He also felt that for inheritance a separate agreement is not required.

70. Karma Galey felt that Section 140 of the current Act was clear and adequate.
71. The Consultant clarified that on the advice of the NLCS, it is proposed to incorporate a provision in the new Act stating that Thram transfer should take place within 360 days of signing of the Agreement so that multiple transactions of the same piece of land is prevented.
72. Samtse Thromde Thuemi said that the time frame should be reckoned on the day the transaction application is filed in the Gewog office. He felt that the time frame within which Thram transfer should be completed should be mentioned even in the agreement. He also supported what the Consultant had proposed.
73. Samtse LRO felt that the transaction deed should be executed in the Gup’s office which would make the task so much easier and faster.
74. Chhukha DAO felt that transaction of one piece of land should be allowed only once in a year as there were many cases in which the same piece of land was being transacted repeatedly.

Lease of Government land and GRFL

75. Samtse LRO shared the experience of Samtse Dzongkhag where because of its location on the border many applications for lease of land was received for agriculture, mining and other purposes. While the applications for industries were processed through MOEA and for livestock and agriculture through MOAF, the approval letter did not mention anything about the area to be leased out, or who will collect the lease fee or who will monitor the use as per approval on the ground. Neither was there the mention of penalty if it was not used for the specific purpose.
76. Samtse Thromde Thuemi expressed his concern about the lack of transparency in allotting land on lease in the urban area and its surroundings as he knew many cases having been approved.
77. Gedu CFO said that a clear provision on permanent structures on leased land was required as many wanted to build permanent structures including religious structures like Chortens.
78. The Consultant explained that the current provisions were not adequate besides lacking clarity. In addition, new elements reflected in the National Land Policy and the Economic Development Policy had to be reflected in the Act. The lease period was another issue which had to be addressed.

Tsamdro and Sokshing

79. The Consultant briefed on the work he had done on Tsamdro as well as what had transpired in the other consultation meetings.
80. Gedu CFO supported the suggestion that Sokshing should be reverted back to the same status which was before 2007 as this was a better arrangement than at

present. He said that under the present system they had allowed felling of trees in the Sokshing which he thought was not right.

81. Chhukha DAO felt that Tsamdro lease should be confined within the Dzongkhag only.
82. The Consultant explained that this provision is proposed to be removed since it was an emotional issue as well as it was inconsistent with the provisions of the Constitution. On the other hand, cattle migration was being discouraged as a consistent policy and it has reduced drastically compared to the past. So, it is likely to have a natural death anyway.
83. Samtse Thromde Thuemi informed that Tsamdros were acquired with much effort and cost, yet they never objected to the Government giving away their Tsamdro to new Lhotsham settlers repeatedly, eg., during 1969-71 when late Kalon Dasho Japhag Dorji was overseeing the Thram registration. He agreed with the Consultant that cattle migration is going to die a natural death as from his village out of 16 herds before only 3 migratory herds were left now. But there were 108 lakes between Gomtu and Nathula, the Tsamdro area belonging to the people of Haa, which required sensitivity and respect for nature and proper protection without desecration. Will the Government be able to do the same? The 2000 floods which destroyed Dyna bridge was supposed to have been caused by an outburst of the one of the lakes due to desecration. As for the Sokshing, it always belonged to the Thram holder as in the previous Land Act, one could even apply for conversion of one's Sokshing into agricultural land if he did not have adequate land.
84. Chhukha Thrizin said that when a piece of Tsamdro is leased out to an individual, he should not be given the authority to block acquisition of such Tsamdro if required for development purposes.

Share cropping

85. Since there were no views from the floor, the Consultant briefed the meeting on why this topic was placed on the agenda and what had transpired in the other meetings and what the Consultant had proposed to include in the new Act on this issue.

Easements

86. The Consultant briefed the meeting on this topic including what had transpired in the other meetings. There were no views from the participants.

Spatial planning for rural settlements

87. The Consultant explained the proposal and initiative of the MOAF and NLC as reflected in the draft national land policy.
88. Samtse Thromde Thuemi appreciated the government proposal and supported this initiative.

Land dispute resolution

89. Samtse Thromde Thuemi said that the agreement was the most important element in any land case and when processing such cases through the Gewog office, it has to be ensured that the agreement is legally binding.
90. Samtse LRO wanted to know what a legally acceptable agreement is. He felt that the most important aspect was the proper filling up of the prescribed forms.
91. Chhukha DT chairperson felt that dispute would arise due to land boundary, roads and water channels passing through someone's land.

92. Samtse Thromde Thuemi said that a legally acceptable agreement would mean that it should contain all the necessary information such as the details of the land being transacted, the cost, date of transaction and also time frame within which Thram transfer will take place.
93. Samtse LRO said that there were cases where transaction deeds were executed but it was never submitted to the local authorities for Thram transfer for many years. So, there was a need to mention the time frame for Thram transfer after execution of the agreement.
94. Karma Galey felt that a time frame was not required as it could be misconstrued resulting in the buyer misusing this provision to delay payment for the land.
95. The Consultant clarified on this including the justification for requiring a definite time frame.
96. Chhukha DT chairperson said that transfer of Thram from a deceased person was required to be done within 360 days at present which could pose problems.
97. Samtse Thromde Thuemi repeated that the agreement has to be legally acceptable.

Land survey

98. Tendu Gup said that quite often actual field survey is not done during land transactions but sufficed with table survey. Even when field survey is done, the area is not disclosed at the time of survey citing confidentiality, and the land owner is told the area only during the hearing which gives very little time to redress their grievance if there is a shortage in the area.
99. Chhukha Deputy Chairperson and Dungna Gup, Lam Dorji said that in his Gewog there were Tseri land

which was left out during the NCRP as well as land which was recorded as 5 acres becoming 3-4 acres during the survey. As Tendu Gup mentioned, during the survey of individual land holdings the area and whether there is excess or shortage of land is not disclosed to the land owners.

100. Samtse LRO said that the area of the land cannot be determined immediately on survey. So, the area is disclosed during the hearing.
101. Tendu Gup said that when the area of one's land is disclosed only at the last moment, one was hardly left with any choice than to sign on the dotted lines. In fact, the land owners were indirectly forced to sign by the survey team lead by the Director by saying that if they do not sign now it will take them many years to get their land cases sorted out or they will have to follow the team to Samdrup Jomgkhar where the team was heading from Samtse.
102. Samtse LRO clarified that the Director was under pressure to complete the NCRP within a set time frame, because of which he may have had no option than to ask the land owners to come to Samdrup Jongkhar if they wanted their land cases sorted out.
103. Norbugang Gup, Kezang Wangdi said that when they enquired about the outcome of the survey of their land, they were told that it was confidential. When the area was made known just before the hearing, it was a hurried affair. If the land owners raised objections, they were told that in such a case their cases will remain unresolved for a long time which might even affect their application for rural timber and other entitlements which cannot be availed without Thram. So, they were left with no choice but to sign on the dotted lines and accept whatever was the outcome of the survey although they were not

satisfied. He also said that the people were not happy because while their excess land was taken away, what was short was not made good during the survey.

104. Dorokha Gup said that the problems faced during NCRP were not in Samtse alone as Tendu and Norbugang Gups explained. In his Gewog alone, 79 cases were filed. But he was hoping that their grievances will be addressed based on the current provision in the Land Act that says that any grievance will have to be sorted out within 5 years from the date of survey.
105. Samtse Thromde Thuemi said that he had personally observed preferential treatment being given to certain cases including allotting excess land and land shortage being made good from Government land by going out of their way to help. He felt that this was not only not fair but looked suspicious to him.
106. Samste LRO said that shortage of land was made good if there was vacant Government land in the vicinity. The survey team tried their best to redress the grievances of the people as the result of their survey was to be submitted to His Majesty the King. As the Dzongkhags were faced with difficulties in providing timely and efficient services to the public, he requested that adequate manpower and necessary equipment and tools be provided from the centre at the earliest.
107. Chhukha DT chairperson said that some of the boundary pillars were erected inside one's land and not on the boundary which could create problems later. He also pointed out that those who had paid for their excess land in 2006 were not allowed to retain the excess land.
108. Norbugang Gup said that their excess Chhuzhing were deleted from their Thram and

accordingly boundary pegs erected by excluding such areas which were theirs till now.

Urban land: urban palnning, urban land record and urban land administration

109. Samtse LRO said that the minimum size for urban plots should be uniform across the country because in Thimphu in some places the minimum size required was 26 decimals.
110. Phuntshoing Thromde Chief Urban Planner said that clear provisions were required on how to declare rural areas as urban areas, and inclusion of Chhuzhing under urbanization cannot be ruled out as urbanization is a natural process. It was also very important to hand over new areas as urban land and not as rural land which otherwise created its own problems. He explained why in Thimphu areas on slopes were categorized as E4 precincts which required larger plot size emphasizing that it was important to have different sizes of plots so that we did not have monotonous and ugly towns like Bajo.
111. Samtse LRO repeated the same argument that plot sizes should be uniform.
112. Samtse Thromde Thuemi said that the problems faced by the Samtse Throm were submitted to Zhabtog Lyonpo who had said he would look into it, but they were still waiting for a response from him. In Samtse Throm, the architecture of the buildings was neither Bhutanese nor Indian. When the urban boundary was expanded, land belonging to some 220 Goongs was transferred from the Gewog to Samtse Throm but the individual land owners were ignorant about it. There were other problems such as the responsibility of the Thromde Thuemi not being clear.

113. The Consultant took the opportunity to respond to the issue raised by the Dungna Gup earlier about Tseri when he informed that Tseri cultivation was banned in 1993 by the National Assembly. But the Samtse LRO said that their Tseri which was not surveyed during the recent NCRP will be surveyed later by using ROBOTS carried on the back of surveyors as Total Stations could not survey those areas which were covered with vegetation.

Any other business

114. Dorokha Gup suggested that instead of so many categories of land, why not keep only 2 categories, namely, Kamzhing Chhuzhing.
115. Samtse LRO supported his suggestion.
116. Samtse Thromde Thuemi also supported the suggestion.
117. The Consultant explained that while their suggestion will be fine for rural land, this could not be applied to urban and other categories of land.
118. Getana Gup said that cash crop land registered as one acre in the past became 2 acres during the NCRP, but the 1 acre excess land was not allowed to be retained by the land owner.
119. Samste Gup, Wangchu Lepcha informed that people bought land which had mineral resources on it and after extracting the minerals completely, they would apply for land substitute which they managed to get. He wanted to know whether such practices were allowed under the law.
120. Samtse LRO said that such practices were prevalent in Pugli where Lhaki Cement had adopted the same practice.
121. Norbugang Gup said that in his Gewog there was a family whose land was used for mineral

extraction by contractors, after completion of mining, the land had become uncultivable. As a result, the family was faced with tremendous difficulties as they did not have any other land. On enquiry, it was informed that the DGM and Dzongkhag had allotted the private land for mining by one Aum Lham for mining, and the land owner was neither compensated nor provided with land substitute. He also said that there was another family whose land could not be surveyed as the family was supposed to be in the absconders list. But even after bringing NOC letter from the Home Ministry and elders of the village having vouched for the family not being among the absconders, the surveyors had refused to survey their land.

122. Samtse LRO explained that even if people managed to get Kasho for census, this did not automatically entitle them to get their Thram back. They had to get separate Kasho for the land.
123. Norbgang Gup said that the case he had mentioned earlier deserved special consideration as they seemed to be victims of circumstances.

On conclusion, the Legal Officer of MOAF thanked the participants from Chhukha and Samtse Dzongkhags; Gelephu, Samdrup Jongkhar and Phuentsholing Thromdes and the Consultant for their participation in this important meeting. The Consultant, in turn, expressed his appreciation to Sanam Lyonpo for giving him this opportunity to serve his former Ministry.

The meeting was adjourned at 18:30 hrs.

Annexure V: The Land Bill of Bhutan, 2012 (First Draft)

Prepared by Dr. Dasho Kinzang Dorji (Former Minister)

PREAMBLE

Whereas, land is one of the basic factors of production under “land, labour and capital”, and land is necessary to all production, no matter what kind or form; land is the standing-place, the workshop, the storehouse of labour; it is to the human being the only means by which he can obtain access to material universe; without land man cannot live; without access to it man cannot labour; it is the platform for all human activities;

Whereas, the Constitution of Bhutan guarantees the fundamental right of its citizens to own land and property, and at the same time a citizen shall not be deprived of property by acquisition or requisition, except for public purpose on payment of fair compensation;

Whereas, according to the Constitution of Bhutan the state shall endeavour to develop and execute policies to minimize inequalities of income, concentration of wealth and promote equitable distribution of public facilities among individuals and people living in different parts of the Kingdom;

Whereas, land is the principal source of livelihood and material wealth and invariably carries cultural significance for the Bhutanese; and hence, this Act is aimed at providing efficient and effective land administration, security of land tenure, equal opportunity to land and at the same time

regulate and administer the ownership and use of land for effective use and conservation of the ecosystem;

Parliament of Bhutan do hereby enact the Land Act of Bhutan 2012 on theDay of theMonth of the Water Male Dragon Year of the Bhutanese Calendar corresponding to the.....Day of the, 2012 at its.....session of First Parliament as follows:

CHAPTER 1: PRELIMINARY

Title, extent and commencement

1. This Act shall:
 - a. Be called “The Land Act of Bhutan, 2012”;
 - b. Come into force onday of the month of the Water Male Dragon Year coinciding withday of, 2012; and
 - c. Extend to the whole of the Kingdom of Bhutan.

Repeal and saving

2. This Act shall supersede the Land Act of Bhutan, 2007, the Land Act, 1979, any resolution/ decision of the erstwhile National Assembly of Bhutan, and any provision of any law, bylaw, rules or regulations that are inconsistent with this Act, unless otherwise specified.
3. The following are specifically repealed:
 - a. Sections NGA 2-9, 2-14 and 2-17 of the Loan Act of Bhutan, 1980;
 - b. Sections 3(e), 3(p), 9 and 29(b) of the Forest and Nature Conservation Act of Bhutan, 1995;
 - c. Sections 61(d) and 64(2) of the Moveable and Immovable Property Act of the Kingdom of Bhutan, 1999;
 - d. Sections 52(1), 52(2), 53(1), 53(3), 57(1) and 58(1) of the Bhutan Telecommunications Act, 1999;
 - e. Sections 51(1), 52(2) 51(5) and 52(2) of the Electricity Act of Bhutan, 2001;
 - f. Sections 61(h) and 63 of the Local Government Act of Bhutan, 2009;
 - g. Section 252, 262 and 267 of the Penal Code of Bhutan is repealed to the extent that it applies to land and immovable property on it.

CHAPTER 2: ORGANIZATION FOR LAND ADMINISTRATION

The National Land Commission: Establishment and Composition

4. The Royal Government shall establish a National Land Commission, hereafter, referred to as Commission in this Act, which shall be an independent authority and the highest decision making body to discharge functions conferred under this Act; and
5. The Commission shall consist of a Chairperson and four other members who shall serve on a full-time basis.
6. The Commission shall be supported by the Department of Survey & Mapping and Department of Land Registration.

The National Land Commission: Independence

7. The Commission shall be independent in the exercise of powers and duties under this Act and shall exercise such powers and duties without fear, favor or prejudice in the interest of effective and efficient administration of land in the country.

The National Land Commission: Eligibility and Qualification

8. A person to be eligible to hold office as a Chairperson and a member of the Commission shall:
 - a. have rendered a minimum of 25 years of service in case of the Chairperson and 20 years for other members in Government or public service,

- b. have a minimum qualification of a Bachelor's Degree, and
- c. have proven qualities of integrity and leadership.

The National Land Commission: Appointment

9. The Chairperson and members of the Commission shall be appointed by the Prime Minister from a list of potential candidates submitted by the Royal Civil Service Commission.

The National Land Commission: Tenure and Terms of Office

10. The tenure of office of the Chairperson and members of the Commission shall be five years or until they attain the age of superannuation which ever is earlier; and
11. The salary, tenure, code of conduct, discipline and other conditions of service of the Chairperson and other members shall be as prescribed by the Government.

The National Land Commission: Chairperson

12. The Chairperson of the Commission shall:
 - a. be responsible for providing effective leadership for the Commission,
 - b. formally represent the views of the Commission,
 - c. review and deal with any complaint against the members of the Commission,
 - d. oversee the works of the Secretariat of the Commission,
 - e. assign particular affairs of the Commission to a member of the Commission, and

- f. designate one of the members as the Acting Chairperson in his absence.

The National Land Commission: Accountability

13. The Commission shall carry out its responsibilities in accordance with the provisions of this Act;
14. The Commission shall ensure the highest level of transparency, accountability, efficiency and professionalism;
15. The Commission shall submit an annual report on its policies, programme of work and performance to His Majesty the King and the Prime Minister;
16. The members of the Commission shall be accountable to the Chairperson; and

The National Land Commission: Functions

17. The National Land Commission as the central land agency of the Government shall:
 - a. administer and enforce all statutory provisions of this Act,
 - b. prescribe, amend and enforce rules and regulations for carrying into effect the provisions of this Act,
 - c. promulgate policies, standards and guidelines for land administration in accordance with the provisions of this Act and adopt plans and programmes in consultation with relevant central agencies and Local Governments to promote efficient and effective land administration,
 - d. be the apex body to administer and approve all land transactions and issuance of land title certificate,
 - e. approve acquisition of registered land and its allotment to Government institutions and *Gerab Dratshang*,

- f. approve allotment of substitute land to the *Thram* holder whose land was acquired, or affected by natural calamity,
- g. approve cash compensation for the land acquired,
- h. institute Dzongkhag and Thromde Land Acquisition and Allotment Committees who will process and recommend (d), (e) and (f) above,
- i. approve allotment of Government land or Government Reserved Forest land to Government institutions and *Gerab Dratshang* based on the recommendation of relevant agencies,
- j. approve exchange of rural registered land with Government Reserved Forest land based on recommendation of relevant agencies,
- k. assist Gyalpoi Zimpon's office in the assessment and submission of petition for rehabilitation land to His Majesty the King,
- l. approve demarcation of Thromde, industrial and protected agriculture areas, and submit to the Government for formal declaration,
- m. recommend to the Government appropriate tax measures, in consultation with relevant agencies, to prevent speculation and concentration of land holdings,
- n. act as the central depository for *Chhazhag Sathram*, wherein ownership and mortgage of freehold land shall be registered for maintenance of record of State alienable land on lease.
- o. be the national agency responsible for geodetic, geophysical, leveling, control surveys at different orders and precision and topographical base mapping at appropriate scales,
- p. be the national agency to coordinate the development of spatial data infrastructure by different user agencies in the country,

- q. be the apex agency to monitor encroachment/illegal occupation of Government land,
 - r. conduct land use audit of Government agencies,
 - s. any other responsibility that the Government may assign from time to time,
 - t. be the parent organization for survey and land record officials working in other agencies and local governments,
18. The Commission may delegate some of its authority and functions to its departments, other central agencies and the local governments as it deems appropriate.

Relevant Central Agencies: Functions

19. The Ministry of Agriculture and Forests, as the custodian of all forest and Government Reserved Forest land, shall be responsible for scrutinizing land allotment and land lease involving forest and GRF land;
20. The Ministry of Agriculture and Forests, as the agency responsible for attaining food security and food self reliance, shall be responsible for scrutinizing agriculture land use changes and proposing fiscal and other measures to protect scarce agricultural land in the country;
21. The Ministry of Works and Human Settlement, as the agency responsible for urban development, approving structure plans including land use plans of Thromdes, shall be responsible for formulation of national urban policies, guidelines and standards and urban land use change as well as scrutinizing urban boundary change and declaration of Thromdes by the Parliament through the National Land Commission;

22. The Ministry of Economic Affairs and other agencies such as Tourism Council of Bhutan responsible for economic activities other than agriculture, shall be responsible for scrutinizing allotment and lease of industrial, commercial and recreational land in the rural areas in consultation with Ministry of Agriculture and Forests if in the forest or Government Reserved Forest land.

The Local Governments: Functions

23. The Dzongkhag Administration shall:
 - a. Scrutinize and validate land registration and transaction, allotment, lease, acquisition and exchange cases submitted by the Gewog Administration for further submission to the National Land Commission either directly or through other central agencies,
 - b. establish land acquisition and allotment committee,
 - c. maintain Thram copies pertaining to its jurisdiction,
24. The Gewog Administration shall:
 - a. initiate registration and transaction of rural land with National Land Commission,
 - b. establish land acquisition and allotment committee to initiate land allotment, lease, exchange and acquisition process based on the advice of National Land Commission and central agencies,
 - c. issue *Lagthram* upon approval by the National Land Commission,
 - d. maintain Thram copies pertaining to its jurisdiction,
 - e. prevent and monitor encroachment/illegal occupation of Government land including constructions,
 - f. be the custodian of community land, community forests, including Sokshing, Nyekhor Tsamdro, and medicinal herbs,

- g. protect and preserve Nye, other cultural and historical sites
25. The Thromde Administration shall:
- a. act as custodian of Government land in the urban area, be responsible for scrutinizing land allotment including urban plots and land lease, land use change and land exchange under its jurisdiction,
 - b. initiate registration and transaction of urban land with National Land Commission,
 - c. approve, regulate and enforce appropriate land uses,
 - d. control squatter and illegal settlements on state land,
 - e. issue *Lagthram* upon approval by the National Land Commission,
 - f. monitor encroachment/illegal occupation of Government land,
 - g. establish land acquisition and allotment committee,
 - h. maintain Thram copies pertaining to its jurisdiction,

The Local Governments: Accountability

26. The chairperson of the local committee and head of the local administration shall ultimately be accountable for the decisions taken at the local level.

National Land Commission Secretariat

27. The National Land Commission shall be supported by the two Departments, Department of Land Survey and Mapping, and Department of Land Registration,
28. The Department of Land Survey and Mapping and Department of Land Registration shall be adequately staffed and appropriate powers and functions delegated particularly on matters of technical nature and service delivery.

29. The National Land Commission shall cause the central agencies and Local Governments to be adequately staffed and properly equipped to facilitate efficient, effective and timely delivery of public services on survey and land administration.

CHAPTER 3: CHHAZHAG SATHRAM

Chhazhag Sathram as national land records

30. Chhazhag Sathram, hereafter referred to as Thram, shall be the sole authoritative document that shall record and establish the legitimacy of title to land of a juristic person in the country.

Contents of Thram

31. The Thram shall contain:

(a) Identification of the land:

1. Thram number,
2. Plot number of the land on the cadastral map,
3. Coordinates of boundary points,
4. Name of the land,
5. Type of land category, and
6. Total area of the land.

(b) Identification of the land owner:

1. Name of the land owner,
2. Unique household number,
3. Citizenship identity number,
4. Permanent address of the land owner; if a corporation, name of the corporation, certification of incorporation and its principal address; and if civil society organization, name of the organization, certificate of registration, and its principal address; if religious organization, certificate of registration, and its address.

(c) Other information:

1. Remarks about a land if the land is *Kidu* or rehabilitation land along with its allotment year
2. Individual share of the land for land under joint ownership, if specified, and

3. Name of the individual person for a land under individual ownership.

Land categories for registration in Thram

32. The land owned by different persons shall be categorized and registered in the Thram under one or more of the following land categories:

- (a) Chhuzhing,
- (b) Kamzhing,
- (c) Cash crop land used for:
 1. Apple,
 2. Orange,
 3. Cardamom, and
 4. Any other cash crop.
- (d) Residential land
- (e) Industrial land,
- (f) Commercial land
- (g) Recreational land
- (h) Institutional land, and
- (i) Any other category of land designated by the Commission from time to time.

Certification on land categories

33. The registration of land categories in the Thram shall be based on the following certification of land use:

- (a) Certification on the land used as agricultural land from the Local Authority,
- (b) House number as evidence of the rural land used as residential land area from the Local Authority,
- (c) Licenses issued by the Ministry of Economic Affairs to establish and operate industrial, commercial and recreational ventures on rural land,
- (d) Permits for residential, industrial, commercial and recreational land in accordance with the Thromde development plan from the Thromde Authority,

- (e) Approval letter from the Ministry of Agriculture and Forests on conversion of Chhuzhing to other uses,
- (f) Certification from the Ministry of Agriculture and Forests to establish commercial agriculture farms,
- (g) Approval letter from the Commission on acquisition of private registered land;
- (h) Approval letter from the Commission on allotment of the Government/state land or Government Reserved Forest Land,
- (i) Specification of land category in the Kasho granting land, and
- (j) Any other order issued by the Government under specific laws.

Registration of land in Thram

34. Any land owned by a juristic person shall be registered in the Thram in the administrative jurisdiction of the Gewog and Dzongkhag or Thromde wherein it is located.

Owning more than one Thram

35. A person may own more than one Thram provided the total holding does not exceed the ceiling prescribed under Section 71. Such a person shall be entitled to a separate Thram for the land belonging to him.

Issue of Lagthram

- 36. A Lagthram shall be issued to the Thram holder as copy and evidence of his land in the Thram. Copies of the cadastral map of his land shall be attached to the Lagthram;
- 37. For the land of a family, only one Lagthram shall be issued in the name of the Thram holder/head of family. In case of the land under joint ownership other than family land, all the co-owners may be issued with

Lagthram indicating the share of each co-owner, if applicable; and

38. Lagthram shall indicate whether a registered land is Kidu or rehabilitation land.

Verification of Thram

39. The validity and currency of the Lagthram at any point in time shall be verified from the Chhazhag Sathram.

Authority to register land or affect change in Thram

40. The National Land Commission shall register the land of a person in the Thram or make any changes in the Thram in accordance with the provisions of this Act.

Report of discrepancy

41. A landowner, relevant central agency or the Local Authority may report any errors or illegal records in the Thram or cadastral maps to the Commission.
42. In case of tampering with Thram or cadastral maps, it shall be the responsibility of the Thrompons and Gups to report such illegal act to the National Land Commission.

Amendment or issue of new Thram

43. The Commission shall affect the changes in the Thram and/or issue new Lagthram within 30 working days on the land conveyances prescribed in this Act after receipt of relevant documents from the Local Authority; and
44. The Commission shall return the land conveyance documents that are incomplete or inconsistent with the provisions of this Act to the parties concerned through the Local Authority within 30 days of receipt of such documents providing details of the missing requirements or inconsistency in writing.

Correction of name of landholder

45. In the event a Thram holder petitions to the Local Authority that his name or any other information in his Thram is incorrectly spelt or his full name is not recorded in his Thram, the Local Authority shall based on the Citizenship Identity Card endorse the correction of name to the Commission/Department of Land Registration who shall make the necessary changes in the Thram; and
46. Upon demise of the Thram holder of a family, the Thram shall be transferred to the name of one of the members identified by the family within 360 days of his demise as certified by the Local Authority. In the event of non-compliance, such a person shall be liable in accordance with Section 396(h) of this Act and the Local Authority shall instruct the family to register the land in the name of one of the surviving members identified by the family.

Correction of errors in Thram and cadastral records

47. If there is any discrepancy between the Thram, cadastral records and/or the area occupied on land/the ground, the Commission shall resolve it in accordance with Sections 48 to 52 of this Act;
48. The Commission shall institute an Investigation Committee consisting of representatives from the Department of Survey and Mapping and the Department of Land Registration, and the concerned Local Authority where the land is located, and a minimum of three senior citizens from the locality appointed by the Local Authority;
49. The Local Authority, in writing, shall notify the landowners concerned of the discrepancy and the investigation;
50. The Investigation Committee shall submit the report to the Commission within 30 days of receiving the order

of investigation and also distribute the report to the affected land owners;

51. In the event any landowner contests the area of the land determined by the Investigation Committee, he shall file an objection to the Investigation Committee within a period of 30 days of distribution of the report. Under such circumstances the Investigation Committee may carry further investigations and shall submit its final report within next 30 days after submission of any objection. If no objection is filed within the stipulated period, the decision by the Investigation Committee shall be deemed binding;
52. Based on the findings of the Investigation Committee, the Thram and cadastral map shall be corrected as follows:
 - (a) If the registered area in the Thram is less than the area occupied on the ground and the boundary coordinates or boundary markers confirm the area occupied on the ground, the landowner shall be entitled to the excess area if he so desires,
 - (b) If the registered area in the Thram is more than the area occupied on the ground and the boundary coordinates or boundary markers confirm the area occupied on the ground, the Commission shall correct the area in the Thram according to the actual area on the ground;
 - (c) If the cadastral map is wrong, the actual area on the ground as defined by the boundary coordinates and/or boundary markers shall prevail and it shall be rectified in accordance to Sections 52(a) and (b) of this Act; and
 - (d) The landowner shall pay tax to the Government on the excess area in case of Section 52(a) of this Act and the Government shall refund the excess tax paid by the landowner in case of Section 52(b) of this Act, by

keeping the year during which the erroneous Thram was issued as the base year.

53. In the event a case cannot be resolved by the Commission, the matter shall be submitted before the Court of competent jurisdiction. Based on the final judgment of the Court of competent jurisdiction, the Commission shall amend the Thram and cadastral records.

Access to data in Thram

54. Only the Commission, relevant central agencies and authorized officials at the Gewog and Dzongkhag or Thromde shall have access to the central data system of Thram and cadastral records.
55. The Thram holder or his authorized representative shall have access to the information on his land and cadastral maps maintained by the Commission.
56. Except those information restricted by the Government, the Commission or authorized agencies shall allow the viewing of data in the Thram and cadastral records maintained by the Commission or authorized agencies upon a written request from:
 - (a) Thram holder or his authorized person on his land, and
 - (b) A person for a specified land holding in a Thram.
57. The Commission shall allow the Government agencies to access and use the land records for public purposes.

Settlement of land disputes

58. The parties to a dispute may settle land disputes amicably before taking any legal recourse;
59. There shall be a dispute resolution committee at the Local Government level as well as at the National Land Commission level discharged with the responsibility to resolve disputes in a fair, transparent and efficient

manner and through proper hearing. The National Land Commission shall act as the Land Dispute Tribunal until Alternative Dispute Resolution Centres Act is approved;

60. The Local Authority and the National Land commission shall have the authority to summon parties and witnesses to the case hearing, and levy penalty/fines on the guilty party, as per rules issued by the Commission under this Act;
61. The concerned committees shall pass the decision on the dispute within 30 days from the date of registration of the case, and
62. In the event amicable settlement through the above process is not possible, the matter shall be submitted before the Court. According to the verdict, the Commission shall carry out necessary action.

Record of mortgage deed

63. It shall be the responsibility of the mortgagee to submit a copy of the lawfully executed mortgage deed of any land and property to the Local Authority who shall note the lien of the mortgagee on the said land.
64. The Local Authority shall submit the copy of the mortgage deed to the Commission who shall also record the lien of the mortgagee against the Thram.

CHAPTER 4: ENTITLEMENT OF LAND

Entitlement to own land

65. The juristic persons who are entitled to own land in the Kingdom of Bhutan are:
- (a) Institution of Monarchy,
 - (b) Family,
 - (c) Individual person,
 - (d) Government institutions including corporations belonging to the Government,
 - (e) Gerab Dratshang (Geduen and Rabdeys), and
 - (f) Civil society organizations, corporations, community for social and religious purposes, and religious institutions recognized by the laws of the Kingdom of Bhutan.
66. The juristic persons in Section 65 of this Act shall fall under one or more of the following broad categories of registered land owners:
- (a) Crown property,
 - (b) Individual person,
 - (c) Family land,
 - (d) Joint owners,
 - (e) Government institutions,
 - (f) Gerab Dratshang,
 - (g) Religious institutions,
 - (h) Civil society organizations,
 - (i) Corporations
 - (j) Community for social and religious purposes.
67. An individual person may own land either in his name and/or in the name of joint ownership other than family land, the total of which shall not exceed the land ceiling according to Sections 71 to 73.

Ownership of land upon registration in Thram

68. The ownership of land shall be conferred to its owner upon registration of such land in the Thram in his name in accordance with the provisions of this Act.
69. No Government land or Government Reserved Forest Land shall be transferred to private ownership except otherwise provided by the Constitution and as detailed under this Act.

Land may be owned anywhere in the Kingdom

70. A juristic person under Section 65 of this Act may own land in more than one Gewog or Thromde within the Kingdom of Bhutan.

Land ceiling

71. The land ceiling for a family and, those organizations and entities not listed in Section 75 of this Act shall be 25 acres consisting of one or more land categories, including urban land, as specified in Section 32 of this Act.
72. A person may own land either in his name, and/or in the name of joint ownership other than family land. A person shall belong to a family.
73. Land belonging to a person either in his name and/or in the name of joint ownership shall be included with the family land under the land ceiling.
74. Based on the contents of Thram in Section 31 of this Act, and using other relevant data as may be deemed necessary, the Commission shall develop a monitoring system and implement it in collaboration with the Local Authority to enforce the land ceiling in Section 71 of this Act.

Exemption from land ceiling

75. The land ceiling in Section 71 of this Act shall not apply to the land registered in the name of:

- (a) Members of the Royal Family,
- (b) Crown property,
- (c) Government institutions,
- (d) Gerab Dratshang,
- (e) Community owning land for social and religious purposes,
- (f) Industrial land beyond 25 acres ceiling, provided that the industrial land exceeding 25 acres ceiling is registered in the name of a corporation.

Mineral resources on registered land

76. Any mineral resources found in any registered land shall belong to the State and its exploitation if required shall be governed by the prevailing Mines and Minerals Management Act or any other law that shall govern their use and management.
77. In the event the mineral resources are extracted and the process of extraction lessens or deteriorates the land utility, the Government shall acquire the land and provide compensation as provided in this Act.

CHAPTER 5: REGISTRATION OF LAND IN CHHAZHAG SATHRAM

Land of individual person

78. The land owned by an individual person shall be registered in the Thram in his name.

Land of family

79. The land of a family shall be registered in the Thram in the name of the head of the family.

Land under joint ownership

80. The land under joint ownership shall be registered in the Thram in the names of all its co-owners along with individual shares if applicable.

Land of corporations

81. The land of a corporation shall be registered in the Thram in the name of a corporation registered under the Companies Act of the Kingdom of Bhutan, or, in the name of the body corporate established under the relevant law.

Land of religious institutions

82. The land of religious institutions shall be registered in the Thram in the name of the religious lineage or reincarnate as certified by the Chhoedey Lhentshog and not in the name of an individual person.

Land of civil society organizations

83. The land belonging to a civil society organization shall be registered in the Thram in the name of the civil society organization registered under the prevailing Civil Society Organization Act of Bhutan and not in the name of any individual person.

84. The land provided on lease by the Government to any civil society organization shall be retained on lease.

Land of Government institutions and Gerab Dratshang

85. The land belonging to Government institutions and Gerab Dratshang shall be registered in the Thram in the name of respective user establishments or Gerab Dratshang and not in the name of any individual person.

Land on default of mortgage

86. In the event of default of a mortgage on land, the Commission shall issue a notice to the mortgager on having received application from the mortgagee to transfer the ownership of land in the name of a person entitled to the land.
87. It shall be the responsibility of the mortgager to respond to the notice within 30 days from the receipt of the notice with objection if any after which the Thram transfer shall be affected.
88. Only if there is a dispute between the mortgager and mortgagee, the Commission shall refer the case to a court of law.

Substitute land

89. A substitute land shall be registered in the name of the person to whom the land is allotted.

Kidu and rehabilitation land

90. A Kidu or rehabilitation land shall be registered in the Thram in the name of the person or persons to whom the land was granted.
91. Kidu and rehabilitation land shall be registered in the Thram within 360 days from the day of issue of Kasho.

Prohibition of registration of land in the name of a minor

92. Land shall not be registered in the name of a minor who is below 18 years of age.

Land of minors

93. Notwithstanding Section 92 of this Act, and except otherwise provided in a will, in the absence of any surviving adult member, the land of a deceased Thram holder shall be registered in the Thram in the name of a minor below the age of 18 years upon recommendation from the Local Authority.
94. The land registered in the Thram in the name of the minor under Section 93 of this Act shall be under the custody of a legal guardian identified by the Local Authority until he or she attains the age of majority.

CHAPTER 6: RIGHTS AND OBLIGATIONS OF LAND OWNER

Right to registered land

95. The land registered in the Thram in the name of an individual person shall belong to him.
96. All the members own the land registered in the Thram of a family. The Inheritance Act shall govern the entitlement to any land by the members of a family except in case where the subdivision of land parcel results in creation of plots of land below minimum registration requirement of 13 decimals.
97. With exception of land registered in the Thram in the name of a family and a community for social and religious purposes, the share of land under joint ownership shall be considered equal among the joint owners unless otherwise specified in the Thram.

Interchangeability and use of land

98. Except for Chhuzhing and land categories falling within the Thromde, industrial, and protected agricultural areas declared in accordance with Section 396 of this Act, a landowner may interchange and use his other registered land categories to any other categories in accordance with Section 228 of this Act.
99. The Government land or Government Reserved Forest land leased for commercial agriculture farms and for other industries shall be used only for the purposes for which it is leased out and as per project proposal approved by the respective Government agencies.

Conversion of Chhuzhing to other uses

100. In case of conversion of Chhuzhing to other land categories for purposes other than residential land, such conversion may be processed in accordance with Section 236 of this Act.

Use of Chhuzhing as residential land

101. A landowner in rural areas without a house and having only inherited Chhuzhing may apply for conversion of one plot of 13 decimals from his registered Chhuzhing or in lieu thereof for a plot of 13 decimals of Government Reserved Forest Land as residential land to the Local Authority in accordance with Sections 235 to 241 of this Act.

Right to transact land

102. Subject to the provisions of this Act, a person owning an independent Thram shall have the exclusive right to transact his land, including surrendering of land to the Government.
103. Subject to the provisions of this Act, a person may lease his land for the activities allowed by this Act, including share-cropping.
104. Upon demise of a landowner, if the closest in line of legitimate heirs cannot inherit land due to restriction on land ceiling, he may transact such land within 360 days of demise. Otherwise, the land may be inherited by the next closest legitimate heir in succession as determined by the provisions of the Inheritance Act of Bhutan, 1980.
105. A piece of land registered in the Thram under joint ownership shall be transacted upon consent of all the landowners or by a co-owner to the extent of his share of land, if specified in the Thram.

106. Any party entering into transaction of a registered land may lawfully authorize any other person to undertake land transaction on his behalf.
107. The transfer of ownership of land from one Government institution to another or from one Government institution to Gerab Dratshang and vice versa, and from one organization of Gerab Dratshang to another shall be permitted.

Right to trees on registered land

108. The trees, either grown naturally or planted, in a registered land shall belong to the landowner.
109. The Thromde Act or any other law that shall govern the use and management of land shall govern the management of trees in a Thromde.
110. Transportation and commercial use of timber from these trees shall be subject to the Forest and Nature Conservation Act or any other law that shall govern the transportation and commercial use of such timber in future.

Right to trees on boundary of registered land

111. The landowner who planted a tree on the boundary of land shall enjoy its ownership and he shall be responsible to ensure that the other landowner is not affected by such a tree. In the event, the tree adversely affects the adjacent landowner, the Local authority, upon receiving a written complaint shall serve a written notice to the tree owner to remove the harm caused to other landowner within 30 days of issuance of such notice.
112. The fruits from such trees falling naturally upon the adjoining land shall belong to the owner of such land.

Right to fruits and timber from naturally grown trees on boundary

113. The fruits and timber from a naturally grown tree on the boundary of two plots of registered land shall be shared between the two landowners.

Right to trees on Kidu, rehabilitation and substitute land

114. Any tree on Kidu, rehabilitation and substitute land at the time of allotment shall belong to the Government unless otherwise specified in the Kasho or allotment order. Such trees shall be disposed off by the Ministry of Agriculture and Forests if in the Government Reserved Forest land and by the Thromde Authority if on the Government land, and hand over the land free of encumbrances within 60 days after registration of the land in the Thram of the person to whom the land is allotted.

Ownership of immovable properties on transacted land

115. Unless otherwise specified in the transaction deed, the immovable properties on the transacted land shall be deemed as belonging to the new landowner.

Right to omitted land

116. If a plot of land registered previously in the Thram is omitted during compilation of the new Thram, the landowner may apply for its reinstatement to the Commission through the Local Government within 15 days from the date of issue of the new Thram.
117. Upon reinstatement, the Thram holder shall pay tax to the Government with arrears on such land for the number of years the land was omitted.

Verification of land boundary

118. Prior to establishment of any structure that is likely to affect the boundary of a piece of land, the landowner planning to establish such structure may verify and ascertain the boundary of the land with the landowners of adjoining land and local land record office.
119. If a landowner wishes to verify or specify the coordinates and boundary markers of his land, he shall apply, in writing, to the Local Authority. The Local Authority shall then carry out the survey and peg the boundary marker on the ground.
120. A hierarchy of boundary evidence shall be used for rural as well as urban land.

Merging of contiguous land parcels

121. Two or more plots of registered rural land that are physically contiguous and/or discrete, of the same land category, and belonging to the same landowner may be merged into one plot, if the landowner so desires by applying to the Local Authority.
122. In case of Thromde, land pooling or such other planning tools may be adopted to merge or consolidate two or more plots that are physically contiguous and/or discrete.
123. If land pooling is adopted, clear principles and fair and transparent criteria for re-allotment shall be applied.
124. In case of plots of land, which are less than the minimum required size of 13 decimals, whether in rural or urban areas, but situated adjacent to each other, such merger and consolidation shall be mandatory to meet the minimum required plot size.
125. Undersized plots which existed before 2007 where such merger and consolidation was not

possible, the National Land Commission shall consider allotment of land parcel from adjacent state/GRF land at the existing PAVA rate to the land owner to make up the minimum required plot size provided such allotment does not compromise the size and use of such Government land.

Structures on boundary

126. Ditches constructed on the boundary of two plots of land are presumed to belong to both landowners.
127. When a hedge, or a ditch which is not used as a drain, belongs to the owners of two adjoining pieces of land, each of the owners is entitled to cut down the hedge or fill up the ditch to the boundary line provided he builds a wall or erects a fence along the boundary line.

Laying of structures in one's registered land

128. A landowner shall not locate or construct a well, pond, cesspool or receptacle for refuses within 2 meters on his land from the boundary, in order to avoid any discharge or percolation of the contents into his neighbor's land.
129. However, he may lay underground water pipes or similar installations on his land at a distance of half a meter from the boundary.

Paying land tax

130. From the day a person acquires the ownership of land through registration in the Thram, he is liable to pay land tax to the Government annually.
131. The Royal Government shall reserve the right to vary taxes on any category of land including levy of capital gains and progressive taxation based on

changing priorities and larger interest of the country and the people.

Access to registered land

132. Any authorized person of the Commission or any agency of the Government shall have entry to a registered land, landed property or roads for conducting cadastral works, land survey, or for utility service facilities as deemed necessary by the Government.
133. Before the entry to a registered land by such a person, the Commission or any other agency of the Government shall, through the Local Authority, serve an appropriate notice of entry to the landowner or any person in custody of such land.
134. The landowners shall allow the authorized person to enter their land and landed property subject to the notice served in accordance with Section 133 of this Act.
135. The Commission or any other agency of the Government serving the notice shall require the landowner or any person from whom entry is being sought to be present to facilitate the survey and public utility related works.
136. After prior consent of the landowner, if and when necessary to do so, the authorized person, shall have the authority to erect mapping stakes, dig ground, divert bodies temporarily, sink bores, cut and trim branches of trees, and remove or do away with obstacles taking into consideration that such action shall cause the least amount of damage to the land. Where appropriate, the areas thus altered shall be restored to their original status.
137. The landowners shall ensure to facilitate the conduct of survey, cadastral works and public utility works on their registered land with minimum

obstruction or inconvenience to the authorized person.

138. The Commission or any agency of the Government concerned shall require the landowners of adjacent plots or their authorized representatives to be present and to facilitate the conduct of survey and the public utility works.

Accepting land boundary

139. The landowners may acknowledge and accept, by signing in the format prescribed by the Commission for conducting cadastral survey, demarcation of land boundaries, or any changes in the existing boundary when conducting cadastral survey on their land.

140. In the event an individual refuses to sign the No Objection Certificate due to disharmony among the neighbours, such refusal shall be properly verified with the respective Tshogpa and the Gup and an overruling statement obtained from them.

Land of a Bhutanese citizen who has migrated

141. If a Bhutanese citizen had submitted an application on the transfer of ownership of his land to the Local Authority before his migration to another country in accordance with the provisions of this Act, such land shall be transferred in the name of the beneficiary. Otherwise, such land shall be taken over as the Government land or Government Reserved forestland.

Encroachment on other's land

142. Encroachment on any state owned and private land shall be strictly prohibited.

Prohibition to use community land for other purposes

143. The land registered in the Thram in the name of a community for social and religious purposes shall not be used for purposes other than social and religious purposes.

Under-utilization and under-development of land

144. The Government may enforce, by an order in writing, fiscal or any other means to discourage under-utilization and under-development of registered land.
145. The Local Authorities shall be responsible to monitor and enforce the provisions on encroachment, misuse of community land and under-utilization and under-development of land.
146. The Government shall reserve the right to levy progressive tax as well as to acquire land, which is left fallow for more than three years.

Prohibited land transactions

147. The minimum parcel of land that shall be registered in a Thram is 13 decimals.
148. Those land parcels less than 13 decimals prevalent before 2007 and not amenable for consolidation as per Section 125 may be retained in the Thram of the landowner or transacted only in its entirety without subdivision.
149. Except for surrender of land to the Government, an individual or the community concerned (the landowners) shall not engage in any transaction of land registered in the name of a community for social and religious purposes.
150. There shall be no transaction of land registered in the Thram in the name of a minor in accordance with Section 93 of this Act.

151. Except for surrender of land to the Government, the exchange of land in accordance with Section 196 of this Act, mortgage of land or land lease, a landowner shall not engage in any other transaction of:
- a. The land registered in the Thram of Government institutions, and
 - b. The land registered in the Thram of Gerab Dratshang.
152. Except for surrender of land to the Government, exchange of land in accordance with Section 196 of this Act, mortgage, leasing, and inheritance, the land recorded in the Thram as Kidu or rehabilitation shall not be sold within 10 years of its allotment which shall be reckoned from the date of registration in the Thram. Thereafter, only up to 60 per cent of such land shall be allowed for transaction.
153. Except for surrender of land to the Government and exchange of land in accordance with Section 196 of this Act, the land belonging to religious institutions shall not be transacted.
154. The land provided by the Government on lease for commercial agriculture, industries and other purposes shall not be transacted in any form.
155. Land belonging to corporations and all types of leased land shall be surrendered to the Government on liquidation of the companies or discontinuation of activity for which such land was leased out by the Government.

No transaction of land under the process of ownership change

156. From the day a land transaction deed has been lawfully executed and processed by the Local Government, neither of the party shall engage in any other transaction on the same piece of land till the

change of ownership in the Thram is complete. Any subsequent transactions under such circumstances shall be null and void.

157. In case of multiple transactions, the legally binding agreement executed with the first buyer shall be deemed valid.
158. In addition to the penalty, the seller shall be liable for liquidated damages including refund of the cost of land at the current market rate to the other buyers.

Withdrawal of land transaction

159. If the parties to the land transaction jointly apply within the 90-day cooling period in writing to the Local Government to cancel the transaction with proper justification, and the ownership is not changed in the Thram, the Local Government shall endorse the cancellation to the Commission.

**CHAPTER 7: GRANT, ALLOTMENT, LEASE AND
EXCHANGE OF GOVERNMENT LAND**

Granting Kidu land

160. Granting of Kidu and rehabilitation land shall be the Royal Prerogative of the Druk Gyalpo.
161. As per the Constitution of Bhutan, petitions for Kidu land shall be submitted to His Majesty the King.
162. Kidu land shall be registered according to the provisions of the Kasha.

Granting rehabilitation land

163. Applications for rehabilitation land shall be submitted to the Gyalpoi Zimpon's office through the Local Authority in the format prescribed by the Commission.
164. The Commission shall assess the applications and identify the potential Dzongkhags wherein land to the applicants could be allotted if so required by Gyalpoi Zimpon's office.
165. The Commission shall instruct the Dzongkhag Land Acquisition and Allotment Committee, hereafter referred to as Dzongkhag Committee, of the potential Dzongkhags to conduct a feasibility study and to submit its recommendations.
166. The Commission shall, based on the feasibility study, submit its findings to the Druk Gyalpo.
167. The beneficiary shall produce the Kasha granting rehabilitation land in original to the Commission for registration.
168. The Local Authority shall release the rehabilitation land to its owner after completing its registration in the Thram.

Allotting Government land and Government Reserved Forest land

169. Applications from the Government Institutions and Gerab Dratshang requesting allotment of the Government land or Government Reserved Forest land shall be submitted to the Dzongkhag Committee or Thromde Committee. The format on the allotment of land shall be prescribed by the Commission.
170. The Dzongkhag Committee or Thromde Committee shall submit the applications with justification on allotment and their views on its feasibility as a preliminary proposal to the Commission.
171. Based on the application received in accordance with Section 170 of this Act, the Commission shall either reject it with proper justification or instruct the Dzongkhag Committee or Thromde Committee to conduct field survey and to submit a detailed field report, including clearances required under applicable laws.
172. The Dzongkhag Committee or Thromde Committee shall submit its detailed field report and its recommendations to the Commission.
173. In case of approval, the Commission/Department of Land Registration shall register the land in Thram.
174. The Commission/Department of Land Registration shall at the same time convey the approval of Commission to the Dzongkhag Committee or Thromde Committee.
175. If the Commission does not accord approval, the Commission/Department of Land Registration shall inform the Dzongkhag Committee or Thromde Committee with justification.
176. The Government may consider recovering the cost of such land from the concerned allottees.

Leasing Government land and Government Reserved Forests land

177. The Government land or Government Reserved Forests land may be leased to a juristic person according to Section 180 of this Act.
178. There shall be no ceiling for the Government land or Government Reserved Forests land on lease for the purposes of economic activity.
179. Under no circumstances shall a land on lease from the Government land or Government Reserved Forests land be converted to ownership right.
180. The duration of lease of the Government land or Government Reserved Forests land shall not exceed 30 years and any terms or conditions in the lease deed to the contrary shall have no effect.
181. A lease fee shall be levied at the rate fixed and revised by the Government from time to time notwithstanding any provision in the lease deed to the contrary.
182. The Government may upon expiry of lease renew the lease of the Government land or Government Reserved Forest land including Tsamdros on request from the lessee.
183. The Ministry of Agriculture and Forests shall prescribe the rules on leasing any Government Reserved Forest land.
184. The application for leasing the Government Reserved Forest land shall be submitted to the Local Authority who will submit it to the Ministry of Agriculture and Forests for further scrutiny, validation and submission to the National Land Commission for approval.
185. The National Land Commission shall convey the approval/rejection of the proposal to the Ministry of Agriculture and Forests and the Local Government for noting the lease and release of the land.
186. The records on leased land shall be maintained by:

- a. The Ministry of Agriculture and Forests for the Government Reserved Forest land.
 - b. The Thromde Authority for the Government/state land.
 - c. The Dzongkhag/Gewog Authority for all types of Government land leased out.
187. The Ministry of Agriculture and Forests and Local Authority shall submit the lease records to the Commission who shall also maintain lease records of the Government land and Government Reserved Forest land.
188. Land already occupied by external entities approved by the Royal Government shall be on lease renewable on a yearly basis.
189. Land occupied by foreign embassies shall be on lease or reciprocal arrangement between the Royal Government and the concerned foreign Government.
190. Land occupied by refugees shall be on lease basis.

Application for lease of land for commercial agriculture farms

191. The application for land to establish commercial agriculture farms shall be submitted to the Local Authority in a prescriptive format issued by the Ministry of Agriculture and Forests. The format shall, among others, include project proposal that shall specify the type and level of production, source of fund, location of the farm, source of land, and arrangement for the farm products.
192. If the proposal is found in order in all respects, the Ministry of Agriculture and Forests shall submit the application along with the documents to the Commission for approval.
193. If approved, the Commission/Department of Land Registration shall inform the Ministry of Agriculture and Forests and the Local Authority to record the land

on lease in the name of the farm and to release and handover the land to the entrepreneur establishing the farm.

Application for lease of land for industrial purposes

194. The application for land to establish industries shall be submitted to the Local Government in a prescriptive format issued by the Ministry of Economic Affairs, which shall include project proposal specifying the type of industry, location of land, source of fund and other requirements.

195. The ministry shall scrutinize the proposal and if found in order shall forward to the Ministry of Agriculture and Forests for further scrutiny and submission to the Commission for approval.

Structures on leased land

196. Any constructions or permanent structures unless removed by the lessee shall belong to the lessor on termination of the lease.

Exchange of registered land with Government Reserved Forest Land

197. Where necessary in the interest of the nation and/or for those landowners whose land have been destroyed by natural calamities, the Government may exchange/substitute a rural registered land with the Government Reserved Forest land.

198. The Ministry of Agriculture and Forests shall prescribe a clear criteria and format for the exchange of private registered land with the Government Reserved Forest land.

199. Only Phasa-Busa and land affected by natural calamities shall be eligible for such exchange.

200. The ministry concerned for urban development shall prescribe the criteria and format for exchange of urban land.
201. The applications on the exchange of land shall be submitted to the Local Authority.
202. The Local Authority shall verify and submit the applications to the concerned Ministry.
203. The Ministry concerned shall submit the proposed exchange and its views to the Commission.
204. The Commission may either reject with proper justification or approve the proposed exchange.
205. The Commission shall forward the approved exchanges to the Commission /DLR for issuing new Thram and to the Ministry concerned for releasing the Government Reserved Forest/Government land.

Prohibited allotment, lease and exchange of Government Reserved Forest Land

206. Any allotment, lease or exchange proposed to be made from Government Reserved Forest Land shall undergo thorough Environmental Assessment.
207. Allotment, lease or exchange of land from protected areas and primary forests particularly water catchment areas, stream/river buffers and Right of Ways including the following shall be avoided:
 - a. Within 600 feet uphill or 300 feet downhill of a motorable road, except forest roads
 - b. Within 100 feet of the banks or edge of any river, stream, water course or water sources or
 - c. On any place where the slope is greater than 45 degrees.

CHAPTER 8: ACQUISITION OF REGISTERED LAND

Acquisition of registered land

208. The Government may acquire a registered land for public interests.
209. The Government may provide substitute land or cash payment, or both, in case of difference in value, as compensation.
210. Acquisition of land shall entail a fair compensation.
211. Acquisition shall be in accordance to the procedure on acquisition of registered land.
212. Acquisition of the land occupied by religious and historical monuments other than for conservation purpose shall be avoided.

Mode of compensation for land acquired

213. The landowner shall have the discretion to opt for substitute land or cash compensation offered by the Government in case of land acquired from rural areas.
214. A land owner shall be eligible for land substitute if the land acquired is the only piece of land he owns irrespective of whether it is less than 13 decimals or not.
215. In case of the land acquired in the Thromde, the landowner shall be provided cash compensation. If the land to be acquired is the only plot owned by the landowner in the Thromde, the Government shall consider a substitute land in the same Thromde. If the value of substitute land is inadequate cash compensation shall be provided subject to the value of land.
216. Fair compensation shall be provided for the immovable properties on the acquired land. In addition to the compensation rate fixed as per Section 218, compensation for standing crops and other

investments not included above shall also be calculated and paid to the land owner.

217. Upon acquisition, if the remaining land parcel is less than 13 decimals, such land, both in the rural and Thromde areas, shall also be acquired.

Valuation of land and property

218. There shall be a Property Assessment and Valuation Agency established under the Ministry of Finance to value and fix the value of land and other collateral property that may be acquired. The valuation of the land and property shall consider the total registered area, location in relation to accessibility to vehicular road, immovable property, local market value, and other elements such as scenic beauty, cultural and historical factors, where applicable.

219. The Property Assessment and Valuation Agency shall also be responsible to fix the non-development fiscal measures specified in Section 144 of this Act.

Approving and receiving compensation rate

220. The compensation rate fixed by the Property Assessment and valuation Agency and any subsequent revisions shall be subject to approval of the Government.

221. The Property Assessment and Valuation Agency shall revise the compensation rate after every year or annually.

Location of substitute land

222. The location of substitute land to be allotted in rural areas shall be in the order of preference of same village, Gewog, and Dzongkhag if no alienable land is demarcated.

223. Under no circumstances urban land shall be provided as substitute land for rural land.

Appropriate substitute land

224. The Government shall ensure to provide the landowner with a substitute land as close to the original land as possible and commensurate to the value of land acquired.

Non-enclosure of Government land or Government Reserved Forest land

225. A land allotted as substitute shall not enclose any patch of Government land or Government Reserved forestland inside its boundary.

Taking over acquired land

226. The land under acquisition shall be taken over only after registering the substitute land in the name of the affected landowner or the cash compensation has been made to the landowner.

Time frame for claiming land compensation and substitute

227. Any claim for compensation or land substitute shall be made within 3 years of acquisition of the private registered land failing which such claim shall not be entertained.

Effective date for application of compensation rate

228. The rate of compensation to be applied shall be the PAVA rate prevailing on the day of transfer of Thram.

CHAPTER 9: PROCEDURE OF LAND CONVEYANCE

Transaction of private registered land

229. After entering into a land transaction involving inheritance, sale/purchase, exchange of private registered land with another private land, and donation/gifting, the parties involved shall submit their land transaction application to the Local Authority, for the transfer of ownership within 360 days of signing the contract deed.
230. The application shall include a lawfully executed transaction deed and other documents prescribed by the Commission in the rules for land transactions that are specified in Section 229 of this Act.
231. If the transaction is deemed lawful in accordance to the Act, the Local Authority shall post a notice of the transaction for public viewing, which shall remain effective for 30 days. If no objection is raised from any quarter within the period:
- (a) The Gewog shall forward the case to the Dzongkhag. The Dzongdag shall validate the case in accordance with Section 232 of the Act and endorse it to the Commission for effecting changes in the Thram, or
 - (b) The Thromde Authority shall validate the case as per Section 234 of the Act and endorse it to Commission for effecting changes in the Thram.
232. In the event of any objection, the Local Authority shall evaluate the legitimacy of the objection, and if warranted, the application shall be returned to the parties involved within 15 days of objection explaining the grounds of its rejection.
233. If there is no objection, the Local Authority concerned shall conduct cadastral survey in the field, if division of the land under transaction is involved. The cadastral

survey shall be completed and the transaction case shall be submitted to the Commission within 60 days after public viewing for changes or issuance of new Thram.

234.If no division of the land under transaction is involved, the Local Authority shall submit the transaction case to the Commission within one week after completion of the public viewing for effecting changes or issuing new Thram.

Timeframe to complete land transaction

235.The transfer of ownership of land shall be completed within 180 days after acceptance of the application by the Local Authority.

Conversion of land categories

236.In the event a landowner desires to change his land categories other than Chhuzhing and those outside the Thromde, industrial, and protected agricultural areas declared in accordance with Section 407 of this Act, he shall submit an application in a format prescribed by the Commission to the Local Authority for approval.

237.In case of conversion of Chhuzhing to other land categories for purposes other than residential land, and those outside the Thromde, industrial and protected agricultural areas declared in accordance with Section 407 of this Act, the landowner shall submit a written application to the Local Authority. The application shall be supported by a filled up format prescribed by the Ministry of Agriculture and Forests.

238.The Local Authority shall verify the proposed conversion and either reject, in which circumstance the application shall be returned to the applicant, or submit the application with its recommendation to the Ministry of Agriculture and Forests.

239. The Ministry of Agriculture and Forests shall assess the feasibility based on the technical criteria including availability of water, soil and environmental conditions, and respond to the landowner and the agency acquiring it within 90 days from the date of the receipt of the application from the Local Authority.
240. If the conversion is approved, the Ministry of Agriculture and Forests shall intimate the Commission to effect the changes in the Thram. The Commission shall effect the changes in the Thram and accordingly inform the landowner and the agency acquiring it through the Local Authority.

Conversion of Chhuzhing as residential land

241. Chhuzhing shall be protected land and its conversion and acquisition avoided as far as possible. The Royal Government shall take all possible measures to ensure that land owners do not suffer economic loss as a result of this policy decision.
242. The Royal Government shall make every effort to allot 13 decimals of GRFL if available in the vicinity to individuals who have no land other than Chhuzhing for construction of a residential house in lieu of conversion of his Chhuzhing. Only if no GRFL is available in the vicinity, conversion of 13 decimals of inherited Chhuzhing for construction of a residential house shall be considered.
243. A landowner with only inherited Chhuzhing in his Thram may apply for 13 decimals of GRFL/alienable land in lieu of conversion of Chhuzhing as residential land to the Local Authority in a format prescribed by the Ministry of Agriculture and Forests.
244. The Local Authority shall identify and demarcate 13 decimals of suitable GRFL/alienable land if available in the vicinity for allotment to him if he has no land other than inherited Chhuzhing or owns other categories of

- land but is located far away from the settlement area, for construction of a residential house.
- 245.If an individual or a family owns other than Chhuzhing but measures less than the minimum requirement of 13 decimals, the Local authority shall identify and demarcate the additional land required to be allotted from the nearby Government Reserved Forest land to make the required plot size.
- 246.If not, the Local Authority shall survey and demarcate the area proposed as residential land from Chhuzhing and may forward the application along with its recommendation to the Ministry of Agriculture and Forests for approving the change in land category if the proposition is not contrary to any other law for the time being in force.
- 247.The conversion of Chhuzhing to residential land shall be approved by the Ministry of Agriculture and Forests whereas the application for allotment of land for residential purpose from Government RF land shall be submitted to the National Land Commission for approval after scrutiny by MOAF. In the event of approval of the conversion, the Ministry of Agriculture and Forests shall endorse the matter to the Commission for effecting the change in the Thram and to the Local Authority for monitoring.
- 248.The Commission shall convey its approval or rejection of the application to the Ministry of Agriculture and Forests and the Local Authority for release of the land and to the DLR for registration in the Thram.
- 249.If the remaining plot of the same Chhuzhing is less than 13 decimals, it may be included for conversion as residential land.
- 250.Approval for allotment from any Government Reserved Forest Land or state land shall be sought from His Majesty the King.

251. The Gup, through the Dzongkhag, shall be responsible to report to the Commission if such residential land is not used for house construction within 3 years.
252. Any allotment made out of Government Reserved Forest Land/alienable land for residential purpose shall not be amenable for transaction.
253. In the event a house is not constructed within 3 years, such residential land shall be taken over or reverted to Chhuzhing by the Commission based on the non-compliance report received in accordance to Section 251 of this Act.

Forfeiture of water right

254. With the approval of conversion of Chhuzhing to other use including for house construction, the landowner shall forfeit proportionate right to use of irrigation water.

Transfer of land between and among Government institutions

255. The Commission shall effect the change of ownership of land:
- a) From one Government institution to another Government institution upon receiving application from the parties involved through the Local Authority.
 - b) Between Government institutions and Gerab Dratshang upon receiving application from the parties involved through the Local Authority.
 - c) From one agency of Gerab Dratshang to another agency of Gerab Dratshang upon receiving application from Dratshang Lhentshog through the Local Authority.
256. The applications for transfer of land ownership shall be supported by a duly filled up format prescribed by

the Commission and the endorsement by the Local Authority.

Transfer of land ownership on default of mortgage

257. The application for transfer of ownership of land, along with a copy of the mortgage deed, shall be submitted to the Local Authority.
258. The Local Authority shall submit the application, along with the copy of mortgage deed to the Commission to transfer the ownership of land in the name of the new landowner.
259. The Commission shall transfer the ownership of the land if it is in keeping with the provisions of the Moveable and Immovable Property Act of the Kingdom of Bhutan. If not, the Commission shall refer the case to a court of law.

Acquisition and substitution of registered land

260. The applications from Government institutions and Gerab Dratshang on acquisition of private registered land shall be submitted to the Dzongkhag Committee or Thromde Land Acquisition and Allotment Committee, hereafter referred to as Thromde Committee. The format on acquisition of land and allotment of substitute land shall be prescribed by the Commission.
261. The Dzongkhag Committee or Thromde Committee shall submit the applications and its views including the nature of compensation as a preliminary proposal to the Commission.
262. Based on the application received in accordance with Section 261 of this Act, the Commission shall either reject it with proper justification or instruct the Dzongkhag Committee or Thromde Committee to conduct feasibility study and to submit a detailed report. The report shall include other relevant

documents required by the Forest and Nature Conservation Act and other laws.

263. The Dzongkhag Committee or Thromde Committee shall submit its detailed report and its recommendations to the Commission. Simultaneously, the Local Authority shall serve a written notice to the landowner informing him of the Government's intent to acquire his land at least 120 days prior to the acquisition.
264. The Commission may either approve or reject the compensation proposed by the Dzongkhag Committee or Thromde Committee with proper justification. If the proposal is not approved, the Commission shall inform the Dzongkhag Committee or Thromde Committee with reasons.
265. If substitute land or cash payment is approved, the Commission shall make the necessary changes in the Thram.
266. The Commission shall at the same time convey the approval of land substitute or cash payment to the Dzongkhag Committee or Thromde Committee and to release the substitute land to the new landowner or to effect cash payment and take over the acquired land by the agency concerned upon registration of substitute land.

CHAPTER 10: ANNULMENT OF LAND OWNERSHIP

Declaring Tsatong land

267. If a Thram holder dies without leaving any legitimate heir and written will, the land registered in his name shall be declared as Tsatong after serving a public notice of 90 days by the Local Authority upon the apparent occurrence of the Tsatong.
268. The Local Authority shall report the Tsatong land to the Commission within 60 days after the expiry of the above 90 days notice for the annulment of its Thram.
269. After annulment of the Thram, the Commission shall inform the agencies concerned and hand over the Tsatong land.

Non-occupation and use of Kidu and rehabilitation land

270. If the Kidu or rehabilitation land is not occupied and used by the landowner within 3 years from the date of allotment, it shall be deemed that he has the intention to abandon his rights on the land.
271. The Local Authority shall be responsible to monitor and report to the Commission as and when such situation arises in its jurisdiction.
272. The Local Authority shall issue a written notice to the landowner stating the requirement to occupy and use the land.
273. If after 180 days of serving the notice, the landowner does not occupy or use the land, the Commission upon recommendation from the Local Authority shall submit a report to the Office of the Gyalpoi Zimpon. In the event the ownership of land is annulled, the land shall be taken over as the Government land or Government Reserved Forest land.

Non-utilization of registered land

- 274.If the land of Government institutions, Gerab Dratshang and the land allotted in Thromde for specific purposes are not used by the landowner within 3 consecutive years from the date of allotment, it shall be deemed that the landowner has the intention to abandon their rights to the land.
- 275.The Local Authority shall be responsible to monitor and report to the Commission as and when such situation arises in its jurisdiction.
- 276.Upon receipt of such report, the Commission shall issue a written notice to the landowner stating the requirement to use the land.
- 277.If after 180 days of serving the notice, the landowner continues to leave the land vacant, the registration of such land shall be annulled from the Thram and the Thram holder shall be informed accordingly. The land shall be taken over as the Government land or Government Reserved Forest land.

Regularizing status of omitted land

- 278.The omitted land shall become Government land or Government Reserved Forests land if it is not registered in accordance with Section 116 of this Act.

Non-payment of land tax

- 279.If a land tax is not paid for 3 consecutive years, the Local Authority shall serve a notice to the landowner at the end of the third year to pay the tax with arrears.
- 280.In addition to Section 279 of this Act, the Government may impose fines for non-payment of tax.
- 281.In the event of non-compliance to the notice served under Sections 279 of this Act, the Commission shall annul the Thram of such land and the Thram holder shall be informed accordingly. The land shall be taken

over as the Government land or Government Reserved Forest land.

Willful surrender of registered land

282.If a landowner desires to surrender his registered land to the Government, he shall submit a written application to the Local Authority along with endorsement from joint owners, if any.

283.The Local Authority shall verify the application and endorse the deletion of the Thram to the Commission.

284.If land surrendered by individuals, Gerab Dratshang, religious organizations and others are being cultivated by tenants who cannot afford to buy the land, such tenants may appeal to the Druk Gyalpo for allotment on Kidu basis.

285.If not, the land shall be taken over as the Government land or Government Reserved Forest land.

Disposing excess landholding

286.The Commission shall delete the registration of any excess land beyond land ceiling from the Thram if it is not disposed off within the prescribed notice period of 180 days.

287.After deletion of the registration from the Thram, the Commission Secretariat shall intimate the concerned agencies to take over the land as the Government land or Government Reserved Forest land.

288.The landowner may select the excess land to be deleted in a manner that no Government land or Government Reserved Forest land is enclosed inside the boundary of the selected land, and he shall be compensated for the surrendered area with cash payment fixed by the Government for land acquisition under Section 218 of this Act.

Unlawful land transaction

289. Any registered landholding in a Thram shall be annulled without any compensation under the following circumstances and the Commission shall intimate the agencies concerned to take over the land under their custody as Government land or Government Reserved Forest land:

- a) If Kidu or rehabilitation land is sold within 10 years of its allotment;
- b) If a land in the name of the community for social and religious purposes is sold, gifted, or donated; and
- c) If land allotted in the urban areas is sold within 10 years of its allotment.

290. If the land belonging to Government institutions, Gerab Dratshang and religious institutions is sold, exchanged, gifted or donated contrary to the provisions of this Act, the Commission shall cause to reinstate the land back to the Government institution or the religious institution concerned.

291. If the land of a commercial agriculture farm is not used for its intended purpose or is left idle for more than 2 years, or is converted to any other uses, the Ministry of Agriculture and Forests shall cause to take over such land as the Government Reserved Forest land.

292. If the land registered in the name of a private corporation is not used for its intended purpose or is left idle for up to 3 years, or is converted to any other uses, the Ministry of Agriculture and Forests shall cause to take over such land as the Government Reserved Forests land or the Thromde concerned shall take over such land as Government land.

CHAPTER 11: USE OF TSAMDRO

Deleting Tsamdros from Thrams

293. All Tsamdros rights maintained in the Thram prior to enactment of this Act shall be deleted from the Thram. Upon deletion, the Tsamdros land shall be reverted and maintained as the Government land in Thromde or the Government Reserved Forest land in rural areas.
294. The reverted Tsamdros in rural areas shall be converted to leasehold and those in Thromde shall be maintained as the Government/state land.
295. In addition to the reverted Tsamdros, respecting the de facto rights of the livestock farmers of the country, the Royal Government shall also lease Government Reserved Forest Land, which have hitherto been used traditionally for grazing livestock to livestock farmers who require such areas for their domestic animals.

Overlapping Tsamdros rights with registered land

296. In the event a plot of land has both Tsamdros right and permanent ownership right, the latter shall prevail only if it is covered by the cadastral map and is lawfully registered in the Thram.

Cash compensation for Tsamdros rights

297. The Government shall pay cash compensation to the owners of Tsamdros under Land Act 1979 for surrendering their Tsamdros rights based on the area registered in the Thram.
298. In case of the same area of Tsamdros being registered in the name of more than one owner, such as for summer and winter grazing respectively, compensation shall be paid in direct proportion to the duration of use by the respective owners within the one-year cycle.

Eligibility to lease Tsamdro

299. An individual household or community owning livestock shall be eligible to lease the reverted Tsamdro, which have been converted to Government Reserved Forests land for use as Tsamdro.
300. While leasing Tsamdro, preference shall be given to the previous rights holders and community.
301. Except as provided in Section 302 of this Act, Tsamdro shall be leased based on herd size.

Tsamdro lease to Highlanders

302. Highlanders who are directly dependent on Tsamdro may retain their Tsamdro rights under lease irrespective of possession of livestock and their herd size.
303. The lease for Highlanders shall be for a period up to 30 years with the possibility of extension.

No sub-leasing of Tsamdro

304. With the exception of the Tsamdro leased to Highlanders, there shall be no sub-leasing of Tsamdro.

Application of lease fee

305. The Royal Government shall reserve the right to vary the annual lease fee depending upon the carrying capacity of the Tsamdro located at different altitude and agro-ecological zones.

Right to Tsalam and Chhulam on Tsamdro

306. The individuals or communities who have the customary Tsalam and Chhulam rights on any leased Tsamdro shall continue to enjoy such rights.

Using Tsamdro as per management plan

307. Grazing and pasture development on Tsamdro shall be permitted based on a Tsamdro management plan. The

Department of Forest and Park Services, Department of Livestock, and the lessee shall be responsible to prepare Tsamdro management plan. The following shall be the basic profile of a Tsamdro management plan.

- a) Identification of the land:
 1. Name and location.
 2. Total area of the land.
 3. Map showing the location and boundary

 - b) Identification of the lessee:
 1. Name of the lessee.
 2. Citizenship identity number.
 3. Permanent address.
 4. Resident working members.
 5. Total number of animals.

 - c) Management:
 1. List of activities to improve the productivity of Tsamdro.
 2. Location of a dwelling house for herders and shelters for livestock during lease period.
 3. Measures to protect the improved Tsamdro, e.g. fencing.
 4. Time schedule to implement the planned activities.
 5. Any assistance and monitoring from the Departments of Livestock and Forest and Park Services and Local Authority.
 6. Terms and conditions on deviation from the plan.
308. In preparing the Tsamdro management plan, the carrying capacity of both local and improved pasture across various agro-ecological zones or regions shall be the basis for determining the area required for each livestock unit.
309. Conflicts of any nature whether at the individual or communal level shall be addressed during the survey for preparation of Tsamdro management plan.

Prohibition to use Tsamdro for other purposes

310. The Tsamdro on lease shall not be used for any purposes other than those prescribed in the Tsamdro management plan.
311. Transaction or conversion of Tsamdro shall be strictly prohibited.
312. No permanent infrastructure shall be established on the Tsamdro on lease.
313. Unless renewed, upon expiry of lease the lessee shall not continue with any activities on Tsamdro or no infrastructure shall remain on the land.

Annulment of lease

314. If a Highlander abandons his place of domicile, the Tsamdro lease shall be annulled.
315. Except as provided in Section 302 of this Act, the Tsamdro lease shall not subsist if a leaseholder no longer owns livestock. The Tsamdro lease shall be revoked after 180 days of disowning livestock.
316. If Tsamdro is sub-leased by a lessee other than Highlander, the lease shall be annulled.

No transaction of Tsamdro

317. There shall be no transaction of Tsamdro, which is on lease. The lease may however, within the stipulated lease period, be inherited.

Maintaining Tsamdro records

318. The Ministry of Agriculture and Forests and the Local Authority, who shall maintain the records of Tsamdro on lease, shall be responsible for monitoring of the use of Tsamdro on lease.

CHAPTER 12: USE OF SOKSHING

Reinstatement of Sokshing rights

319. Sokshing rights maintained in the Thram in accordance with the provisions of the Land Act of 1979 shall be restored in the name of the original holders except those already acquired by the government, already converted to community forests and falling within the Thromde areas which shall be maintained as Government land.

320. Such Sokshing shall be registered in the joint ownership of the original Thram holder and the Department of Forests and Park Services as the Thram holder shall have the right to collect leaf litter only and the Government shall have the ownership right over the land and the trees.

321. There shall be a ceiling on the area of Sokshing right a juristic person can have subject to a maximum of the area proportionate to the agricultural land owned or 25 acres whichever is lower.

322. Only those who have agricultural land shall be eligible to have their Sokshing rights restored.

323. No taxes shall be paid for the Sokshing land.

No transaction of Sokshing

324. Sokshing shall not be transacted or mortgaged nor shall it be converted or leased.

Using Sokshing as per management plan

325. The vegetative and land improvement of Sokshing shall be allowed according to Sokshing management plan. The Department of Forest and Park Services, Department of Agriculture, and the lessee shall prepare such management plan. The following shall be the basic profile of a Sokshing management plan.

a) Identification of the land:

1. Name and location.
 2. Total area of the land.
 3. Map showing the location and boundary
- b) Identification of the lessee:
1. Name of the lessee.
 2. Citizenship identity number.
 3. Permanent address.
 4. Resident working members.
 5. Types of land category.
 6. Total agriculture area.
- c) Management:
1. List of activities to improve the productivity of Sokshing.
 2. Time schedule to implement the planned activities.
 3. Any assistance and monitoring from the Departments of Livestock and Forest and Local Authority.
 4. Terms and conditions on deviation from the plan.

Prohibition to use Sokshing for other purpose

326. Sokshing land shall not be used for any purpose other than the collection of leaf litter allowed in accordance with the Sokshing management plan.

327. No permanent infrastructure shall be established on Sokshing

Annulment of Sokshing rights

328. A Sokshing right shall be revoked if the Sokshing is used for purposes other than leaf litter collection, or transacted.

Maintaining Sokshing records

329. The Ministry of Agriculture and Forests and the Local Authority, who shall maintain the records of Sokshing, shall be responsible for monitoring the proper use of Sokshing.

CHAPTER 13: SURVEY OF LAND AND MAPPING

Department of Survey and Mapping: Functions

330. There shall be a Department of Survey and Mapping under the National Land Commission discharged with the overall responsibility concerning survey and mapping of land in the country.
331. It shall be the national authority on all technical affairs relating to geodesy, surveying and other geo-information services.
332. It shall be directly responsible for maintaining coordinates and authorization of use of coordinates.
333. It shall provide the basic spatial data and services for fulfilling national needs for spatial planning and physical infrastructure development.
334. It shall be responsible for establishment and maintenance of geodetic/geophysical and topographic reference/hill stations in the country.
335. It shall be solely responsible for survey, documentation and mapping of international and administrative boundaries.
336. It shall be responsible for establishing and maintaining different classes of leveling networks in the country with benchmarks.
337. It shall formulate and implement surveying and mapping policies and geo-data sharing standards and formats.
338. It shall be responsible for ensuring that topographical surveying, mapping and periodic revision of topographic base maps and preparation of thematic maps are based on different geo-data sources and techniques.
339. It shall be the regulating body for licensing of private surveyors and monitoring their work wherever required.

340. It shall be responsible for collection, standardization and dissemination of geographical names through gazettes and maps.
341. It shall be responsible for topographic and large scale mapping, digital geo-spatial data base and GIS development.
342. It shall be responsible for collection, preservation and indexing of survey records.
343. It shall be responsible for establishing survey industry standards of accuracy and methods of procedure.
344. It shall be the technical authority over the international boundaries of Bhutan.
345. It shall be the coordinating body for the development of the National Spatial Data Infrastructure in the country.
346. It shall be the provider of the basic geodetic and topographical data for all GIS users in the country.

Cadastral survey on registered land

347. Cadastral surveys shall be conducted on registered land from time to time or as required based on the national geodetic reference datum;
348. The Commission and the Department shall be the sole agency to maintain the coordinates of registered land in the cadastral records or to peg the boundary markers in the ground;
349. The coordinates recorded with the Commission or boundary markers pegged in the ground along the boundary of a land parcel shall serve to determine the boundary and the area of a registered land in the vent of any discrepancy;
350. The coordinates shall be recorded and boundary markers shall be pegged with the written concurrence and in the presence of the land owners or any authorized person on his behalf;

351. The area, extent, location, and boundary of all registered lands shall be spatially depicted on cadastral map. A cadastral map shall contain the name of the Gewog and Dzongkhag or Thromde, plot number of land, boundary of land, coordinates of selected points along the boundary, area and scale, easements, and any other features as necessary; and
352. The original cadastral maps shall be protected and maintained along with Chhazhag Sathram in the archives of the Commission and they shall not be taken out of the premises of the archives except in accordance with the written order of a court of law. However, copies of the cadastral maps shall be made available to the Local Governments and other Government agencies.

Preservation of survey monuments

353. For the purpose of cadastral survey, the Commission may erect survey monuments and boundary markers on a land after serving appropriate notice to the land owner;
354. Only the authorized persons shall have the right to destroy, alter, or remove any survey monument or boundary marker upon written permission from the Commission;
355. In the event a person intends to destroy, alter, or remove any survey monument or boundary marker on his land, a written application shall be submitted to the Department of Survey. The Department shall respond within 60 days of the receipt of application. If he does not receive any response within the stipulated time, it shall be deemed that the permission has been granted; and
356. In case of the refusal of permission, he may appeal to the Commission whose decision shall be final and binding.

CHAPTER 14: EASEMENT

Water channel and embankments

357. The provisions of the Water Act of Bhutan, 2011, on water channel and embankments shall prevail.
358. A landowner using irrigation water for his land shall ensure that the tail water from his last terraced field does not damage public properties such as roads and does not cause environmental damage including slippage of land adjoining his land.

Embankments and flood protection

359. A land owner whose land is exposed to flood risk shall on his own take necessary measures to protect it from damage or cause the government to undertake flood protection measures if it is beyond his capacity.
360. The Government shall, in keeping with its policy of agricultural land protection, take all necessary measures to protect agricultural land from damage by monsoon floods and river erosions.
361. The Government shall also take necessary measures to protect human settlement and other vital infrastructure areas from damage from floods and other natural calamities.

Customary right of way

362. A right of way whether for services or passage established over a land through local customs of Tsalam-Chhulam by uninterrupted use for a period of more than 5 years shall be respected and the landowner shall not object to its use.
363. Similar to the irrigation channel, footpaths, power tiller tracks and motorbale roads cannot be made small or blocked even if not required by the owner.

Right of access to private land

364. The landowner shall allow any authorized person or persons to enter his land to carry out alterations, adjustment or improvement of service utility works and for purposes connected therewith which are reasonably necessary for the benefit of larger community or environment after reasonable notice.
365. A landowner may, after reasonable notice, make use of the adjoining land of another landowner so far as necessary for the purpose of erection, or repairing of fence, wall or building on or near his boundary line, but he may not enter the dwelling house of the neighbor without the consent of the latter. The neighbor may claim reasonable compensation if any damage is caused.

Right of passage

366. The landowner, whose land is surrounded by the land belonging to other landowners and if he has no access to a public way or his other land, may pass through the surrounding land to reach the public way or his land.
367. The place and the manner in creating such passage must be so chosen as to meet the needs of the landowner and at the same time cause as little damage as possible to the surrounding land.
368. The person entitled to passage must pay compensation for any damage suffered by the landowner when establishing such passage.

Restriction on activities harming adjoining land

369. A landowner may not excavate or overload his land in such manner as to endanger the stability of the soil of an adjoining piece of land of his neighbor unless adequate measures are provided for preventing damage to such land.

Laying of service facilities

370. The landowner of a piece of land is bound, subject to reasonable compensation being paid to him, to allow the laying through his land of water pipes or irrigation channel, drainage pipes, telecommunication structures, electricity poles and sub-stations or other similar installations by a Government agency or for the use of the adjoining or neighboring land if, without making use of his land, they could not be laid or could be laid only at an excessive cost. The landowner may require that his interests be taken into consideration.
371. In exceptional cases where the installations are to be above ground, such landowner may require that a reasonable portion of his land, over which such installations are to be laid, be bought from him at a price, which will cover the value of the land and compensation for any damage arising from the sale.
372. Where the circumstances are changed, he may require that the installations be removed to such different part of his land as may be suitable to his interest. The relevant agency shall be responsible to remove the installations.
373. The owner of the facilities established under Sections 370 and 371 of this Act shall be responsible to ensure that no damage is caused to the landowner by way of negligence of the management of the facilities.

Damage to land caused by artificial drainage

374. If the lower land is damaged by artificial drainage constructed on the higher land and if before water flowed naturally onto the lower land, the owner of the lower land may, without prejudice to any claim for compensation, require the owner of higher land to construct the drainage right through the lower land to a public drain. The cost shall be borne by the owner of the upper land.

Right of way upon partition or partial transfer of a plot

375. As a consequence of sub-division of land, if a plot is left without access to a public way, the owner of such plot may claim a right of way over the land, which has been so partitioned or partially transferred.

Right of passage over unenclosed land

376. A person may lead his cattle into or through another person's unenclosed land for grazing and watering provided that it is not under cultivation.

Restrictions on the owner of dominant land

377. The owner of the dominant land shall not engage in any act on the servient land other than the right of easement.

Restrictions on the owner of servient land

378. The owner of the servient land must refrain from any act, which may diminish the utility of the easement or make it less convenient.

Use and preservation of easement

379. The owner of the dominant land is entitled, at his own expense to do all that is necessary to preserve and make use of the easement. In doing so, it must be ensured that minimum damage is caused to the servient land. However, if the owner of the servient land benefits by the work, he must bear a share of the expenses in proportion to the benefits, which he receives.

Right of servient landowner to remove easement to another part

380. Where easement affects a part of the servient land, the owner of that land may, by showing that the change would be for his benefit and by undertaking to bear the cost of it, require that the easement be removed to

another part of his land, provided this would not be less convenient to the owner of the dominant land.

Transferring easement

381. Easement follows the dominant land when the latter is disposed of or made subject to other rights.

Right to easement upon division of servient land

382. In case of a division of the servient land, the easement continues to be a burden on each part. However, if the easement is not exercised and from the nature of the case could not be exercised over any subdivided plot, the owner of such plot may demand to be relieved from the easement.

Right to easement upon division of dominant land

383. In case of the division of the dominant land, the easement continues to exist for the benefit of each part. However, if the easement is not, and from the nature of the case could not be, exercised for the benefit of any particular part, the owner of the servient land may demand to be relieved from the easement with respect to such part.

Right to exercise easement by joint owners

384. Easement acquired or exercised by one of the joint owners of the dominant land is deemed as acquired or exercised by all joint-owners.

Extinguishment of easement through destruction

385. Easement shall extinguish by the total destruction of the servient or the dominant land.

386. Easement shall extinguish by non-usage for 5 consecutive years at any point in time.

Suspension of easement

387. Easement shall extinguish if it has ceased to benefit the dominant land, but it shall revive if the condition of things become such that the easement can be enjoyed again, provided that the period of prescription specified in the foregoing section has not elapsed.

Relief from easement upon compensation

388. Where the easement is still of some benefit to the dominant land, the owner of the servient land may, by payment of compensation, obtain a total or partial relief from the easement.

Right to use roads on Government land or Government Reserved Forests land

389. No person or persons shall have the exclusive use right to a road constructed by them through the Government land or Government Reserved Forests land. The new users may contribute to the maintenance of such road.

CHAPTER 15: OFFENSES AND PENALTIES

390. A violation or infringement of any of the obligations set forth under this Act shall constitute an offence.

General liability

391. Offences and penalties not specifically covered under this Act shall be imposed according to the Penal Code of Bhutan and any other applicable law in force.
392. Any addition, deletion or alteration in the cadastral records and Chhazhag Sathram or Lagthram if not deemed erroneous shall be unlawful.
393. The accuracy of any land survey not within the set tolerances shall be unlawful.

Offence of felony

394. A person committing any of the following acts shall be guilty of an offence of felony of third degree and shall be liable to be sentenced in accordance with Bhutan Penal Code:
- a) Unlawful addition, deletion or alteration in the cadastral records and Thram affecting the registered land area or land ownership.
 - b) Issuing Thram or registration of land in the name of any individual or entity other than those entitled in accordance with this Act.
395. A person committing any of the following acts shall be guilty of an offence of felony of fourth degree and shall be liable to be sentenced in accordance with Bhutan Penal Code:
- a) Engaging in transaction of land in the name of community for social and religious purposes and other jointly owned land in contravention of this Act.
 - b) Transferring ownership of land belonging to Government, Gerab Dratshang, and religious

- institutions contrary to Sections 151(a) and 151(b) and 153 of this Act.
- c) Engaging in transaction of the land occupied by commercial agriculture farms and industries in contravention of Section 154 of this Act.
 - d) Not complying with the provisions on the land for commercial agriculture and industries.
 - e) Encroachment on a state owned and private registered land.
 - f) Engaging in any fresh transaction of the land, which is under the process of transaction in contravention of Sections 156, 157 and 158 of this Act or multiple transactions of land.
 - g) Unlawful land survey, demarcation/delineation, relocation, fragmentation, verification and consolidation of plots, leading to disputes, registrations, transactions and changes.
 - h) While carrying out survey of a plot of land, deliberate measuring of more/less than the area specified in the transaction document.
 - i) While carrying out survey of a plot of land, encroachment on to neighbour's land or including/overtaking the recent map of the neighbour's plot for which the surveyor shall be also liable for compensation for the loss and payment of liquidated damages.
 - j) Undermining the old boundary marks and cadastral maps during survey resulting in loss of land to the owner for which the surveyor shall also be liable for compensation and liquidated damages.

Offence of misdemeanor

396. A person committing any of the following acts shall be guilty of an offence of misdemeanor and shall be liable to be sentenced in accordance with Bhutan Penal Code:

- a) Owning land exceeding the land ceiling in contravention of the provisions of this Act.
- b) Conversion and use of Chhuzhing including house construction in contravention of this Act.
- c) Selling, exchanging, or gifting/donating of Kidu or rehabilitation land in contravention of Section 152 of this Act.
- d) Subleasing and using Tsamdro including construction of permanent structures in contravention of the provisions of this Act.
- e) Improper filing of correspondence and incomplete/inconsistent documentation of Cadastral Maps and Land Registers.
- f) Involving in conspiracy to gain certain rights or advantages in land ownership by circumventing the provisions of this Act, Rules and Regulations during land survey and registration.
- g) Creating improper boundary definitions during land survey operations either due to negligence, client pressure or vested interest.

Petty misdemeanor

397. Any person committing any of the following acts shall be guilty of an offence of petty misdemeanor and shall be liable to be sentenced in accordance with Bhutan Penal Code:

- a) Destroying, damaging, altering or removing survey monuments in contravention of Sections 353, 354 and 355 of this Act.
- b) Removing the pegs grounded in the land to demarcate land boundary coordinates.
- c) Sub-dividing land contrary to Section 147 and 148 of this Act.
- d) Failure of the officials of the Local Authority, central agencies, Commission or any other individuals

responsible to carry out their functions under this Act.

- e) Indulging either directly or indirectly in demanding favours from the clients in the form of hospitality, services and gifts/concessions.
- f) Ignoring the concept of professionalism by not maintaining a cordial public relationship and not conducting the land survey and registration work on first come first served basis.

Violation

398. A person committing any of the following acts shall be guilty of an offence of violation and shall be liable to be sentenced in accordance with Bhutan Penal Code:

- a) Not reporting any mortgage or leasehold on private registered land for recording in Thram.
- b) Not recording the prescribed contents in Thram in accordance with the provisions of this Act.
- c) Not reporting the change of any land category.
- d) Providing access to Thram data in contravention of this Act.
- e) Failure to provide access to a registered land to authorized persons.
- f) Failure to attend by the landowner or his authorized individual after serving notice on access to his land.
- g) Infringement of rights established under the Chapter on Easement.
- h) Not registering land and property in accordance with Section 46 of this Act.
- i) Failure by disputants to attend dispute resolution hearings.(new)
- j) Failure by land owners to attend to land surveys with prior notice.(new)
- k) Failure to transfer land to one of the members of a family as joint family land or to any individual member of the family, if either of the parents are

deceased or both are deceased within the time frame prescribed.

- l) Evasion or failure to pay land and property tax.
- m) Not using the geodetic control points with required densifications.
- n) Failure to comply with the technical guidelines and work programmes.
- o) Production of map and land register data incompatible with geo-database data standards.
- p) Failure to comply with Section 351 of this Act.

Liability of land record and survey officials

399. a) No land record or survey official shall be liable for anything done by him in good faith for purposes of enforcing this Act or otherwise acting in the course of duty.

b) Any land record or survey official who wrongfully and without good cause takes action which results in misappropriation of land is punishable in accordance with the provisions of this Act.

c) Any false allegation against land record and survey officials shall be dealt as per the provisions of the Penal Code of Bhutan.

CHAPTER 16: MISCELLANEOUS

Compensation of crops damaged by domestic livestock

400. Any damage to crops inflicted by domestic livestock shall be liable for full compensation by the owner of the livestock to the owner of the land/crop or the contract farmer as the case may be.
401. The extent of damage shall be assessed and decided jointly in the presence of the Tshogpa and local agriculture official, and if necessary the Gup, based on the sample harvest of the undamaged standing crop in the adjoining area.
402. Any deliberate or repeated damage shall be liable for prosecution in a court of law.
403. Grazing on other's Tsamdro shall be treated in the same manner.
404. In case of damage of crops by migrating herds along their migrating routes including the Lamdro, the caretaker of the herd shall be liable for payment of the entire compensation.

Contract farming and share cropping

405. Until the Contract Law is enacted, the provision for contract farming and share-cropping shall be governed by the terms and conditions of the contract agreement drawn up between the land owner and the contract farmer.
406. It shall be mandatory to draw up a written agreement between the landowner and the share cropper/contract farmer, which shall contain appropriate and mutually acceptable terms and conditions.

Declaring Thromde, industrial and protected agriculture areas

407. Based on the recommendation of the Commission, the Government may declare any area in the country as Thromde including buffer zone, industrial, and protected agricultural areas as well as de-regularize Thromde to rural areas.
408. The declaration of Thromde, industrial, and protected agricultural areas shall aim at the best use of land by:
- a) Assessing present and future needs by evaluating the land's capability to supply them;
 - b) Identifying and resolving conflicts between competing uses, between the needs of individuals and those of community, and between the needs of the present generations and those of future generations; and
 - c) Seeking sustainable options and choosing those that bring about the desired economic, social and environmental wellbeing of the citizens of Bhutan.

Zoning of land and spatial planning

409. The Royal Government shall delineate land into different zones capable of supporting different development activities and conservation purposes.
410. Zoning of land shall specify prime agricultural land, Chhuzhing in particular for food production, urban and rural human settlement areas, and industrial areas including areas for hydropower development, rural infrastructure areas and state forests.
411. Grant of Kidu and rehabilitation land, allotment and lease of land shall all conform to the respective zoning of land.
412. Peri-urban areas shall be demarcated and its use and management regulated through a clear set of norms and rules including a separate taxation regime.

413. Green belt areas including buffer zone of certain reasonable width along the international border shall be identified and established to maintain local ecology and to enhance local landscape.
414. A minimum buffer of land along major rivers, streams and lakes shall be maintained to protect water bodies from pollution and other associated risks.
415. No construction and other infrastructure development shall be allowed in the green belt and buffer areas.

Allotment of urban plots

416. If the Government decides to allot urban plots out of its own land or after acquisition of private land, such allotment shall be done through fair and transparent criteria and procedure. Such allotment shall be processed by the Local Authority and after validation by the ministry concerned for urban development, it shall be submitted to the Commission for approval.
417. Approval for allotment of urban land involving any Government land or at subsidized rate shall be sought from His Majesty the King.

Registration of owner apartments

418. Until the Building Act is promulgated, the following provisions shall govern the registration of owner apartments:
 - a) A person registered as the owner of landed or building property may subdivide his/her property into new plots or building units and thereafter transfer ownership of such plots and units to other persons, provided that the subdivision does not violate Section 147 of this Act;
 - b) A person registered as the owner of landed or building property may consolidate his/her plots or building units into new landed or building property and thereafter transfer ownership of such property to

- other persons, provided the consolidation does not violate Section 147 of this Act;
- c) Where subdivision or consolidation of land establishes common property of land including building(s), installations and such, all registered plot owners shall be considered to own a proportion of such common property;
 - d) Such owners shall enter into an Owners Agreement to share the cost of maintenance of common property of land, building(s), installations and such or other improvements related to common property in proportions set out on the Plan of Subdivision or Consolidation;
 - e) Ownership to such common property cannot be separated from ownership to plots established by subdivision and thus, cannot be purchased , sold or rented out separately from the plot;
 - f) Subdivision may include the division of a building, in both horizontal and vertical planes, into units for residential, commercial, institutional, industrial or community purposes;
 - g) Such registration may, however, be not allowed when:
 - i. The plot or unit is not registered as a whole of a plot or unit,
 - ii. The plot or unit does not meet the minimum standard, and
 - iii. It does not meet other requirements as may be stipulated.
 - h) An owner-apartment shall be considered a separate piece of property, which can be purchased, sold and rented out as any other piece of building property;
 - i) A person owning a building can establish his/her building property as a condominium with owner-apartments provided that he/she follows provisions made under the Owner Apartments Regulations;

- j) A Standard Rules for Owners Associations shall be issued by the concerned authorities.

Spatial planning for rural settlements

419. The Government shall prepare rural spatial plans to foster proper growth and expansion of rural settlement areas taking into account the requirement of land for location of Gewog Throms, Chiwog Throms, service centers, and future village expansion.

Permission for construction of rural houses

420. Till a Building Act or rural house construction code is in place, the Ministry of Home and Cultural Affairs through the Local Governments shall regulate constructions in the rural areas.

Interchangeability and use of land categories within declared areas

421. In accordance with Section 407 of this Act, if a particular area has been approved as Thromde, industrial or protected agricultural areas, the land categories specified in Section 32 may be interchanged, subject to the relevant laws that shall govern their use and management, notwithstanding any other provisions to the contrary in this Act.

Taking over registered land following declaration of areas

422. While implementing Section 407 of this Act, if the Government must take over any private registered land, compensation shall be provided in accordance with the provisions on the compensation for land acquisition provided under this Act.

Tax on registered land

423. Except for the land maintained as Crown Properties, all the registered lands are subject to land tax from the day they are registered in the Thram.
424. The Government shall levy and enforce a progressive land tax that shall be proportionate to the size of the landholding, its value, and that shall differentiate between the rural and other land categories.
425. The land tax and its revision proposed by the Government from time to time shall be subject to the approval of the Parliament.
426. The Government shall levy a land conversion tax where necessary.
427. Land tax shall be collected based on the Thram records only.

Applying standard measurement unit

428. The Commission shall apply the unit for land measurement standardized by the Government.

Charging of service fees

429. Where relevant, service fees and fines shall be levied by implementing agencies for administering the provisions of this Act. The Commission shall periodically revise and publish the service fee.

Promulgating rules and regulations

430. The Commission shall, where necessary for the implementation of this Act, make rules and regulations.

Amendment

431. Any amendment of this Act shall be made by the Parliament.

Authoritative text

432. In any instance of a difference in meaning between the Dzongkha and the English texts of this Act, each shall be regarded as equally authoritative and courts shall reconcile the two texts.

Definitions

433. In this Act, unless the context requires otherwise, the term:

1. Acquisition of land means taking over of a registered land by the Government for public interests after providing compensation in accordance with this Act.
2. Allotment of land means allotment of the Government land or Government Reserved Forests land for use by the Government institutions and Gerab Dratshang, providing substitute land upon acquisition, and granting of Kidu and rehabilitation land.
3. Authorized agency means the office authorized by the Commission to conduct any of its functions.
4. Authorized person means a person appointed by the Commission to conduct any of its functions or a person responsible for utility service facilities.
5. Cadastral map means a map depicting all legal land objects based on a survey of the boundaries of land parcel.
6. Cadastral record means the coordinates of a land recorded through cadastral survey done in accordance with this Act and cadastral maps depicting the spatial attributes specified in this Act

for a land parcel maintained by the Commission or its authorized agency.

7. Chazhag Sathram means the sole authoritative document that shall record and establish the legitimacy of title to land of a juristic person in the country maintained under the custody of National Land Commission.
8. Chhuzhing means irrigated and/or bench terraced agricultural land for paddy based cropping systems.
9. Civil society organization means any organization registered as a civil society organization under the Civil Society Organization Act of Bhutan.
10. Commercial agriculture farm means the crop and livestock production for sale by employing modern production management and techniques established by an entrepreneur under the terms and conditions certified by the Ministry of Agriculture and Forests.
11. Commercial land means land used for licensed economic activities including hotels, shops, sawmills, carpentry, automobiles service centers and other business activities primarily deemed as utility service facilities.
12. Community for social and religious purposes means indigenous communities in whose name landholdings are traditionally registered for the use of social and religious purposes to preserve and sustain their tradition and culture.

13. Compensation means either substitute land or cash payment or both provided to the landowner upon acquisition of his land.
14. Coordinates are values which specify the location of any points on the surface of the earth with respect to a reference system.
15. Corporation means a body corporate incorporated under the Company's Act of the Kingdom of Bhutan and any corporate entity established under specific laws.
16. Crown Property land means the land declared as Crown Property held by the Monarch for the Institution of Monarchy according to the relevant law and registered in the Thram as Crown Property Land.
17. Dominant land means any land entitled with a right of easement over a servient land.
18. Dominant owner means the landowner or any person who has custody over a dominant land.
19. Easement means an area of land, being a part of a plot or unit, over which a party other than the registered landowner, has the right of use for a specific purpose, but does not imply ownership of the land.
20. Family land means land belonging to family members registered in the name of the head of the family.

21. Family means one or more individuals who are registered as a family under one unique household number issued and maintained by the civil registration and census authority of the Government.
22. Geodetic reference datum means a globally fixed point of reference for surveying and cadastral mapping.
23. Gerab (Geduen and Rabdey) Dratshang means Zhung Dratshang, Rabdeys, and other religious institutions belonging to Gerab Dratshang, and under the purview of Dratshang Lhentshog.
24. Government institutions include various Government agencies under the three branches of the Government, armed force, police, constitutional bodies, corporations owned by the Government, and any other Government agencies.
25. Government land means any land and water body within the territory of a Thromde, the ownership of which is not vested in any person and is under the custody of the Thromde Authority.
26. Government means the Royal Government of Bhutan.
27. Government Reserved Forests land means any land and water body outside a Thromde, the ownership of which is not vested in any person and is under the custody of the Ministry of Agriculture and Forests.
28. He refers to both masculine and feminine gender.

29. Head of the family means whosoever is designated by the family in whose name the land and property belonging to the family is to be registered.
30. Highlanders means high altitude herders whose livelihoods are directly and traditionally dependent on livestock grazing on Tsamdro.
31. Immovable properties mean any standing crops, trees, houses or any permanent structure developed on the transacted land.
32. Individual land means land registered in the name of an individual person.
33. Industrial land means registered land for construction of industrial establishments, industrial areas, export processing and other concentrated production areas, and the land where mineral exploration, exploitation and processing are located. These activities are subject to any law governing industries and mining.
34. Institutional land means the registered land for office complexes, research stations, academic, medical, and religious establishments.
35. Joint ownership means collective ownership over a piece of land by more than one person and does not include family land.
36. Juristic person means persons above the age of 18 years; family; the Institution of Monarchy; Government institutions; Gerab Dratshang; and civil society organizations, corporations and religious institutions of Bhutan.

37. Kamzhing means agricultural land other than Chhuzhing and orchard. Agriculture land shall mean Kamzhing, Chhuzhing and cash crops land.
38. Kasho means an edict from His Majesty the King granting Kidu or rehabilitation land.
39. Kidu land means the land granted by His Majesty the King through Kasho as Kidu.
40. Lagthram means a certificate of the registration of land in the Chhazhag Sathram.
41. Land for social and religious purposes means the land registered in the name of a community for its religious purposes such as Lhasey and Tshechu.
42. Land owner means the juristic person in whose name the land is registered in the Thram.
43. Land means the soil including building or other structure erected on the land, and all vegetation, but does not include any minerals.
44. Land records means Thram, cadastral and any other records pertaining to land maintained by the Commission/ Department of Land Registration.
45. Land transaction means the change of title of ownership to a land by selling/purchasing of land; inheriting of land; exchanging of land; gifting/donating of land; surrendering land to the Government; order of Court of Competent Jurisdiction; and default of mortgage subject to the applicable laws.

46. Lease means a state of tenure that confers only a right of use of land for defined period of time and does not imply the ownership of land.
47. Local Authority means committees constituted in the Gewog, Dungkha, Thromde and Dzongkhag. The executive head of the Gewog, Dungkha, Thromde and Dzongkhag shall be the ex-officio chairperson of the Committees along with 6 other members from organizations related to land and include 2 officials from the elected bodies.
48. Minerals means any substance occurring naturally in or on the earth and having formed by or subject to geological process and which can be obtained from the earth by digging, drilling, dredging, quarrying or by other mining operation.
49. Person means a citizen of Bhutan.
50. Phasa-Busa shall, for this Act, mean any land inherited over at least 3 generations.
51. Protected agriculture area means any land in the country declared by the Government based on the recommendation of the Ministry of Agriculture and Forests and the National Land Commission to manage, protect and sustain agriculture production.
52. Public interest means the needs arising out of socio-economic development and environmental concerns including cultural, environmental, heritage, protection of land degradation, recreational, social and strategic interests as determined by the Government.

53. Recreational land means registered land used for licensed recreational purposes such as sport complexes, eco-tourism complexes, botanical gardens, and private parks other than those declared as protected areas.
54. Rehabilitation land means the land granted by His Majesty the King through Kasho to marginal farmers, farmers whose land has been destroyed by natural calamities, farmers living in ecological risk prone areas, and landless households.
55. Religious institutions mean private religious institutions established by a religious reincarnate or heir to a religious lineage in Bhutan and recognized as a religious institution by the relevant laws of the Kingdom of Bhutan.
56. Residential land means a registered land for dwelling house both in Thromde and rural areas.
57. Royal Family means the reigning and past monarchs and their queens and royal children of reigning and past monarchs.
58. Servient land means any land that is subject to easement as provided under this Act.
59. Servient owner means the owner or any person who has custody of a servient land.
60. Sokshing means a plot of the Government Reserved Forest land traditionally used for leaf litter production and collection.

61. Substitute land means compensation provided to the landowner in the form of land for his registered land acquired by the Government.
62. Survey means the surveying and recording of boundaries or calculation of the area of land in order to determine the location of boundaries and any other spatial attributes including identification of land parcel.
63. Survey monuments and boundary markers means physical structures on the surface or embedded under the surface of a land whether registered or not, affixed by the Commission/Department of Survey and Mapping to establish reference points for cadastral survey and mapping.
64. Thram holder means a juristic person in whose name land is registered.
65. Thromde means an area under the jurisdiction of a Thromde authority.
66. Tsamdro means the Government Reserved Forests land leased out for grazing and improved pasture management.
67. Tsatong means a registered land, which has come under dispossession due to absence of legal inheritor.

Annexure VI: List of officials met during the stakeholder consultation meetings on Review and Revision of the Land Act of Bhutan, 2007

Ministry of Works and Human Settlements- August 15, 2011

1. Mr. Rinchen Dorji, Director DUDES
2. Mr. Meghraj Adhikari, Specialist, DUDES
3. Mr. Thukten Choda, Dy. Chief Urban Planner, DUDES
4. Mr. MB Mongar, CE, DoR
5. Mr. Kezang Jigme, Planning Officer, PPD
6. Mr. Tshewang Penjor, Sr. Legal Officer
7. Mr. Leki Dorji, Legal Asst.
8. Mr. Peka Rabgay, Sr.Land Registrar, Thimphu Thromde (TT)
9. Mr. Ugyen Dorji Tshenden, Legal Officer, TT
10. Mr. Sailash Humagai, Urban Planner, TT
11. Mr. Sonam Jatsho, Urban Planner, TT

National Environment Commission- August 15, 2011

1. Dr. Ugyen Tshewang, NEC Secretary
2. Ms. Kunzang, Legal Officer

National Council of Bhutan- August 17, 2011

1. Hon'ble Ugyen Tshering, Chairman, Natural Resources and Env't. Committee
2. Hon'ble Tshering Dorji
3. Hon'ble Sonam Dorji
4. Hon'ble Kuenlay Tshering
5. Hon'ble Sonam Yangchen
6. Hon'ble Sangay Khandu

7. Hon'ble Karma Donnen Wangdi
8. Hon'ble Sangay Zam
9. Hon'ble Naichu
10. Hon'ble Dr. Jagar Dorji
11. Hon'ble Tashi Wangmo

Ministry of Economic Affairs- August 18, 2011

1. Mr. Sonam Yangle, DG, DGM
2. Mr. Dophu Tshering, JD, DoI
3. Mr. KB Biswa, IIOD, DoT
4. Mr. Tempa Tshering, IPD
5. Mr. Karma Yeshey, Company Registrar, CRD
6. Mr. Hari Prasad Sharma, DoE
7. Ms. Sherab Zangmo, DCSI
8. Mr. Tashi Penjor, Legal Officer, PPD

Ministry of Agriculture and Forests- August 25, 2011

1. Dasho Sherub Gyaltsen, Secretary

Bhutan Chamber of Commerce and Industry- August 25, 2011

1. Mr. Phub Tshering, SG, BCCI
2. Mr. Chen Chen Dorji, VP, BCCI
3. Mr. Thinley Palden Dorji, VP, BCCI
4. Mrs. Yeshey Chen Chen Lham, CRO, BCCI
5. Mr. Kesang Wangdi, Secretary, PSDC Secretariat, BCCI
6. Dasho Tobgay Sonam Dorji, Vice President, Hotel Association of Bhutan
7. Aum Dago Bida, Etho Metho Travel Services
8. Aum Phub Zam, Yarkay Group
9. Mr. Sonam Dorji, General Secretary, ABTO
10. Mr. Singye Dorji, ED, Lhaki Group
11. Dasho Bap Kinga, Bhutan Engineering Power Company Pvt. Ltd
12. Mr. Tek Bahadur Khatowara, ABTO

13. Dasho Tenzin Yonten, Director: RTC
14. Mr. Tsenchok Thinley
15. Dasho Chang Ugyen
16. Dasho Nob Tshering
17. Mr. Jattu Dukpa

Ministry of Home and Cultural Affairs- August 26, 2011

1. Dasho Penden Wangchuk, Secretary and Chairman(NLC)

National Assembly of Bhutan- August 26, 2011

1. Hon'ble Ugyen Tenzin, Chairman of Environment/Land/ Urban Development Committee
2. Hon'ble Ugyen Wangdi, Chairman of Legislative Committee

National Land Commission Secretariat-August 30-31, 2011

1. Dasho Sangay Khandu, Secretary
2. Mr. Choki Khorlo, Specialist
3. Mr. Kezang Phuntsho, Chief Land Registrar, RLRD
4. Mr. Karma Jamtsho, Offtg Head, IVD
5. Mr. Tenzin Namgye, Offtg Head, CID
6. Mr. Nima Tshering, Chief Land Registrar, ULRD
7. Mr. Sonam Dargay, Dy. Chief Land Registrar, ULRD
8. Mr. Thinlay, Legal Officer, IVD
9. Mr. Yonten Phuntsho, Asst. Legal Officer, IVD
10. Mr. Sangay Dorji, Chief, PPD

Chairpersons of Dzongkhag Tshogdu- September 15, 2011

1. Mr. Dorji Penjor, Chhukha Dzongkhag
2. Mr. Lhawang Dorji, Dagana Dzongkhag
3. Mr. Pema Dorji, Gasa Dzongkhag
4. Mr. Tshewang Tandin, Haa Dzongkhag
5. Mr. Dechen Yeshe, Mongar Dzongkhag
6. Mr. Phub Tshering, Paro Dzongkhag

7. Mr. Chencho Gyeltshen, Mangmi, Paro Dzongkhag
8. Mr. Pema Dorji, Pemagatshel Dzongkhag
9. Mr. Sangay Wangdi, Samdrup Jongkhar Dzongkhag
10. Mr. Sonam Norbu, Samtse Dzongkhag
11. Mr. Sherab Jamtsho, Sarpang Dzongkhag
12. Mr. Sonam Dorji, Thimphu Dzongkhag
13. Mr. Cheku, Trashigang Dzongkhag
14. Mr. Tashi Penden, Trongsa Dzongkhag
15. Mr. Yeshey, Tsirang Dzongkhag
16. Mr. Phurba Namgyel, Wanduephodrang Dzongkhag
17. Mr. Dorji Wangchuk, Zhemgang Dzongkhag

Regional Consultation Meeting at Bumthang (Bumthang, Trongsa & Zhemgang Dzongkhags)- November 19, 2011

1. Mr. Dendup Tshering, DFO, Bumthang Division
2. Ms. Tshering Lhadon, Offtg.DAO, Bumthang Dzongkhag
3. Mr. Rinchen Wangdi, DzFO “ “
4. Mr. Tshering Penjor, DLO “ “
5. Mr. Tshewang, Legal Officer “ “
6. Mr. Sangla, Chokhor Gup “ “
7. Mr. Tandin Phurba, Chumey Gup “ “
8. Mr. Thinley Namgyal, Tang Gup “ “
9. Mr. Dorji Wangchuk, Ura Gup “ “
10. Mr. Karma Lekden, Thuemi, Bumthang Throm
11. Mr. Kinzang Dorji, Legal Officer, Trongsa Dzongkhag
12. Mr. Dev Kr. Gurung, DLO “ “
13. Mr. Sangay Phuntsho, LRO “ “
14. Mr. Lham Dorji, Langthil Gup “ “
15. Mr. Kinzang Dorji, Drakteng Mangmi“ “
16. Mr. Jigme Namgyel, Tangsibji Gup “ “
17. Mr. Tshelthrim Dorji, Korphu Gup “ “
18. Mr. K.B. Samal, CFO, Zhemgang Division
19. Ms. Dawa Yangchen, Legal Officer, Zhemgang Dzongkhag
20. Mr. Ugyen Lhendrup, DLO “ “

21. Mr. Phuntsho Wangdi, LRO	“	“
22. Mr. Sonam Wangdi, ADAO	“	“
23. Mr. Dorji Wangchuk, Nangkor Gup	“	“
24. Mr. Pema Namgyel Ngangla Mangmi	“	“
25. Mr. Sangay Lethro, Goshing Gup	“	“
26. Mr. Ngedrup, Shingkhari Gup	“	“
27. Mr. Tashi, Pangkhar Mangmi	“	“

Regional Consultation Meeting at Pelri Cottages, Paro (Haa, Paro & Thimphu Dzongkhags) - November 22, 2011

1. Mr. Sither Dorji, CFO, Paro Division		
2. Mr. Tshewang Dorji, Adm. Officer, Paro Dzongkhag		
3. Mr. Sonam Dorji, ADAO	“	“
4. Mr. Tshewang Tenzin, LRO	“	“
5. Mr. Akey Dorji, DzFO	“	“
6. Mr. Sangay Tshewang, Doteng Gup	“	“
7. Mr. Lhab Tshering, Dogar Gup	“	“
8. Mr. Thinley Dorji, Wangchang Gup	“	“
9. Mr. Chencho, Tshento Gup	“	“
10. Mr. Dago, Shari Gup	“	“
11. Mr. Kado, Naja Gup	“	“
12. Mr. Kuenga, Shaba Gup	“	“
13. Mr. Sangay, Hungrel Gup	“	“
14. Mr. Rinchen Penjor, Luni Gewog	“	“
15. Mr. Sonam Dendup, Legal Officer, Thimphu Dzongkhag		
16. Mr. N.B. Lama, Offtg. DAO	“	“
17. Mr. S.R. Gurung, DzFO	“	“
18. Mr. Tashi Tobgay, LRO,	“	“
19. Mr. Wangdi, Lingzhi Gup	“	“
20. Mr. Sonam Dorji, Kawang Gup	“	“
21. Mr. Gado, Gup	“	“
22. Mr. Wangchuk, Gup	“	“
23. Mr. Karma Gyeltshen, Geney Gup	“	“
24. Mr. Kencho Dorji, Soe Gup	“	“

25. Mr. Ugyen, Gup	“	“
26. Mr. Tandin Pema, Mewang Gup	“	“
27. Ms. Pem Zam, Legal Officer, Haa Dzongkhag		
28. Mr. Loden Jimba, DLO	“	“
29. Mr. M.L. Bhattarai, DAO	“	“
30. Mr. Tenzin Thinley, LRO	“	“
31. Mr. Tshewang Tandin, Samar Gup	“	“
32. Mr. Ugyen, Bji Gup	“	“
33. Mr. Chundu, Katsho Gup	“	“
34. Mr. Tenzin Jamtsho, Eusu Gup	“	“
35. Mr. Tshering Wangdi, Gakiling Gup	“	“
36. Mr. Tobgay, Sangbey Gup	“	“

**Regional Consultation Meeting at Kingaling Hotel,
Wangdue (Gasa, Punakha & Wangdue Dzongkhags)-
November 28, 2011**

1. Mr. Chewing Gyeltshen, Offtg. DAO, Gasa Dzongkhag		
2. Ms. Namgay Wangmo, Legal Officer	“	“
3. Mr. Kinley Dorji, LRO	“	“
4. Mr. Tshendu, DLO	“	“
5. Mr. Sangay Dorji, DzFO	“	“
6. Mr. Karma Tshering, Khamae Gup	“	“
7. Mr. Pema Dorji, Khatoe Gup	“	“
8. Mr. Kinley Dorji, Laya Gup	“	“
9. Mr. Gem Tshering, Lunana Gup	“	“
10. Mr. Tandin Tshewang, DAO, Punakha Dzongkhag		
11. Ms. Damcho Wangmo, Legal Officer	“	“
12. Mr. Laki Dorji, LRO	“	“
13. Mr. Yam Bdr, DLO	“	“
14. Mr. Sonam Tobgay, Limbukha Gup	“	“
15. Mr. Kinley, Talo Gup	“	“
16. Mr. Norbu, Thinleygang Gup	“	“
17. Mr. Namgay Tshering, Guma Gup	“	“
18. Mr. Tshering Tobgay, Kabji Gup	“	“
19. Mr. Kinley Dorji, Goenshari Gup	“	“
20. Mr. Sonam Tobgay, Chubu Gup	“	“

21. Mr. Tauchu, Teowang Gup	“	“
22. Mr. Phuntsho Namgay, Dzomi Gup	“	“
23. Mr. Samten Phuntsho, Shengana Gup“	“	“
24. Mr. Wangchuk, Barp Gup	“	“
25. Ms. Kanjur Wangmo, Legal Officer, Wangdue Dzongkhag		
26. Mr. Sonam Phuntsho, DLO	“	“
27. Mr. Chhimi Tshering, Asst. LRO	“	“
28. Mr. Khandu Dorji, Athang Gup	“	“
29. Mr. Khandu, Bjena Gup	“	“
30. Mr. Kencho Namgyal, Daga Gup	“	“
31. Mr. Sonam Dorji, Dangchu Gup	“	“
32. Mr. Tshering, Nyisho Gup	“	“
33. Mr. Ugyen, Phangyul Gup	“	“
34. Mr. Rinchen Penjor, Sephu Gup	“	“
35. Mr. Sigay Dorji, Kazhi Gup	“	“
36. Mr. Gyeltshen, Rubesa Gup	“	“
37. Mr. Karpo Dorji, Nahi Gup	“	“
38. Mr. Dophu, Gangtey Gup	“	“
39. Mr. Rinchen Khandu, Tshogom Gup“	“	“
40. Mr. Sangay, Tshowom Gup	“	“

Regional Consultation Meeting at Hotel U.Wang, Gelephu (Dagana, Sarpang & Tsirang Dzongkhags) –December 18, 2011

1. Mr. Pema Choeda, Legal Officer, Dagana Dzongkhag		
2. Mr. Sherab Wangdi, LRO	“	“
3. Mr. Sachin Limbu, Dz.Envnt. Officer	“	“
4. Mr. Sonam Dorji, Offtg. DzFO	“	“
5. Mr. B.B. Chettri, Vet.Hospital Incharge“	“	“
6. Mr. Lhawang Dorji, Karna Gup	“	“
7. Mr. Jaku, Tsheza Gup		“
8. Mr. Sherub Gyeltshen, Lamoizingkha Gup“	“	“
9. Mr. Bal Bdr. Rana, Tsendagang Gup“	“	“
10. Mr. Thinley Wangchuk, Drujeygang Gup“	“	“
11. Mr. Dhan Bdr. Gurung, Laja Gup	“	“

Review of the Land Act of Bhutan, 2007

12. Mr. Dorji, Tsangkha Gup “ “
13. Ms. Namgay Pelden, Tashiding Gup “ “
14. Mr. Gyan Bdr. Subha, Karmaling Gup“ “
15. Mr. Bikash Gurung, Dorona Gup “ “
16. Mr. Ugyen Dorji, Khebisa Gup “ “
17. Mr. Dilip Kumar Gurung, Nichulla Gup“ “
18. Mr. Prem Kr. Dahal, Goshi Gup “ “
19. Mr. Mani Kr. Ghising, Gesarling Gup“ “
20. Mr. Megnath Chettri, FO, Sarpang Division
21. Mr. Nanda Lal Chettri, Offtg. DLO, Sarpang
Dzongkhag
22. Mr. Kelzang Norbu, Legal Officer, “ “
23. Mr. Chencho Norbu, Forest Ranger, Gelephu “
24. Mr. Sangay Yonten, Serzhong Gup “ “
25. Mr. Tashi, Gelephu Gup “ “
26. Mr. Dorji Wangdi, Taraythang Gup “ “
27. Mr. Sherab Jamtsho, Jigmecholing Gup“ “
28. Mr. Lachu Man Rai, Singye Gup “ “
29. Mr. Sangay Tshering, Chuzagang Gup“ “
30. Mr. Suk Dorji Yonzon, Shompangkha Gup “
31. Mr. Gomchen, Dekiling Gup “ “
32. Mr. Bal Krishna Baraily, Samtenling Gup “
33. Mr. Nim Dorji, Gakidling Gup “ “
34. Mr. Ugyen Norbu, Umling Gup “ “
35. Mr. Shacha Dorji, CFO, Tsirang Division
36. Mr. Dorji Khandu, Municipal Engineer, Tsirang
Dzongkhag
37. Mr. Tashi Dendup, Dz.Envt. Officer “ “
38. Ms. Pema Lhaden, LR Asst. “ “
39. Mr. Chhoeda, ADAO “ “
40. Mr. Tshering Dorji, Sr. FR “ “
41. Mr. Changa Tshering, Patsherling Gup“ “
42. Mr. Nar Bdr. Rai, Tsirangtoe Gup “ “
43. Mr. Tek Bdr. Saru, Semjong Gup “ “
44. Mr. Dhanapati, Sergithang Gup “ “
45. Mr. Santalal, Barshong Gup “ “

46. Mr. K.B. Pradhan, Dunglagang Gup “ “
47. Mr. Tshewang Norbu, Kilkhorthang Gup “ “
48. Mr. Yeshey, Mendrelgang Gup “ “
49. Mr. Lok Bdr. Mongar, Tsholingkhar Gup“ “
50. Mr. Kharka Bdr. Tamang, Gosaling Gup“ “
51. Mr. Bal Bdr. Tamang, Rangthangling Gup“ “

Regional Consultation Meeting at Hotel K.C, Trashigang (Pemagatshel, S/Jongkhar & Trashigang Dzongkhags) – December 21, 2011

1. Mr. Sonam Zangpo, LRA, Pemagatshel Dzongkhag
2. Mr. Pema Dorji, Chongshing Gup “ “
3. Mr. Pema Dorji, Zobel Gup “ “
4. Mr. Lepo, Shumar Gup “ “
5. Mr. Sonam Jamtsho, Nanong Gup “ “
6. Mr. Karma Rabten, Norbugang Gup “ “
7. Mr. Sonam Dendup, Yurung Gup “ “
8. Mr. Chedup, Khar Gup “ “
9. Mr. Ugyen Tshering, Dungmin Gup “ “
10. Mr. Sonam Tshewang, Chimong Gup“ “
11. Mr. Sonam Rinchen, Dechelling Gup“ “
12. Mr. Tshelthrim Dorji, Chokhorling Gup“ “
13. Mr. Tshering, LRO, Samdrup Jongkhar Dzongkhag
14. Mr. Mon Bdr Gurung, Samrang Gup“ “
15. Mr. Yenten Dorji, Martshalla Gup “ “
16. Ms. Tashi Zangmo, Pemathang Mangmi“ “
17. Mr. Chandra Bir, Phuntshothang Mangmi“ “
18. Mr. Lhadrup Dorji, Langchenphu Gup“ “
19. Mr. Pema Dendup, Lauri Gup “ “
20. Mr. Lungten Wangdi, Gomdar Gup “ “
21. Mr. Sangay Pelzang, Deothang Gup “ “
22. Mr. Kencho Chophel, Serthi Gup “ “
23. Mr. Sangay Tenzin, Wangphu Gup “ “
24. Mr. Karma Sangay, Sr. Forester, Sakten Wildlife Sanctuary
25. Mr. Chophel, Offtg.DLO, Tashigang Dzongkhag

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| 26. Mr. Sigyel Dorji, LRO | “ | “ |
| 27. Mr. Mr. Sonam Dorji, Bartsham Gup“ | “ | “ |
| 28. Mr. Dorji Wangchuk, Bidung Gup | “ | “ |
| 29. Mr. Chenpa Dorji, Kangpar Gup | “ | “ |
| 30. Mr. Tashi Dorji, Khaling Gup | “ | “ |
| 31. Mr. Kinzang Dorji, Kanglung Gup | “ | “ |
| 32. Tandin Wangchuk, Lumang Gup | “ | “ |
| 33. Mr. Ghayden, Merak Gup | “ | “ |
| 34. Mr. Pelden Dorji, Phongmey Gup | “ | “ |
| 35. Mr. Jigmen Namgyel, Radhi Gup | “ | “ |
| 36. Mr. Sonam Dorji, Samkhar Gup | “ | “ |
| 37. Mr. Tshewang Tshering, Sakten Gup“ | “ | “ |
| 38. Mr. Kinzang Wangdi, Shongphu Gup“ | “ | “ |
| 39. Mr. Ngawang Dorji, Thrimshing Gup“ | “ | “ |
| 40. Mr. Tenzin Tshewang, Udzorong Gup“ | “ | “ |
| 41. Mr. Karma, Yangnyer Gup | “ | “ |

Regional Consultation Meeting at Druk Zhongkhar Hotel, Mongar (Lhuntse, Mongar & Trashiyangtse Dzongkhags) – December 23, 2011

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|--|---|---|
| 1. Mr. Phub Thinley, LR Officer, Lhuntse Dzongkhag | | |
| 2. Mr. Kinzang Minjur, Jarrey Gup | “ | “ |
| 3. Mr. Tshering Samdrup, Metsho Gup “ | “ | “ |
| 4. Mr. Tsheten Wangdi, Tshenkhar Gup | “ | “ |
| 5. Mr. Jigme Tshewang, Minjay Gup “ | “ | “ |
| 6. Mr. Jamtsho Dorji, Menbi Gup | “ | “ |
| 7. Mr. Sither Tshering, Khoma Gup | “ | “ |
| 8. Mr. Karma, Gangzur Gup | “ | “ |
| 9. Mr. Ugyen Tshering, Kurtoe Gup | “ | “ |
| 10. Mr. Sonam Sr. FR-I, Mongar Division | | |
| 11. Mr. Tshering Wangdi, Legal Officer, Mongar Dzongkhag | | |
| 12. Mr. Jigme Tenzin, DAO | “ | “ |
| 13. Mr. Phurpa Thinley, Agriculture Extension | “ | “ |
| 14. Mr. Dorji Wangchuk, DLO | “ | “ |
| 15. Mr. Pema Rinzin, FR | “ | “ |

16. Mr. Dorji Wangdi, SFA	“	“
17. Mr. Tshering Dorje, Drametse Gup	“	“
18. Mr. Karma Dorji, Kengkhar Gup	“	“
19. Mr. Yeshe Thinley, Tsamang Gup	“	“
20. Mr. Rinchen Gyalpo, Jurmey Gup	“	“
21. Mr. Ugyen, Sherimung Mangmi	“	“
22. Mr. Sonam Yeshe, Saling Gup	“	“
23. Mr. Phuntsho, Ngatshang Gup	“	“
24. Mr. Tandin Tshewang, Chali Gup	“	“
25. Mr. Padma Dorji, Chaskar Gup	“	“
26. Mr. Sonam Jamtsho, Narang Gup	“	“
27. Mr. Dorji, Balam Gup	“	“
28. Mr. Tshewang Rinzin, Thangrong Gup	“	“
29. Mr. Karma Sonam Wangchuk, Tsakaling Gup	“	“
30. Mr. Nidup Gyeltshen, Gongdue Mangmi	“	“
31. Mr. Tshering Dorji, Silambi Gup	“	“
32. Mr. Sangay Tenzin, Drepong Gup	“	“
33. Mr. Dechen Yeshe, Mongar Gup	“	“
34. Mr. Tawla Drukpa, DLO, Trashiyangtse Dzongkhag		
35. Mr. Tandin Dorji, DAO	“	“
36. Mr. Yeshe Lethro, Asst.LRO	“	“
37. Mr. Tshering Gyeltshen, Bumdelling Gup	“	“
38. Mr. Dechen Wangdi, Teotsho Gup	“	“
39. Mr. Ugyen Wangdi, Khamdang Gup	“	“
40. Mr. Thinley, Tongzhang Mangmi	“	“
41. Mr. Dechen Lhendrup, Jamkhar Mangmi,	“	“
42. Mr. Wangdue Duba, Ramjar Gup	“	“
43. Mr. Karma Wangchuk, Yangtse Gup	“	“
44. Mr. Chesung Wangdi, Yalang Gup	“	“

**Regional Consultation Meeting at Centennial Hotel 2008,
Phuentsholing (Chukha & Samtse Dzongkhags) – March
16, 2012**

1. Mr. Tashi Tobgyal, CFO, Divisional Forest Office, Gedu
2. Mr. Yeshe Phuntsho, Legal Officer, Chukha Dzongkhag
3. Mr. Pema Dorji, Sr.DLO “ “

Review of the Land Act of Bhutan, 2007

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|--|---|---|
| 4. Mr. Ngawang, DAO | “ | “ |
| 5. Mr. Kinley Tshering, LRO | “ | “ |
| 6. Mr. Nima Tshering, DzFO | “ | “ |
| 7. Mr. Tashi Dorji, Bongo Gup | “ | “ |
| 8. Mr. Gyeltshen, Jacho Gup | “ | “ |
| 9. Mr. Dorji Penjor, Chapcha Gup | “ | “ |
| 10. Mr. Phub Dorji, Geling Gup | “ | “ |
| 11. Mr. Mr. Budhiman Samal, Darla Gup“ | “ | “ |
| 12. Mr. Lam Dorji, Dungna Gup | “ | “ |
| 13. Mr. Man Kumar Rai, Sampheling Gup“ | “ | “ |
| 14. Mr. Jangchub, Metab Gup | “ | “ |
| 15. Mr. Khaleg, Getena Gup | “ | “ |
| 16. Mr. Indralal Ghalley, Logchina Gup | “ | “ |
| 17. Mr. Chi Chi Kachen, ADFO, Divisional Forest Office,
Samtse | | |
| 18. Mr. Thonkey Dukpa, DLO, Samtse Dzongkhag | | |
| 19. Mr. H.P. Adhikari, DAO | “ | “ |
| 20. Mr. Kinzang Chopel, ADAO | “ | “ |
| 21. Mr. Nidup, LRO | “ | “ |
| 22. Mr. Ugyen, Offtg. DzFO | “ | “ |
| 23. Mr. Suraj Subha, Namgaychoeling Gup“ | “ | “ |
| 24. Mr. Khem Raj Ghalley, Pemaling Gup“ | “ | “ |
| 25. Mr. Pema Wangchuk, Tendu Gup | “ | “ |
| 26. Mr. Ashok Tamang, Tading Gup | “ | “ |
| 27. Mr. Nanda Raji Giri, Sipsu Gup | “ | “ |
| 28. Mr. Chandra Prasad Phuyel, Dorokha“ | “ | “ |
| 29. Mr. Kinga Wangdi, Norbugang Gup | “ | “ |
| 30. Mr. Kharka Bdr Pradhan, Chargharey Mangmi | | |
| 31. Mr. Bhim Bdr Chhettri, Pugli Gup | “ | “ |
| 32. Mr. Kamal Singh Rai, Dumtoe Gup | “ | “ |
| 33. Mr. Ganga Prasad Limboo, Yoeseitse Gup“ | “ | “ |
| 34. Mr. Hem Raj Limbu, Denchukha Gup“ | “ | “ |
| 35. Mr. Shankar Gurung, Bara Gup | “ | “ |
| 36. Mr. Wangchuk Lepcha, Samtse Gup | “ | “ |
| 37. Mr. Tshering Phuntsho, Chief Urban Planner,
Phuentsholing Thromde | | |

38. Mr. Yeshe Dorji, Thromde Thuemi, Samtse Thromde
39. Ms. Pema Yangzom, Survey Engineer, Phuentsholing Thromde
40. Mr. Karma Ghaley, LR, Phuentsholing Thromde
41. Ms. Damcho Zangmo, AE, S/Jongkhar Thromde

Annexure VII: Land Act 2007 amendments from MoWHS, Thromde Authorities & local municipalities

Rationale/principles for amendment

Bhutan is rapidly urbanizing. Population and Housing Census 2005 (PHC 2005) recorded that 35% of entire Bhutan's population were living in urban areas as of 2005. "The Bhutan 2020: Visions for Peace, Prosperity and Happiness" document estimates that 50% of entire population would live in urban areas by 2020. The Bhutan National Urbanization Strategy 2008 (BNUS 2008) which is the guiding policy document for MoWHS estimates that by 2020, 73% of Bhutan's population would live in urban areas. While annual national average population growth rate is 1.30% (PHC 2005), average annual urban population growth rate of 7% is alarmingly one of the highest in the world. This implies that there will be tremendous pressure on the limited urban lands. Limited lands mean precious, high cost and highly valuable asset with assured economic returns thereby demanding specialized skills in planning and management of such lands. Such circumstances necessitates formulation of effective land administration and management tool guided by best planning principles which is aimed at most efficient and effective service delivery to the public.

The Land Act 2007 is a rural biased law as most of the important suggestions from urban authorities then had never been incorporated when the Act was drafted in 2006. Quite often the central land agency withholding approval for registration of urban private lands or plots without substantial reasons is what drives Thromde local government

or municipalities to have authority on all land transactions over lands within their jurisdiction not only to enhance service delivery to the public but also to carry out development activities in a well planned manner without undue delay and unnecessary interferences. Currently there are several towns where land transfer has been withheld by the NLCS for reasons not understood by local municipalities. Withholding final approval on registration of private lands not only impedes implementation of structure plan or LAPs but also violates the right of individual landowners to construct buildings when there is acute shortage of housing in every town especially in class A Thromdes. Further, such practice by the central land agency leaves municipal authorities in helpless situation as their annual programmed budget/committed fund gets lapsed and same budget for next fiscal year is undertrained. This makes municipal officials ineffective despite having best opportunity to undertake development activities. And the most unfortunate thing for these officials is when RAA issues audit memo for not spending the committed budget and allowing it to lapse. Besides RAA's memo our Hon'ble MPs and general public criticize municipalities for sending back the fund/money. However, no one for sure knows that there is a flaw in the law and its implementation. These are some of salient justifications as to why Thromde local government should have full authority on registration or all land transaction within their jurisdiction. These provisions must be incorporated as amendments in the Land Act 2007. Local governments demanding this authority is not out of context but this is very much enshrined in the supreme Constitution (article 22, section 1) which states that "power and authority must be decentralized and devolved to local governments..." to facilitate effective and efficient service delivery. Unless the gray areas in the law are corrected, service delivery in terms of land transaction will not improve any further. And the municipalities will not be able to implement approved

development plans and programs as most of these activities will have to be on lands.

The central land agency does not follow the urban development plans or LAPs while registering private lands. The present registration system, somehow, proves deterrent to having good plans/LAPs. If plan is not followed, not only it is a waste of huge resources but also complex urban problems will continue to grow thereby giving ways to undesirable and haphazard growth. Our LAPS/plans are prepared based on bottom up approach (democratic) with public consensus after going through several consultations. It is planned by the people and for the people. When there is no issue from the landowners' side, we feel that, approving registration should not be a problem. The only solution to this problem having witnessed it for nearly three years (of implementation of Land Act 2007) is to decentralize and devolve authority to the local governments on all kind of land transaction including approving of plans/LAPs. If decentralization of authority or powers is not provided for in the amendment of the Land Act 2007, not only constitutional provision is violated but also there is no need for any structure plans or LAPs as they cannot be implemented due to reasons mentioned above. Local government must have the responsibility as well as authority and accountability for local matters such as town planning and land issues. Without authority on land it is not possible to make plans or deliver effective services to the people.

We feel that the central land agency should involve in making policies, formulating rules or procedures and monitoring the work of local governments through periodic system audits. There must be a correct system or law to guide or facilitate full executive or implementation powers at the local level. The LGA 2009 addresses some of these difficulties as far as land management and planning in the Thromdes is concerned.

These provisions must be upheld through harmonization of LA 2007 with that of LGA 2009.

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With this backdrop, we suggest the following specific comments which are not exhaustive.

Col 1	Col 2	Column 3	Column 4	Column 5
Section of LA 2007	Sub-section of LA. 2007	Para description of the section/sub-section:	Section or sub-section of column 3 recommended for amendments (including new additions, if any):	Reasons for amendments
4		<p>The Commission shall have the following membership:</p> <p>a) The Gyalpoi Zimpon.</p> <p>b) The Secretary, Ministry of Agriculture.</p> <p>c) The Secretary, Ministry of Works and Human Settlements.</p> <p>d) The Secretary, Ministry of Finance</p> <p>e) The Secretary, Ministry of Trade and Industry</p> <p>f) The Secretary, Ministry of Home and Cultural Affairs.</p> <p>g) One representative from the agency responsible for international boundary.</p>	<p>The Commission shall have the following members:</p> <p>a) Secretary, Ministry of Agriculture and Forest</p> <p>b) Secretary, Ministry of Works and Human Settlement</p> <p>c) Secretary, Ministry of Economic Affairs</p> <p>d) Secretary, Ministry of Home and Cultural Affairs</p> <p>e) Executive Secretary of Thimphu Thromde representing all class A Thromdes,</p> <p>f) Representative, Bhutan Chambers of Commerce and Industry</p> <p>g) NLCS Secretary, NLCS or Surveyor General as member</p>	<p>It is found that some of the Hon'ble members are not able to attend any of the Commission meetings how much ever important it is due to nature of tremendous job at their respective places.</p>

		h) One representative from Thromde Tshogdu. i) One representative from private sector. j) Surveyor General, Commission Secretariat, as member secretary. k) One representative from the National Environment Commission.	secretary.	
5		The senior most Government Secretary in the Commission shall be the chairperson of the Commission.	One of the Cabinet Ministers appointed by the Prime Minister shall be the Chairperson of the Commission	
6		The Commission shall have the following functions:	The Commission shall have following functions:	
	a	Laying down the policies, programmes, regulations and guidelines in accordance with the provisions of this Act for implementation by the National Land Commission Secretariat.	Approving/reviewing of regulations, rules, guidelines in accordance with the provisions of this Act and other land related laws for implementation by the government agencies and local authorities.	The roles between the Commission and the Commission Secretariat need to be clearly defined and therefore functions from (a) to (n) are thoroughly reviewed as follow. {In general Commission should perform a role of policy making and approving various rules or guidelines whereas the Secretariat should take up

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				regulatory responsibilities};
	b	Acquisition of registered land and its allotment to Government institutions and Gerab Dratshang.	Delete it	It is an actual implementation functions which shall be done by the local authorities and government agencies.
	c	Allotment of substitute land to the Thram holder whose land was acquired.	Delete.	This is the function of the local authorities.
	d	Approve cash compensation for the land acquired.	Retain as it is.	
	e	Allotment of the Government land or Government Reserved Forests land to Government institutions and Gerab Dratshang.	Review and give decision on allotment of GRF land to government institutions or any agencies.	
	f	Recommend to the Government appropriate tax measures to prevent speculation and concentration of land holdings.	Delete it	The Public Finance Act takes care of the tax issues.
	g	Coordinate with stakeholders on identification and demarcation, and preparation of a detailed report on Thromde, industrial	Delete is	as it a specific executive function which shall be done by local government and relevant agencies.

		andprotected agricultural areas.		
	h	Submission of recommendation fordeclaration of Thromde, industrial, andprotected agricultural areas to theGovernment.	Delete it	{in case of declaring Thromdes, the MoWHS recommends the declaration to the Government based on criteria under Thromde Rules as enshrined in the LGA 2009).
	i	Develop format to apply for rehabilitationland.	Retain as it is	
	j	Assessment and submission of petition forrehabilitation land to His Majesty the King.	Replace work rehabilitation by resettlement.	
	k	Assessment and submission of petition forrehabilitation land to His Majesty the King.	Retain as it is	
	l	Institute Dzongkhag and Thromde LandAcquisition and Allotment Committees.	Retain as it is	
	m	May appoint any sub-committee to assist incarrying out any work of the Commission andsubmit to it the report on the result thereof.	Retain as it is	
	n	Where relevant, require any agencies to provide their	Retain as it is	

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		services in case a specific technical input is deemed necessary.		
			In addition (to be incorporated):	
			o. Deliberate and give decision on land issues submitted by agencies, local government and individuals.	
			p. Recommend appropriate policy on lands to the Government.	
			q. Submit an annual report containing Commission's achievements, performance of the Secretariat, detailed records on approved resettlement/kidu lands and lands released to various sectors to the Government.	
			r. Commission shall authorize local authorities to pay cash compensation to the affected landowners or find land replacement for land affected by infrastructure including building	We need a provision where private lands taken for construction of infrastructure including farm roads is eligible for land replacement in the same geog or cash

			of farm roads.	compensation. The existing practice is unfair as there is no land replacement made to the affected landowners for the construction of farm roads. Under World Bank and ADB, compensation is being paid. Others are not.
			s. Commission, in writing, may delegate any of its specific functions to the local authorities.	
9		The Commission shall be supported by a National Land Commission Secretariat, hereafter referred to as Commission Secretariat in this Act that shall be responsible for implementing the policies, programmes, regulations and guidelines issued by the Commission and for administering the provisions of this Act. The Commission Secretariat shall be the parent organization for all the agencies responsible	The Commission shall be supported by a National Land Commission Secretariat, hereafter referred to as Commission Secretariat in this Act that shall be responsible for implementing the policies, programmes, regulations and guidelines issued by the Commission and for administering the provisions of this Act. The Commission Secretariat shall be technical organization for all surveying work in the country.	

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		for land registration and cadastral survey in the Kingdom.		
10		Commission Secretariat shall have the following functions:	Commission Secretariat shall have the following functions:	
	a	Be responsible for custody, compilation and maintenance of Chhazhag Sathram.	Retained as it is	As reflected under Rationale, Commission Secretariat should function as regulatory body. The LA 2007 has all functions mixed which need to be segregated appropriately. It is done here in the amendments.
	b	Shall conduct land cadastre and be the technical agency on cadastral technology in the country.	Shall conduct land cadastre in coordination with relevant agencies and local authorities, and be the technical agency on cadastral technology.	
	c	Shall implement the provisions of this Act and to effect changes in the Chhazhag Sathram in accordance with the provisions of this Act.	Retained as it is	
	d	Shall be the national agency to coordinate, with other Government agencies where necessary, to monitor the restrictions in this Act.	Retained as it is	
	e	Shall be responsible to constantly update and improve	Retained as it is	

		the mode of cadastral survey, land registration systems and land administration procedures under the purview of this Act.		
	f	Shall formulate and execute strategies and plans within the programmes issued by the Commission.	Retained as it is	
	g	Facilitate the Local Authority in carrying out their functions according to the provisions of this Act.	Retained as it is	
	h	Either on its own or in coordination within relevant agencies, where necessary, shall prescribe formats and rules pursuant to this Act and amend them as and when deemed necessary.	Retained as it is	
			In addition (to be incorporated as functions of the Commission Secretariat):	
			a. Commission Secretariat shall be a regulatory body which shall be responsible for framing rules, guidelines, procedures, policies	

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			and facilitating approval from the Commission.	
			b. The Secretariat shall be responsible for releasing/issuing the approved rules, guidelines and procedures for implementation by the local authorities and agencies.	
			c. The Secretariat shall monitor the work of the local authorities as check and balance mechanism through periodic auditing.	
			d. Secretariat in coordination with local authorities and relevant agencies shall demarcate the Thromde boundaries.	Making consistent with the section 13 of the LGA 2009.
			e. The Secretariat shall handover all updated Thrams/land records along with updated cadastral maps within the declared Thromdes to the municipal authorities	{}{}{}{this is done to enable for planning, managing or administering land transaction in accordance with the Land Act and approved local area plan as enshrined in the LGA}{}{}{}.
			f. The Secretariat shall monitor	

			the land ceiling through ChhazhagSathram / central registry.	
			g. Secretariat shall reject the transaction if area of an approved land transaction is found beyond the permitted ceiling.	
			h. The rejection shall be conveyed within two months from the date of receipt of copies submitted by the local authorities.	
			i. Commission Secretariat shall release lands for development in the rural areas as per the recommendations of the local authorities and line agencies.	This is to enable release of lands for various priority project such as school construction, industrial establishment, hospital construction and mega power construction, etc.
			To be included as new: Functions of the local authorities which is administering and managing the Thromdes:	A brief functions of the local government needs to be included. If not all local authorities, but at least local government related to Thromdes.

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			The local authorities or agencies shall be responsible for executing or implementing rules, guidelines and procedures.	<p>From the Local Government Act 2009: The Thromde Tshogde:</p> <ul style="list-style-type: none"> • Section 61(h) – shall have the power to purchase, lease, or otherwise acquire land and property or dispose it off in the interest of the Thromde in accordance with the policies of the Government • Section 63(c) – Approve, purchase, lease, or otherwise acquire land and property of dispose it off in the interest of the Thromde in accordance with the policies of the Royal Government <p>The Thromde administration shall:</p> <ul style="list-style-type: none"> • Section 273(q) – Approve all land transactions within the Thromdes in accordance with the
			In case of urban areas, Thromde authorities shall approve all land transactions in accordance with Land Act and approved local area plans. (Same may be case with the rural land authorities like Geog and Dzongkhag although LGA 2009 does not specifically mention this).	
			All transacted copies of the land shall be submitted to NLCS for updating in the ChhazhagSathram and monitoring the land ceiling.	
			The local authorities shall be authorized to lease, purchase or acquire land for the public interest in accordance with the provision of LGA 2009 and any relevant laws.	

				<p>provisions of the Land Act and approved local area plans of Thromdes wherever such plans exist</p> <ul style="list-style-type: none"> • Section 273(r) – Approve and register all land transactions related to any property within the jurisdiction of Thromdes in the Thromde Property Register
			<p>The local Thromde authorities shall take over the Thrams, land records and cadastral maps of the declared Thromdes, other Thromdes and geogthroms or small commercial centre for which approved local area plans or layout plans already exist.</p>	<p>{{{this for management, planning and administration of these lands within their jurisdiction and in accordance with land laws and procedures in place}}}.</p>
			<p>Thromdes authorities may facilitate in releasing of lands for development to companies / agencies / corporate bodies/real estate developer / private individuals/ institutions, etc in accordance with the approved</p>	<p>Planning permit system is being developed in order to facilitate release of land for construction in areas of the Thromde where there are no local area plans. Otherwise people are compelled to wait for</p>

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			plans and / or planning permit/agreement system.	LAP which takes time. With permit, Thromde authority draws an agreement with private landowners as to how to develop their own lands.
19		The land owned by different persons shall be categorized and registered in the Thram under one or more of the following land categories:	Ok	
	a	Chhuzhing.	Ok	
	b	Kamzhing.	Ok	
	c	Cash crops land used for 1) Apples 2) Oranges 3) Cardamom, 4) Any other cash crops.	Ok	
	d	Residential land.	Ok	
	e	Industrial land.	Ok	
	f	Commercial land.		
	g	Recreational land.	Ok	
	h	Institutional land.	Ok	
	i	Any other category of land designated by the Commission from time to time.	Ok	
			To be added (j) any other category as per approved	

			structure plan or local area plan or layout plan in case of lands in the Thromdes.	
20		The registration of land categories in the Thram shall be based on the following certification of land use.	Registration of land category in the Thram in the rural areas shall be based on any one of the following certification of land use by the respective sector of the local authorities.	
	a	Certification on the land used	Certification of land use as agriculture from agriculture sector	
	b	House number as evidence of the rural land used as residential area from the Local Authority.	House number as evidence of rural land used for residential purpose from civil registration sector.	
	c	Licenses issued by the Ministry of Trade and Industry to establish and operate industrial, commercial and recreational ventures on rural land.	Retain as it is.	
	d	Permits for residential, industrial, commercial and recreational land in accordance with the Thromde development plan from Thromde.	Delete and inserted as new below	

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e	Approval letter from the Ministry of Agriculture on conversion of Chhuzhing to other uses.	Retain as it is.	
f	Certification from the Ministry of Agriculture to establish commercial agriculture farms.	Retain as it is.	
g	Approval letter on acquisition of privately registered land from the Commission.	Delete as LG knows about it	
h	Approval letter on allotment of the Government land or Government Reserved Forests land from the Commission.	Delete as LG knows about it	
i	Specification of land category in the Kashogranting land.	Retain as it is.	
j	Any other Government order issued by the Government under specific laws.	Retain as it is.	
		To be added (new section): Registration of land category in the Thromdes shall be as per the land use plan specified in the approved local area plan or structure plan or layout plan.	There are several land use categories mentioned in the development plans but all cannot be reflected in the Act. Therefore for Thromdes, it is convenient to make provision in the Act rather than having all categories mentioned in the Act.

			<p>(new section): Status quo on land category shall be maintained while registering land in the Thram in those unplanned areas of the Thromdes including newly declatedThromdes until such time a local area plan or structure plan is prepared and adopted.</p>	<p>This provision will clear the confusion created as a result of private lands getting included in the Thromdes by the declaration order of the Government. Otherwise, people demand that the moment their lands get included as urban, they apply for construction thinking that their lands automatically gets converted to dry land from rural agricultural uses.</p>
			<p>Geologically unstable areas/ecologically fragile steep slopes, no construction zones along rivers/streams and areas along international boundary shall continue to be categorized as rural lands unless the approved structure plan or local area plan authorizes any other use.</p>	<p>For obvious reasons.</p>
23		<p>The Commission Secretariat or its authorizedagency shall issue Lag Thram to the Thramholder as copy and</p>	<p>The local authorities shall issue Lag Thram or plot ownership certificate which contain detailed boundary description including</p>	<p>For issuance of Lag Thram, people have to come all the way from their villages to Thimphu and it cost them a lot.</p>

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		evidence of his land in the Thram. Copies of the cadastral map of his land shall be attached to the Lag Thram.	easement rights to the thram holder. Copies of the scaled cadastral map along with coordinates of the plot or land shall be also attached to the Lag Thram	Therefore, as registration approval are facilitated by local government under the provisions of the LGA 2009, issuance of these Thram must also be delegated to the Local authorities especially Thromdes.
27		The Commission Secretariat shall register the land of a person in the Thram or make any changes in the Thram in accordance with the provisions of this Act.	Thromde authorities shall register the land of a person in the Thram or make any changes in the Thram as per the provision of the laws and procedures. Geog and Dzonkhag administration may also register land of a person in the Thram or make any changes in the Thram as per the provision of the laws and procedures.	(this is in line with LGA 2009 section 272 (r)).
28		A landowner, the Local Authority or the authorized agency of the Commission Secretariat may report any errors or illegal records in the Thram or cadastral maps to the Commission Secretariat.	If landowner finds any discrepancy in the registration of his or her land in the Thram of the local authorities the person may seek intervention or investigation from the Secretariat	

29		The Commission Secretariat shall effect the changes in the Thram and/or issue new Thram within 30 working days on the land conveyances prescribed in this Act after the receipt of relevant documents from the Local Authority and the Commission.	The local authorities shall effect the changes in the Thram and or issue new Thram within 30 working days on the land conveyances prescribed in the Act after proper verification of the documents	
30		The Commission Secretariat shall return the land conveyance documents that are incomplete or inconsistent with the provisions of this Act to the parties concerned through the Local Authority within 30 days of receipt of such documents providing details of the missing requirements or inconsistency in writing.	The local authorities shall return the incomplete documents to the landowner and ask him/her to resubmit them within stipulated time with all required documents Copies of the cadastral maps shall be maintained with both Commission Secretariat as well as local authorities.	
39		For the purpose of cadastral survey the Comm Secretariat may erect survey monuments and boundary markers on a land after serving appropriate	For the purpose of cadastral survey the Commission Secretariat and / or Local authorities may erect survey monuments and boundary	Local Thromde governments must be able to demarcate the plots without having to wait for surveyors from Secretariat. Otherwise delay occurs and

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		notice to the landowners.	markers on a land after serving appropriate notice to the landowners.	committed budgets get lapsed.
40		Only the authorized persons shall have the right to destroy, alter or remove any survey monuments or boundary markers upon prior written permission from the Comm Secretariat.	Only the authorized persons shall have the right to destroy, alter or remove any survey monuments or boundary markers upon prior written permission from the Commission Secretariat and / or Local authorities.	
41		In the event a person intends to destroy, alter, or remove any survey monuments or boundary markers on his land, a written application shall be submitted to the Commission Secretariat. The Commission Secretariat shall respond within 60 days of the receipt of application. If he does not receive any response within the stipulated time, it shall be deemed that the permission has been granted.	Individual landowners shall be held accountable for destroying, altering, or removing any survey monuments or boundary markers on his land. The accused shall be dealt as per the laws while the pillars shall be reinstalled by local government in coordination with the Secretariat.	Centralization policy as per Article 22, section 1 of the Constitution.
42		In case of the refusal of permission, he may appeal to the Commission whose decision shall be final and	Delete it.	

		binding.		
43		In the event a Thram holder petitions to the Local Authority that his name is incorrectly spelt or his full name is not recorded in his Thram, the Local Authority shall based on the Citizenship Identity Card endorse the correction of name to the Commission Secretariat who shall make the necessary changes in the Thram.	In the event a Thram holder petitions to the Local authorities that his name is incorrectly spelt or his full name is not recorded in his Thram, the Local authorities shall based on the Citizenship Identity Card approve the correction of name and Secretariat shall be informed to make the necessary changes in the Chhazhag Thram.	Centralization policy as per Article 22, section 1 of the Constitution. For such a small matter public should not be harassed by sending their details to Secretariat who shall review the same ID card.
44		Upon demise of the Thram holder of a family, the Thram shall be transferred to the name of one of the members identified by the family within 360 of his demise as certified by the Local Authority. In the event of non-compliance, such a person shall be liable in accordance with Section 300(h) of this Act and the Local Authority shall instruct the family to register the land in the name of one of the surviving members identified by the family.	Replace 365 days by 2 years.	1 year is not really desirable when the family and relatives are still performing various religious rituals for the deceased.

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45		If there is any discrepancy between the Thram, cadastral records and/or the area occupied onland, the Commission Secretariat shall resolve it in accordance with Sections 46 to 50 of this Act.	If there is any discrepancy between the Thram, cadastral records and/or the area occupied onland, the Commission Secretariat in coordination with the Local authorities shall resolve it in accordance with this Act.	
51		In the event a case cannot be resolved by the Commission Secretariat, the matter shall be submitted before the Court of Competent Jurisdiction. Based on the final judgment of the Court of Competent Jurisdiction, the Commission Secretariat shall amend the Thram and cadastral records.	In the event a case cannot be resolved by the Local authorities the matter shall be submitted to Commission through Secretariat. If Commission is not able to resolve the case, it shall be submitted before the Court of Competent Jurisdiction. Based on the final judgment of the Court of Competent Jurisdiction, the Local authorities shall amend the Thram and cadastral records.	Implementation function.
52		Only the Commission Secretariat, authorized agency and the authorized officials at Gewog and Dzongkhag or Thromde shall have access to the central data system of Thram and cadastral records.	Only authorized persons of the Secretariat and local authorities shall have access to the data system in the Thram and cadastral records.	
53		The Thram holder or his	The Thram holder or his	Many farmers cannot make it

		authorized person shall have access to the information on his land and cadastral maps maintained by the Commission Secretariat.	authorized person shall have access to the information on his land and cadastral maps maintained by the respective Local authorities and Commission Secretariat.	the Commission Secretariat to access his or her Thram.
54		Except those information restricted by the Government, the Commission Secretariat or its authorized person shall allow the viewing of data in Thram and cadastral records maintained by the Commission Secretariat or its authorized agency upon a written request from:	Except those information restricted by the Government, the Commission Secretariat and Local authorities or its authorized person shall allow the viewing of data in Thram and cadastral records maintained by the Commission Secretariat and Local authorities or its authorized agency upon a written request from:	
	a.	Thram holder or his authorized person for his land.	Retain as it is	
	b.	A person for a specified landholding in a Thram.	Retain as it is	
55		The Commission Secretariat shall allow the Government agencies to access and use the land records for public purposes.	The Commission Secretariat or Local authorities shall allow the Government agencies to access and use the land records for public purposes.	
57		In the event, amicable settlement is not possible, the	In the event, amicable settlement is not possible, the matter shall be	

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		matter shall be submitted before the Court. According to the verdict, the Commission Secretariat shall carry out necessary action.	submitted before the Court. According to the verdict, the Commission Secretariat or Local authorities shall carry out necessary action.	
61		The ownership of land shall be conferred to its owner upon registration of such land in the Thram in his name in accordance with the provisions of this Act.	Ownership of a land shall be conferred upon registration of such land in the Thram in his/her name in accordance with: <ul style="list-style-type: none"> a) Provisions of the Act in rural areas or b) Provisions of the Act and any approved local area plan or approved trapped land/plot rationalization plan or land pooling schemes in case of Thromdes; 	Section 61 needs complete revision as it is the main obstacle impeding the land consolidation and small plot rationalization in the urban areas thereby delaying the implementation of urban plans. With this existing provision in the Act, it has become very difficult to prepare structure plan or local area plans on the government lands let alone on private lands. Thromde authorities cannot make use of the small trapped lands between two private owners neither can Thromdes regularize this tiny space although it is already being used by the private individual for so long. For example - Samtse core

				<p>town where everyone has constructed buildings with 100% coverage. Small space (which is a government land) between these buildings cannot be rationalized and added to their plots to become a viable plots with required set back neither can we keep it as government plots as they are too small to put to use. These spaces are used by private individuals either as drain or building plinth protection or waste dump area. Therefore in order to regularize their lands, a legal provision is needed to facilitate such rationalization in order to produce good urban development plans/LAPs.</p>
62			<p>No government land or GRF lands shall be transferred to private ownership except otherwise provided by: i. this Act in the rural areas, or j. this Act and / or approved local area plan or structure plan in</p>	

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			case of Thromdes.	
80		In the event of default of a mortgage on land, the Commission Secretariat shall, in accordance with the order of the court, transfer the ownership of land in the name of a person entitled to the land.	In the event of default of a mortgage on land, the Local authorities in accordance with the order of the court, transfer the ownership of land in the name of a person entitled to the land.	
132		The minimum parcel of land that shall be registered in a Thram is 10 decimals.	Minimum plot size for transaction in the rural areas shall be 13 decimals. In case of Thromdes: a) 13 decimals in un-planned areas and / or b) As per the size specified in the local area plan or structure plan in case of planned areas.	10 decimals is too small. As urban area expands into rural areas, Thromdes inherit this small plot which is not viable for constructing decent building with adequate parking space as parking is mandatory these days. In fact, in rural areas, minimum plot size should be 50 decimals in order to avoid fragmentation of agricultural lands. As per provision of LGA 2009.
133		Those land parcels less than 10 decimals prevalent before the enactment of this Act	Land owner may be allowed to transact any amount of land in the rural areas provided the	Minimum plot size and land transaction below 13 dc must be enhanced and rationalized

		<p>maybe retained in the Thram of the landowner ortransacted only in its entirety without subdivision.</p>	<p>transacted plot is not less than 13 decimals and the original plot size after deducting last transacted amount is not rendered less than 13 decimals.</p> <p>Land owner may be allowed to transact any amount of land in the unplanned Thromde areas provided the transacted plot is not less than 13 decimals and the original plot size after deducting last transacted amount is not rendered less than 13 decimals.</p> <p>Wherever local plan plan exists, a land owner may be allowed to transact any amount of land in a planned <i>Thromde</i> area provided the resultant plot after transaction is not less than size specified in the approved local area plan and the original plot size after deducting transacted amount is not rendered less than the size specified in the approved local area plan.</p> <p>All above transaction should occur under fulfillment of one</p>	<p>to facilitate transaction of various sizes as long as the resultant plot and original plots remain above minimum standard plot size. Also there is a need to harmonize minimum plot size from hereon to 13 decimals as incorporated in the LGA 2009.</p>
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			condition, i.e., the land or plot to be transacted should be located adjacent to each other so that physically the area can be either added or subtracted from each other.	
159		After entering into a land transaction involving inheritance, sale/purchase, exchange of private registered land with another private land, and donation/gifting, the parties involved shall submit their land transaction application to the local authority, for the transfer of ownership.	ok	
161		If the transaction is deemed lawful in accordance to the Act, the local authority shall post a notice of the transaction for public viewing, which shall remain effective for 30 days. If no objection is raised from any quarter within the period:	Ok	

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				<p>wherever such plans exist</p> <ul style="list-style-type: none"> • Section 273(r) – Approve and register all land transactions related to any property within the jurisdiction of Thromdes in the Thromde Property Register
162		<p>In the event of any objection, the Local Authority shall evaluate the legitimacy of the objection, and if warranted, the application shall be returned to the parties involved within 15 days of objection explaining the grounds of its rejection.</p>	<p>In the event of any objection, the Local Authority shall evaluate the legitimacy of the objection, and if warranted, the application shall be returned to the parties involved within 15 days of objection explaining the grounds of its rejection.</p> <p>New section: Upon evaluation of the objection if the local authorities establish an unnecessary objection due to personal bad relations amongst the parties involved in transaction, the local authority shall validate and approve the transaction.</p>	<p>There are cases especially in the Thromdes where the adjacent landowners due to this provision of the Act simply object to land transaction of the other neighboring landowner without any substantial reasons. It is only the personal bad relations amongst such landowners. And such practice by some landowners cause tremendous delay in the implementation of the development activities thereby creating opinions amongst all levels of people/organizations that Thromde authorities are deliberately obstructing</p>

			The aggrieved parties may petition to either Secretariat or local court if unsatisfied with the decision of the local authorities.	development program. Therefore such persistent problems should be addressed by the Act and not creating problems instead.
163		If there is no objection, the Local Authority concerned shall conduct cadastral survey in the field, if division of the land under transaction is involved. The cadastral survey shall be completed and the transaction case shall be submitted to the Commission Secretariat within 60 days after public viewing for changes or issuance of new Thram.	If there is no objection, the Local Authority in coordination with Secretariat shall conduct cadastral survey in the field, if sub-division of the land under transaction is involved. The cadastral survey shall be completed and the transaction approved by the local authorities within 30 days after public viewing for changes or issuance of new Thram.	From the Local Government Act 2009: The Thromde administration: <ul style="list-style-type: none"> • Section 273(q) – Approve all land transactions within the Thromdes in accordance with the provisions of the Land Act and approved local area plans of Thromdes wherever such plans exist • Section 273(r) – Approve and register all land transactions related to any property within the jurisdiction of Thromdes in the Thromde Property Register
164		If no division of the land under transaction is involved, the Local Authority shall	If no sub-division of the land under transaction is involved, the Local Authority shall approve the	

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		submit the transaction case to the Commission Secretariat within one week after completion of the public viewing for effecting changes or issuing new Thram.	transaction and copies endorsed to Commission Secretariat within one week after completion of the public viewing for effecting changes in the Chhazhag Sathram.	
184		The Ministry shall prescribe the rules on leasing any Government Reserved Forests land.	184. The Commission shall prescribe lease rules on leasing of government lands or GRF lands.	Section 184 to 187, in case of urban areas, lease must be sanctioned by the municipal authorities. Ministry of Agriculture as mentioned in this Act has no direct role over urban lands once they are handed over to municipal authorities. Therefore, as per the LGA 2009 (section <i>Section 63(c) – Approve, purchase, lease, or otherwise acquire land and property of dispose it off in the interest of the Thromde in accordance with the policies of the Royal Government</i>) municipal authorities are the appropriate organizations to lease lands and monitor the same. However standard procedures set up by
185		The application for leasing the Government Reserved Forests land shall be submitted to the Local Authority who will submit it to the Ministry for approval.	185 The application for leasing the Government Reserved Forests land shall be submitted to the Local Authority who shall approved in accordance the lease rules.	

				Government must be followed.
		186 The Local Authority shall prescribe the rules on leasing the Government land as well as approve leasing of the Government land subject to confirmation by the Commission.	186 The Commission shall prescribe the rules on leasing the Government land.	The lease rules must be uniform and in fact one rule must apply nationwide.
		187 The records on leased land shall be maintained by: a) The Ministry for the Government Reserved Forests land. b) The Municipal authority for the Government land	187 The records on leased land shall be maintained by: a) The Ministry for the Government Reserved Forests land in rural areas. b) The Municipal authority for the Government land in the Thromdes.	

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			<p>To be added as new section:</p> <p>Local authorities shall not lease any government lands or GRF lands to the profit oriented companies or private agencies on long term basis. The LG may release such lands for short period where the lease rate shall be based on PAVA.</p>	<p>The lease rules must be very clear in order to avoid misuse. Already we are seeing precious lands near the township areas being leased for rather dubious purposes. All conditions and terms of the lease must be clear in the rules.</p> <p>Lease of land for commercial purposes involving large areas should require approval of the local governments.</p>
196		<p>The applications from Government institutions and Gerab Dratshang on acquisition of private registered land shall be submitted to the Dzongkhag Committee or Thromde Land Acquisition and Allotment Committee, hereafter referred to as Thromde Committee. The format on acquisition of land and allotment of substitute land</p>	<p>Application from government institutions or any agencies for acquisition of private lands must be submitted to local authority which shall in turn assess the requirement and give decisions considering all factors as per the rules.</p>	<p>Effective and efficient service delivery through reduction of unnecessary bureaucratic processes should be aim of any service oriented organizations. Therefore, here too as land administration is a public service, providing of such service should be fast and efficient. We have, through our practical experiences, found out that land acquisition is the most lengthy red tape (stretching even a year)</p>

		shall be prescribed by the Commission.		involving unnecessary repetitive correspondences between local authority and Secretariat thereby delaying any project and budget getting reverted back to MoF. When un-spent money is reverted to MoF, not only the implementing organization issued audit memo as to why it was not spent but also heavily criticized by MPs and even questioned by Government. Hence there is a need to reduce red tape.
197		The Dzongkhag Committee or Thromde Committee shall submit the applications and its views including the nature of compensation as a preliminary proposal to the Commission.	The land acquisition committee of the local authorities reviews the proposals and if satisfied, then recommends for approval by the local authorities.	
198		Based on the application received in accordance with Section 197 of this Act, the Commission shall either reject it with proper justification or instruct the Dzongkhag Committee or Thromde Committee to conduct feasibility study and to submit a detailed report. The report shall include other relevant documents required	Approval of the local government is conveyed to the Secretariat. The land acquisition committee shall recommend appropriate substitute and / or cash compensation to the affected landowners	

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		by the Forest and Nature Conservation Act and other laws.		
199		The Dzongkhag Committee or ThromdeCommittee shall submit its detailed report andits recommendations to the Commission.Simultaneously, the Local Authority shall serve awritten notice to the landowner informing him of the Government's intent to acquire his land atleast 120 days prior to the acquisition.	If land substitution within same Thromdes or Dzongkhag is not possible, the Secretariat shall coordinate with other Dzongkhags to arrange such substitution.	And this is it regarding acquisition and substitution; rest should be in the Rules.
126		The landowners may acknowledge and accept, bysigning in the format prescribed by theCommission Secretariat for conducting cadastralsurvey, demarcation of land boundaries, or anychanges in the existing boundary when conducting cadastral survey on their land.	Retain as it is.	
			(New section): The Thromde authority shall have the	Thromde authorities face a lot of problems as result of

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			discretionary power to sign on behalf of any landowners if it believes that such landowners deliberately cause inconvenience as result of implementation of section 126 of this Act	implementation of section 126. Even if there is no problem, due to personal grudge amongst adjacent landowners, one refuse to sign this agreement thereby affecting the planned development and causing budget to laps due to delay. So the Thromde authority needs this power to implement the planned activities especially time-bound donor projects.
204		The Dzongkhag Committee or Thromde Committee shall submit the applications with justification on allotment and their views on its feasibility as a preliminary proposal to the Commission.	Land acquisition or allotment committee of the local authorities in accordance with Allotment Rules allots lands based on need and justifications submitted by the proponent. (Since allotment is to the government institutions, the case does not merit consideration from higher authorities).	In principle, there should not be any fresh allotment of lands hereafter. In case it is unavoidable, the simplified provisions may be incorporated based on principle of efficient and effective service delivery.
205		Based on the application received in accordance with Section 204 of this Act, the Commission shall either reject it with proper justification	Allotments of land in the urban areas shall be done by the local authority in consultation with the Ministry responsible for urban affairs and in accordance with	

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		or instruct the Dzongkhag Committee or Thromde Committee to conduct field survey and to submit a detailed field report, including clearances required under applicable laws.	Allotment Rules.	
206		The Dzongkhag Committee or Thromde Committee shall submit its detailed field report and its recommendations to the Commission.	Allotment in the Geog shall be done in accordance with the Allotment Rules and in consultation with the Secretariat	
210		The application for land to establish commercial agriculture farms shall be submitted to the Local Authority in a prescriptive format issued by the Ministry of Agriculture. The format shall, among others, include project proposal that shall specify the type and level of production, source of fund, location of the farm, source of land, and arrangement for the farm products.	Retain as it is	

211		If approved, the Ministry of Agriculture shall submit the application along with the documents to the Commission Secretariat to record the land on lease in the name of the farm and inform the Local Authority to release and handover the land to the entrepreneur establishing the farm.	Retain as it is	
212		If a Thram holder dies without leaving any legitimate heir and written will, the land registered in his name shall be declared as Tsatong after serving a public notice of 90 days by the local authority upon the apparent occurrence of the Tsatong.	If a Thram holder dies without leaving any legitimate heir and / or written will, the land registered in his name shall be declared as Tsatong after serving a public notice of six months by the local authority upon the apparent occurrence of the Tsatong.	90 days is too less and it may seem as if the government wants some innocent landowners to die to take over his or her land.
213		The Local Authority shall report the Tsatong land to the Commission Secretariat within 60 days after the expiry of the above 90 days notice for the annulment of its Thram.	The Local Authority shall annul the Thram of the deceased after the expiry of the notice period and land registered as Tsatong or government land. The Commission Secretariat within shall be informed of the	

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			Tsatong within one month of the expiry of the public notice.	
231			Customary rights of way	
268		A right of way established over a land through local customs by uninterrupted use for a period of more than 5 years shall be respected and the landowner shall not object to its use.	Retain it.	
			<p>In addition:</p> <p>Agency responsible for laying power transmission lines or any other utility service lines shall buy the right to use of land and / or acquire private land as easement at the rate fixed by the government.</p> <p>In case the agency is unable to buy the right to use private lands or acquire private land, underground cabling must be undertaken.</p>	

302		Based on the recommendation of the Commission, the Government may declare any area in the country as Thromde including buffer zone, industrial, and protected agricultural areas as well as de-regularize Thromde to rural areas.	The Parliament, from time to time, shall declare certain geographical or administrative or economic area of the country as: <ul style="list-style-type: none"> a. protected agriculture zone or national park based on criteria provided in the Nature Conservation Act, and any other relevant environmental laws and recommendation made by the Ministry responsible for agriculture and forest. b. industrial area based on detailed feasibility report and recommendation made by the Ministry responsible for economic affairs. c. as Thromde based on the criteria provided for under the LGA 2009 and recommendation made by the Ministry responsible for urban development (see section 13 of LGA 2009). 	Declaration of Thromdes is as per the provision of incorporated in the LGA 2009.
			The Parliament may also de-	

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			regularize: a. protected areas or national park based on detailed report and recommendation submitted by the Ministry responsible for agriculture and forest. b. industrial areas based on detailed recommendation submitted by Ministry responsible for economic affairs. c. certain portions of declared Thromde areas based on detailed recommendation submitted by Ministry responsible for urban development	
303		The declaration of Thromde, industrial, and protected agricultural areas shall aim at the best use of land by:	This should be in Rules	
		a) Assessing present and future needs by evaluating the land's capability to supply them;	This should be in Rules	
		b) Identifying and resolving	This should be in Rules	

		conflicts between competing uses, between the needs of individuals and those of community, and between the needs of the present generations and those of future generations; and		
		c) Seeking sustainable options and choosing those that bring about the desired economic, social and environmental well-being of the citizens of Bhutan.	This should be in Rules	
308		The duration of lease of the Government land or Government Reserved Forests land shall not exceed 30 years and any terms or conditions in the lease deed to the contrary shall have no effect.		
			Under Miscellaneous (to be added as new):	
			Condominium	
			Owners of the apartments shall have a proportionate right over the land on which the apartment	

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			is built. No extension/reconstruction shall be allowed for apartment without the written consent of all the apartment owners.	
		Definitions		
		Land means soils including buildings or structure or vegetation grown on it but does not include minerals.	Land means soils or surface of the earth.	If the land includes buildings and vegetations, many laws or acts should become null and void. For example; for buildings we have building rules, building codes, building act (coming up); for vegetations we have forest and nature conservation act, national environment protection act, etc. If land is to include buildings, there will be adverse implications on land market, transactions, mortgage, leasing, ownership pattern, etc. In present context, land transaction means only land but not the buildings. Building transaction is completely different from land transaction both in its procedures as well

				<p>as in economy. Some practical examples of adverse implications are:</p> <ul style="list-style-type: none">• Tax, fee and charge paid on land means tax, fees and charges on building is also supposedly paid;• Land mortgaged means land along with buildings and timbers/vegetations/woods are also mortgaged, so one cannot mortgaged the buildings separately;• Land case in the court automatically means buildings also;• Cash compensation paid on land (for land acquired) means there shall be no compensation for the structures or orchards or plants because land includes the structures and vegetations; <p>All above implication will lead to serious legal implications. If the soil surface has no</p>
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				vegetation or structure, will that soil still be qualified as land? Therefore, we suggest that definition of land be kept simple and straight-forward.
			Un-planned areas shall mean areas in the declared Thromdes where there is no local area plan or structure plan or layout plan.	
			Government institution shall include GerabDratsang.	
			GerabDratsang means central monastic bodies inclusive of any religious institution registered under Civil Society Organization.	
			Local authorities means Dzongkhag administration or Thromde administration or geog administration.	Keep it very simple.

Annexure VIII: General Comments on the Land Act 2007

1. The Land Act should be in line with the constitution of the Kingdom of Bhutan.
2. Ministry of Trade & Industry to be replaced by Ministry of Economic Affairs
3. Ministry of Agriculture to be replaced with Ministry of Agriculture & Forest.
4. The Land Act should define and identify the gnays (religious sites) in the Kingdom.
5. NOC from family members: When an individual buys a land and processes for land ownership transfer, he/she is required to produce NOC from all the family members registered in the same Metse/census. This is viewed to be unnecessary and too taxing to the buyer. While such requirement is not stated in the Act neither in the Regulation, such practices, however is applied stringently. This requirement should be waived off as it unnecessarily prolongs the procedure and also creates room for unnecessary hassles and problems to the buyer and the family members.
6. Dual Buyers: When a same land is sold to two buyers and both the buyers produces court decision of legal ownership to the same land, the preference of ownership is given to the first buyer. The Act does not specify: 1) penalty to the seller who has willfully committed an offence; and 2) the required compensation to the second

buyer, who has bought in good faith and made necessary payment for the land.

The Act need to incorporate the following:

1. The seller commits an offence of felony of third degree,
 2. While the first buyer gets the first preference of land ownership, the seller should either hand over a similar category of land registered in the seller's thram to the second buyer (if acceptable to the second buyer). If not the seller should pay back the amount so received from second buyer along with the highest prevailing commercial lending interest rate; and fair compensation for loss of time and resources expended in the whole land transaction process. The matter of such kind to be settled by the court of law.
7. Discrepancy or Objection: When there is some discrepancy or objection from the seller in the process of land transaction, the Land Commission Secretariat declares Land Transfer Form (LTF) null and void (cha-me). Under such circumstances, the seller is at a gaining position and the buyer at a losing position. Such a situation does not favour submission of case to the court of law as the court does not accept the case stating the case is declared null and void by National land Commission.

Rather than declaring the above case null and void, a provision may be inserted in the Act that Land Commission Secretariat shall refer the case of such nature to the court of law where the land is located with a request to resolve the case.

8. *Green Zone:* When a land, whether inherited or purchased is declared as green zone/area by the authorities, owners of the land should be adequately compensated either through land substitution or cash compensation, whichever is acceptable to the landowners. Since the Act is silent in such case, a provision to this effect needs to be inserted in the Act.
9. With the recent trend in the country of selling of apartments/flats by the real estates developers to the individuals/companies, the current Land Act doesn't specify on the ownership of the land. Therefore, we request that the reviewed Land Act should have provision accordingly.
10. Requirement of clearance from the adjacent landowners. While the Land Act 2007 is silent, the rules are stringent for processing for the new Lag Thram (ownership). It is mandatory to obtain clearance from all the adjacent landowners. This has been viewed serious hassle and cumbersome process, and most likely some of the landowners may even refuse to give clearance for personnel grievances. Appropriate measures may be sought to resolve the difficulty arising in the current system.
11. Ref. section 68 f, Industrial land beyond 25 acres ceiling, provided that the industrial land exceeding 25 acres ceiling is registered in the name of a Corporation.

But the definition of industrial land does not include other commercial activities under the service industry- such as establishment of hotels, resorts, schools etc. This may also include in the Land Act.

12. Awareness on Land Act: Once the Land Act is revised, an awareness campaign on the Act needs to be undertaken at the geog and thromde levels. This is to avoid misuse of people's ignorance by the people who are aware of the changes in the Act and Regulations.

Specific comments on the Land Act 2007

Ref. no.	Issues	Recommendations
Chapter 2 (4)	Members of National Land Commission	The private sector proposes on reconstituting the existing members by increasing the member of private sector to four. A sub-committee to be created representing relevant stakeholders. The chairmanship to be followed on a rotational basis for the committee as well as the Sub-committee.
Chapter 2 (8, C)	Office Procedure of National Land Commission	A simple majority should be followed for the quorum for the meeting to be held monthly.
Chapter 3 (43)	Correction of Name of Land owner	Accountability to be fixed
Chapter 4 (59)	Entitlement to Own Land	Entitlement to own land: Registered private companies and licensed business firms are omitted from the persons eligible to own /register in their names. Amendment may be necessary to include them as well.
Chapter 4 (64)	Land Ceiling	<i>Excess land owned by family/individual/organizations before the Land Act of Bhutan 2007 may be allowed own/ transact.</i>

		<p>The purpose of land ceiling is not mentioned anywhere and whether the existing provision of the law on land ceiling of 25 acres effectively targets and achieves that purpose, if there is a purpose.</p> <p>As per this provision, land ceiling of 25 acres is for a family – either a family of one individual or many but under one house number. In the event, one wants to circumvent this provision, one or two individuals from that family obtains a new house number and register another 25 acres in their name. This provision can be easily and conveniently overcome to hoard land, so the purpose of instituting land ceiling is defeated legally.</p> <p>It may be better to have a ceiling of ‘x’ acres of land in the name of one individual / citizen –separately for Thromde and outside Thromde.</p>
Chapter 4 (68, F)	Exemption from Land Ceilings	The sentence should be rephrased as “Industrial and other land for the purpose of economic activities beyond 25 acres ceiling, provided that the land exceeding 25 acres ceiling is registered in the name of the company/business entity”.

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Chapter 5 (76)	Land of Religious Institutions	<p><i>The clause should be rephrased as:</i></p> <p><i>“The land of religious institutions..... in the name of traditional lineage or reincarnate, or in name of religious institution and not in the name of an individual person”</i></p>
Chapter 5 (82)	Kidu & Rehabilitation land	<p>The Act does not provide anywhere that a Kidu Land or a Rehabilitation Land shall be given only from the government land or government reserved forestland only. In case privately owned land has been processed by government for grant as kidu or for rehabilitation purpose knowingly or unknowingly, there is no room for the old land owner to claim compensation for the lost land.</p> <p>Provision should be there in the law for the landowner to claim compensation / substitute land in such a situation from a specific government office so that the landowner does not have to run from pillar to post to get what is rightfully his.</p>
Chapter 5 (85)	Land of Minors	<p>The sentence should be rephrased as “ The Land registered in the thram in the name of the minor under Section 84 of this Act shall be under the custody of a local guardian identified by a competent court”</p>

Chapter 6 (92)	Use of Chhuzhing as residential land	A landowner who has inherited only chhuzhing is entitled to convert 50 decimals of the chhuzhing for residential use. A landless citizen who has purchased only chhuzhing and has no residential land is not entitled to convert 50 decimals of his chhuzhing for residential purpose. This provision is treating citizens under similar circumstances unequally.
Chapter 6 (107)	Right to omitted land	It is unjust to give a time limit to claim the land or to get the records rectified by the land owner of land registered previously if his land has been omitted by the Land Records Office / Secretariat. Government has seized land of private individuals on the pretext of the land owner not being present on cadastral survey and re-allotted the land to others with no compensation or substitute land to those who have lost their land. No provision of the law ever said that one's land would be confiscated / taken away by the government if one is not present while cadastral survey is done. Such actions are grossly unjust. The law should provide that the government respects the right to private property of an individual citizen regardless of the circumstances if the Government wants similar treatment to its

		properties /rights from individual citizens. The government also should not have the right to allot someone else's land to others in the name of rehabilitation or Kidu land.
Chapter 7 (147 & 148)	Mode of compensation for land acquired	<p>With this provision, people, especially at influential level tend to buy land at low price, which are prone to land slide, flood or are degraded and not cultivable or usable. Such land is then asked for substitute with government land at a future date. To avert such practices, a conditions needs to be specified in the Act/Regulation:</p> <ol style="list-style-type: none"> 1) land sought for substitution should be an inherited landed property and rendered non-usable due to natural disaster-flood, land slide or other elements; 2) the condition, location and other essential parameters of the land prevailing before land was bought/transacted should be assessed in respect of land sought for substitution; 3) A joint report to be prepared about the land condition, location, through joint site inspected by officials consisting of two officials from Land Commission Secretariat, at least five local communities: the Gup, Mangmi, Tshongpa and two other prominent village

		<p>representatives. The Report shall be submitted to the Land Commission Secretariat through the Dzongkhag or Thromde as the case may.</p> <p>If the Report states that the land was already degraded/non-usable/prone to flood and land or in any other unfavorable state before the land was bought, the request for land substitution shall be rejected. The land substitution may be approved by the Land Commission based on the Report.</p>
Chapter 7 (156)	No choice for Substitute Land	This clause is critical as it will depend on the situation, for example, if the Government takes the land, choice should be given to the thram holder for the substitute land, however, if the request is made by the individual to the Government, then there shouldn't be choices given to the individuals for the substitute land
Chapter 8 (167)	Conversion of Chhuzhing as residential land	More clarification to be sought from the commission on this clause
Chapter 8 (182and 183)	Transfer of Land Ownership on default of mortgage	This clause needs to be verified
Chapter 8 (210)	Application for lease of land for commercial agriculture farms	<i>The lease of land may not be restricted to commercial agriculture farms only. It is beneficial to open the use of land for all the economic activities (manufacturing,</i>

		<p>service utilities, dairy farm, etc. that can generate revenue, employment and other economic values). Therefore, the section may be rephrased as “The application for land to use for economic activities shall be submitted to the local authority in a prescribed format issued by Ministry of Agriculture & Forest”.</p>
Chapter 9 (219)	(Non-Utilization of registered land)	<p>It specifies the registered land here as allotted land to Government Institution, Gerab Dartshang and land allotted in Thromde which needs to be utilized for the purpose it was allotted within 3 years.</p> <p>There is a danger of extending the interpretation of this provision to the non-utilization of private land, inherited or purchased, and registered in a land holder’s name. Therefore, the title of 219 – 222 should read “Non-utilization of registered land of Govt. Institutions, Gerab Dratshang and the land allotted in Thromde”.</p>
Chapter 10 (239)	Confining lease within Dzongkhag	<p>The lease of Tsamdrol may not be restricted to the resident of the Dzongkhag. As Bhutan is a small country with small population, the natural resources may be shared amongst the whole population of Bhutan. Thus so long any Bhutanese willing to pay lease</p>

		rent and comply with the lease terms and conditions and other relevant laws and rules, lease of Tsamdro may be left open to the whole population of Bhutan, with preference accorded to the resident of the Dzongkhag provided they do not sub-lease to other herders.
Chapter 10 (241)	Eligibility to lease Tsamdro	A qualifying criteria need to be incorporated to avoid sub-leasing of Tsamdro. <i>“While leasing Tsamdro, preference shall be given to the previous rights holders and community provided they possess livestock that warrants leasing Tsamdro”.</i>
Chapter 10 (243)	Tsamdro lease to Highlanders	If highlanders do not have livestock, according Tsamdro rights to them would pave way for sub-leasing Tsamdro. Such a practice would encourage lease business, which is not fair a Tsamdro is a national wealth and every citizen has the right to access to such wealth. Therefore, exclusive right to retain Tsamdro by highlanders irrespective of possession of livestock need to be reviewed.
Chapter 10 (245 & 251)	No Sub-leasing of Tsamdro and Annulment of lease	Need to review in light of the possession of livestock as such exception would promote sub-leasing business amongst the highlanders, while other Bhutanese populace are deprived of access to national wealth.
Chapter	Laying of service	To rephrase the last sentence

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12 (275)	facilities	as “ The landowner must require that his interests be taken into consideration”
Chapter 12 (294)	Right to use roads on Government land or Government reserved Forests Land	The new users should be made to pay for the maintenance of road. Thus the sentence may be rephrased as “ <i>The new users shall contribute to the maintenance of such road</i> ” The last sentence in Dzongkha denotes different meaning to that of English. It does not mandate the new users to contribute. It needs to be rectified appropriately.
Chapter 13 (298)	Offence of misdemeanour	Sub-section d) and (g) under this clause may be considered felony of third degree.
Chapter 13 (299)	Petty misdemeanour	Sub-section (a), (b) and (e) under this clause may be considered offence of misdemeanor.

Annexure IX: Terms of Reference for the Consultancy

Terms of Reference

Title: National Consultant

Type of Contract – Special Contract

Action Area: Rangeland Resources Management

Programme: Environmental Change and Ecosystem Services (ECES)

Background

The Land Act of Bhutan 2007 is the apex legislation governing the management and administration of all land issues in the country. The present act is the outcome of the major revision of the Land Act of 1979, which was enacted by the National Assembly of Bhutan in its 87th session.

The Ministry of Agriculture and Forest, Royal Government of Bhutan has been leading the comprehensive review of the Act as per the directives of the Cabinet and the 7th session of the parliament of Bhutan.

The review will address the pertinent land administration and management issues through extensive study and analysis of policy and legal issues for the comprehensive policy document to be adopted for its realistic implementation. Most importantly, the review of the Act will be in concurrence with the National Land Policy of Bhutan 2010 which was in principle approved by the Government.

Objective

The primary objectives of reviewing the Land Act of Bhutan 2007 are:

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- To carry out the legal and policy analysis of the existing provision of the Act in consultation with the public and the stakeholders;
- To harmonize provisions of the Act with the relevant legislation and policies; and
- To propose a comprehensive working document including revision to the Government for further deliberation.

To this end, we propose the following TOR for Consultancy:

1. Review provisions of the Act and identify contradictions with the National Land Policy of Bhutan 2010 and other relevant legislations such as the Forest and Nature Conservation Act 2005.
2. Carry out stakeholder consultation and recommend the ways to harmonize the Act with the National Land Policy 2010 and other relevant legislations and policies.
3. Prepare a comprehensive document specifying the revisions/changes required to the Act and ways to harmonize the Act with the National Land Policy and other relevant legislations and policies.

Expected outputs

- Comprehensive report specifying revision/amendments of the Land Act and ways to harmonize the Act with the National Land Policy and other relevant legislations and policies.