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Bhutanese Electoral Administration In Comparative Perspective

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BHUTANESE ELECTORAL ADMINISTRATION IN
COMPARATIVE PERSPECTIVE

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By

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May 2012

BHUTANESE ELECTORAL ADMINISTRATION IN
COMPARATIVE PERSPECTIVE

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THESIS

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INTRODUCTION

Bhutan adopted its first written constitution on 18 July 2008, beginning a new era in its history. According to Article 23, Section 1 of the Constitution of the Kingdom of Bhutan, “Under this Constitution, the general will of the people shall be the basis of the government and it shall be expressed through periodic election” (2008, 46). In line with this provision and to express the will of the people periodically, Article 24, Section 1 of the Constitution provides a legal framework for the establishment of the Election Commission of Bhutan (ECB). On 31 December 2005, His Majesty, the fourth King Jigme Singye Wangchuk, appointed Dasho Kunzang Wangdi as the first Chief Election Commissioner of Bhutan. The ECB was formally established with the opening of its head office in the capital on 16 January 2006. The initial years of the ECB were devoted to drafting the Election Act and various rules and regulations for the upcoming parliamentary elections in 2008.

Bhutanese democracy is unique, and it is worth revealing its uniqueness to the world. The purpose of this study is to evaluate Bhutanese electoral administration from a comparative perspective, particularly in terms of international best practices. Through the Election Act and the Constitution, Bhutan has adopted many best electoral practices from around the world, but it also has its own laws, rules, and regulations. These may be unfamiliar to readers, and deviate from international best practices but they have their own significance and importance to Bhutanese reasoning. This paper explains the justification for such laws from the Bhutanese point of view and considers whether and to what extent they may be aligned with international best practices.

An election is one of the most important features of a democracy, providing opportunities for the people to choose the leaders that they want govern them. For smooth elections and

peaceful transfers of power at different levels, governments need strong Election Management Bodies (EMBs), which act freely and fairly irrespective of pressure from wherever it may come.

According to Clark, Golder, and Golder, half of the elections that occurred in the world between 1946 and 2000 took place in dictatorships (2009, 465). Therefore, the importance of institutionalizing Election Management Bodies (EMB) to manage elections and maintain independence from the executive and other political forces is critical to gaining the confidence of all stakeholders. According to Pastor, “ the character, competence, and composition of EMBs can determine whether an election is a source of peaceful change or cause for serious instability” (1999, 5). He argues that democracy is a work in progress, and it is nowhere perfect. For instance, the 2000 presidential election in the United States raised questions about the conduct of elections and electoral management in the world’s “oldest” democracy.

The field of study and practice of election administration is considered relatively new. There are abundant studies examining both elections and public administration independently. However, electoral administration has been a relatively neglected subject with few available materials. Pastor points out that people in advanced countries simply take for granted the administrative dimension of elections and depend on the media or the political parties to focus attention on the problems (1999, 6). My fundamental source for this thesis is *Electoral Management Design*, a handbook published by International IDEA in 2006.

Historical Political Development

Bhutan is a tiny Himalayan Kingdom, sandwiched between the world’s two most populous countries, India to the south and China to the north. The total area of Bhutan is 38,394 sq. km, with an aerial distance of around 350km from east to west and around 150km from north to south (Wangchuk, 2010). Despite being a small country, Bhutan was ruled by various

regional chieftains until Shabdrung Ngawang Namgyal unified the country in the 17th Century. After unification, the country faced serious external threats from Tibetans, Mongols, and finally the British. Although she lost parts of territory in Sikkim, Assam, and Bengal to the British during a brief but fierce war in 1864-65, Bhutan never came under British rule and maintained independence throughout her existence (Gallenkamp, 2010). During Shabdrung's reign, the country had a dual system of government composed of religious and political branches. Je Khenpo¹ headed the religious branch, which had authority over the Buddhist monasteries in Bhutan, and the Druk Desi² headed the political branch of administration (Gallenkamp, 2010).

However, the death of Shabdrung in 1651 created a vacuum in the leadership of the country and infighting between rivals for the Druk Desi led to civil war. It was only in 1885 that Ugyen Wangchuk was able to consolidate power, and in 1907 he was elected as the first hereditary king of Bhutan. After a century of absolute monarchy, the fourth King Jigme Singye Wangchuk stunned the nation on 14 December 2006 with a royal decree that declared his abdication from the golden throne in favor his son, HRH Jigme Khesar Namgyel Wangchuk (Fifth King), and announced the introduction of democracy (Nadik et al., 2007). It is a unique experience, unlike other countries where democracy was often achieved with bloody rebellions and warfare. Democracy in Bhutan was initiated from the throne, when the country enjoyed unprecedented peace, stability, and prosperity, and, in a way, against the will of the people who literally worshipped their wise and visionary monarchs (Wangchuk, 2010).

The fourth King handed over his responsibilities to the Crown Prince, stating “The time has now come for me to hand over my responsibilities to Trongsa Penlop³ Jigme Khesar

¹ Je Khempo – Chief Abbot of Bhutan, also Head of the Monastic Body.

² Title given to the temporal ruler of Bhutan from 1851 – 1905.

³ Title generally given to the heir apparent of the Kingdom of Bhutan.

Namgyel Wangchok. I am confident that a very bright future lies ahead for Bhutan with the leadership of a new king and a democratic system of government that is best suited for our country, as enshrined under the Constitution” (Kuensel, 2006a). The Royal decree left the whole nation in tears, yet there was also optimism and confidence that the son and heir, Jigme Khesar Namgyel Wangchuk, would take the country to new heights of glory. The people of the country also felt that they should stand strong and work together for the vision of their beloved king in making the country’s transition to a democracy a successful gift to the people.

The democratic transition at the time was considered to be the best path, and His Majesty explained that Bhutan could not hope for a better time to face such an important event.

Today, the country enjoyed peace and stability, and security and sovereignty was ensured. After phenomenal development and progress the country was closer than ever to the goal of economic self-reliance. Bhutan’s relations with its closest neighbor and friend, India, had reached new heights. International organizations and bilateral development partners were ready to support Bhutan’s development and political transformation (Kuensel, 2006a).

His Majesty, the fourth King, said that no one in Bhutan is indispensable, not even the king. According to the Article 2 and Section 20 of the Constitution, “the Druk Gyalpo shall abdicate the Throne for willful violation of this Constitution or being subject to permanent mental disability, on a motion passed by a joint sitting of the Parliament as laid down in sections 21, 22, 23, 24, and 25 of this Article” (2008, 8). Thus, the transition to democracy was scripted from above and is viewed from all over the world as an extraordinary act of the Bhutanese king.

THE MODEL OF ELECTORAL MANAGEMENT

The construction of participatory and competitive institutions is the basis for the democratization of a country, and Electoral Management Bodies (EMBs) are important institutions for democracy building (Pintor, 2000, 11). EMBs deal directly with the organization of multiparty elections and indirectly with governance and the rule of law. Thus, a strong EMB is among the foremost elements needed for a high-quality democracy in any country. The design, operation, and performance of EMBs play crucial roles in democratic consolidation.

A critical question arises: Where should an EMB be placed within the state's overall organization? An EMB's position in the state's structure considerably shapes the direction of the institution in the long run. Pintor explains in his discussion paper for the UNDP that the main factors that condition the development of electoral systems in different parts of the world appear to be constitutionalism, a willingness by leaders to negotiate during the transition period, the scope of the economy, and the extent of mass protest. He also holds the view that some elections run by the executive branch remain tied to history, and that the more recent trend worldwide, particularly in new democracies, is the movement towards an independent and multi-party based commission (2000, 20).

Although no two countries share exactly the same electoral management system, experts around the world have classified electoral management into three broad models. The three models are the Independent Model, the Governmental Model, and the Mixed Model, which are distinguished by the composition of the members of the EMB. According to the International Institute for Democracy and Electoral Assistance (IDEA), under the Independent Model elections are organized and managed solely by an election management body (EMB). In this type of model, the EMB is independent from the executive branch of government and manages its

own budget. The EMB may be accountable to the legislature, judiciary, or the head of state, but it is not accountable to the government. The members of the EMB are mainly composed of people who are from outside the executive branch while they are in office (2006, 7). A few examples of countries whose EMBs approximate the Independent Model are Australia, India, Thailand, and Bhutan.

The second model is the Governmental Model of electoral management. As its name suggests, the government structures the EMB under this model. According to IDEA, this type of electoral management is common in those countries where elections are organized and managed by the executive branch through a ministry (such as the Ministry of the Interior) and through local authorities. The executive branch through a central ministry and local authorities is responsible for carrying out elections. In this type of model, the EMB is answerable to the executive, and the budget of the EMB falls under the government (2006, 7). Developed and old democracies like the United States, Denmark, New Zealand and the United Kingdom fall under this model.

The third model is the Mixed Model of electoral management. According to IDEA, under the Mixed Model the EMB consists of two components. One component is independent of the executive branch of government. This independent component is responsible for monitoring, supervising, and setting policy for implementation. On the other hand, a governmental component, located within a central ministry or local government, is responsible for the implementation of policies laid down by the independent component (2006, 8). However, powers and functions sometimes overlap, often giving rise to friction within the EMB and resulting in a loss of trust from the voters. Examples of the Mixed Model of EMB are used in France, Japan, Spain, and former French colonies.

International IDEA's 2006 survey of electoral management in 214 countries and territories around the world shows that 55 percent follow the Independent Model. Of the three models discussed above, the Bhutanese EMB most approximates the Independent Model. Bhutan is one of the newest democracies, and like most new democracies, its independent EMB is clearly mentioned in its Constitution. According to Article 24, Section 2 of the Constitution of the Kingdom of Bhutan, "the Election Commission shall be independent and shall consist of a Chief Election Commissioner and two Election Commissioners appointed by the Druk Gyalpo⁴ from a list of names recommended jointly by the Prime Minister, the Chief Justice of Bhutan, the Speaker, the Chairperson of the National Council, and the Leader of the Opposition Party" (2008, 49). This emphasis on autonomy in the Constitution would seem to preclude governmental influence over the Bhutanese EMB. The Election Commission of Bhutan (ECB) is not only independent; it is also given constitutional status in the Bhutanese Constitution.

However, it is surprising to find some documents that question the independence of the ECB. Recently, the Chief Election Commissioner of Bhutan, Dasho Kunzang Wangdi, outlined his concerns over the government's invasion of ECB independence. According to him,

the Election Commission, as a body envisaged to be independent of the control of parliament and executive, stands not to be truly so any longer, and it is on the receiving end with the enactment of the Civil Service Act of Bhutan 2010 curtailing its independence over its personnel; and the Amendment Bill to the Election Act of the Kingdom of Bhutan attempting to arbitrarily provide public resources to finance organizational operations of political parties elected to Parliament and to require the Election Commission to report to the Parliament on an annual basis. The concerted effort to strait-jacket the ECB to be no more important or independent than other constitutional entities and consistent attempts to render it subservient to the executive and parliament is now our genuine concern, as we are fearful of whether future elections in Bhutan can truly be free and fair. The Chief Election Commissioner is

⁴ Druk Gyalpo – Formal title of reference to His Majesty the King of Bhutan.

periodically faced with the threat of impeachment for any decision made by the Election Commission that does not suit the palates of elected leaders (Dasho Kunzang Wangdi, 2011, 4).

The Chief Election Commissioner's concerns are genuine and connected to recent events. After the enactment of the Civil Service Act of Bhutan in 2010, the commission is fighting hard to protect its independence. The disagreements between the commission and the legislature have made the headlines of the country's leading newspapers. According to the legislation, "this Act shall apply to the Royal Civil Service Commission and all civil servants of the Kingdom of Bhutan. All civil servants shall function in accordance with this Act and Bhutanese Civil Service Rules framed by the Royal Civil Service Commission" (Civil Service Act of Bhutan, Chapter 1, Section 3-4). The Act does spell out that it is not applicable to constitutional office holders but it does apply to the ECB secretariat and staff. This is mainly because the staff members recruited to the ECB during its initial formation all consisted of civil servants working in different ministries of the government under the jurisdiction of the Royal Civil Service Commission (RCSC). It also means that the ECB does not have its own staff and depends on the RCSC for staff management.

As any independent entity would do, the ECB moved to delink its staff from the RCSC in 2009 and claimed the independent status of its staff after the enactment of the Constitution of Bhutan and the Election Act by the new parliament. The ECB wanted to achieve self-reliance in human resources, thus enhancing its stability, sustainability, and future prospects. However, many senior and mid-level staff resigned from the ECB to continue in the RCSC. The staff that left the ECB cited its lack of a career ladder and opportunities for academic upgrading. The RCSC, which was established in 1973, has more robust career opportunities, as it supervises the country's civil service in all ministries and has career ladders up to secretary.

After a year of the ECB's move to delink its staff, the Civil Service Act shook up the commission again. One of the very important elements of the commission's independent status is managing its own staff. An independent EMB has power to hire and fire its own staff. This helps the EMB maintain the loyalty and integrity of its staff. On the other hand, the present scenario in light of the enactment of the Civil Service Act makes the commission powerless with no control over its staff, which affects the functioning of the EMB. According to Pintor, political confidence and neutrality are the reasons most often invoked in support of creating a permanent electoral administration, although technical and administrative efficiency have equal importance. Most experts believe that electoral commissions in new democracies have frequently been slow in delivering efficient services, largely because electoral administration continues to be temporary (2000, 66). Thus, it is very important to have a permanent staff under the ECB's authority. It will help the ECB to function without fear of favoritism in performing its duties, as it will not be under an executive branch run by politicians.

Another concern highlighted by the Chief Election Commissioner (CEC) was an attempt to add another section to Chapter 7 of the Public Election Fund Act of the Kingdom of Bhutan (2008), allowing the government to finance political parties. As Article 16, Section 1 of the Constitution and Chapter 15, Section 277 of the Election Act state, "Parliament shall, by law, establish a Public Election Fund into which shall be paid every year such amounts as the Election Commission may consider appropriate to fund registered political parties and their candidates during elections to the National Assembly and candidates to the National Council" (2008, 31). The Constitution and the Election Act allow public financing of political parties and candidates during election periods. The government on the other hand, wants public financing extended to political parties on a permanent basis. The ECB has cautioned the National Assembly on the

proposed new section, which approves state funding to political parties, calling it unconstitutional. The ECB is of the view that state support to political parties would violate Section 4 (d) of Article 15 of the Constitution. This Section states that, “it [political party] does not receive money or assistance other than those contributions made by their registered members, and the amount or value shall be fixed by the Election Commission” (2008, 31).

Political parties are allowed to raise funds from fees and voluntary contributions of registered members. Other than that, political parties cannot receive assistance from any domestic or foreign sources. Whereas two political parties of Bhutan have borrowed money from financial institutions for their operating expenses, the contributions made by their members is very limited. The wealthy party members cannot contribute more than the amount fixed by the commission, and most of the other members are villagers, who cannot afford to contribute. The party offices in most districts are closed, due to an inability to pay utility bills and party cadres. The financial institutions have warned the parties that they are delinquent in repaying their loans. The financial situation of the parties is in a grave state. The ruling party has been arguing that, without state funding, the survival of political parties will be difficult, and there would be no democracy in the absence of political parties.

The ECB maintains that any change in the act will hamper its operational independence. The government has made several attempts to fund parties since 2008, but the hard-line approach taken by the ECB to protect the free, fair, and level playing field for all political parties has slowed down the process. Recent headlines in Kuensel, Bhutan’s largest selling newspaper, have highlighted the government’s futile attempt to pass state funding of political parties. Stiff resistance from the opposition party, the non-partisan National Council (Upper House), and the ECB has managed to keep the government from passing the bill (January 7, 2012). According to

the ECB and the National Council, approval of such a bill will make it hard for new political parties to challenge the already established parties, and the use of public money for political parties will be questionable. Kuensel reports that some not well-to-do countries have tried this out and have had problems. Some political parties were found to exist only in the print media, and appeared to function only when funds were received (2012).

The Chief Election Commissioner also points out that government attempts to make the commission report to Parliament annually will hamper its independent status. Reporting to parliament is considered good for the accountability of the commission and getting suggestions from the legislature will help maintain transparency. However, the commission might have sensed unjustifiable interference in its performance by the legislature, which will ultimately hinder the day-to-day activity of the ECB.

The commission is also fighting tooth and nail against the government on the controversial issue of the Constituency Development Grant (CDG). The CDG is unconstitutional, according to the Election Commission of Bhutan, the opposition party, and the National Council. The government was able to pass the CDG bill, given that the opposition has just two seats in the 47 member National Assembly. The ECB, the National Council, and the opposition argue that the CDG fund, which amounts to Ngultrum 2 million annually in each constituency, will help the ruling party as a form of pork barreling. They are of the view that any new parties and the opposition party will not have a level playing field. Many political analysts feel that this will impede the growth of new parties in an already party-constrained country. It is the ECB's job to make sure that all parties and candidates are on an equal footing. People in general believe that such practices will lead to serious corruption, like that affecting neighboring

India and Nepal. Bhutan needs to carefully make a decision that will avoid corruption problems, as she cannot afford to repeat errors committed by other new democracies around the world.

THE LEGAL FRAMEWORK

Elections are one of the state's biggest activities and since they involve the whole nation, holding free and fair election is one of the outstanding challenges faced by EMBs. The main obstacle is the EMB's lack of independence and capability, due to lacuna in the legal framework of election administration. Manipulation and interpretation of election laws for political benefit are common phenomena across old and new democratic countries. Although formally independent of the executive in new democracies, EMBs are susceptible to pressure from political players and external forces. They often succumb and become ineffective in their role of holding free and fair elections.

The nature of electoral administration is determined by a country's legal framework, as per the needs and situation of the state. The legal frameworks of the new democracies that evolved in late 20th century are mostly outlined in their respective constitutions, but since elections are complex processes, the content and level of detail varies from country to country. According to Stino (2006), "to promote consistency, equity and common understanding of electoral frameworks, the electoral process requires a clear, simple and relatively comprehensive legal definition."⁵ Therefore, the legal framework is a guide for the EMB that should give confidence in electoral processes and legitimize its functions. The legal framework of an EMB should encompass its functions, structure, powers, and responsibilities. According to IDEA, legal frameworks are based on different sources: international documents, the constitution, national laws, and provincial or state laws; ordinances and regulations made by national or lower-level authorities; regulations, proclamations, and directives issued by an EMB; custom and

⁵ This is a response of the ACE Network facilitator concerning the legal framework (See <http://aceproject.org/electoral-advice/archive/questions/replies/652930030>).

conventions; administrative policies made by an EMB or other bodies; and codes of conduct (2006, 43).

As the organization and administration of electoral processes are complex, the written laws and regulations are usually specific to offer the benefits of certainty, visibility, and transparency to the stakeholders. It also helps in judicial review whenever problems arise and are easy to comprehend. According to IDEA, “the legal certainty provided by detailed exposition of electoral processes embedded in law, backed by constitutional authority, will tend to promote confidence in consistency, fairness and even-handedness of electoral administration, and provide clear opportunities for legal redress” (2006, 44). Undoubtedly, legal frameworks for EMBs must be explicit and supported by laws in order to strengthen free and fair electoral processes.

The legal framework of the Bhutanese electoral administration is based on the Constitution and the Election Act, the Public Election Fund Act, the Media Act, the Penal Code, and the Local Government Act. In addition, there are various series of rules and regulations issued by the ECB that give more detailed provisions about procedures for different aspects of elections. According to the report submitted by the EU Election Observation Mission (EU EOM) to Bhutan (2008), most of the legal framework of the ECB is considered to have met the international standard of best practices. In accordance with the EU election observer’s methodology, the primary source of Bhutan’s legal framework is the Universal Declaration of Human Rights (UDHR),⁶ which provides for the fundamental rights essential to genuine democratic process and is broadly accepted to form part of customary international law. The EU EOM also considered the convention of Elimination of All Forms Discrimination Against

⁶ Bhutan joined the United Nations in 1971 and is a party to UDHR but has not signed the International Covenant on Civil and Political Rights (1966).

Women (CEDAW)⁷ and the International Convention of Elimination of All Forms of Racial Discrimination (ICERD),⁸ to which Bhutan is a State Party (EU EOM, 2008).

However, no legal framework is perfect, and some aspects of Bhutan's legal framework are not considered up to international standards. The legal framework of Bhutanese electoral administration might have borrowed ideas from best practices of the world, but some characteristics were incorporated to suit the country's needs. The unique features of the Bhutanese legal framework are discussed in the remainder of this section.

Article 23, Section 3 (e) of the Constitution of the Kingdom of Bhutan and Section 176 (d), 177(d) and 178 (d) of the Election Act of the Kingdom of Bhutan require candidates to hold a bachelor degree to contest a seat in the National Assembly (NA) or National Council (NC), or to serve as Thrompon.⁹ The ECB also has qualification criteria for local government posts like Gups¹⁰ and Tshogpa.¹¹ According to Section 21(d) of Local Government Act, "a person shall be qualified to be elected as a member of the Local Government, if he/she is: functionally literate and possesses skills adequate to discharge his/her responsibilities as certified by the Election Commission of Bhutan or possessing a formal degree in the case of candidates for Thrompon" (2009, 6).

These criteria were controversial from the beginning, as most stakeholders felt that they restricted the right to stand as candidates. They were also sharply criticized by the EU Observation team. There were numerous complaints and conflicts after the ECB's definition of a

⁷ Bhutan is a State Party of the Convention of Elimination of All Forms of Discrimination Against Women (CEDAW) (1979).

⁸ Bhutan signed but has not yet ratified the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) (1966).

⁹ Thrompon – City Mayor.

¹⁰ Gup – Head of a County.

¹¹ Tshogpa - Bloc heads or village heads.

formal university degree as “a university degree not lower than a Bachelor’s Degree conferred on the person after having pursued a formal course of study at a university of higher learning recognized by the Royal Government of Bhutan and attested by a competent authority in the kingdom” (2009, 7). By issuing such criteria, the ECB categorically extinguished the hopes and aspirations of many citizens who were interested in participating in politics and contesting elections. Many candidates holding degree certificates through distance education from the Bhutanese Education Institute and from outside were also disqualified. The candidate must have undertaken a structured course of full-time study in a formal classroom setting for the required period of time; distance education is not considered valid.

The rationale for such qualifications was explicitly explained in the guidelines issued by the ECB. The ECB argues that these positions are of great importance to the nation, and that voters should elect the most able and qualified candidates. Parliament and the Council of Ministers are responsible and accountable for good governance and for ensuring the well-being of the Bhutanese people. The commission also reiterates that to promote and safeguard the present and future interest and well-being of the Bhutanese people, it is important that the electorate in Bhutan has the opportunity to elect capable and qualified candidates. The Thrompon (city mayor) in local government is also a very important post, as the cities are developing into centers of economic activity and provide a relatively high standard of living. They need qualified and able leaders. Similarly, local government leaders are responsible for all development activities, implementing plans and policies for the government, and for providing democratic and accountable government for local communities.

Setting qualifications for office-holding is one of the most important decisions made by the ECB, and the impact of this can be seen today. Bhutan is one of the last countries in the

region to make the transition to democracy, and it has been able to avoid some of the mistakes committed by neighboring states. Indian electoral laws have no criteria on academic qualifications, and many Indian M.Ps are illiterate. It would be difficult to argue that qualified people are better and wiser leaders, but most of their work demands expertise to understand the complex process of running the country. Bhutan, being a very small country situated in between the two most populated countries on the earth, cannot afford even small mistakes in day-to-day dealings with her neighbors and the world community as a whole. Responding to criticisms of the qualification criteria, CEC Dasho Kunzang Wangdi stated that “when the minimum qualification for even a driver employed by the government today has reached class ten, it was shocking to hear Assembly members express views against education qualifications for future parliamentarians who would have to discharge very high responsibilities as law makers, and members of the government and opposition party” (Kuensel, 2006b).

A good example of a failed democracy is Nepal. The lack of qualifications for legislators was not the only factor that led to instability, but it certainly contributed to the lack of good governance. Bhutan strives for good governance, and the qualifications of legislators play an important part in implementing and enacting laws for good governance. Any policies enacted will have serious consequence for Bhutan’s sovereignty. The Bhutanese Parliament today is known to be one of the most qualified, as stated by the Honorable Prime Minister of India while addressing the inaugural session of the First Parliament of Bhutan in May 2008 (Wangdi, 2009).

In most democracies qualification requirements are not considered important, but Thai electoral law requires academic qualifications. According to Part 5, Section 31 of the Electoral Law, “in cases where the candidate has never been a member of the House of Representatives or a senator, he or she shall have evidence of having graduated with at least a bachelor degree or

equivalent, as prescribed by law or certified by the Ministry of University Affairs or the competent state agency” (Wong and Hananuntasuk, 2005, 112). Bhutan and Thailand share similar qualification criteria to contest for a seat in the two houses of the national parliament.

A second aspect of the legal framework that is said not to meet the standard of international best practices is Article 23 Section 4 (a) of the Constitution and Section 179 (f) of the Election Act of the Kingdom of Bhutan, which disqualify Bhutanese citizens married to non-citizens. This criterion looks undemocratic to most outsiders, but for the majority of Bhutanese there was never any question on this issue. As mentioned earlier, the country, which is sandwiched between two giant neighbors, needs to preserve its unique identity. For hundreds of years of its history, Bhutan has kept itself isolated to avoid the influence of the outside world. In contrast, Sikkim, now a small northeastern state of India, lost her independence. Sikkim was an independent nation until 1975 but became part of India when immigrants from Nepal outnumbered native people. Bhutan with just seven hundred thousand people cannot ignore the fate of her neighbor. Therefore, the government discourages Bhutanese from marrying from outside the country and believes that maintaining a strict policy on immigration is needed to maintain its future sovereignty.

A third interesting law that violates fundamental rights in the eyes of many international scholars stipulates that members of religious communities are excluded from voting in elections. According to Article 3, Section 3 of the Constitution, “ it shall be the responsibility of religious institutions and personalities to promote the spiritual heritage of the country while also ensuring that religion remains separate from politics in Bhutan. Religious institutions and personalities shall remain above politics” (2008, 9). Section 184 of the Election Act further states that

a truelku¹², lam¹³, any influential religious personality or ordained members of any religious or religious institutions excluding the laity, as determined/registered as religious personalities under the provisions of the Religious Organizations Act, 2007, shall neither join a Political Party nor participate in the electoral process as they must remain above politics and cannot use their influence for the benefit of any party or candidate (2008, 66).

Bhutan is a very religious country and people's belief in religion is very high. It is considered very important that religion and politics do not become entangled. There are many highly regarded spiritual and religious figures. If religious leaders are allowed to participate in elections as voters, candidates, or supporters of a political party, people will blindly vote or side with them, irrespective of their knowledge of politics or governance experiences. The Bhutanese Constitution considers religion as a separate institution, and religious personalities must remain apolitical. This law does not discriminate among people of different religious communities but treats them all very highly. The Constitution expects that religious personalities, institutions, and organizations use their influence to promote peace, harmony, and the spiritual development of society in general. The goal is to serve the country in the best possible way.

In contrast, religious figures in India have created many problems in politics. Similarly, Thai law prohibits Buddhist monk from voting, even though leaders of other religious faiths are not (Wong and Hananuntasuk, 2005, 45). While international observers argue that both the laws in Bhutan and Thailand are not in accordance with internationally accepted norms and standards, Hindu-Muslim conflicts incited by political and religious leaders for electoral gain are very common in India. Since the independence of India, political parties have used religion extensively to gain electoral support. Communal riots have been common incidents, causing

¹² Truelku- Reincarnated Buddhist teacher.

¹³ Lam- Learned Buddhist monk.

thousands of deaths and homeless people. The Gujarat riots of 2002 in India between Hindus and Muslims were especially bloody, leaving thousands death or homeless (Agraharkar, 2005). The impact of religion is so great that it would be wise for Bhutan to keep religion separate from politics, for the peace and harmony of the people.

THE POWERS AND FUNCTIONS OF EMBs

Conducting elections is not an easy affair, as it involves and affects every individual of the country. In order to carry out such a huge task, EMBs must be backed by a strong legal framework giving them the powers to achieve their mandate. EMBs view these powers as important for organizing elections and at the same time enhancing their standing among election stakeholders and the public at large. It is of utmost importance that the powers of the EMB are explicitly mentioned in the legal framework in order to give legality to its activities. An EMB with a strong legal framework is the backbone for successful free and fair elections. The EMB must have control over all functions and major processes affecting the elections. Since an EMB is one of the key factors in promoting democratic governance, the legal framework outlining its powers and functions must be clear to carry out its mandate. The institutional design affecting the powers and functions of the EMB in any country is crucial to the quality of its democracy.

The powers and functions of an EMB largely depend on the model that it follows. EMBs that approximate the Independent Model generally have more powers than those that resemble the Governmental Model, but most scholars think that there is no clear difference in electoral law or practice between the “powers” and the “functions” of an EMB. According to IDEA, in some electoral laws, all EMB activities are termed as “powers” and in others they are jointly called “powers and functions,” and in still other cases the law simply lists various activities that an EMB shall perform. Accordingly, it can be argued that an EMB exercises “powers” when it makes its own accords, rules, directions, or determinations that affect the right and activities of stakeholders, such as making regulations and adjudicating election disputes (IDEA, 2006, 61). On the other hand, if the rules and regulations are reviewable by others bodies, such as legislatures, then an EMB functions merely as an implementing agency (IDEA, 2006), and

EMBs in such cases are not independent. Since the powers and functions of an EMB can affect most of the stakeholders, it is common to find that different political forces within the country negotiate political processes. Geographic factors, like the size of the country, and the characteristics of the political and electoral system also influence powers and functions of the EMB. For example, in a large country powers may be decentralized to the regional or provincial levels.

Most EMBs have powers to make rules and regulations in line with the constitution and electoral laws. The rules and regulations are binding to all stakeholders in the electoral process: voters, political parties, candidates, media, and observers. There are some very powerful EMBs that exercise executive, legislative, and judicial powers (IDEA, 2006, 61) in order to restrict the dominance of the executive branch of the government. Some EMBs that approximate the Governmental Model have lesser powers and functions compared to the Independent Model.

The Election Commission of Bhutan has been given enormous powers to carry out its activities, both by the Constitution and the Election Act of the Kingdom of Bhutan (2008). Most of the powers conferred to the ECB are consistent with international best practices. Some of those powers are discussed here. Section 36 (a), of the Election Act of the Kingdom of Bhutan states that the ECB has “powers to introduce any device or system for the purpose of registration of voter, issues of voter photo identity cards to them, conduct of elections, for counting of votes and declaration of result” (sic) (2008, 13).

This clause has given the ECB the authority to use the best and latest technology to make elections easy and simple. In its debut election, the ECB used Electronic Voting Machines (EVMs) for conducting elections. For the next election in 2013, the commission is trying to use a more advance biometric voting machine. Not only would this system be more accurate and

faster in identifying voters, but it would also help the commission to reduce costs in the long run. Under the present system the commission has to make electoral rolls for each polling station and issue new voter photo identification cards (VPICs) in every election, which costs a good amount of money for printing, distribution, and labor. The biometric voting machine will be able to reduce all of these costs, as voters do not require a VPIC to identify themselves. Fingerprints will be used for identifying voters, and voters with matching fingerprints will be able to vote on the machine. This will also help to increase turnout, as many voters get turned away, due to lost VPICs, coming to vote without a VPIC, and presenting the wrong VPIC during polling day. The fingerprints of the voter will be extracted from the civil registry, making voting hassle-free for the voters and the commission alike. This system is also expected to reduce waits to vote and the number of officials required in each polling station.

The Election Commission of Bhutan is proud to be able to use such modern technology to conduct elections during its initial years. There are many developed countries in Europe and the Americas that have been conducting elections for many years but still use paper ballots, which can cause many problems in counting, declaring results, and inviting fraud. The 2000 presidential election in the United States is one good example where paper ballots caused embarrassment to one of the most developed countries. According to Kimball and Kropf, “in response to problems identified by the 2000 election, around 370 counties replaced older voting technologies with optically scanned ballots or electronic voting machines in time for the 2002 election” (2005, 1). The Federal Help America Vote Act (HAVA) was created to provide funding for states to help purchase new equipment and also encouraged states to pass reforms for better and modern technology, rather than using outdated punch card ballots (Kimball and Kropf, 2005, 2). India, the largest democracy in the world, uses the same type of EVM as

Bhutan. In fact, the EVM of Bhutan is actually manufactured by the Electronic Corporation of India (ECIL) and Bharat Electronic Limited (BEL). Both are owned by the Indian government.

In democracies, electoral justice plays a decisive role in ensuring the stability of the political system and adherence to the legal framework, while contributing to the consolidation of democratic governance. Electoral justice is important to ensure that all electoral processes are followed according to the law and to give confidence to the people that their rights are protected. It also makes a platform available to lodge objections to any irregularities of electoral laws, get a hearing, and pursue adjudication.

The ECB has strong mechanisms to ensure that electoral processes are not tainted by irregularities. Section 37 of the Election Act of the Kingdom of Bhutan states that,

The Election Commission shall, in the performance of its functions to adjudicate any matter, have the powers of the Court under the Civil and Criminal Procedure Code of Bhutan in respect of the matter, ... “ And as per Section 44 of the Act “A Court shall not have jurisdiction to question the legality of any action taken or of any decision given by the Election Commission or its officers or by any other person appointed under this Act in connection with an election, except upon receiving an election petition or an election appeal (2008, 14).

The Election Act clearly confers judicial powers to the ECB, and courts are barred from admitting election disputes. During the election period the Election Dispute Settlement System is established for the purpose of having an efficient, effective, fair and transparent system for the adjudication of election-related offences and disputes. However, the EU EOM views the ECB’s exclusive role in hearing election complaints during the election period as not conforming with the best international practices and suggests that legal redress be allowed in a court (2008).

The Bhutanese Election Dispute Settlement System includes three tiers: the District Dispute Settlement Body, the Central Dispute Settlement Body, and the Election Commission. Depending upon the gravity of the allegation and the degree of penalty, the case is resolved at the district or central level, with the opportunity to appeal to the highest level, the Election Commission. For prompt settlement of election disputes, the time frame is fixed. The District and Central Dispute Settlement Bodies dissolve ten days and seven days, respectively, prior to Election Day, allowing an unsatisfied claimant to appeal to a higher level. A court shall admit only appeals of a case settled by the Election Dispute Settlement Body or the Election Commission or complaints on an issue of electoral fraud or malpractice committed on poll day lodged during the election petition period, that is 10 days after the declaration of the election results. The Election Commission or court of law will not admit any complaint lodged after the election petition period. This system is fast, due to the fixed time frame. Other legal matters take a much longer time to resolve in a regular court of law.

A self-assessment of the 2008 Bhutanese parliamentary elections, through a Learning from Experience Programme conducted by the ECB with the stakeholders concluded that the three-tier system of election dispute settlement bodies helped to resolve problems promptly. This is because the cases are distributed to different levels according to their gravity, giving more time for the Central Dispute Settlement Body (CDSB) to focus on serious cases forwarded from different districts. However, there are wide variations in the way electoral disputes are settled. The best practice should provide, at a minimum, that every voter, candidate, and political party has a right to lodge a complaint with the competent election commission or court when an infringement of electoral rights has occurred, and that the appropriate election

commission or court render prompt and fair election decisions (Electoral System and Process, Practice Note UNDP, 2004).

Election disputes are settled in different ways, depending on the country. In South Africa, an Independent Electoral Commission (IEC) and its officers are empowered to resolve objections, appeals, and code of conduct disputes through conciliation. The courts hear election petitions with the Electoral Court acting as the final court of appeal, and the parties must submit the petition within 48 hours of the announcement of the result (EISA, 2010).¹⁴ The system of adjudicating electoral cases varies from country to country, depending upon the legal framework; some examples of dispute resolution systems are Constitutional Courts, Supreme Courts, Electoral Tribunals, and mixed systems. According to Autheman, regardless of the specificities of the institutional system established to resolve disputes related to election results, there is a global consensus that these systems are fundamental to the legitimacy and integrity of dispute resolution (2004).

¹⁴ See the website for the Electoral Institute for Sustainable Democracy in Africa at <http://www.eisa.org.za/WEP/comdisputes.htm>.

THE COMPOSITION, ROLES, AND FUNCTIONING OF EMBs

The compositions of EMBs differ from country to country, based on the electoral management model. The institutional set-up of EMBs, and in particular their compositions, play very important roles in conducting free and fair elections in a country. Structurally independent EMBs provide the foundation required to stabilize democracies. To this end, it is important that the EMB's structure be free of any pressure from external forces in determining policy and implementing major administrative and logistical operations. According to IDEA, Independent and Mixed Model EMBs are guided by a board of members in carrying out their activities, whereas most EMBs that follow the Governmental Model do not have a board (2006). The head of state, a judicial body, and the executive or political party leaders make the appointments of EMB members. The number of members varies, with as many as thirty-one in the Republic of Chad and just one member in Canada. The number of members is usually uneven to make sure that measures adopted by a vote can be decided by a simple majority, without giving undue advantage to the chair of the EMB.

Working in EMBs requires very disciplined and highly skilled people. There must be a capacity to nominate such personnel. The people with strong management skills and a commitment to maintaining integrity under pressure must be nominated to the post of EMB member. The EMB members must be backed by a legal framework, with security of tenure sufficient to help them in carrying out their roles and responsibilities without fear or favor. It is a common practice that the legal framework usually specifies the qualifications required to be an EMB member, as well as their roles and responsibilities.

As discussed above, EMB members need to be the best of the best in management skills. The stakeholders rely so heavily on the EMB members that any shortcoming on their part will

undermine the nation's confidence in the electoral administration and possibly the democratic system. The qualifications for appointment to the EMB board generally include citizenship, a good reputation, an ability to act impartially, professional qualification in the field of law or political science, age, health, and not holding any other position (IDEA, 2006). The qualifications required for appointment to an EMB are detailed in the electoral law, but largely depend on whether an EMB is expert-based, multiparty-based, or a combination of expert and multiparty based.

According to IDEA, Independent and Mixed Model EMBs may have a membership that is multiparty based, expert-based, or a combination of the two (2006). The composition and selection procedures in multiparty-based and combination-based EMBs are not the best practices, as the members' actions may be motivated by political interest. These types of EMBs may have lots of disadvantages, such as no appropriate professional experience or qualifications, gridlock in the implementation of policies, and low a level of trust by the public. A very few countries like Armenia, Colombia, and Congo have multiparty-based EMBs (IDEA, 2006). On the other hand, combined EMBs with multiparty and expert memberships will have difficulty in carrying out their responsibilities, as the expert group and the multiparty group clash over the functioning of the EMB. Combined EMBs are found in Bulgaria, Kenya, and Romania (IDEA, 2006).

Most countries, including Bhutan, India, and Australia, have expert-based EMBs whose members must maintain apolitical status. Though each type of EMB composition has advantages and disadvantages, expert-based EMBs with impartial and neutral memberships are more credible. Generally, people with political credibility, such as members with backgrounds in the judiciary or civil society, are more suitable for appointments to the top job. This is of

upmost importance for conducting free and fair elections in a democracy. The Election Act of Bhutan requires the following qualifications for the appointment of EMB members:

- a) A natural born citizen of Bhutan;
- b) Not married to a person who is not a citizen of Bhutan;
- c) Not convicted of any criminal offense; and
- d) Not in arrears in taxes or other dues to the Government.

There is no other qualification mentioned other than the above criteria. However, it is understood that nominations of members are usually based on their expertise and experiences in the civil service, and their proven track records of integrity and honesty in public and private life. As mentioned above, the King appoints ECB members in Bhutan, acting on joint recommendations. The ECB consists of three members, one Chief Election Commissioner and two commissioners.

The terms of office for members of EMBs are usually defined in the legal framework. Fixed terms are common among the permanent EMBs. On the other hand, non-permanent EMBs have part-time members. Non-permanent EMBs are found in countries where election dates are fixed, and EMBs have no major roles or responsibilities between election cycles. The Bhutanese EMB is a permanent one, and its members have fixed terms of office. All members have five years terms or must retire at sixty-five years, whichever is earlier. Members of the EMB cannot be removed from office, except by way of impeachment. The fixed terms of EMB members in Bhutan enhance the security of their tenure, and the perks for their service are prescribed by law, making the post of EMB member sacred and enabling them to act without fear or favor. This is the standard practice all around the world, though the term of office differs from country to country.

According to IDEA, the term of office in Pakistan is three years. Members of the Indian EMB have tenures of six years or up to the age of 65 years, whichever is earlier. Canada, Ghana, Malaysia, and Poland have no fixed term of office, in which case the EMB chair remains in office until he or she reaches retirement age (2006).

IDEA considers full time EMB members with fixed terms of office to be a good option in countries with recurring election activities, ongoing voter education and information, and continuous voter registration or continuing election reforms (2006). Therefore, to carry out such responsibilities, an EMB should function continuously and not be limited to a time period just before the election. Bhutan has opted for full time members, considering the transition of the country to a constitutional parliamentary democracy with no experience of elections at the national level. The need for continuous education of voters with very limited knowledge of electoral processes and democracy also favored the permanency of the EMB. Another reason is that the neighboring countries of Bhutan have permanent and fixed term of office for their EMBs, which might have influenced the outcome. According to a UNDP report on *Electoral Systems and Processes*, the permanent EMB option is costly, but over the long term, permanent commissions are more cost-effective and are much better avenues for building up substantive expertise in electoral administration (2004, 11). The term of office of EMB members must be timed so that the appointment does not coincide with election years, and so that management can master its roles and responsibilities before the next election.

EMBs are the main institution that protects democracy, and they should follow standard regulations in maintaining transparent processes of democratic decision-making. However, the model of electoral management and the prerequisite conditions prescribed in the electoral law of a country influence the method of EMB decision-making. According to IDEA, where the

Governmental Model is used, EMBs hardly have any members and usually the executive branch of the government directs the administration (2006). Under the Independent Model and the Mixed Model, electoral laws may specify the decision-making process, such as the roles of the EMB chair and members meeting in plenary. Universally decisions reflect the view of the majority.

The Election Act of Bhutan specifies that “all acts and orders of the Election Commission shall be expressed in terms of views of the majority among the Chief Election Commissioner and Election Commissioners present and voting” (2009, 11). The decision making process in the Indian EMB is similar to the ECB, with majority votes among the three commissioners. However, multiparty-based or partisan EMBs sometimes risk or cripple decision-making on sensitive issues. This type of EMB will have adverse impacts on the confidentiality and security of election processes. The conventional wisdom believes that having political party representatives on an EMB may cause dissatisfaction and that de-politicization will be a better option.

PLANNING AND IMPLEMENTING EMB ACTIVITIES

Successful elections do not happen without proper preparation and planning. Carrying out the plan and policies of the EMB requires support from all sectors of society, as well as the staff within the EMB secretariat. The huge responsibility of conducting electoral processes and maintaining democracy is a daunting task for an EMB alone to carry out. Elections are considered to be tests of democratic society, and the responsibility of bringing new leaders into office is one of the main tasks of the democratic system. Thus, planning and implementing activities is one of the most important functions of an EMB. It is the primary responsibility of EMBs to develop a strategic plan to fulfill responsibilities legally entrusted to it by the country. According to IDEA, the EMB secretariat is responsible for policy implementation in all models. The EMB members in the Independent Model and the Mixed Model do the planning and policymaking, but in the Governmental Model the executive branch of the government is responsible (2006). EMB planning and policy making revolve around the conduct of elections, the implementation of rules and regulations, and assigning roles and responsibilities to stakeholders, both within and outside the EMB.

The members and staff of the secretariats are important individuals involved in planning and carrying out EMB responsibilities. Generally, permanent EMBs have control over electoral activities and have the power to hire and fire their staffs. However, the Bhutanese EMB secretariat is composed of civil servants and does not have the power to manage the staff independently. As mentioned earlier, the ECB has been trying to delink the staff working in the ECB from the RCSC since just after the first parliamentary election in 2008. The independence of the ECB has been questioned, due to its lack of power over its own human resources. The impact of this staff arrangement on the planning and implementation of ECB activities is huge.

The ECB believes that civil servants will lack neutrality, as they may be directly under the control of a ruling politician who may hamper judgments in carrying out their duties. It also causes inconvenience for the ECB if its staff is transferred at the critical time of carrying out electoral tasks. Retaining a highly trained and experienced staff will be difficult, and fulfilling the ECB mandate in the future seems uncertain. In contrast, the Indian EMB is fully independent with powers to hire and fire its own staff, enabling it to successfully manage elections in the world's largest democracy.

Strategic planning is the basic tool that will help the EMB to achieve its goals and objectives. The strategic plan provides EMBs a road map that guides and motivates their performance. The Bhutanese EMB at the center usually does the planning way ahead of its implementation, so that the draft plans can be forwarded to regional offices for feedback and suggestions. The commission normally gets important suggestions from the regional offices, which might have been overlooked in planning at the center. For examples, a festival, or the harvest season of different crops may lead to low voter turnout. The meetings with the regional heads are also conducted to come up with a final electoral calendar, which directs the course of election activities.

THE DEVELOPMENT OF PROFESSIONAL ELECTORAL MANAGEMENT

The conduct of an election is the most complex and demanding operation that a country undertakes and requires specialized skills. The outcome of an election can have serious consequences for the country and the EMB. It is very important that the credibility of the EMB be maintained so that different stakeholders in the country can accept its work. The high stakes faced by an EMB require a professional electoral administrator. IDEA defines a professional electoral administrator as “a person with a range of skills beyond those associated with technical or management qualifications in another specific field” (2006, 151). In addition to being professionally skilled, international best practice recommends that the electoral administrator needs to commit to:

- a. An understanding of strategies for strengthening democratic development.
- b. A commitment to principles that are the foundation of electoral good practices.
- c. A strong commitment to high-quality electoral service to all stakeholders.

Moreover the electoral administrator should embrace the principles of the electoral code of good conduct by inculcating integrity, impartiality, independence, transparency, efficiency, service mindedness and professionalism (2006). The development of such electoral administrators requires permanent staff, which can be trained and mentored for consistent updates of skills and to fill vacancies left by the retired officers. EMBs cannot afford to employ permanently the number of staff needed for all polling stations but maintaining enough staff for day-to-day activities at the central and regional levels is very important. EMBs also need to focus on the welfare and career prospects of the working staff, so that management can retain and nurture the EMB.

The ECB has been very keen to build its human resources, as most of its staff was recruited from the civil service in 2006 during the initial formation of the commission. Most of

the staff holding key posts at the center and at the regional level lacks proper educational background on elections and electoral administration. Institutional capacity building is therefore a priority for the ECB, and the commission has emphasized human resource development since the first historic parliamentary election in 2008. According to the master plan submitted to the Royal Civil Services Commission, the ECB has identified some key areas for the professional development of its human resources. The plan acknowledges competency gaps in financial management, planning, ICT, electoral adjudication, policymaking, procurement, and electoral education (2008).

The commission is of the view that these objectives can be achieved by career development of the staff and by short-term and long-term training both in-country and abroad. The budget for capacity building for the staff over five years is estimated to cost US \$500,000. In-country comprehensive professional development courses, such as Building Resources in Democracy, Governance and Elections (BRIDGE), are conducted annually with the help of the Australian Electoral Commission. Election officials from both inside and outside the EMB are sent on short trips to observe elections in other countries, especially India, to get first-hand experiences. Refresher courses, training manuals, simulation, video, and short election courses are also constantly updated and produced to keep the staff informed about the latest developments taking place in the commission.

However, budget constraints are the biggest factor that has made professional development of human resources difficult. The ECB has been looking for donor countries to finance the program on institutional capacity building but has not received any offers. The international community was very supportive during the preparatory period of the first parliamentary election of Bhutan by providing grants. However, support from these rich donor

countries has not been forthcoming since the 2008 election. The global recession may be another reason for the lack of financial assistance. New democracies like Bhutan need support, as most of the training on capacity building is proposed to take place abroad and a good amount of funds are required. The ECB urgently needs assistance in establishing its credibility and to support the future of Bhutanese democracy.

THE FINANCING OF EMBs

The financing of EMBs is usually an expensive affair. The cost of running an EMB takes quite large chunks of a country's treasury. Developing countries with financial constraints face uphill challenges in allotting adequate budget to EMBs, as most ministries wrestle over whatever resources are available. EMBs in such countries face regular financial crises, due to inadequate and untimely disbursements of budget by the government. EMB funding needs differ, according to the electoral cycle and the temporary or permanent status of EMB staff.

According to IDEA, EMBs are regularly accused of procuring expensive goods and services, such as high technology equipment that is not put to good use, abundant printing of ballot materials, and excessive recruiting of election staff (2006). However, the EMB's main source of funding comes from the state, with the type of funding varying with the model. In the Independent Model funding is separate from the national budget. In Costa Rica, Ghana, and Namibia, it is released directly from the treasury (IDEA, 2006). In others cases it is released from a government ministry. For example, in India it is released from the Ministry of Laws, and in South Africa from the Ministry of Home Affairs (IDEA, 2006). In the Governmental Model, the EMB's budget is usually a part of the budget of the government ministry responsible for implementing electoral processes, as in Denmark and Singapore (IDEA, 2006).

The ECB has full authority over its budget. According to Chapter 3, Sections 41 and 42 of the Election Act of the Kingdom of Bhutan, “ The Election Commission shall have full authority over all aspects of its financial and personnel management. Parliament shall approve the budget of the Election Commission, which shall be charged on the Consolidated Fund of Bhutan. In the case that Parliament fails to allocate budget for the Commission on time, the Ministry of Finance shall provide the Commission with interim funds at least equal to the

previous year's budget" (2008, 16). The ECB has not faced any major funding problem. The ECB submits a budget estimate to the Ministry of Finance every year and receives the budget without any deduction from the ministry. The ECB, consisting of about 150 officials, pays salaries, increments, travel allowances, fuel and various office expenses, and the cost of procuring election equipment.

Concerns have been raised regarding the high expenditures of the ECB. According to a report in the national newspaper, Kuensel, a Member of Parliament objected to the huge amount of money spent on the National Council, National Assembly, and local government elections. The Prime Minister agreed that the election spending was more than necessary, and that it merited some scrutiny, especially at a time when the country was still dependent on financial assistance from other countries that were planning to pull out at any time. According to the newspaper, in developed nations government expenditure is USD 4–5 per vote, and in developing nations USD 1 a vote. However, in the case of Bhutan, the government has spent USD 15-18 per vote (Kuensel, 2012).

The ECB truly needs to have financial discipline and must use different techniques to control expenditures. High expenditures incurred by the ECB are due to several factors, and the cost is expected to come down in the future. Most of the counties and villages are located in remote places, with no proper transportation. It costs more to pay the officials, as well as their porters. The commission also makes purchases like sleeping bags, tents, snow goggles, and boots for officials who have to walk days through snow-clad mountains to reach the polling stations. Helicopters are hired to drop officials and election materials in places where walking is not possible. Voters in these areas were also paid in order to encourage voter turnout. Development

in the future will certainly bring the expenditure down, as all villages and counties will have proper transport and communication.

However, on the other hand, the ECB has been facing severe budget constraints in professional development and human resources. As mentioned earlier, the master plan of the commission has proposed several long-term and short-term training programs within and outside the country for institutional capacity building. The Royal Government of Bhutan does not support these programs, and the ECB has to fully rely on international donors for their support. A few donor countries and the UN have provided funding for short-term training but the majority of the plan has not been able to attract any donors.

STAKEHOLDER RELATIONSHIPS

Maintaining good relationships with stakeholders is one of the key responsibilities of an EMB. Fostering cooperation and updating the stakeholders is important to build confidence in the EMB's policies and programs. IDEA distinguishes between primary and secondary stakeholders. Primary stakeholders include political parties, candidates, EMB staff, the executive branch of government, the legislature, the judicial system, observers, media, voters, civil society organizations, donor countries, and other agencies that are directly affected by EMB activities. On the other hand, secondary stakeholders include EMB suppliers, the public at large, and regional and international networks (2006).

The ECB has been very transparent in its conduct and in the dissemination of rules and regulations to all stakeholders through newspapers, public notifications, and handbooks. However, there have been accusations from political parties and candidates that the ECB is overly strict in its application of regulations, and that it lacks flexibility in its decision-making. According to the EU EOM observation team, registration requirements for political parties are strict. The team recommends reforms to encourage broader political choice with more parties registered (2008).

The guiding principles for political party registration, as required by the Constitution and the Election Act, are broad based and cross-national membership, commitment to national cohesion and stability, no illegal or foreign donations, and that membership not be based on region, gender, language, religion, or other status (2008). These criteria seek to restrict regional parties and to segregate regional politics from national politics. Although different stakeholders have criticized the ECB for strict enforcement of these criteria, the commission has its own reasons for setting such standards. Neighboring countries like India, Nepal, and Pakistan have

seen regional parties play more important roles than national parties. The national governments in these countries have seen more coalition governments than single party governments, causing instability. National issues have become secondary, giving rise to pork barreling. Regional politics in India have also given rise to increased demands to secede from the Indian federation, especially in the northeastern states. The Constitution and the Election Act of Bhutan demand that political parties ensure that the national interest prevails over all other interests and promote national unity for the well being of the nation.

The ECB's relationship with the executive branch has not been cordial for some time, due to differences in opinion and interference by the executive. However, the ECB has been firm on its independence, and any unsavory incident has been directly communicated to the government and media. The ECB's relations with the media and other institutions and agencies are very robust. However, the ECB has media rules and regulations, which have instructions and guidelines to follow during the election period. A media arbitrator appointed by the ECB monitors the air times to ensure equal access to the media for all political parties and candidates. EU EOM finds the rules and regulations are in line with best international practices.

Voters are primary stakeholders, and the ECB places utmost importance on making the election process friendly. Voter education is carried out to inform the electorate about rules and regulations. Voter registration is automatic, as electoral rolls are extracted from the civil registration database maintained by the Ministry of Home and Cultural Affairs (MOHCA). Handbooks, brochures, and election advisories are distributed all over the country. During elections directions are issued to the Road Surface Transport Authority to increase transportation for voter movements and to avoid unnecessary fare hikes by the local bus operators. Polling stations are located at the center of villages to ensure that voters do not have to walk long

distances. Voters in high altitudes are given a monetary allowance to vote in order to compensate for their time. Voter Photo Identity Cards are distributed village wide without the voters having to go to the district headquarters. The ECB fosters very close cooperation with all stakeholders and has a very good reputation and confidence among them.

ASSESSING EMB PERFORMANCE

Keeping track of an EMB's performance is important not only for building credibility but also for learning from mistakes, and thus improving performance in future elections. An EMB should be accountable to the stakeholders and the public with regards to its activities, as large chunks of public money are used. According to IDEA, the EMB has the responsibility to consistently provide legal and ethical service and to meet high financial standards. Accountability has a positive impact on the operations of an EMB. It helps to promote transparency and good governance (2006).

The Chief Election Commissioner of Bhutan had previously served as the head of the Royal Audit Authority (RAA) as the Auditor General of Bhutan. Thus, the ECB was set up with a high standard of transparency and accountability. The instructions are clear and loud that the ECB will not tolerate any misuse of powers or public funds. The expenditures incurred by the commission are displayed on election websites, press conferences are conducted to provide information to the general public, and reports are submitted to the legislature. The Royal Audit Authority is invited annually to assesses and examine the ECB's activities. This checking mechanism is conducted to promote financial probity and integrity.

Another procedure that the ECB has adopted for self-assessment is to meet with election officials. After every election, the ECB initiates the Learning From Experience Program (LEP). The objectives of the program are: (1) share the experiences of different government officials and agencies at various levels and learn lessons related to the implementation of electoral laws, rules, regulations, guidelines, and strategies, as well as the electoral machinery itself; (2) identify weaknesses and problem areas in the electoral process from the point of views of politicians, political parties, election administrators, and members of the media; and (3) come up with

recommendations (LEP, 2008). The LEP was initiated after the first Parliamentary Election in 2008. After it was favorably received by the media and other stakeholders, the commission continued this program following the local government election in 2011. The LEP has enabled the commission and stakeholders to come together under one platform to discuss and assess various issues that may need improvement. This is considered a new tool in election management, and it can be used in other countries where elections reforms are constantly proposed.

EMB NETWORKS

The sharing of ideas among EMB practitioners has grown very rapidly in the last few decades, facilitating the improvement of electoral administration. Organizations involved with elections have increasingly come together at the regional and global levels through well-established networks to find solutions for common problems. According to IDEA, electoral networks foster capacity development among electoral managers and serve as useful forums to address common concerns, such as EMB independence, funding, or the use of technology in elections. The networks open doors for the electoral manager, who no longer has to work in isolation (2006). For example, the Association of Electoral Institutions of Central America and Caribbean (known as the Tikal Protocol) established in Guatemala in 1985 and the Inter American Union of Electoral Organizations (UNIORE) facilitate support and assistance at the regional level (2006). Advocates of international standards for electoral democracy have also established various global forums for the discussion of EMB collaboration. ACE Electoral Knowledge Network, International IDEA, the International Foundation for Electoral Systems (IFES), the United Nations Department of Economic and Social Affairs (UNDESA), and the UNDP are some of the international networks that provide comprehensive information on elections, promote networking among election-related professionals, and offer capacity development services (IDEA, 2006).

The ECB has already signed a MOU with the Election Commission of India. Recently, on 7 March 2012, the ECB signed a MOU with International IDEA. The Election Commission of India as per the MOU will assist in institutional and human capacity building. International IDEA will assist the ECB in developing an action plan for the establishment of a training center, identification of gaps in professional electoral management skills, and human resource

development through training, internships, and long-term academic courses. The ECB has also received assistance from the Australian Electoral Commission (AEC). AEC has been providing the BRIDGE workshop since 2009 to Bhutanese election officials. Therefore, the ECB has been making a sincere effort to connect with international EMBs and election management networks to learn and obtain support for all phases of its work.

REFORMING ELECTORAL PROCESSES

Reforming electoral processes is one of the best ways of getting rid of any undesirable entity or practice that may negatively affect the confidence of the stakeholders. According to IDEA, the primary goal of reforms is to improve electoral processes by enhancing their impartiality, inclusiveness, transparency, integrity or accuracy. Frequent and random changes are not advisable, as they confuse voters and negatively affect the EMB's activities.

The Bhutanese EMB is very young, having been started in 2006. In the process of its growth, the commission needs certain reforms to accommodate many citizens to the electoral processes. The first parliamentary election was a success story, but analysis of the results led to questions about the electoral system. The ruling party won 45 of 47 seats in the National Assembly (95.75 percent) with only 67 percent of the votes. On the other hand, the opposition party with 33 percent of the votes managed to secure only 2 seats, or 4.25 percent of the total number of seats in the National Assembly. The disproportionate division of seats in terms of votes means that many ballots were wasted. Bhutan has a First-Past-the-Post electoral system with single member constituencies, which is simple to administer and easy for the voters to understand. However, the proportions of votes and seats do not correspond. Some eminent scholars in the country have recommended proportional representation, which will help solve the problems faced in Bhutan today.

CONCLUSION

EMBs across the world vary with the political and cultural traditions of the country. The Bhutanese EMB is no different and has its own unique features that suit the country. The world has seen many democracies falter and face serious consequences, due to a lack of strong and capable EMBs. Bhutanese democracy is here to stay, and I am confident that it will grow stronger and stronger in coming years. The monarch's initiative in beginning the transition to democracy and the people's love for their king and the country will work together to fulfill a democratic vision. The fourth king's consolation to people who requested him to continue at the helm of the government was, "Monarchy is not the best form of government because a king is chosen by birth and not by merit. The people of Bhutan must be able to establish a system which works for them" (Sithey and Dorji, 2009). This is the guarantee that the wishes of the visionary king will lead to the flourishing of democracy in Bhutan.

The comparative discussion and analysis of the unique features of Bhutanese electoral administration in this study have shown that some features do not meet international best practices. The academic qualification for candidates to hold a bachelor degree and the exclusion of candidates married to non-citizen restrict the right to stand as a candidate. As discussed earlier, democracy is a work in progress, and Bhutan in due time may reach a point when everyone obtains an education and will no longer feel this restriction. It is similar to the U.S, where the Founding Fathers felt a need for electors to choose the president on behalf of the voters, fearing that the majority of the population was illiterate and not able to judge the best candidates for president. As for the exclusion of candidates married to non-citizens, the rule will stay valid for some time, as Bhutan is genuinely concerned that it faces a Sikkim incident. The legal exclusion of religious communities from the right to vote has been time and again

discussed at the national level. Recently on 27 March 2012 the chhoedey lhentshog¹⁵ defined the religious titles, and it is expected that the lay monks (gomchen), who were excluded in the First Parliamentary Election in 2008, will get to vote in next election in 2013 (Tenzin Namgyel, 2012). These lay monks practice religion, but are allowed to marry and raise families. They are likely to vote in the next election, if they do not receive a stipend or ration from the government.

The Bhutanese EMB is only a couple of years old and already progress has been made toward some electoral reforms. Similarly, I am confident that Bhutan will move forward and revisit electoral laws for further reform in times to come. Chapter 3 Section 45 of the Election Act states “ the Election Commission may review the electoral system when it deems necessary and submit its findings and recommendation to Parliament” (2008, 17). Thus, the commission has the legal power to come up with new ideas and reforms that will serve the people and the country at large. I expect this provision will be fully utilized by the commission in the near future, as we strive for a vibrant democracy as envisaged by our beloved monarch.

¹⁵ Chhoeday Lhentshog - Commission of Religious Organization in Bhutan.

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CURRICULUM VITA

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He completed the PGCE in December 2001 and subsequently served as a chemistry and biology teacher for five years at Samtse Higher Secondary School. In 2006, he was selected in an open competition for the post of District Electoral Officer and served in Mongar District for four years. He has experience in voter education, national elections, and electoral administration. In Fall 2010, he was selected to pursue a Masters Degree in Political Science with a UTEP-Bhutan joint scholarship at the University of Texas at El Paso. After completing his Masters in Spring 2012, he will return to Bhutan and will be involved in the National Assembly and National Council elections scheduled for early 2013.