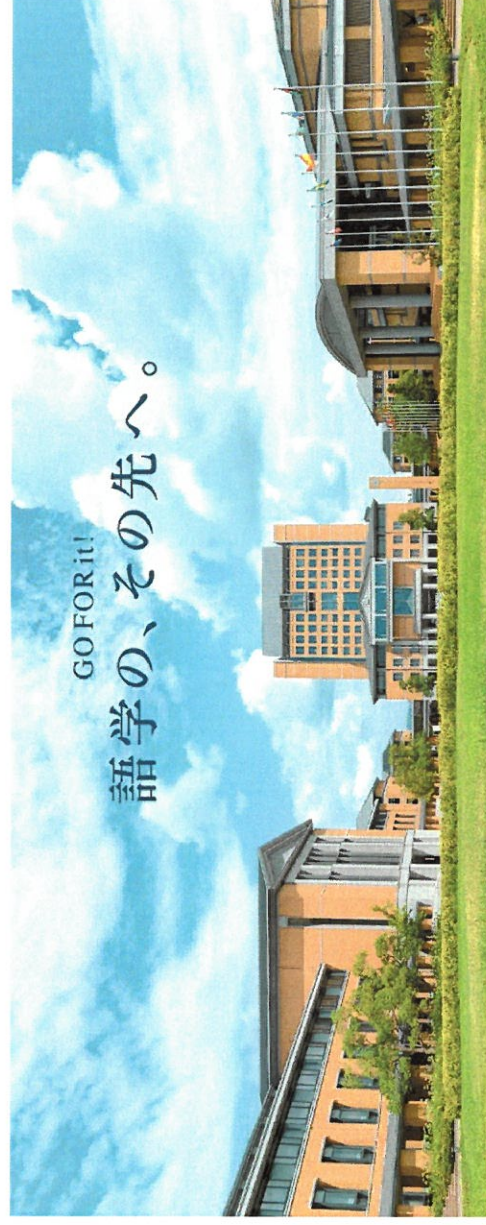




Submitted by:

Global Engagement Research Group

Kansai Gaidai University

Submitted to:

Bhutan's Universal Periodic Review, Fourth Cycle

47th Session of the UPR Working Group

October - November 2024

About the Global Engagement Research Group at Kansai Gaidai University:

The Global Engagement Research Group is a student-centered research group at Kansai Gaidai University in Osaka, Japan. In line with the vision of the College of Global Engagement at Kansai Gaidai University which trains students to enhance their understanding of and strive to provide solutions for global challenges and issues, this research group (while not limited to College of Global Engagement students) is designed to pursue opportunities of “learning to do” and “learning by doing” so as to develop the skills to address “common concerns” faced around the world. Areas of interest to our group include human rights, international organizations, and sustainable development, among others. Given this context, engaging with the UPR as a stakeholder serves as a critical step for our research group to embark on substantive engagement with “common concerns” at the global level and contribute to the international community in building a society that protects and promotes people’s fundamental rights substantively and effectively.

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A. Introduction

1. For the last few decades, Bhutan has experienced rapid economic growth (averaging 7.5% of annual real GDP growth), which has contributed to substantial poverty reduction in the country. It is reported that Bhutan eradicated extreme poverty based on \$2.15 per day poverty line by 2022.ⁱ As such, children in Bhutan are living in an ever-changing society and witnessed rapid modernization and increased urbanization. Nevertheless, we are concerned that children in Bhutan continue to face challenges and issues, such as child marriage, corporal punishment, sexual and emotional violence, and child labor.
2. Given this context, our stakeholder report focuses on challenges and issues related to child rights in Bhutan. Since the last UPR session took place in May 2019, Bhutan has improved the environment for children to exercise their fundamental rights and to provide them with safeguards. Yet, grave concerns remain.
3. As the next UPR cycle begins in October-November 2024, we encourage Bhutan's leadership to commit to protecting and promoting child rights more substantively and effectively in the upcoming cycle. In the subsequent sections, we will briefly describe (1) the normative framework relevant for child rights, (2) the implementation status of select recommendations from the 3rd Cycle, (3) challenges and issues related to child rights during the 3rd cycle, and (4) provide recommendations for action.

B. Normative Framework of Bhutan

Constitutional Framework (Relevant for Child Rights)

4. Adopted in 2008, the Constitution of Bhutan stipulates various measures to protect and promote child rights in the country. All fundamental rights enumerated under Article 7 are relevant for Bhutanese children. Article 8(5) explicitly stipulates that “[a] person shall not tolerate or participate in acts of injury, torture or killing of another person, terrorism, abuse of women, children or any other person and shall take necessary steps to prevent such acts.” Article 9(1) articulates that the state will endeavor to “ensure a good quality of life for the people of Bhutan in a progressive and prosperous country that is committed to peace and amity in the world.” Directly relevant for child rights, Article 9(16) guarantees all children free education up to 10th grade and equal access to higher education and Article 9(18) obliges the state “to ensure that children are protected against all forms of discrimination and exploitation including trafficking, prostitution, abuse, violence, degrading treatment and economic exploitation.” To reinforce such an enabling environment for Bhutanese children to pursue and realize their fundamental rights, Article 1(10) importantly stipulates that any legislation in conflict with the Constitution “shall be null and void,” thereby laying out the basis for constitutional review.

Legal and Policy Framework (Relevant for Child Rights)

5. In addition to the Constitution of Bhutan, laws and policies have been set to ensure a higher level of child protection. Defining its objective as codifying child rights and developing a consistent juvenile justice system, the 2011 Children Care and Protection Act is the first legislation that entirely handles “the care and protection of children in conflict with the law and children in difficult circumstances.”ⁱⁱ The 2004 Penal Code of Bhutan was amended in 2011 to impose stricter penalties for crimes committed against children. It also raised the age of criminal responsibility from age 10 to 12. The 1996 Marriage Act was also amended to assure the establishment of the legal age of marriage and the age of sexual consent, as 18 years and 16 years respectively. The 2007 Labor and Employment Act defined the minimum age of employment as 18 years and “children between the ages of 13 and 17 years are allowed to be employed in certain areas of work which are not considered hazardous.”ⁱⁱⁱ The National Youth Policy adopted in 2011 deals with primary concerns and problems among the youth in Bhutan and supports them to reach services that government or non-governmental organizations provide. The goal of this policy is to make sure that all youths can gain “meaningful opportunities to reach their full potential as they actively participate in society.”^{iv} In 2012, the Child Adoption Act of Bhutan was adopted to keep an eye on children’s well-being and “to prevent the abduction, sale, or trafficking of children.”^v Regarding domestic violence, the National Assembly enacted the Domestic Violence Prevention Act in 2012 in order to tackle “existing gaps in our systems for promoting and protecting the rights of women,”^{vi} particularly victims of domestic violence. The law also expanded the definition of domestic violence to be applicable for children, defining “violence as any act, omission, or behavior towards a person which results in physical, sexual, emotional, or economic abuse.”^{vii}

C. Implementation of Recommendations from Cycle Three

Brief Overview of UPR 3rd Cycle for Bhutan

6. In the third cycle where the review took place in May 2019, Bhutan received a total of 220 recommendations.^{viii} Of which, Bhutan supported 157 and noted 63 recommendations. With respect to child rights, Bhutan received 59 recommendations, of which it supported 47 and noted 12 recommendations.^{ix}
7. The 59 accepted recommendations on child rights include (but are not limited to) the criminalization of child trafficking and sexual exploitation as well as providing access to free education for every child. Additionally, recommending states asked Bhutan to prohibit corporal punishment and intensify efforts to prevent child marriages.
8. Of the 12 noted recommendations related to child rights, 6 were related to adopting policies or ratifying treaties that prohibit corporal punishment against children in all settings, particularly in the home and at school. 2 recommendations addressing corporal punishment against children, from Italy and Chile respectively, were accepted, but do not use language which suggests legal or other specific action.

Implementation Status of Accepted Recommendations

9. In this section, we discuss the implementation status of select recommendations related to child rights that Bhutan accepted for the third cycle.

157.40 Strengthen legislation and public policies to eradicate trafficking in persons, in particular of girls and boys (Mexico)

10. Although it noted a recommendation from the United Kingdom during the third cycle to develop a national action plan for combating trafficking in persons that included the ratification of the United Nations Convention Against Transnational Organized Crime (UNTOC), it is an encouraging sign that Bhutan nevertheless ratified the UNTOC and its Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children on February 20 in 2023. As the UNTOC and this particular Protocol are designed to provide better safeguards for the well-being of society, especially for vulnerable persons such as women and children, against transnational organized crimes and trafficking in persons, it is expected to enhance relevant legal frameworks and mechanisms in the country in the coming years. As a stepping-stone, the United Nations Office on Drugs and Crime (UNODC) conducted a country assessment and assisted the Government of Bhutan in amending its Penal Code to align it with the Trafficking in Persons Protocol in 2021.^x

157.140 Adopt a national policy for social and educational inclusion of children with disabilities (Qatar)

11. In 2019, Bhutan adopted the new national policy for people with disabilities and developed its legal framework. In the same year, the country also launched “Bhutan Professional Standards for Teachers and National Education Assessment Framework.” According to UNICEF, Bhutan has adopted a series of national laws and policies and launched strategies regarding disability-inclusive education.^{xi} Examples include, but are not limited to, the Bhutan Education Blueprint 2014–2024, 2017 Standards for Inclusive Education, Ten-Year Roadmap for Inclusive and Special Education in Bhutan 2018–2028, 2019 National Education Policy,^{xii} and 2019 National Policy for Persons with Disabilities.

12. As an encouraging sign, it is reported that the number of children with disabilities accessing inclusive and special education has steadily increased over the years: “283 in 2010, 564 in 2015, and 997 in 2020.”^{xiii}

157.36 Explicitly define and criminalize the sale of children and develop other mechanisms to address child trafficking (Portugal) & 157.137 Take measures to explicitly define and criminalize the sale of children, and the offering, delivering or accepting, by whatever means, of a child for the purpose of sexual exploitation, transfer of organs for profit or engagement in forced labour (Brazil)

13. The 2004 Penal Code criminalizes trafficking of a child “if the defendant, sells, buys or transports a child for any illegal purpose,”^{xiv} whilst defining it as a felony of the third degree.^{xv} Though it does not directly address trafficking of a child, the 2021 amendment further clarifies the definition and scope of trafficking in persons: “A defendant shall be guilty of an offence of trafficking in persons if the defendant recruits, transports, transfers, harbors or receives a person by means of the threat or use

of force, or any other form of coercion, abduction, fraud or deception, the abuse of power, the abuse of the position of vulnerability, or the giving or receiving of payments or other benefit to achieve the consent of a person having control over another person for the purpose of exploitation.”^{xvi}

157.72 Enhance children’s enrolment in schools (Jordan) & 157.73 Increase school attendance of boys, girls and adolescents, including those with a disability, and reduce the illiteracy rate of girls and women (Mexico) & 157.78 Increase efforts to promote access to education by expanding access to primary school and general education (Oman)

14. Over the past few decades, Bhutan has made an impressive stride in increasing children’s access to education, as the number of children’s enrollment in primary schools increased from 11,795 in 1996 to 15,242 in 2008^{xvii} and the number of schools (ranging from early childhood care education to technical and vocational education as well as tertiary education) allegedly increased drastically in the last 60 years, from about 10 in 1961 to 1,117 in 2022^{xviii}. As of 2022, the Government of Bhutan reports the net enrollment rate in primary schools as 93.3% (91.2% for male students and 95.5% for female students).^{xix}

D. Challenges and Issues During the Third Cycle (2019-2024)

Largely Unreported Nature of Child Abuse

15. One of the biggest concerns in terms of child abuse in Bhutan lies in the largely unreported nature of violences (consisting of physical, sexual, and emotional violence). According to UNICEF, children in Bhutan “*rarely report violence faced by them and don’t seek help due to embarrassment, fear of retaliation, and the lack of knowledge about how to report and seek help.*”^{xx} As such, while UNICEF reports that “[a]bout 12 per cent of children experience sexual violence and nearly 50 per cent of children report experiencing emotional violence,”^{xxi} the actual number of cases of violence involving children is expected to be much higher.

Access to Education

16. The number of schools has slightly decreased in the last few years, from 1,132 in 2020, 1,124 in 2021, to 1,117 in 2022.^{xxii} Furthermore, the net enrollment rate in secondary schools is significantly lower at 54.6% (49.6% for male students and 59.7% for female students).^{xxiii} This could be problematic for providing constitutionally guaranteed access to education up to 10th grade.

Quality Education

17. Extended Classrooms (ECRs), which extend formal learning environments to include temples, community learning centers, and village houses, are an initiative which aims to improve access to education in remote areas of the country. However, the number of enrolled students has fluctuated from year to year, from 1,753 in 2018, 1,572 in 2019, 1,732 in 2020, 1,676 in 2021, to 1,304 in 2022 and the number of ECRs has steadily decreased from 79 in 2018, 74 in 2019 and 2020, 70 in 2021, to 62 in 2022, perhaps rendering it more challenging for those children based in remote areas to access quality education.^{xxiv}

Corporal Punishment

18. In Bhutan, corporal punishment has been considered a lawful act in many settings such as home, schools, and day care facilities, as stipulated under Articles 109-112 of the Penal Code. Although the 2004 Penal Code has been subsequently amended in 2011 and 2021, neither has amended Articles 109-112.^{xxv} In fact, the Committee on the Elimination of Discrimination against Women expressed its concern in October 2023 that “[c]orporal punishment remains legal under the Penal Code.”^{xxvi} This suggests that little effort or progress has been made to prohibit corporal punishment against children in line with international standards since the previous UPR cycle, even though Bhutan did accept recommendations in the previous cycle asking to prohibit all forms of corporal punishment.

Social and Educational Inclusion of Children with Disabilities

19. Despite the previously mentioned increase in the school enrollment of children with disabilities, Bhutan still faces a wide range of challenges and issues related to inclusive education as identified by relevant stakeholders, such as discrimination against children with disabilities, limited understanding of disability issues and inclusive education, lack of accessible infrastructure and facilities, limitations in resources and capacity especially among teachers, and insufficient training for teachers to develop necessary skills and confidence to facilitate learning and address the needs of children with disabilities.^{xxvii}

E. Recommendations for Action by Bhutan

Given this context, we recommend that the Government of Bhutan should, before the next review cycle:

- A. Engage fully and substantively with accepted UPR recommendations regarding child rights and set out detailed implementation plans with a concrete timeframe for action.
- B. Provide effective safeguards for and enforce constitutionally guaranteed fundamental rights relevant for children.
- C. Continue its efforts to universalize the constitutionally guaranteed access to education and ensure that no children are left behind (including those with disabilities and those living in rural areas), especially given the recent merger and closure of schools and extended classrooms.^{xxviii}
- D. Amend the Penal Code and explicitly prohibit all forms of corporal punishment in all settings.
- E. Raise awareness among all citizens including children on all forms of violence and establish an enabling environment for children to speak up their concerns and report incidents of violence to relevant authorities without any fear and/or discomfort.

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- ii UNICEF Bhutan. (2012). Child Protection, 3. Available at <https://www.ncwc.gov.bt/publications/UNICEF%20Thematic%20Analyses%20Series%20Child%20Protection.pdf>. (Last accessed on April 5, 2024)
- iii *ibid*, 3.
- iv *ibid*
- v *ibid*
- vi *ibid*
- vii *ibid*
- viii United Nations Office of the High Commissioner for Human Rights. Universal Periodic Review - Bhutan, Infographic. 2019. Available at <https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session33/BT/Bhutan.pdf> (Last Accessed April 2, 2024).
- ix We used the matrix of UPR recommendations as a point of reference to come up with these numbers. Available on the Human Rights Council's website at <https://www.ohchr.org/en/hr-bodies/upr/bt-index> (Last Accessed April 2, 2024).
- x United Nations Office on Drugs and Crime. Bhutan: Bhutan Accedes to UNTOC and Its Trafficking in Persons Protocol. February 20, 2023. Available at https://www.unodc.org/southasia/frontpage/2023/February/bhutan_bhutan-accedes-to-untoctoc-and-its-trafficking-in-persons-protocol.html (Last Accessed April 2, 2024).
- xi Grimes, P., et al., Disability-Inclusive Education Practices in Bhutan, United Nations Children's Fund Regional Office for South Asia, Kathmandu, 2021. Available at <https://www.unicef.org/rosa/media/16991/file/Country%20Profile%20>
- xii It appears that the National Education Policy has yet to be finalized as of June 2022. See the latest draft at the website of the Ministry of Education, <http://www.education.gov.bt/wp-content/uploads/2022/09/2022.06.28-National-Education-Policy-Draft-web.pdf> (Last Accessed April 5, 2024). Kuensel, the national newspaper of Bhutan, also reports in July 2023 that "[t]he ministry has a draft policy called the National Education Policy 2019, but no steps have been taken to formalise it." See Kuensel, Education Policy Crucial for Bhutan's Modern Education Journey, July 18, 2023. Available at <https://kuenselonline.com/education-policy-crucial-for-bhutans-modern-education-journey/> (Last Accessed April 5, 2024).
- xiii United Nations Children's Fund. Evaluation of the Inclusive and Special Education Programme in Bhutan 2010 - 2020. 2022. Available at <https://www.unicef.org/bhutan/media/3797/file/Bhutan%20IE%20Evaluation%20Report.pdf> (Last Accessed April 2, 2024).
- xiv Penal Code of Bhutan, 2004, Article 227.
- xv *ibid*, Article 228.
- xvi Penal Code of Bhutan, 2021, Article 154.
- xvii Policy and Planning Division at Ministry of Education in Bhutan. A Study on Enrolment and Retention Strategies in Bhutan. September 2021. Available at http://www.education.gov.bt/wp-content/uploads/2021/09/Bhutan_Enrolment_retention_strategies.pdf (Last Accessed April 2, 2024).
- xviii Policy and Planning Division at the Ministry of Education in Bhutan. Annual Education Statistics 2022, 7. Available at <http://www.education.gov.bt/wp-content/uploads/2023/04/AES-2022-revised-1.pdf> (Last Accessed April 2, 2024).
- xix *ibid*, 4.
- xx UNICEF Bhutan. Programme: Protection... For Every Child. Available at <https://www.unicef.org/bhutan/protection-%E2%80%A6-every-child#:~:text=About%20per%20cent%20of,to%20report%20and%20seek%20help> (italics original). (Last Accessed April 2, 2024).
- xxi *ibid*.
- xxii *ibid*, 7.
- xxiii *ibid*.

^{xxiv} See the Annual Education Statistics published by the Ministry of Education in Bhutan at http://www.education.gov.bt/?page_id=7583 (Last Accessed April 2024).

^{xxv} See the 2011 Amendment at <https://oag.gov.bt/wp-content/uploads/2010/05/Penal-Code-Amendment-Act-of-Bhutan-2011.pdf>; the 2021 Amendment at <https://parliament.bt/uploads/topics/16920894824201.pdf> (Last Accessed April 2, 2024).

^{xxvi} United Nations Committee on the Elimination of Discrimination Against Women. Concluding Observations on the Tenth Periodic Report of Bhutan, CEDAW/C/BTN/CO/10. Available at <https://documents.un.org/doc/undoc/gen/n23/354/13/pdf/n2335413.pdf?token=0R4x8fXfvpzDb5IOCp&fe=true> (Last Accessed April 2, 2024).

^{xxvii} See the Evaluation of the Inclusive and Special Education Programme in Bhutan 2010 – 2020 (Endnote 3).

^{xxviii} See the Annual Education Statistics 2022 (Endnote xviii), 7.