

BHUTAN

1. Discriminatory family code

Following the Marriage Amendment Act of 1996, the **legal age for marriage** is 18 years for both men and women.¹ Despite the law, the Government reports show that both sexes engage in common-law marriages as early as the age of 15 years.² 2007 Data from the UN shows that 14.3% of women 15-19 years old have been married.³ The national Bureau of Statistics (NBS) reports that **early marriage** is more prevalent in rural areas compared to urban areas in most parts of the country.⁴ According the NBS, 11% of females aged 15 to 19 have already begun childbearing.⁵ The law states that marriages must be based upon mutual consent; however, the Government reports that some underage girls may be forced into the union by parents or other relatives.⁶

While there is no information on **parental authority** during marriage, upon **divorce** the law grants custody of children under the age of nine years to the mother: a requirement that, as the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) Committee has observed, may perpetuate the stereotype of women as primary caretakers.⁷ Children who are 9 years of age or older have the right to choose their custodian.⁸ The father is obliged to pay child support until the child reaches the age of 18.⁹ However, a 2007 survey found that only 14% of female single parent respondents said that they received some sort of financial support from the child's father.¹⁰

Bhutanese **inheritance** law provides for equal rights for all adults and children, regardless of sex or age.¹¹ In practice, however, the Government reports that traditional systems operate which are informal, flexible and often circumstantial.¹² Although patterns vary according to region (patrilineal inheritance norms dominate in the south,¹³ while matrilineal systems are dominant in the western and central Bhutan¹⁴), there is a slight preference of daughters over sons.¹⁵

¹ CEDAW (2007), p. 106

² CEDAW (2003), p. 18

³ United Nations 2012 World Marriage Data

⁴ NBS (2010), p. 165, p. ix

⁵ NBS (2010), p. 108

⁶ CEDAW (2007), p. 106

⁷ CEDAW (2009a), p. 8

⁸ CEDAW (2009a), p. 8

⁹ CEDAW (2007), p. 108

¹⁰ NCWC (2007), p. 30

¹¹ CEDAW (2009b) p. 24

¹² CEDAW (2009b) p. 24

¹³ CEDAW (2003) p. 17

¹⁴ World Bank (2013)

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Bhutanese legislation on divorce is complex. However, women and men have the **right to initiate divorce** under the Marriage Act of 1980.¹⁶ In the case of adultery, the third party is obligated to pay the adulterous woman's husband a compensation for the offence.¹⁷ Different rules apply when the husband commits adultery.¹⁸

The practice of **polygamy** is permissible by law but dependent on the consent of the first spouse.¹⁹ However, the practice may be in decline. The Government reported in 2003 that the practice is accepted in the south, some parts of western and central Bhutan, as well as among some nomadic communities in the north;²⁰ however, in 2007 it noted that polygamy was becoming less popular due to socio-economic changes and increasing education.²¹ In 2010 the NBS reported that 5% of women between 15 and 49 years of age lived in a polygamous union.²²

The Government reports that women remain primarily responsible for **unpaid work** in the family.²³ A 2001 study found differences between rural and urban areas. Women were more likely to be responsible for unpaid or reproductive work in urban areas. In more than 80% of rural households, women cooked, washed clothes, worked in the kitchen garden, preserved food and collected manure. More than two-thirds of rural women took care of children, fetched water, looked after domestic animals and distilled alcohol. Men and women were equally engaged in collection of fodder and in buying food, clothes and other items. However, in more than 90% of households in urban areas, women cooked, purchased food, washed clothes and cleaned the house, while between 60 and 80% of women in urban areas took care of the sick and children, and preserved food. In both rural and urban areas, more than two-thirds of women engaged in primary reproductive tasks.²⁴

2. Restricted physical integrity

In 2013 the government enacted the **Domestic Violence** Prevention Act, which criminalizes the act – including physical, psychological and sexual violence, holds perpetrators accountable based on the gravity of the offence, and provides protection to the victims. Regulations and guidelines are expected to follow.²⁵ In order to address the issue of violence against women generally, the Government has established three Women and Child Protection Units under the Royal Bhutan Police.²⁶ In 2013 the Government also reported to the Convention on the

¹⁵ World Bank (2013), p. 9

¹⁶ National Council of Bhutan. http://www.nationalcouncil.bt/wp-content/uploads/2011/02/Marriage_En_80.pdf (accessed 19/05/2014)

¹⁷ Marriage Act Of Bhutan, 1980. Chapter 3, Kha 3-1

¹⁸ Marriage Act Of Bhutan, 1980. Chapter 3, Kha 3-3

¹⁹ CEDAW (2007), p. 40

²⁰ CEDAW (2003), p. 18

²¹ CEDAW (2007), p. 40

²² NBS (2011), p. 167

²³ Ministry of Labor and Human Resources (2012), Table 10.2

²⁴ Gross National Happiness Commission (2008) p. 34

²⁵ CEDAW (2013), p. 4-5

²⁶ CEDAW (2013), p. 8

Elimination of all forms of Discrimination against Women (CEDAW) Committee that it had conducted training for health workers, police, law enforcement officials, and judicial officers domestic violence and sexual assault management.²⁷

While data varies on the prevalence of domestic violence, a 2007 survey found that one third (32.9%) respondents who had ever had a partner had experienced intimate partner violence in their lifetime; while a subsequent study, using the National Bureau of Statistics (NBS)'s 2010 multiple indicator survey data, found that 14.5% of currently or formally married women reported that they had experienced at least one kind of physical violence from their intimate partner.²⁸ However, both studies agree on the factors influencing women's vulnerability to domestic violence, finding that increases in age, poverty, and rural living positively correlated to higher rates of violence. For example, the 2007 study found that prevalence rate of intimate partner violence in rural areas (40.4%) was close to double that of the rate in urban areas at (25.2%).²⁹ Although the majority of violence was found to be emotional or physical, about 18% of respondents said that they had been forced into sex during their marital life, citing reasons ranging including that it was "his right", "avoiding fights", "being threatened", to "being accused of another affair."³⁰

One of the biggest barriers to combatting domestic violence is social attitudes. In 2010 the NBS found that 68.4% of women in Bhutan feel that their husband/partner has a right to hit or beat them for at least one of a variety of reasons, including neglect of children (54.5%); demonstrations of autonomy, (e.g. go out without telling their husbands) (39.7%); or arguing (39.5%). Around 25% of women surveyed believed that their partner has a right to hit or beat them if they refuse to have sex with him or if they burn the food. Acceptance was higher among those living in rural areas, with less education, and also among formerly married women. Acceptance in the richest wealth quintile was much lower than in lower wealth quintiles.³¹

The Penal Code prohibits **rape**, which is punishable by 3 to 5 years' imprisonment.³² The Penal Code defined 11 different categories of rape, all of which were felonies of the fourth degree or higher, except for marital rape, which is a petty misdemeanour. Marital rape is punishable by a minimum prison term of 1 year and a maximum term less than 3 years.³³ Rape penalties in the Penal Code were amended with severe penalties in 2011; for example, "the offence of gang rape of a child of twelve years and below shall be punishable with life imprisonment".³⁴

The Labour and Employment Bill adopted in 2007 contained provisions on **sexual harassment** in the workplace.³⁵ Although data on the prevalence and nature of the problem are not available,

²⁷ CEDAW (2013), p. 7

²⁸ Choda (2011), Table 1.1

²⁹ NCWC (2007), p. 32; Choda (2011), Figures 4.3 and 4.5

³⁰ NCWC (2007), p. 32

³¹ NBS (2011), p. 174

³² CEDAW (2007), p. 30

³³ CEDAW (2007), p. 30

³⁴ Parliament of Bhutan (2011), Penal Code (Amendment) Act Of Bhutan 2011, http://www.nab.gov.bt/ActParliament/25PCB_4_upload.pdf

³⁵ CEDAW (2009c) para 26

the CEDAW Committee has expressed concern about the lack of access to justice for women experiencing sexual harassment, particularly in the workplace.³⁶

In recent years, the Government has supported several pieces of research into the prevalence of violence against women in Bhutan. In 2007 The National Commission for Women commissioned study that found 29% of women in Bhutan (depending upon the region) had experienced some form of violence, the most common of which was domestic violence.³⁷ The same study found that factors such as age, education levels, and financial security significantly influenced women's vulnerability to all forms of assault.³⁸ In the case of non-partner violence, the study found that the most common perpetrators for physical violence were fathers and teachers, indicating unsafe environment both at home and school.³⁹ Although there are no available statistics on the prosecution of rape and other sexual assaults, the US Department of State reports that many women do not report rape because of cultural taboos, or because they were unaware of their rights.⁴⁰ The Government also states that police and judiciary officials may not know how to deal sensitively with victims of violence or may consider domestic violence as a private matter.⁴¹

There is no evidence that **female genital mutilation** is practised.

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Current use of **contraception** was reported by 65.6% of women currently married or in a union.⁴²

Abortion is illegal under the Penal Code except for the purpose of saving the life of the mother or when the pregnancy is a result of rape or incest, or when the mother is of unsound mental condition.⁴³

3. Son bias

The male/female **sex ratio** at birth is 1.05 and for the working age population (15-64 years old) is 1.12.⁴⁴ There is evidence to suggest that Bhutan is a country of low concern in relation to **missing women** (the relatively high adult sex ratios are possible due to migration).

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Gender disaggregated data on the rates of infant mortality and early childhood nutrition from 2010 indicate that male infants are slightly more at risk,⁴⁵ and primary school rates are approximately equal for boys and girls:⁴⁶ figures which do not indicate a preference for sons in

³⁶ CEDAW (2009a), p. 7

³⁷ BBS (2013),

³⁸ NCWC (2007), p. 26

³⁹ NCWC (2007), p. 20-21

⁴⁰ US Department of State (2012)

⁴¹ Gross National Happiness Commission (2008) pp. 134-135

⁴² NBS (2011), p. 110

⁴³ UN (2013)

⁴⁴ CIA (2014)

⁴⁵ NBS (2011), p. 27

⁴⁶ NBS (2011), p. 147

either health or education. However, World Health Organisation data indicates that girls aged 10-14 were more likely than boys to be engaged in economic activity, both in rural and urban areas.⁴⁷ In terms of the modality of work, girls were more likely than boys to be engaged as a family worker.⁴⁸ This suggests a preferential treatment of sons in the allocation of work in the family. In 2009, the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) Committee also expressed concern about the situation of girl child domestic workers, mainly from rural and remote areas, who work long hours and are vulnerable to violence.⁴⁹

4. Restricted resources and assets

The Land Act of 1979 allows men and women to register **land** ownership at the age of 18. A spouse has no rightful ownership to sell that land.⁵⁰ A recent World Bank report notes the preponderance of matrilineal inheritance practices in large parts of Bhutan, about 60% of rural women and about 45% of urban women have land and property titles registered in their name.⁵¹ Although this has bolstered the economic empowerment of women due to the cultural importance of land, it has also entrenched social roles, since the rationale behind Bhutan's traditional inheritance practices appears to be linked to the care of aging parents.⁵² The matrilineal inheritance system, in combination with social expectations and the lack of urban sector skills, has also meant that the majority of women are engaged in the agriculture sector.⁵³ It has been reported that, due to isolation, limited arable land and food shortages, women who work in agriculture are more vulnerable to poverty.⁵⁴

Men and women have the same legal **rights and access to non-land assets**.⁵⁵ In 2007, the government reported that 45% of property titles in urban areas (shares, building and business licenses) were registered to women.⁵⁶

The Loan Act of 1981 provides women with independent **access to financial services**, including bank loans and other forms of credit.⁵⁷ Data on access to credit indicates that between 2002 and 2006, more women than men were accessing loans although there was a slight increase in the proportion of females. In 2006, women made up 38% of individuals accessing loans. The Government reports that access to credit particularly remains a challenge for rural women.⁵⁸

Bhutan has made progress in female labour force participation (the World Bank reports that the female to male labour force participation rate is about 86%). However increased participation

⁴⁷ WHO (n.d.)

⁴⁸ NBS (2011), p. 161

⁴⁹ CEDAW (2009a), p. 8

⁵⁰ CEDAW (2007), p. 95

⁵¹ World Bank (2013), p. 9

⁵² World Bank (2013), p. 9

⁵³ Ministry of Labor and Human Resources (2012)

⁵⁴ Gross National Happiness Commission (2008), p. 38

⁵⁵ CEDAW (2007), p. 94

⁵⁶ CEDAW (2007), p. 94

⁵⁷ CEDAW (2007), p. 95

⁵⁸ Gross National Happiness Commission (2008), p. 40

rates have not necessarily translated into improvements in employment quality.⁵⁹ The 2012 national Labour Force Survey shows that Bhutanese women work in lower quality jobs than men, as reflected in the fact that women who earn income from work outside the home earn only 75% of men's earnings.⁶⁰

5. Restricted civil liberties

Concerning **access to public space**, Women do not experience any restrictions in terms of freedom of movement.⁶¹ There are no restrictions for women to apply for a passport; they can travel abroad without requiring permission from their husbands.⁶²

However, women remain under-represented with respect to **political participation**. In 2013 women held only 6.4% of the seats in the lower house, and 2% in the upper house.⁶³ In 2010 the Government reported that the participation of women in local governance remains low, with only 0.5% of local public office positions held by females.⁶⁴ Women are also under-represented in other areas of public life. In 2010, women constituted 29.5% of civil service employees and 0.06% of the police.⁶⁵ Similarly, in the judiciary, women made up only 3.4% of Drangpons (including the Chief Justice, Justices, and Dungkhag Drangpons); although they made up 44% of Registrars. The first woman was elected to the Supreme Court in 2012.

It is proposed that women's under representation in decision making positions may be linked to traditional beliefs that women's lack of physical strength and sexual vulnerability make them less capable than men. This view has been further strengthened by religious beliefs that women are further away than men in achieving enlightenment in the cycle of rebirth.⁶⁶ It has also been attributed to the late start of education in Bhutan, particularly for women.⁶⁷ Bhutan's first ever female minister, Dorji Choden, was elected in 2013 for the Ministry of Works and Human Settlement.⁶⁸

Bhutan seems to have an effective women's civil society, although Convention on the Elimination of all forms of Discrimination against Women (CEDAW) expressed concern that the Government does not provide adequate resources to the National Commission for Women and Children (NCWC) to allow it to operate effectively.⁶⁹

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While in principle the **Citizenship** Law allows for both men and women to transfer their citizenship to their children should they marry non-Bhutanese spouses, the situation is not

⁵⁹ World Bank (2013), p. viii

⁶⁰ Ministry of Labor and Human Resources (2012)

⁶¹ CEDAW (2007), p. 105

⁶² CEDAW (2007), p. 57

⁶³ IPU (2014)

⁶⁴ Gross National Happiness Commission (2010), p. 9

⁶⁵ Gross National Happiness Commission (2010), p. 9

⁶⁶ NCWC (2007), p. 24

⁶⁷ NCWC (2007), p. 24

⁶⁸ Bhutan Observer, 25 July 2013,

⁶⁹ CEDAW (2009), p. 3

reflected in practice: children of Bhutanese men who are married to foreign women are eligible for Bhutanese citizenship, while it is often not the case for Bhutanese women married to a foreigner.⁷⁰

Concerning **workplace rights**, the Labour and Employment Act guarantees equality of opportunity and equality in employment for women and men.⁷¹ The law also prohibits gender discrimination with respect to pay.⁷² Women working in the public and private sectors are entitled to three months paid **maternity leave** paid at 100% of wages.⁷³

⁷⁰ CEDAW (2003)

⁷¹ CEDAW (2007), p. 71

⁷² CEDAW (2007), p. 74

⁷³ CEDAW (2007)

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