
REFORMING THE LABOR ADMINISTRATION IN BHUTAN

PEMA WANGDA, HEAD, THE DEPARTMENT OF LABOR

At the end of a long reform process, Bhutan adopted the *Labor and Employment Act of Bhutan* on January 5, 2007. The Act constitutes the first comprehensive labor market legislation adopted in Bhutan. As part of a wider reform of labor administration policy, it is a major step in the modernization of the country's labor market. The new law mandates a certain minimum level of occupational health and safety standards and establishes a comprehensive inspection regime to enforce them. It also improves the bargaining position of workers vis-à-vis employers, allowing them for the first time to organize at the enterprise level. Moreover, the Act achieves this without introducing rigidities that might hamper employment growth.

The reform was essential to accommodate emerging social trends, such as growing rural-urban migration, the high rate of population growth, and the resulting increase in unemployment. Our aim is to channel the expanding labor force into the private sector, and we therefore had to make employment in the private sector more desirable. We expect these changes to encourage private sector development, stimulate entrepreneurship, and lead to more job creation.

Objective: Attracting Workers into the Private Sector

Bhutanese society has been undergoing a process of gradual industrialization and modernization in recent years. Although the government policy is to encourage people to stay in the countryside and engage in farming, most educated young people choose to move away from agriculture and instead look for work in urban areas. As a result, the population of the capital city, Thimphu, has been undergoing explosive growth.

Bhutan's population is also growing rapidly, making employment creation and private sector development a pressing concern. More than 42 percent of the population is under the age of 15, making a significant expansion of the labor force in the coming years inevitable. Although low by international standards, the unemployment rate of 3.2 percent has nonetheless become a significant concern for us. With our development philosophy of Gross National Happiness (GNH), we cannot afford to have even a single Bhutanese without gainful employment.

It became clear to us that to get hold of the situation, we had to reform and institutionalize a labor administration system suitable for Bhutan to enable the private sector to absorb the increasing numbers of urban job-seekers. However, we had a problem – Bhutanese youth lacked the skills needed to succeed in the private sector. Employers therefore preferred to hire foreign workers. To address this, we asked the Asian Development Bank (ADB) to fund a Skills Development Project for the country to prepare young Bhutanese for employment in the private sector. The ADB accepted our request and sent a mission to oversee the \$12.5 million project. The project's main objective was to provide skills training to unemployed youth and promote positive attitudes toward practical skills and manual work.

The ADB team included Ms. Caroline Vandenaabeele from the Office of the General Counsel. Ms. Vandenaabeele realized that, aside from their lack of employable skills, Bhutanese youth were reluctant to join the private sector for a number of reasons, including the perception of there being no rules, and of bad working conditions. Instead, most preferred to hunt for one of a dwindling number of public-sector jobs, due to the benefits and job security enjoyed by public sector workers. Clearly, the private sector could not become the engine of growth and job creation we were counting on if it could not attract workers. Ms. Vandenaabeele therefore proposed to formulate a labor administration policy and a labor law through an ADB Technical Assistance program.

The Reform Process: Close Cooperation with the ADB

We were interested in the idea of reforming the labor administration, and my Department held talks with Ms. Vandenaabeele that resulted in a formal request for assistance. The ADB approved Technical Assistance BHU-35162 in December 2001 and fielded consultants Robert Heron and Jane Fuller to Thimphu to assist us with the process of developing a labor administration policy and drafting the new law. My team worked closely with them and with the ADB, reviewed legislation in neighboring countries, and held workshops with employers' associations and workers both in Thimphu and in the *dzongkhag* (districts).

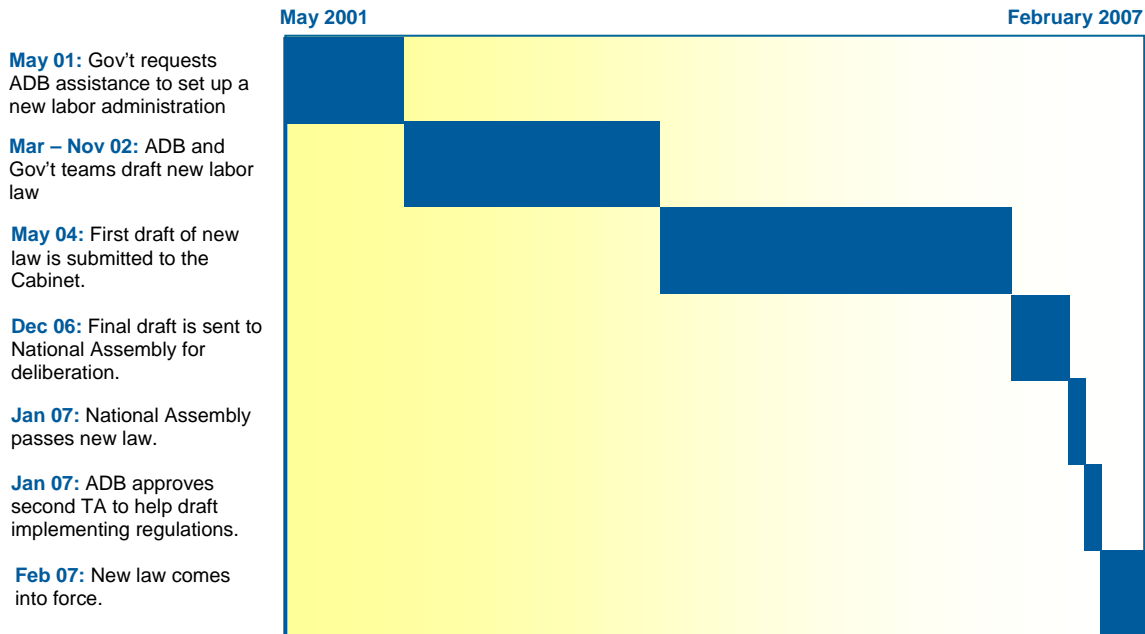
Our talks with stakeholders revealed that workers' representatives were in favor of the draft law. Employers, while generally supportive, were worried about the implications of introducing freedom of association and a minimum wage – especially for foreign workers. They also worried that new provisions such as upgraded occupational health and safety standards would be expensive to comply with. However, employers understood that the changes were ultimately also in their own interest, since better working conditions would increase the productivity of workers and thereby benefit employers as well. We also explained to them that as Bhutan was negotiating accession to the World Trade Organization (WTO), we had to ensure that our labor standards did not invite criticism from the international community.

We submitted the first draft to the Cabinet in May 2004 and the final version in December 2006. The process was drawn out, because ministers were keen to ensure compatibility between the labor law and the draft Constitution, which is due to be adopted next year. The Cabinet finally submitted the draft bill to the National Assembly in December 2006. The Assembly unanimously endorsed the draft (page 3) on January 5, 2007, and the law came into force on February 20.

The New Law: Flexibility and Worker Protections

Flexible employment regulations promote job creation, especially for women and young people. With more job opportunities around, workers have an easier time finding a new job in case they lose their old one. By increasing opportunities and facilitating the transfer of workers from unproductive jobs to productive ones, flexibility not only promotes the efficient allocation of resources but is also in itself a social protection mechanism.

Reform Timeline



Source: *Doing Business database*

The reform shows that there need be no contradiction between flexibility and worker protections. Indeed, the new Act introduces many provisions of the International Labor Organization's (ILO's) core labor standards that were previously absent from Bhutanese statute, such as the prohibition on forced labor and the worst forms of child labor. It also prohibits discrimination in employment and sexual harassment and makes contract termination based on such criteria as race, color, sex, marital status, religion, political views, and social origins illegal. Moreover, workers in enterprises with 12 or more employees are now allowed to form workers' councils, which negotiate with the employer on issues such as internal service rules. Once the Act is fully implemented, firms with high labor standards no longer risk being undercut by firms that are less scrupulous about worker protections.

At the same time, the Act retains considerable flexibility for employers. For example, where no clear rules applied to the notice period previously, the new law establishes a minimum notice of 30 days in addition to seven days per year of continuous employment up to a maximum of 72 days. This gives workers time to look for a new job without making layoffs too expensive for employers and thereby impeding employment creation. The Act also facilitates hiring by removing by making both written and unwritten contract agreement legal. And employers and workers can now freely negotiate the hours of work, improving the earnings potential of workers willing to work at night and the utilization rate of fixed capital.

Implementation: Resource Constraints and Institutional Capacities

The reform is a bold step for Bhutan, especially considering the extent of new obligations taken on by the government. We made significant changes to the country's institutional setup to ensure effective implementation. For instance, we created a whole new ministry – the Ministry of Labor and Human Resources – to coordinate the implementation and administration of the new labor policy and legislation.

One of the biggest challenges for us is to make both employers and workers aware of the new law. To do so, with the assistance of the ADB we are running a nationwide awareness raising campaign through newspaper advertisements and workshops held in each of the country's 20 *dzongkhag*. Another challenge is cost: training each labor inspector – for the most part fresh university graduates – is expected to cost around \$30,000-\$50,000. Financial provision must also be made for the operation of three regional offices, for occupational health measuring equipment and adequate transportation for the labor inspectors. Total cost is expected to run into several million dollars.

In January 2007, the ADB agreed to allocate another \$300,000 for a new technical assistance project. This will help draft the implementing rules and regulations, train labor inspectors and labor relations officers, and develop a national occupational health and safety policy. Much remains to be done – we have implemented only about 5 percent of the reform, owing mainly to insufficient human and financial resources. Two regulations – those relating to working hours and to internal service rules – have recently been passed, but 23 others remain in the drafting stage. As an illustration of the magnitude of the task, we expect full implementation to take up to five years. One thing that could have been done differently was to have implementation mechanisms ready before the law came into force.

Results: Boosting Private Sector Employment

Nonetheless, we are optimistic that the new law is already producing results. More people are joining the private sector in the knowledge that the law's provisions are being implemented and that working conditions will gradually improve. Several victims of work accidents have already been well compensated under the new law. Interest in vocational and technical education among young Bhutanese is growing, and people are increasingly inspired to acquire skills that can help them succeed in the private sector.

Thanks to the reforms, employers are also able to recruit from a larger pool of qualified candidates. Better working conditions ultimately entail greater productivity, which also benefits employers. In turn, as young people enter private sector employment in greater numbers, they acquire skills that many of them will later use to start their own businesses.

A potential lesson for other countries is that to encourage private sector growth, the legal environment surrounding the labor market must be sound enough for workers to want to invest in employable skills and enter private sector employment. Had we not reformed, Bhutanese youth would have continued having difficulty entering the private sector, and we could not have begun to tackle the problem of youth unemployment.

About the Author

Pema Wangda is currently the head of the Department of Labor, one of the four departments of the Ministry of Labor and Human Resources. He is the lead person responsible for implementing the recently approved Labor Administration Policy and the Labor and Employment Act, 2007. He holds a MPA degree from the University of Hartford, Connecticut, USA.

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