



## **Bhutan: Notes\* Concerning the Political Role of Kidu**

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### **Abstract**

The original Tibetan concept of kidu (*skyid sdug*<sup>1</sup> or more informally kidu) has been variously considered as welfare, self-help and assistance. In the context of Bhutan, the concept has closely linked the moral authority of the monarch with the economic needs of the public.

The paper considers both the politicisation of kidu (the competition for political space and authority by politicians of the First Parliament, against the received authority of the monarchs) and the de-politicisation of kidu (by the monarchs, notably through land-grant authority reaffirmed in the 2008 Constitution, the establishment of the Kidu Foundation and in other practical ways). Kidu rights and the authority of the monarch is reviewed, with especial attention to the future

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\* I have styled this report “Notes”, because much of the discussion which follows is inference, and the analysis is definitely incomplete (for which I crave the reader’s indulgence). A thorough review of land policy from the Shabdrung’s time is long overdue: although time-consuming, such an in-depth and objective analysis of land policy on a national scale would certainly throw much-needed light on a wide range of motivations and behaviours during the past decades and even centuries.

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<sup>1</sup> Various defined, as e.g. in the Ramjung Yeshe Wiki – Dharma Dictionary: 1) “joy and sorrow, good and bad fortune, ups and downs, happiness and grief / sadness / misery, please [sic] and pain. 2) livelihood, wealth and poverty. 3) membership, society, community. 4) conditions of life; welfare standards; gcig pa – family [RY]”: [http://rywiki.tsadra.org/index.php?title=skyid\\_sdug&oldid=241929](http://rywiki.tsadra.org/index.php?title=skyid_sdug&oldid=241929). Mathou, Thierry, The Politics of Bhutan: change in continuity, *Journal of Bhutan Studies*, vol. 2 no. 2 (Winter 2000), pp. 250-62, refers to kidu as a “welfare system” (p. 233 and 236).

prospects of either diminution or extension of these rights in the future, as the kingdom endeavours to establish “Democracy with Bhutan Characteristics.”

### **The Tibetan usage**

Various authorities see kidu as a form of self-help, usually as cooperative or mutual aid associations which typically administer a fund to assist the economic or spiritual welfare of members.<sup>2</sup> (A commentary on Bhutia death practices in Sikkim notes that kidu “plays a vital role in performing the social function of that community”<sup>3</sup>). A principal commentary appears to be Beatrice Miller<sup>4</sup>; elaborations<sup>5</sup> stress the welfare and communal grouping aspects of kidu and related institutions in neighbouring communities (notably Nepal)<sup>6</sup>. There is also a

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<sup>2</sup> See e.g. kidu as “monastic societies” (Jansen, Berthe, How to tame a wild monastic elephant: Drepung monastery according to the Great Fifth, p. 123), in Ramble, Charles, Schwieger, Peter, Travers, Alice (eds.), *Tibetans who escaped the historian’s net: Studies in the social history of Tibetan societies* (Kathmandu: Vajra Books, 2013), pp. 111-29; but note the author’s comment that “Not much appears to be known about the functions of these monastic societies” (ibid., fn. 30). Of course, not all kidu were related to monastic activity. (I thank Francois Pommaret for drawing my attention to this reference.)

<sup>3</sup> Mukherjee, Bandana, Some aspect [sic] of Bhutia culture in Sikkim, in *Bulletin of Tibetology*, Seminar Volume, 1995, p. 86. The author adds, but without elaboration: “A tendency of democratisation in formation of Kidu may also be deserved [sic = ?observed] in some cases.”

<sup>4</sup> Miller, Beatrice, Ganye and kidu: two formalized systems of mutual aid among the Tibetans, in *Southwestern Journal of Anthropology*, 12 (2) (Summer, 1956), 157-70. The editor in Fisher, James F. (ed.), *Himalayan anthropology* (Berlin and Boston: De Gruyter, 1979), suggests that “the kidu [as cooperative organization] seems to be a basically urban Tibetan phenomenon” (p. 443).

<sup>5</sup> E.g. Muhlich, Michael, Credit relations in Nepal: A preliminary report on the Khatsara and Manange kidu systems, in *Contributions to Nepalese Studies* Vol 24 No.2 (July 1997), pp 201-15; Toffin, Gerard, *From Kin to Caste: the role of guthis in Newari society and culture* (the Mahesh Chandra Regmi Lecture 2005) (Lalitpur: Social Science Baha, 2005).

<sup>6</sup> I have not (yet) been able to consult Ronge, Veronika, *Das tibetische Handwekertum vor 1959* (Wiesbaden, Franz Steiner Verlag, 1978), cited

news report<sup>7</sup> on a contemporary Tibetan village's "mutual aid institution".

### **Kidu in early Bhutan – speculation**

I broadly speculate that in the 17th century, when Shabdrung and his followers travelled to Bhutan and began to establish their communities, they brought with them certain Tibetan concepts relating to local coordination and provision for security. These may or may not have included explicit notions of kidu. But as the size of the communities grew, and the need for protection became manifest, taxes were applied to the general population by those with political, religious and economic power, to sustain the granaries that were constructed in the great dzongs, to provide both for the daily needs of increasing populations within the dzongs in normal times, and for weapons and sustenance to conscripted local fighting men in times of war. The detailed article by Karma Ura on fresh harvest "offering [tax] for blessing" of 1679 in Wangdi district<sup>8</sup> gives a clear basis for the subsequent development of a tax system<sup>9</sup> based on initial offerings although "[i]t seems size of offering was dependent on motivation and not land size."<sup>10</sup>, with no apparent sense of formal reciprocal official obligation to the tax-payers. Kidu as

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by Muhlich as giving (at pp.112-16 and 131-36) "an outline of the organization of kidus that were formerly operating in Tibet, and point[ing] to their possibly higher involvement in political affairs" (Muhlich op.cit., p. 201).

<sup>7</sup> Tenzin Tsondre, Kidu: A Tibetan village's mutual aid institution, in e.g.

[http://www.chinahumanrights.org/CSHRS/Magazine/Text/t20110324\\_724335.htm](http://www.chinahumanrights.org/CSHRS/Magazine/Text/t20110324_724335.htm), drawing on Chen Bo, *Reproducing Shambala: half a century of village life in Central Tibet* (?Chengdu: Social Science Academic Press, 2009)

<sup>8</sup> (Dasho) Karma Ura, Massive rice offering in Wangdiphodrang in Zhabdrung Rinpoche's time, *Journal of Bhutan Studies*, 27,1 (Winter 2012 ), pp 3-17.

<sup>9</sup> See the valuable and cogent analysis presented by Pain, Adam, and Deki Pema, Continuing customs of negotiation and contestation in Bhutan, *Journal of Bhutan Studies*, vol. 2 no. 2 (Winter 2000), pp 219-27.

<sup>10</sup> Karma Ura, op. cit., p 9.

welfare was not yet explicit, but it may already have been implicit since those who give often expect something in return.

Adam Pain and Deki Pema have thrown valuable light on many related aspects:

The issuing of kashos is linked to a traditional right<sup>8</sup> [see endnote 12 below] to seek protection, assistance and relief (kidu) whereby individual households could seek help from both government officials and the King. Indeed the Home Minister was until 1998 known as the Kidu Lyonpo. The seeking of kidu from the King is an established and commonly exercised right and in the matter of land allocation alone, substantial areas of land was given to individual households by the present king between [sic] during his reign (Land Records Office, Ministry of Home Affairs,) *a tradition and exercise of right that can be traced back to the civil rulers (Desi) that predate the establishment of the monarchy* [my italics-bs]. Kidu is also sought for assistance in matters of debt, particularly with formal institutions, and domestic disaster.<sup>11</sup>

The desis also extended kidu in kind, and the second king was especially concerned that the already “rich and powerful” should not become more so, especially in land holdings<sup>12</sup>.

#### **Kidu in Bhutan under Monarchy**

Before the process of development in Bhutan beginning in the early 1960s,

land administration and management in Bhutan ... was not entrusted to any government agency. In those days,

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<sup>11</sup> Pain, Adam, and Deki Pema, op. cit., extract at p.212. Their footnote 8 explains: “‘Right’ not as a legal claim but an entitlement claimed on moral grounds of a shared relationship, which can be vertical (as between sovereign and subject, authority and subordinate) or horizontal (kith and kin, same village etc.)”

<sup>12</sup> Anecdotal comments from older citizens in Thimphu to the author during 2010-2013.

the main source of government revenue was by land taxation. People didn't want to own land as the taxation of land was high.<sup>13</sup>

The third monarch accepted the social utility of kidu as part of his forward-thinking reforms (including the freeing of several hundred bonded labourers). When the National Assembly was established in 1953, land issues occupied much of the deliberations. When the Council of Ministers was formally established by the National Assembly at its 28th session in 1968, the Home Minister was styled "Kidu Lyonpo".<sup>14</sup> A Land Act was established in 1971, "but no agencies followed it"<sup>15</sup>. By 1976 it was necessary to write a new Land Act. The Land Act 1979 was adopted by the 58th Assembly in 1978<sup>16</sup>, but detailed implementation was not easy as discussions in the National Assembly sessions reflect.

In the period 1984 to 1997, the 4th king issued many kashos<sup>17</sup> admonishing officials and Royal Family members for ignoring the spirit and letter of that law, as the following show.

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<sup>13</sup> National Land Commission Secretary Dasho Sangay Khandu, *Bhutan Today*, vol. 6 issue 74 (22 September 2013), p. 1 and 11.

<sup>14</sup> <http://www.nab.gov.bt/downloads/6428th%20Session.pdf>, Item 2 (p.1).

<sup>15</sup> Sangay Khandu, op. cit.

<sup>16</sup> <http://www.nab.gov.bt/downloads/3358th%20Session.pdf>

<sup>17</sup> Nishimizu, Mieko, *Portrait of a Leader: through the Looking-glass of His Majesty's Decrees* (Thimphu: The Centre for Bhutan Studies, 2008). The compiler observes (at p. 71): "Among the collection are five decrees about "land kidu" (royal welfare land grant), addressed mostly to the Home Minister during 1984 to 1991. Compassionate concerns about fair and just distribution of kidu are apparent throughout these decrees. But, what distinguishes these decrees is a palpable sense of frustration – even some anger perhaps – in discovering that land kidu continued to be granted by the Home Minister and others with no authority to do so (a 1980 decree, not included in this collection, established that it is an exclusive authority of the King)."

36. To the Home Minister<sup>18</sup>

With regard to the grant of land kidu, it was decreed that neither you nor any others except me can grant land as kidu, and you have also informed different dzongkhags in the same manner. But you have given away many government lands in contravention of my decree. Therefore, the government should confiscate all the land given either by you or by any royal family member after the date of my decree. You must also conduct a thorough investigation at the time of confiscation to find out if the land is cultivated. If it is the case, then the wages for cultivation and the expenditure for such land should be paid from the national budget. Henceforth, no other person except me can give land as kidu. I will not appreciate anyone granting land in contravention of my decree, and you must once more convey this message to different dzongkhags and departments.

Issued on this 17th Day of the 9<sup>th</sup> Month of the Wood-Rat Year (10 November 1984).

37. To the Deputy Minister of Finance <sup>19</sup>

Despite my decree dated 29 August 1980 to the Home Minister stating that I alone and no other person can grant land kidu, the Home Minister and some royal family members have granted land in contravention of my decree. It is hereby decreed that you should investigate as to who have given the land without my order, with effect from the above-mentioned date and cancel such lands even if they are registered in someone's name and declare them as government land within December 1985.

Issued on this 15th Day of the 5th Month of the Wood-Ox Year (2 July 1985).

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<sup>18</sup> Ibid., p. 75.

<sup>19</sup> Ibid., p. 76.

### **New Land Policy**

The document “New approach to the kidu land policy” was published in July 1988<sup>20</sup> and republished in January 1989<sup>21</sup>.

The royal government has for the past 15 years [i.e. from 1973] been distributing land to the landless and poor as and when such requests were received. The primary consideration was [...] that the less fortunate subjects [...] should be provided with a source of material security and opportunity for income generation.

But the policy - “implemented on an adhoc [sic] and highly dispersed basis” - had not achieved these objectives. Almost all productive land in easily accessible areas was already cultivated or privately registered, while the remote areas lacked infrastructure. Rural labour shortages had been intensified by the programmes of the newly-created national workforce (needing a minimum of 30,000 workers) and enrolments in schools, monastic bodies and the armed forces.

Therefore, henceforth there would be “a comprehensive and planned resettlement programme for landless families applying for land” while there would be “opportunities for landless people to join the national workforce”. It was “hoped that the new resettlement areas will eventually develop into self sustaining communities and emerge as future growth points.”

But problems of implementation of an equitable land policy remained:

41. To the Home Minister<sup>22</sup>

It was decreed that I alone can grant land kidu and the Home Minister too notified about this on 25th day of the 7th month of the Iron Monkey year. Thereafter, a decree was passed to the Home Minister on the 17<sup>th</sup>

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<sup>20</sup> *Kuensel*, vol. 3 no. 29 (23 July 1988), p 1.

<sup>21</sup> *Kuensel*, vol. 4 no. 1 (21 January 1989), supplement on 67th National Assembly resolutions, p. 6.

<sup>22</sup> Nishimizu, Mieko, op. cit., p. 81.

day of the 9th month of the Wood-Rat year, supporting and explaining the previous decree. However, it was found after the regularization of land that some lands in some dzongkhags were given in contravention of the above decree. Such lands will be dealt as per the decrees given after 25th day of 7th month of the Iron-Monkey year. Henceforth, except the land for which I have granted kashos, *others given by anyone whether royal family members or any dignitary shall be cancelled and forfeited to the government* [emphasis added – bs]. The Home Ministry should act according to this order. Issued on this 22nd Day of the 6th Month of the Iron-Sheep Year (2 August 1991).

46. To the Finance Minister<sup>23</sup>

The development plans and programmes are meant for the common people and I have been looking into the welfare of various individuals. However, with the increase in the number of people asking for kidu, it has become very difficult for the government, despite the rules being very strict. [...]

A Committee has been established to look after the kidu fund, with the following persons as members: Gyalpoi Zimpon, Secretary of Finance, and Auditor General

It is the responsibility of the Committee to check which bank or industry is profitable and invest the fund and stabilize the foundation of the kidu fund. Further, the orders for kidu, which were given to the Ministry of Finance, will now be issued to the Committee. *You should grant the kidu from the interest and study the results after the grant of kidu. You must maintain an account and should be audited as per financial rules. Finally, it is decreed that you must discharge the above functions properly and submit an annual report.* [emphasis added – bs].

Issued on this 30th Day of the 4th Month of the Fire-Female-Ox Year (15 June 1997)

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<sup>23</sup> Ibid., pp. 92-93.

In 2003, addressing chairmen and deputy chairmen of local administrations, the 4th King re-affirmed the broad boundaries of political authority in the post-1998 administration:

while the responsibility of the prime minister and lhengye chungtsho [cabinet] ministers was to provide good governance to the country, it was His Majesty's responsibility, as the Druk Gyalpo, to safeguard the security and sovereignty of the country and to look after the kidu of the Bhutanese people.<sup>24</sup>

Kidu in that context seems to mean an over-arching sense of welfare.

In late 2006, the 4th King abdicated in favour of the Crown prince. Addressing an augmented cabinet meeting on 14th December 2006, he said:

Bhutan could not hope for a better time for such an important transition. Today, the country enjoyed peace and stability, and its 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 organisations and bilateral development partners were ready to support Bhutan's development efforts and political transformation<sup>25</sup>.

### **Kidu Democracy - I**

The new Constitution for parliamentary Bhutan was widely publicized over several drafts before being formally adopted by

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<sup>24</sup> *Kuensel*, vol. XVIII no. 19 (17 May 2003), p. 5.

<sup>25</sup> *Kuensel*, 16 December 2006, p.1 and 14. Notably, at the same meeting, the Chief Justice, Lyonpo Sonam Tobgye, "expressed the deep gratitude of the Bhutanese people to His Majesty the King for giving them the identity that they were so proud of. The Bhutanese populace had been poor and down-trodden in the past but now looked into the future with confidence and pride." (p. 14).

the Parliament in May 2008<sup>26</sup>. Under Article 2, The Institution of Monarchy, the Druk Gyalpo “may” “[g]rant citizenship, land kidu and other kidus”<sup>27</sup>.

A revision of the 1979 Land Act commanded by the 4th king to take account of the new administrative and legal circumstances, had been deliberated and agreed<sup>28</sup> by the 87th (and last pre-parliamentary) session of the Assembly in June 2007. In 2012, after four years in office, the government party proposed a further set of amendments as the Land Act Amendment Bill 2012.

***Land Amendment Bill, June 2012***<sup>29</sup>

Introducing the Bill to the National Assembly, the Agriculture Minister said that “the review was carried out mainly because of the inconveniences caused during the implementation of the Act”. He added the Act needs to be reviewed in order to maintain consistency with other related Acts and in keeping with developments taking place<sup>30</sup>.

There was a dramatic and widespread negative response in the media to the Bill<sup>31</sup>. A National Council MP was quoted as saying:

This directly contradicts the provision of the Constitution which states that the prerogative to give

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<sup>26</sup> See

<http://www.bhutanaudit.gov.bt/About%20Us/Mandates/Constitution%20of%20Bhutan%202008.pdf> (the formal website of the Constitution, [www.constitution.bt](http://www.constitution.bt), has not been on line for a long time).

<sup>27</sup> Article 2, clause 16(b) of the Constitution. The term “kidu” is defined in Annex to the Constitution as: “Benefits granted by the King or Government of Bhutan”.

<sup>28</sup> [http://www.nab.gov.bt/Actpsession/61Land-Act-of-Bhutan-2007\\_English.pdf](http://www.nab.gov.bt/Actpsession/61Land-Act-of-Bhutan-2007_English.pdf)

<sup>29</sup> [www.nab.gov.bt/downloadbill/Eng67.pdf](http://www.nab.gov.bt/downloadbill/Eng67.pdf)

<sup>30</sup> <http://www.bbs.bt/news/?p=14823>

<sup>31</sup> E.g.: “National Council, Political Parties and Local Leaders all against Land Bill 2012”, *The Bhutanese*, 21 June 2012 (vol. 1 issue 35), p1, 12: “Most of the above including ordinary citizens are against clauses ... that give politicians vast powers over land and the National Land Commission” (sub-head).

away land lies only with His Majesty the King. Cabinet can propose to the Druk Gyalpo but cannot give it away. It appears like the Government is trying to get more power by bypassing the prerogative of the Druk Gyalpo. This is unconstitutional.

He said Land is closest to people's heart as it is the main resource. "From what I have heard, the Gyalpoi Zimpon is not included as one of the Commission members. He has to be one of the members as he has to know what is going on in the Commission"<sup>32</sup>.

It was the proposals to replace previous National Land Commission members (including secretary-level civil servants and the Gyalpoi Zimpon, answerable especially on land matters directly to the monarch) with ministers of the government of the day<sup>33</sup>, which drew most negative response. The proposed grant of land resettlement powers to the cabinet<sup>34</sup> was seen by many as a grant of land kidu powers to politicians. The 5th king quickly issued a kasho to the Parliament, which was widely publicised, in which he said

...as a matter of principle, I, the Druk Gyalpo, must state that in the modern time, in a small nation where land is scarce and the value of urban land continues to rise along with the possibility of ownership of land and wealth being concentrated in the hands of a few, *there is no justification for exempting particular persons, whether royal family members or wealthy individuals, from the land ceiling* [emphasis added]. Except for institutions of State, no individual should be exempt from the land ceiling and other provisions that apply to the general public of Bhutan.<sup>35</sup>

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<sup>32</sup> Ibid., p. 1.

<sup>33</sup> Land Act Amendment Bill 2012, Chapter II, clause 5.

<sup>34</sup> Ibid., Chapter VII, article 230.

<sup>35</sup> Kasho read at the National Council on 18 June, 2012; *Kuensel*, 19 June 2012, p. 1.

### ***Druk Gyalpo Relief Fund***

On the eve of the new Parliamentary system, with its grant of legislative power to politicians, the 4th king - in a wide-ranging talk to out-going ministers - had extended warnings about possible profligate spending by politicians:

[He] recommended the establishment of a Trust Fund for employment related problems. In 1989, the government had decided to create a Future Generation Fund but it had not materialised because of the Ngolop problem in the 1990s. His Majesty suggested that the government should set aside US \$ 100 million to create a trust fund for youth employment.

His Majesty reminded the cabinet that it would be useful to create trust funds because the money invested in such funds would be more secure than money kept in the country's hard currency reserves. It was always possible for future governments to use up the hard currency reserves of US\$ 513 million, which had been built up with much difficulty over the years.

The money in a Trust Fund, on the other hand, would be utilised only for the purpose for which it was created and, if it was needed for any national emergency, only the parliament would have the authority to sanction its utilisation.<sup>36</sup>

While the first Parliamentary government (2008-2013) did become embroiled in an acute shortage of funds (despite an unprecedented grant of 100 billion Indian rupees announced by the Indian Prime Minister in May 2008<sup>37</sup>), the Druk Gyalpo Relief Fund Act 201238 was passed by the Parliament with little disagreement. It gave life to article 14 of section 12 of the Constitution, by mandating an initial grant of Nu 20m with annual increments of Nu 20m until the fund reached Nu 100m, for use by the Druk Gyalpo for "urgent and unforeseen

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<sup>36</sup>*Kuensel*, 9 September 2006 (vol. XXI no. 70), p. 13.

<sup>37</sup> See e.g. *Kuensel*, vol. XXIII no. 39 (21 May 2008), p.1 and 6.

<sup>38</sup>[http://www.nab.gov.bt/ActParliament/34Drukgyalpo\\_RFund\\_Act.pdf](http://www.nab.gov.bt/ActParliament/34Drukgyalpo_RFund_Act.pdf)

humanitarian relief” for the people of Bhutan without political strings attached.

**Gyalpoizhing Land Case**

The Anti-Corruption Commission (ACC) charged the then Speaker and the Home Minister - both previously dzongdags of Mongar district - and other officials with corruption in allocating land against the express orders of the king. The Mongar district court, the Thimphu High Court, and ultimately the Supreme Court, found against<sup>39</sup> these officials, who were sentenced to terms in jail redeemable by cash payments according to the law<sup>40</sup>.

The case was not without its twists and turns, and not all documentation was made public. For present purposes it is instructive to look at part of the arguments made by the Speaker<sup>41</sup> and the Home Minister and 13 committee members<sup>42</sup> to the High Court in Thimphu reviewing the district decisions.

The Speaker’s jabmi said in part that “the ACC has not mandate [sic] to prosecute as it is beyond the purview of the ACC Act”<sup>43</sup>, that allotments of plots were made not of his own volition “but under the procedures established in accordance with the Royal command and in keeping with the procedures in force at the time of the allotments over thirteen years ago”<sup>44</sup>, and that “ACC has treated similar situation differently by selectively charge sheeting the Prime Minister and other Ministries in the present

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<sup>39</sup> The Supreme Court’s final decision was announced on 17 July 2013; see *Kuensel*, 18 July 2013 pp. 1 and 2.

<sup>40</sup> Some members of the Royal Family who were implicated had their cases examined by the Privy Council, without public comment.

<sup>41</sup><http://www.judiciary.gov.bt/html/case/Judg/2013/HC/StateVsSpeaker.pdf>; see esp. pp 13-35 for the Appellant’s argument, and the ACC rebuttal at pp. 35-54.

<sup>42</sup><http://www.judiciary.gov.bt/html/case/Judg/2013/HC/StateVsLyonpo.pdf>

<sup>43</sup> *Ibid.*, p. 16.

<sup>44</sup> *Ibid.*, p. 17.

Government while not charging other dignitaries and individuals who may even have engaged in forgery”<sup>45</sup>.

The ACC’s lawyer argued principally that “The ‘Kaja’ [Royal decree] of 31 March 1987 was specifically issued to regulate allotment of commercial plot and it categorically stated that the government should promulgate a bye-law and disseminate it and till that was done, all Dzongkhag Municipal Committees or any other person cannot allot any commercial plots”<sup>46</sup>, and that 1991 administration circulars suggested that “preference” should be given only to those persons who own and operate legal shops in the given township”.<sup>47</sup> The appellant had “abused his authority” to allot plots.

For present purposes, it is noteworthy that the ACC’s concern was to ensure that the word and spirit of the 4th king’s kashos should be implemented. Informally, some of the accused felt unfairly dealt with as they had operated under “the old system”. The subtext of the case was clearly that there must be transparency and accountability.

### **Kidu Democracy – II**

At the end of 2010, Mark V. Tushnet, professor of law at Harvard, was reported as saying

“You won’t know whether the Constitution is an accurate power map, until there’s a displacement of monarch’s views with that of the government. [...] This confrontation will occur here, and it’ll test wherein lies the power.”<sup>48</sup>

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<sup>45</sup> Ibid., p. 18.

<sup>46</sup> Ibid., clause 2, p. 35.

<sup>47</sup> Ibid., clauses 2-4, p35.

<sup>48</sup> This lays the fireplace for a detailed discussion of the growing unpopularity of the leading party elected to power in 2008, and the widespread expression - up to the 2013 elections - in the social media of the view that the party’s leader in particular sought to have the power and authority of a king. (Detailed review of these developments lies beyond the present essay.).

“When democracy is imposed, not in any critical way, particular kinds of problems arise,” he said, proffering the contemporary example of a dysfunctional democracy in Iraq. “In Bhutan’s context, democracy has to be nurtured because it didn’t arise from the organic movement of people”.<sup>49</sup>

Tushnet’s comments should be seen in the wake of several differences between the National Assembly and the (avowedly a-political) National Council between 2008-2010 and indeed up to the elections and a new government in mid-2013. For present purposes, it is important to underline the growing role of the 5th king in establishing a series of organisations and institutions that could have a semblance of maintaining a society in case of a breakdown of the democratic experiment, or more positively could be seen as complementing the public policy decisions of the Parliament from 2008 and looking some distance to the future.

There had for several years been an understanding by the monarchs that while the democratic experiment had to develop “its own legs” and learn from mistakes over a period of time, it was not enough to stake all on the success or failure of the parliamentary system of governance. A series of natural disasters in Bhutan affecting thousands of people underlined the contemporary vulnerability of society to unpredictable events, against which at least some plans could be made.

It is in this sense that the 5th King’s “People’s Projects” began, basically a series of investigations of circumstances of people’s livelihood that took their authority from outside the formal civil service administration. Natural disasters catalyzed the 5th king’s decision to establish the Kidu Foundation<sup>50</sup>, followed by

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<sup>49</sup> “Why a constitution matters – because it defines where power resides, says resource person from Harvard”, *Kuensel*, 29 December 2010, pp 1, 2. The report on Prof. Tushnet’s seminar contribution was unclear on several key points: his remarks were not based on a prepared paper (personal communication, 30th April 2013).

<sup>50</sup> See <http://www.kidufoundation.org/>

the Bhutan Press Foundation, the Desuung Movement<sup>51</sup>, the Royal Institute for Governance and Social Studies<sup>52</sup>, the Royal Academy, the Bhutan Legal Institute.

The Kidu Foundation is not the only enterprise endeavouring to work with NGOs and private individuals to improve the lot of the people in Bhutan. But the Foundation in many ways is the bed-rock for the continuing strengthening of civil society and to buttress the parliamentary political system. The Foundation has significantly expanded its area of interest and the number of projects under its umbrella<sup>53</sup>, in the fields of education, media and the rule of law, culture, and the aforementioned People's Projects.

One may see the work of the Foundation as a parallel government, but this would misconstrue the longer intention: there is not a sense of competition with the formal government bureaucracy, but a constant attempt to enhance public policy by non-bureaucratic means. For present purposes, its goals are not just succour in time of disasters, but to extend the political, social, and economic role of kidu, as a parallel-track policy safety net pending further maturation of the democratic impulse. The 5th King stated in mid-2012 that

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<sup>51</sup> See [www.desuung.org.bt](http://www.desuung.org.bt) (not operative in August 2014). De-suups are "Guardians of the Country's Happiness & Peace". The organisation has established a regular three-week training program for its members (all aged over 25, with roughly one-third female), consisting of basic military training, lectures and practice on health and first-aid and other assistance for times of natural calamities, and lectures and discussions on Bhutan's history and culture. Formal goals are "to impart basic knowledge and skills in various fields such as disaster rescue and relief operations, environment and development, survival skills, leadership and personal development." The Desuung Movement might be seen as a "proto-militia" in the absence of such, but the members are volunteers from the private and corporate sectors, do not carry arms (although they learn how to use these), and - after successfully completing the initial course - have refresher training as lifelong registered members of the organization.

<sup>52</sup> Inaugurated October 2013. See <http://www.rigss.bt/>.

<sup>53</sup> <http://www.kidufoundation.org/our-projects/>

A King's sacred duty is in looking after the wellbeing and Kidu of our people. Thus, I have spent these years meeting my people in their homes and villages as I fulfill this duty. I pray that my people will utilize to the fullest the Kidu I strive to bring to them, and ensure that its benefits accrue, not only them but to the future generations.<sup>54</sup>

Looking at the practical extent of kidu grants at the start of 2014, the Prime Minister at the opening of the second session of the second Parliament:

expressed gratitude to His Majesty the Druk Gyalpo for granting land Kidu of over 60,000 acres to 63,000 people and 711 acres to 2,000 people comprising 315 households under the resettlement programme besides land Kidu to 196 people who directly approached His Majesty ... [and] education support to 3,500 children from humble families under the Gyalpoi Tozay Scheme that enabled these children to study from pre-primary up to high school. ... 75 students who had received scholarship to study abroad [were] back after completion of their studies. Currently 161 students are pursuing their education in eight countries under His Majesty's scholarship programme.

His Majesty also granted citizenship to 8,374 people and medical referral abroad to 95 people including children and old people ... [and] granted amnesty to 98 prisoners. The Prime Minister expressed his gratitude to His Majesty the Druk Gyalpo for granting Kidu to people from his own personal fund<sup>55</sup>.

Evidently, the role of kidu in supplementing the democratic goals of Bhutan is by no means at an end.

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<sup>54</sup> 26 July 2012 (original from Kidu Foundation website but no longer there: see the *Kuensel* reportage at *Kuensel*, 28 July 2012, p. 2.

<sup>55</sup> Resolutions of the 2nd Session of the Second Parliament (from 22 January 2014), published as <http://www.nab.gov.bt/downloads/2resolution.pdf>, pp. 2-3.

### **Concluding Reflections**

Kidu in Bhutan has content, and is also a process; therefore grounded but evolving. It means welfare, and it substantially relates to (and is rooted in title over) land, but it also has come to encompass all that is absent but seen to be desirable in the life of a citizen. The desire for kidu has perhaps grown out of proportion: the granting of requests for it certainly has consequences.

It seems clear that, whatever the origins and dynamics of the kidu system in and around the Tibet region historically and even today, the development of the kidu system in Bhutan has been different (as indeed have many aspects of life in Bhutan). In Tibet kidu was principally to provide a modality for the welfare and support of members of a group, whether they be monks or artisans from other occupations (e.g. musicians).

In Bhutan, pre-dating the institution of the monarchy system, the central role of kidu has been rooted in issues relating to land (and conversely tax): asserting that unallocated land was the property of the State, the de facto sovereign has also asserted his right to determine the allocation of that land. In monarchical times, the right to extend land kidu also reinforces the authority of the monarch to extend kidu in other matters, and indirectly reinforces the dominant political authority of the monarch as one to whom the people can turn for assistance when all hope seems lost - even though government officials, ministers and even members of the Royal Family themselves have endeavoured to take and assert this power for themselves.

After 2008, the monarch is an integral part - albeit at the apex - of the Parliamentary system.<sup>56</sup>

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<sup>56</sup> During the first Parliament, there were extensive discussions on whether the leading political party - the governing party - should term itself "the Royal government". There were definite benefits accruing to a government party from a public linkage to the monarchy - especially when there were disputes over public policy - so the term could be used in a self-serving way. Ultimately, prior usage of the term, the international usage by other monarchies, and the constitutional

This right of the sovereign has not been directly rejected, but it has on occasion clearly been ignored in both the pre-parliamentary and parliamentary eras of contemporary Bhutan.

Both the 4th and the 5th kings have sought to maintain the asserted right to solely allocate land: as noted, persons in the bureaucracy (pre-2008) and the parliament (post-2008) have sought to wrest (or at least share) that right for themselves.

The Land Amendment Bill of 2012 most clearly and unambiguously shows the proposed intention of politicians to acquire this right. The “Gyalpoishing land case” shows its major importance in asserting, clarifying and “re-setting” the rights of the monarch over land title vis-à-vis the bureaucracy and (more recently) elected politicians.

That politicians have taken up the notion of kidu as good things that they might dispense to the people is inevitably in competition and conflict with the rights of the monarch. As elsewhere, politicians have long understood that if they can grant other good things to the people, then their status will be enhanced (and their re-election encouraged). In this continuing process, politicians are not only in competition with the monarch, but they are also building on and encouraging expectations of the people for good things to come to them from higher authority.

While binding people more closely to the monarch in the Bhutanese “social contract”, the kidu authority and practice also has the practical effect of keeping open an avenue of review and possible redress for the people, at a time when the political institutions of the country (notably legal and political) are still in the process of growth and maturation.

In a society that might be described as politically adolescent in some contemporary respects, it makes great sense for a benevolent monarch to take initiatives to establish institutions

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provisions which included the monarch in the formal Parliament structure, led to acceptance of the status quo.

and practices that can operate independently of – but alongside of, and congruent to – the formal state institutions now being constructed or rebuilt under the authority of elected politicians. The achievements of the 5th king in particular in this respect deserve notice, notably (but not solely) the large range of projects folded under the Kidu Foundation.

Institution-building in a modernising society has a principal goal of establishing rules and procedures that seek to minimise or eliminate the arbitrariness of the ignorance or prejudice of those who have authority, i.e. the misuse of power. If we talk of “kidu democracy” as a synonym for “democracy with Bhutanese characteristics”, the “kidu system” supports the rights of the common man and woman to a basic livelihood as well as succour in time of dread.

While politicians seek to co-opt the rights and political benefits of kidu to their own interests, their efforts seem unlikely to enjoy success unless they are joined as one with the moral authority of the monarch – and the allocation of land title (particularly to individuals or the family unit) will and should remain out of politicians’ reach until such time as the review institutions have acquired their own authority.

What of the future? One may envisage a time when politicians are elected by an informed and critical citizenry, and all elected decision-makers (at grass-roots as well as national level) find their decisions closely examined by and helped by a strong network of informed civil interest-group societies. A strong and independent legal system, and a fearless anti-corruption body, could continue to encourage a deepened and vibrant “social contract” within the polity, having as a principal focus the continuous implementation of a “development without discontent”.

Of course, kidu democracy is a process, not a goal in itself. Its essence is to be dynamic and informed, with the seeking of welfare for all citizens as a guiding principle. Land will remain the lodestar of the dispossessed, and the rich and powerful will

by whatever means continue to amass land banks as an ultimate familial wealth.

It may be that the kidu powers of the monarch, so expressly presented in the Constitution, may come to be eroded in practice by some who might assert that that document is “too narrowly interpreted” or “viewed in an unbalanced light”.

It might be possible to argue that the tendency towards consensus that had been the norm in public affairs up to 2008 is now in the process of being replaced by a naked individualism, encouraged by the nature of party politics<sup>57</sup>: but individualism was never absent, and it was often the King (or the king’s representative in the districts) who could bring moral authority to bear for acceptance of a consensus on controversial issues.

Will the Bhutanese form of kidu, focused on the grant of land but in fact and practice encompassing almost everything else as well<sup>58</sup>, predominantly (but - excepting land - not exclusively) in the gift of the king, come to be transformed in due course to a Bhutanese version of pork-barrelling<sup>59</sup>?

As things stand today, and given the dynamic changes in political and individual relations now under way, the monarch’s moral authority must rest to a large extent on the continuing ability to grant - and to be seen to grant - land as well as other kidu<sup>60</sup>, independently of the politicians. The grant of citizenship

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<sup>57</sup> Some argue that corruption has come up much more strongly after 2007 than previously, as the notion that “public money is nobody’s money” has taken stronger root with the moves towards parliamentary-style politics.

<sup>58</sup> The outgoing ministers of the First Parliament sought from the 5th king - and were granted - kidu (or soelra according to a statement by the outgoing party) to retain some perks of office, notably including the very expensive Japanese-made 4WD LandCruisers and Prados (*Kuensel*, 30 April 2013). Soelra is seen as a gift, often of appreciation.

<sup>59</sup> [http://en.wikipedia.org/wiki/Pork\\_barrel](http://en.wikipedia.org/wiki/Pork_barrel)

<sup>60</sup> The pseudonymous Bhutanomics website carried an article on 21 June 2013 suggesting that citizenship kidu was based on a list managed by the (former) DPT government

is a form of kidu that is managed by the 5th king, but it is not clear whether he is constrained to only accept potential citizens from a list drawn up and presented to him by politicians. It will be important in the mid-term and longer-term to have a well-educated and well-financed legal structure, especially with a view to having the Courts assess fairly any challenges to the Constitution, particularly on the issue of interpreting right to kidu.

The kidu system – both in its land aspect, and as more broadly and popularly understood welfare system - has come to underpin the entire march of Bhutan to modernity. If the kidu system is lost, then the future well-being of the peoples of Bhutan will be lost also.

There is an additional issue to ponder. With the well-known rural-to-urban migration trend in Bhutan well under way (and at least one recent report<sup>61</sup> suggesting more urban dwellers than rural population by around the mid-2030s), increasing areas of rural land will be left fallow. Fallow land by the border areas will gain the attention of neighbours; in due course it might be lost. This is a major security issue, touching the very existence of the state. Indeed, land kidu has become a very real security-related complex of issues for the present as well as the not-so-very distant future. How to motivate people to go back to the land, and how to ensure that rural incomes may meet the growing consumer demands of the people, deserves very serious attention<sup>62</sup>.

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<http://bhutanomics.com/2013/dpt-takes-credit-for-kidu/>. Article 2 (16)(b) of the Constitution makes it clear that the Monarch has the right to grant citizenship, as well as “land kidu and other kidus”. (The domain [www.bhutanomics.com](http://www.bhutanomics.com) [registered in Panama, and hosted from 11 November 2011 on OrangeWebsite.com, a “100% Anonymous domain registration service”, based in Reykjavik, Iceland: see <http://whois.domaintools.com/bhutanomics.com>] extended its registration to 11 November 2014.

<sup>61</sup> See Table 1 given for Bhutan under <http://esa.un.org/unpd/wup2014/Country-Profiles/Default.aspx>.

<sup>62</sup> The “Samdrup Jongkhar Initiative” ([www.sji.bt](http://www.sji.bt)) which was formally inaugurated on 18-20 December 2010 in Dewathang, appears to be continuing to gain traction. But “Thimphu is far away”.