



Seek Truth & Ensure Justice

ANNUAL REPORT 2017



“...The Constitution is the most profound achievement of generations of endeavor and service. As it is granted to us today, we must remember that even more important than the wise and judicious use of powers it confers, is the unconditional fulfillment of the responsibilities they must shoulder. Only in understanding our duties will the exercise of our powers be fruitful. If we can serve our nation with this knowledge and in this spirit than even a brighter future awaits our country.”¹

~ His Majesty the King

¹ His Majesty’s address to the nation upon the adoption of the Constitution on Friday, the 18th of July 2008. Reproduced from the Kuensel issue of 19th July, 2008.



Seek Truth & Ensure Justice

“Mirror and Vajra” as an office logo has religious and temporal or secular significance, historical bearing and legal relevance. The mirror symbolizes transparency, which reveals everything and reflects the actual deeds of a person irrespective of his/her representation. It is believed that Guru Rinpoche has used Vajra to tame the devils. Symbolically, Vajra represents the indestructible, firmness and unwavering nature of law to tame the demonic forces and wrong doers.

The caption “**Seek Truth & Ensure Justice**” below the pictorial logo signifies that the function of the Office of the Attorney General is to seek truth in every dispute/case and ensure that the justice is sought through the due process of law and lawful conduct of the State. The black colour in the background of the logo symbolizes the power of the authority to act.

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1. Attorney General's Review

The Golden Throne is the timeless unifying crest of Bhutanese people and the Rule of Law is the DNA factor in our sacred Monarchs, tirelessly stressing it as the essential bedrock of Palden Drukpa's Fortunes:

“More than external factors, we can become more vulnerable with internal instability. The history of global and regional trends in other countries have shown that the downfall of countries is caused by failure of governments, breakdown in the rule of law, economic crises, and the growing economic disparities between the rich and the poor. People feel helpless, and lose faith and trust in their governments and in each other. Their frustrations lead to internal skirmishes extenuating religious, political and racial differences leading to political clashes, anarchy, and wars. This has destabilized economies, disintegrated governance structures, and destroyed societies and countries.”

His Majesty the Druk Gyalpo
On 38th Royal Birth Anniversary, February 22, 2018

It is my privilege to present Annual Report of the Office of the Attorney General of Bhutan for the year 2017.

At this point in time, it has become important to have legal expertise not only within the justice sector, but also outside of the government functionaries, to achieve due process of law. Towards this end, the year 2017 was noteworthy for the legal fraternity with the historic establishment of the Bar Council of Bhutan on 10th of May 2017 housed within the office building of the Office of the Attorney General. The Bar Council of Bhutan will go a long way in augmenting private practices and judges to enhance justice deliverance in the kingdom. It has thus been an honor for my office to facilitate the process of establishment of Bar Council of Bhutan including the housing of the secretariat with financial support from our development partners, the UNDP and ADC.

The constitutional mandate of this office through Article 29 requires this office to carry out the responsibilities within the domain and authority of the Government and any other legal matters as may be entrusted thereto. Accordingly, the *Office of the Attorney General Act* 2015 mandates three primary responsibilities which are: *legal representation* of the State both within and outside of the Kingdom; *drafting and reviewing* of bills and delegated legislations, and reviewing of existing laws; provide legal services in the form of *legal advice and opinions* to the government and its agencies, and to disseminate legal information to public members.

The year in review: 2017

The Office has been strengthened to perform its statutory mandates ever more, with a new organizational structure in place and through appointment of all Division chiefs.

In keeping with our core mandates, our achievements are highlighted into three parts:

First, the number of Attorneys at this office remained almost the same while the number of cases received in 2017 has increased by 14.21 percent compared to the preceding year. This increase in workload has not deterred our dedication and hence the cases received from RBP, ACC and ministries were still administered in a timely manner. In brief, from the 1,318 cases received from the RBP, 75 cases have been diligently reviewed and dropped on reasoned grounds and out of 7 cases received from the ministries, 3 cases have been reviewed and dropped. Further, of the 23 cases received from ACC, 7 are under *sub judice* while the rest are under active review. There are also 26 ACC cases from the preceding year which is being pursued simultaneously. The OAG's in-house case review by the *Case Screening Corpus* has gained much competence and proficiency in making each case undergo evidentiary test by requiring every element of alleged offence to be corroborated by corresponding evidence and relevant law.

Our experience thus far shows that reviewing a case, especially the complex ACC cases involving multiple issues with numerous accomplices is both, intense and a time consuming process, as it is a critical requirement to scrutinize the credibility of every evidence to ensure that the investigating agencies adhere to the due process of law. Due to these reasons, this office often seeks additional information pertaining to cases with indefinite issues. These measure are adhered to because the objective of prosecution is not to secure conviction alone for the guilty person but also to ensure that the truth and justice truly prevail.

Second, with regard to the bills, rules, regulations, guidelines and instruments drafted and reviewed by this office, the Legal Aid Guideline was drafted on the directives of the Cabinet and it has received consultation inputs from the lawyers of OAG, government agencies and private lawyers. Further, for the effective internal working processes of this office: (i) the Attorney General's Prosecutorial Order for the effective implementation of the OAG Act has been drafted; (ii) the Rules of Procedure for Drafting and Reviewing of Bills and Delegated Legislations to streamline the processes between the OAG and the concerned organizations involved has also been drafted and adopted; and (iii) the Rules of Procedure for Rendering Legal Opinion to enhance in-house efficiency have also been drafted and adopted for implementation.

Third, the number of request for legal opinions received by this office slightly decreased compared to the previous year (60 legal opinions rendered in 2017 as opposed to 82 in 2016). The subject matter of the legal opinions covered issues relating to International Treaties and Conventions, interpretation of legal provisions under the existing laws, Guidelines, and Memorandum of Understandings (MoUs). The year 2017 also saw the

formation of a high level MoU Committee by the Cabinet which took over the vetting of MoUs, thereby reducing the legal opinion referrals to the OAG on proposed MoUs. Amongst the legal opinions rendered, one of the challenging topics was on the granting of fiscal incentives which not only has reference to our domestic laws but also to the rulings of the Supreme Court in a previous matter.

The year ahead: 2018

Having reorganized ourselves, we see clear delineation of responsibilities and accountabilities of the staff of this office which will further be enhanced by allocation of more resources to enhance IT services for case monitoring and management system. These developments will enable us to provide legal services with higher degree of competence and specialized skills through the year 2018. We also look forward to continue strengthening our institutional capacity through tailored trainings for the Attorneys in different Departments and divisions.

This office also deeply values the strong cooperation with RCSC, GNHC, UNDP, UNICEF, Save the Children and ADC for their continued support for the improvement of this office and look forward to more awareness on laws and procedures among the people in different communities and educational institutions in Dzongkhags.

Having worked closely with my hardworking team at the office for the last three years, I have good reason to believe that we shall not fail the expectations of our King, Country and the People. We thus pledge to continue serving TSA-WA-SUM to the best of our abilities and conscience.

Sincere Tashi Delek to my dedicated colleagues for their unfailing performance.

Shera Lhundup
Attorney General



The Attorney General with the staff of the Office of the Attorney General

2. Vision & Mission Statement

Vision

To be a premier public organisation that seeks truth and ensures justice in pursuit of a harmonious society with the rule of law and good governance

Mission

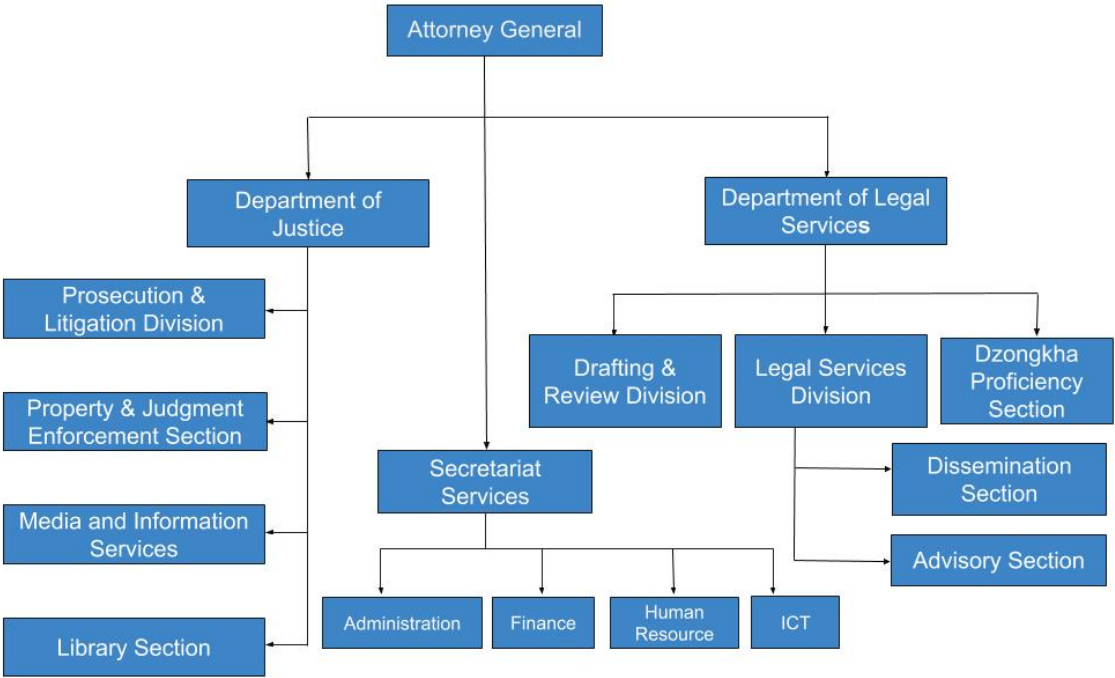
To deliver prosecution and legal services to the State in a fair and professional manner

3. Values

The OAG will follow these values in pursuing its mission:

- Efficiency;
- Objectivity;
- Fairness;
- Transparency;
- Professionalism.

4. Organization Chart



1. DEPARTMENT OF JUSTICE

The Department of Justice is upgraded from the erstwhile Prosecution and Litigation Division, wherein the division and sections functioning in specific areas of legal practice and execution of judgments and library existed. Since the organization restructure as reflected in the organogram was approved (by RCSC) only in July 2016, the physical restructuring could not be completed at this point due to want of human and financial resources. Therefore, the new organization structure remains partly fulfilled, and the transition is expected to be completed in a few years' time.

1.1 Prosecution and Litigation Division

One of the principal functions of the OAG is to initiate and represent government (state) in criminal prosecution and civil litigation. In achieving this mandate, the Prosecution and Litigation Division (PLD) seeks to promote fair, impartial and just proceedings by engaging in criminal prosecution throughout the country as per the laws, inter alia, the *Constitution*, *Office of the Attorney General Act 2015*, *Royal Bhutan Police Act 2009*, *Anti-Corruption Act of Bhutan 2011* and *Jabmi Act 2003*. Similarly, this office represents the Royal Government in civil litigation whenever the interest of the Royal Government is to be put to test.

Compared to the other divisions, the PLD engages the most number of Attorneys from the office. Further, all new appointee Attorneys have to serve under the PLD to ensure that they have adequate legal practice to understand and deepen their knowledge of how laws are applied in real life situations. This practice helps all Attorneys of this office appreciate and understand the challenges of our laws and the realities of implementing them.



Prosecution and Litigation Division: Chief Attorney with Attorneys and Legal Assistants

A. Case referral, assignment and charge-sheet

Criminal cases are normally referred to the OAG by the RBP and the ACC who are the State machineries to investigate criminal offences. In addition to these two agencies, the Office also receives cases of criminal nature referred by other Government organizations on *ad hoc* basis. On receiving the cases, the Chief of the PLD assigns the case to individual prosecutor for diligent review and prosecution. The prosecutors are required to adhere to internal practices and the prosecution guidelines to determine the charges and the decision to prosecute. The review process is expedited in criminal cases since the accused are normally under police custody. In such situations, the charges are filed with the court of competent jurisdiction if the facts, issues and evidence meet the evidentiary and public interest consideration tests so that the offence can be proven beyond reasonable doubt. These tests are mandatory procedural requirements and cannot be overlooked. Cases which do not meet the above standards are returned to the referring agency with instruction to furnish further information and evidence that is crucial in determining an offence or probable charges. Further, the OAG may choose to drop the case if the evidence is not proper or credible and pursuit of the case adversely affects public interest.

Ordinarily, in cases of civil nature involving any government organization, it is the in-house legal team of the respective Ministries or organizations that represent civil matters.

However, any Government organization may refer cases of civil nature to the OAG through the Cabinet Secretariat if a representation in court is warranted and only if that organization is in absence of any legal capacity.

B. Case Screening Corpus



Case screening corpus in session: Deputy AG (Chief attorney DRD), Chief Attorney PLD, Chief Attorney LSD, assigned Attorney of the case along with Attorneys' representation

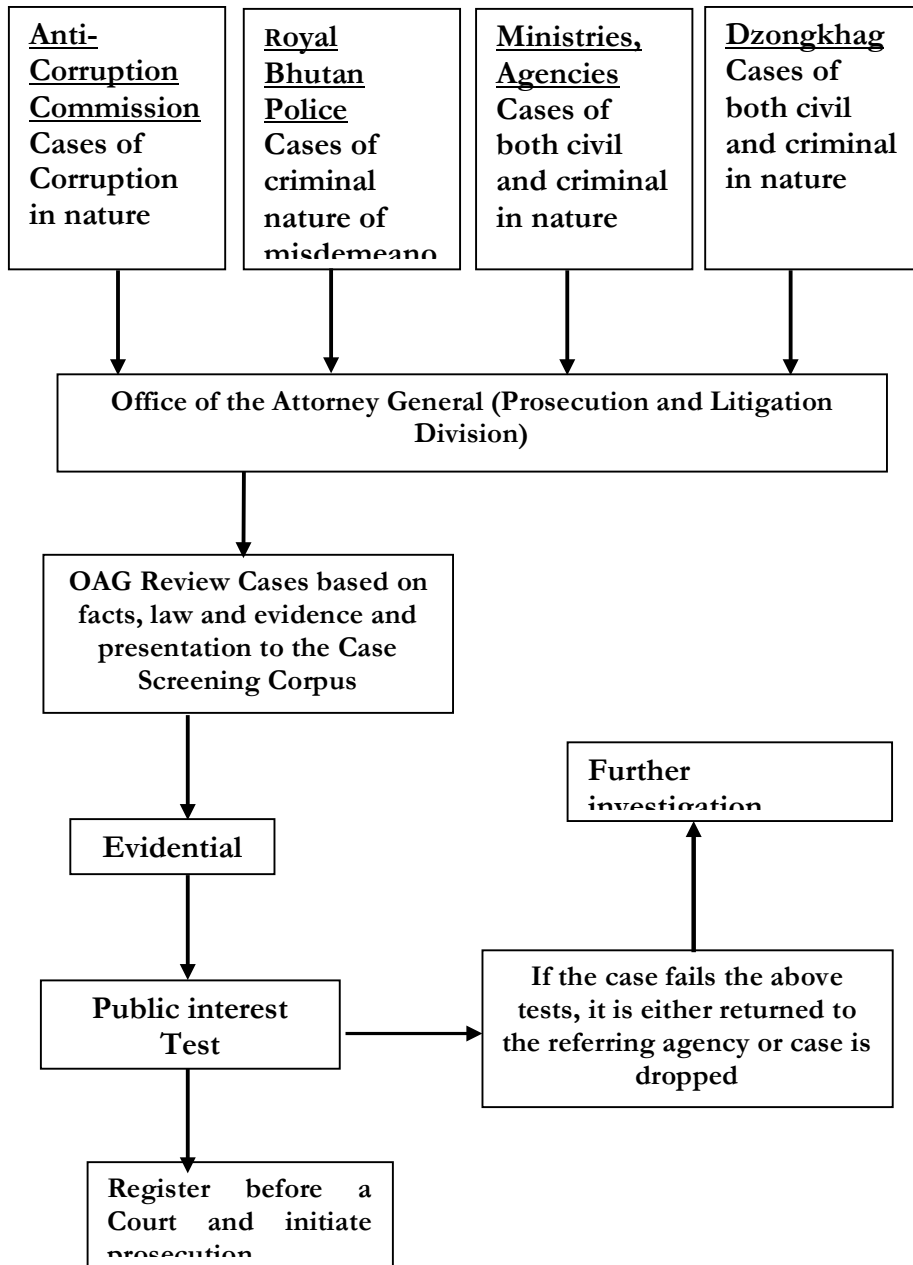
Introduced in 2016, the Case Screening Corpus (CSC) is a body composed of the Attorney General, Dy. Attorney General, Division Chiefs, Dy. Chief of Divisions, Attorneys and focal person from the Media cell. This body is primarily formed to screen and decide upon cases having complex legal issues. During the year, the CSC met on a regular basis to decide cases impartially with higher degree of scrutiny and analysis. Prosecutors presenting the case before the CSC maintained a detailed record of the cases reviewed by the corpus for future reference and consistency. The Attorney General's Internal Prosecutorial Order is another mechanism which will be adopted to guide the working of the corpus.

C. Friday forum

The Friday forum is aimed at enhancing the skills of Attorneys while presenting court submissions through discussions of issues arising out of real case scenarios. This forum also serves as a platform where the DRD and LSD may put up pertinent issues faced while executing their functions for brainstorming, suggestions and for informing and sharing important information related to the Department of Legal Services as a whole. This forum also facilitates discussions on emerging current issues of law that is of relevance to all legal practitioners.

The Friday Forum takes place every fortnight on Friday afternoons and during each session, Attorneys present about 2-3 issues for deliberation. The forum is chaired either by the Attorney General or one of the Division Chiefs in his absence. Over the years, this forum has enormously contributed to enhancing court presentation skills of the Attorneys and promoted sharing knowledge and information. The improvements are visible through court judgments and recommendations from Judges and legal associates of the courts.

D. Case Flow Chart



E. A Case in Review

Druk Nyamrup Tshogpa Vs. The Government (People's Democratic Party)

A case was filed on 18th August 2017, by Druk Nyamrup Tshogpa (Petitioner) against the Government (Respondent) challenging the constitutionality of the fiscal incentives (FI) issued by the Respondent. The Respondent in keeping with the prevailing laws and practices, granted fiscal incentives in the form of tax exemption to certain business entity fulfilling prescribed criteria.

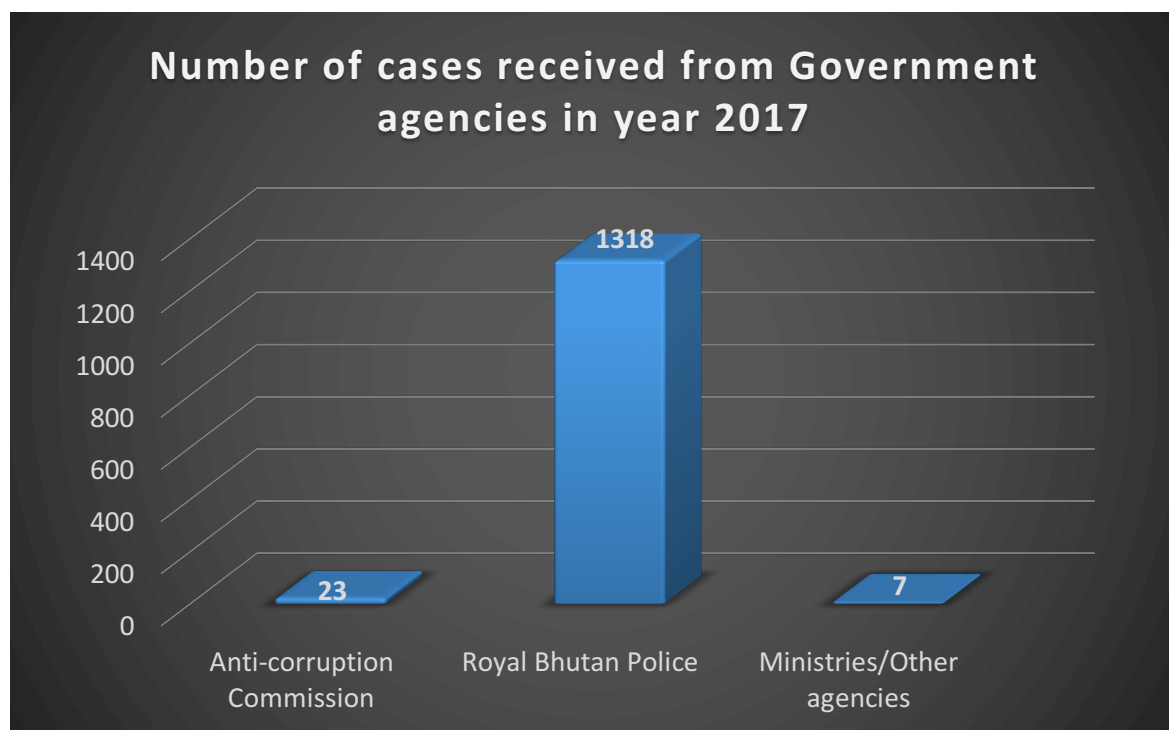
The Petitioner argued that the issue of the FI must be in accordance to Article 10 (1) of the *Constitution of the Kingdom of Bhutan* 2008 wherein any tax matter shall be introduced through Money or Financial Bill. The Respondent argued that fiscal incentives were entirely different from imposition and alteration of taxes and hence the matter of tax exemption is within the prerogative of the government. The Respondent represented by the Attorney General of Bhutan defended that laws providing tax exemptions were being tested and reinforced through judicial review (the first Constitutional Case), and therefore as provided in the laws, the discretion of granting tax exemption remains to be prerogative of the Government. The respondent further submitted that the Government during the 9th Session of the 2nd Parliament introduced FIs as Money Bill in order to ensure transparency and accountability so that future governments would not abuse this power.

The Respondent also challenged the *locus standi* of the petitioner that no concrete case of controversy for the petitioner existed (which is a precondition for establishing legal standing under the *Civil and Criminal Procedure Code* 2001), nor were there large number of individuals whose interests are closely related, to invoke legal standing for class action suit and therefore the Petitioner cannot claim legitimacy at par with the Ruling and Opposition party who had the right gained through democratic electoral process.

The High Court, in its judgment dated 9th November 2017, by the larger bench comprising of 7 Justices sitting, dismissed the Petitioner's claims for want of legal standing to file a writ petition. It was also further observed that the role of a registered political parties (other than the Ruling and the Opposition) is confined within the period of election, and once the parties are elected as the Ruling or the Opposition, only then are they answerable to the people.

On the matter of constitutionality of the impugned laws, as Parliamentary remedial measures have already been taken to consider FI to be introduced as Money Bill, the Court cautioned, '*that any Money Bill particularly granting fiscal incentives that stretches over longer period extending beyond the term of the Government, may be cautiously vetted based on the intended mandate of the particular government...*' The petitioner did not appeal.

F. Highlights of cases received in 2017



During the year 2017, the OAG received 1318 cases from RBP, 23 case-reports from ACC – (these include 235 individual’s involved in corruption cases), and 7 cases from Government organizations that consist of 1 from Royal University of Bhutan, 5 from Ministry of Agriculture and Forest (MoAF) and 1 from Ministry of Labor and Human Resources.

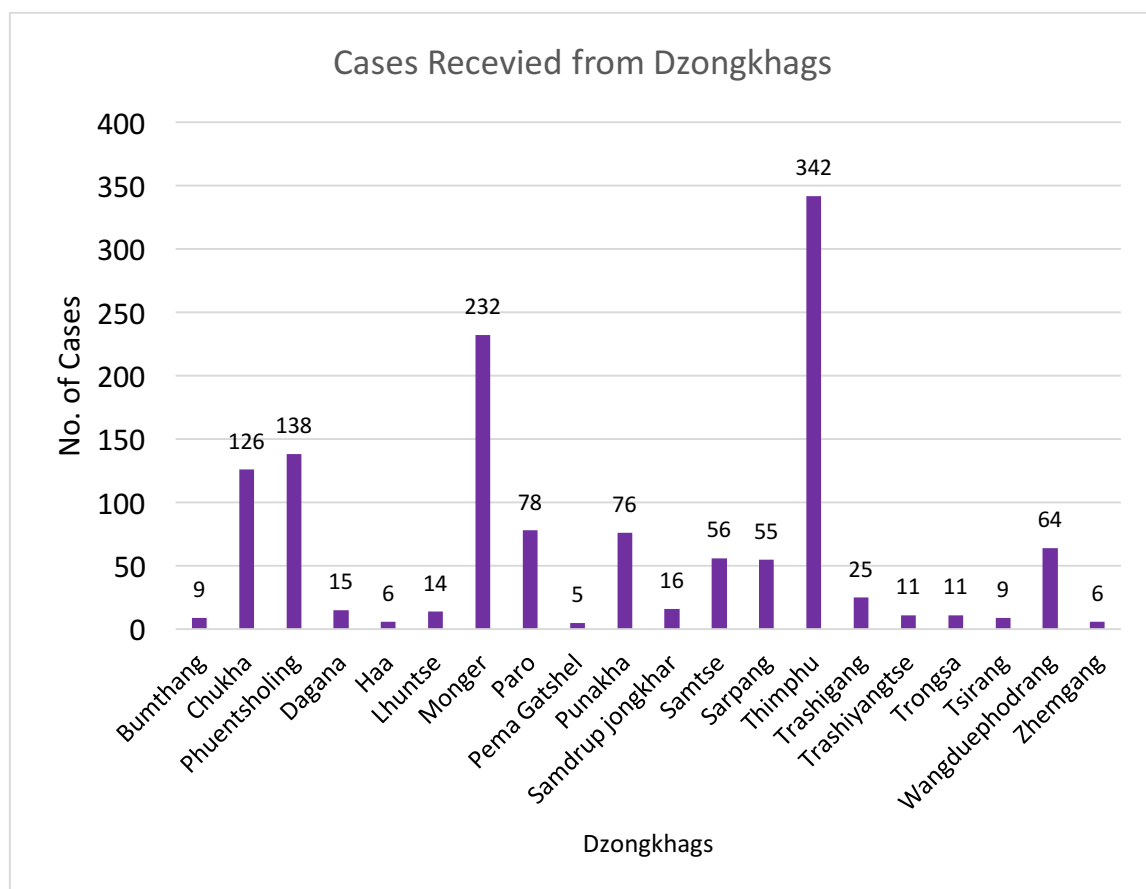
A total of 1351 cases have been received by the office for prosecution. The number of cases received in 2017 has increased by 14.21 percent compared to the preceding year. Based on the total cases received, 500 cases (37 percent), the highest number of offences, pertains to offences under *Narcotic Drugs, Psychotropic Substances and Substance Abuse Act 2015*. The office also received 274 cases of offences against cultural and natural heritage (cases of Ku, Sung, Thuk-Ten or Zung and illegal sale or purchase of antique) under *Penal Code of Bhutan 2004 (PCB)*, which is the second highest in the groupings, followed by 123 cases of burglary under *PCB*. The highest number of corruption related cases from ACC were mostly related to Embezzlement of fund and securities in corporate, private and government sectors (35 cases). There were 2 cases of concealment of corruption proceeds from embezzlements which is the lowest in the category of corruption offences.

G. Cases categorized into various offences received from RBP

Offences	Numbers
Auto Stripping	5
Battery	91
Breach of Trust	3
Burglary	123
Child Battery	1
Child Molestation	16
Computer Pornography	3
Criminal Elopement	2
Counterfeiting	2
Drug abuse	4
Emotional abuse	1
Espionage	3
Escape from lawful authority	5
Embezzlement	6
Forgery	11
Fraudulent cheque writing	1
Fraudulent obtaining of insurance	2
Gang Rape	11
Gold Smuggling	13
Harassment	2
Impersonation of an official	1
Illicit Trafficking of Narcotic Drugs and Psychotropic Substances	278
Illegal possession of Narcotic Drugs and Psychotropic Substances	6
Illicit Trafficking of Cannabis and its derivatives	81
Illegal possession of Cannabis and its derivatives	100
Illegal sale of inhalant or solvent	10
Illegal fishing or illegal possession of explosives	4
Illegal possession of firearms, ammunition or other lethal weapon	8

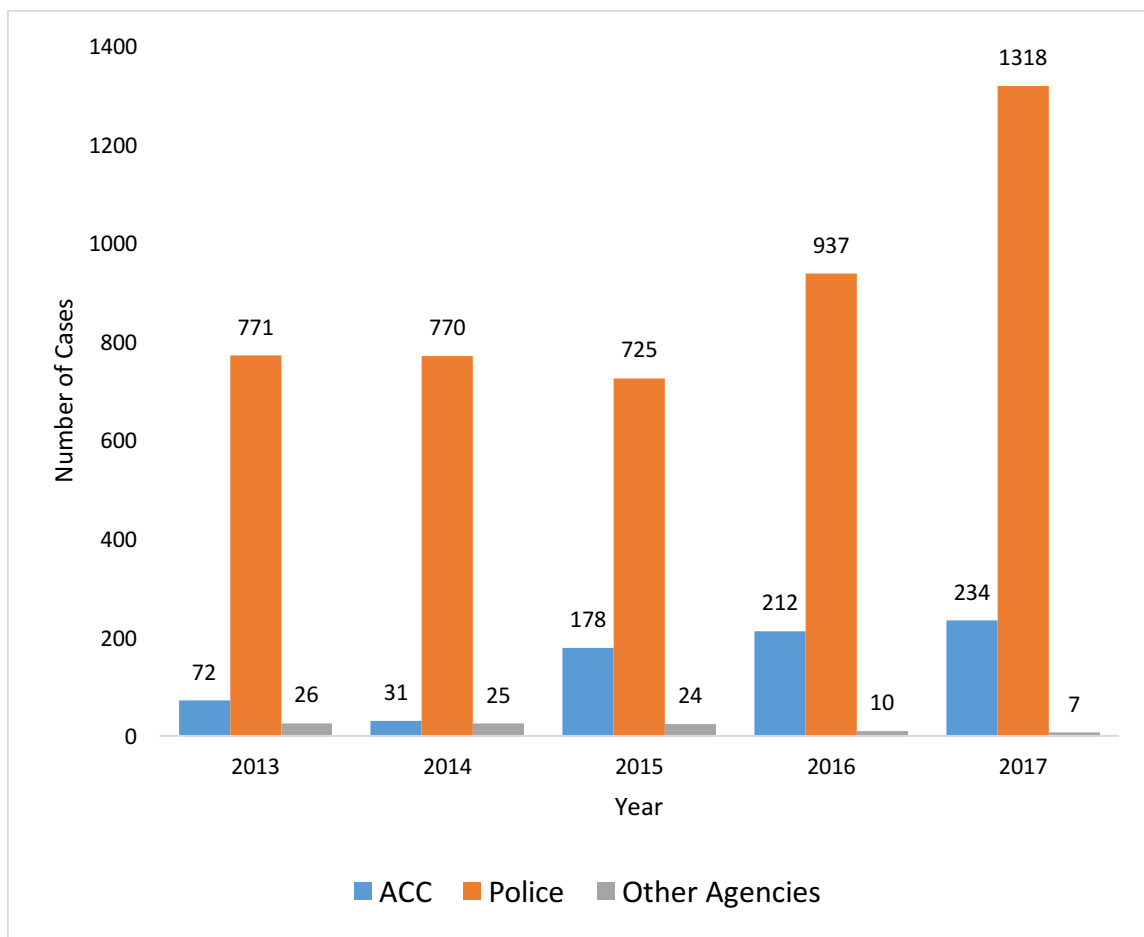
Offences	Numbers
Illegal purchase or sale of Antique	4
Larceny	14
Larceny by deception	4
Larceny of property lost/mislead/delivery by mistake	1
Murder	15
Murder-Criminal attempt	1
Malicious mischief	73
Negligent Homicide-Criminal attempt	1
Prostitution	14
Rape	5
Statutory Rape	6
Rape of a child above 12 years of age	37
Rape of a married woman	7
Tobacco case	26
Official misconduct/Tampering of documents	10
Bribery/Tampering of documents	5
Unauthorized use of property	3
Offence against Ku Sung, Thuk-Ten or Zung	274
Voluntary manslaughter	6
Voluntary manslaughter-Criminal attempt	4
Involuntary manslaughter	6
Robbery	15

H. Status of cases received from Dzongkhags



In terms of case referrals from the Dzongkhags in 2017, the OAG received 342 cases investigated by RBP from Thimphu alone making it the highest case referring Dzongkhag, followed by Mongar Dzongkhag with 246 cases (the highest number of cases being for the offence of Ku, Sung, Thuk-Ten or Zung). The Office also received 138 cases from Phuentsholing Dungkhag, out of which the maximum cases was related to drugs. Gasa Dzongkhag had no case referrals for prosecution in 2017.

I. Cases from various organization in last five years



J. Overview of RBP, ACC and Other Cases

Police Cases

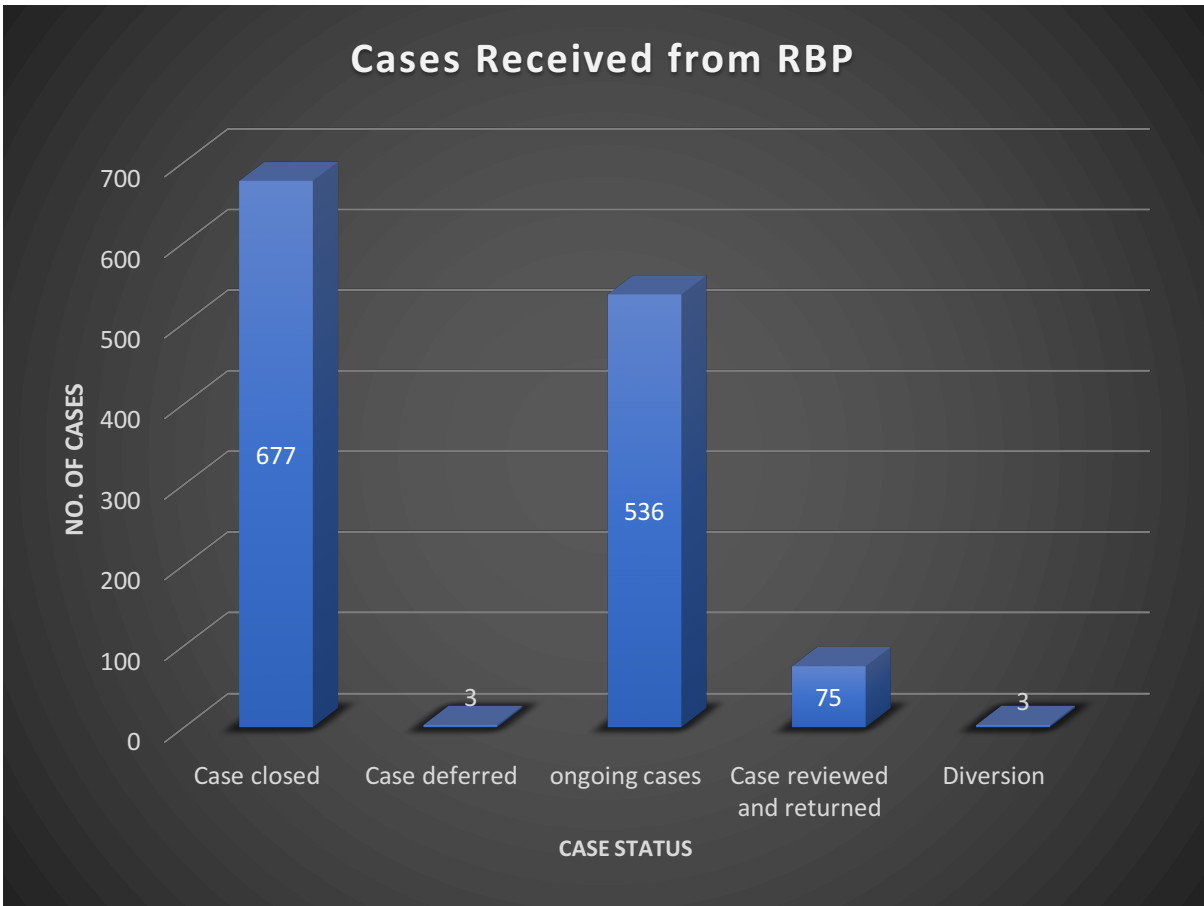
In 2017, out of 1318 cases received from RBP, the office completed prosecution of 677 cases while 536 cases are *sub judice* with various courts. The remaining 75 cases are returned to RBP for reasons including: insufficient evidence, credibility of evidence and inadmissibility of evidence, lack of probable cause, issues of arrest/search warrant and those involving illegal procedure for conduct of investigation, all of which prevented the initiation of criminal prosecution. Some cases were sent back with directives to carry out further investigation based on which a determination could be further made as to whether prosecution be initiated or refrained. Some of the cases that were sent to the office were

of petty offences (petty misdemeanor and below) which were also returned to the RBP since they were authorized to prosecute those kinds of cases under the *Royal Bhutan Police Act 2009*.

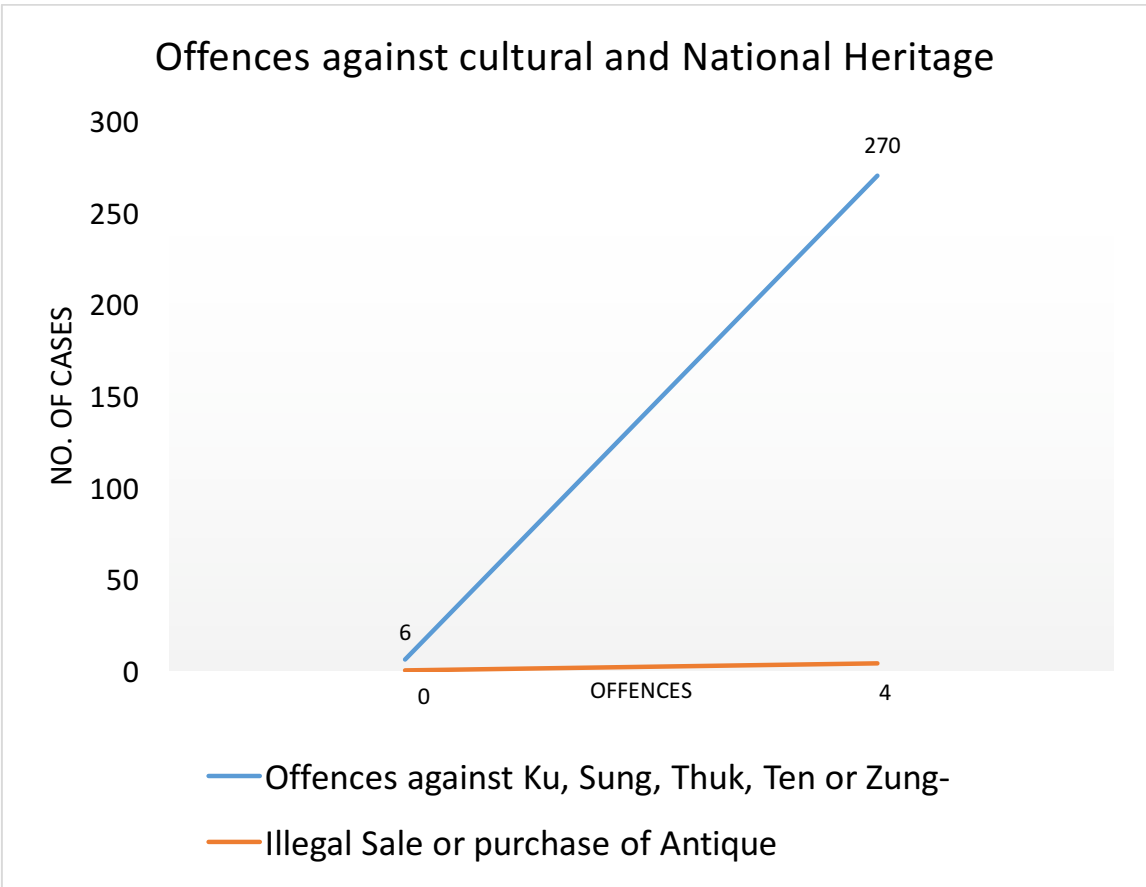
The office also made strides towards child justice with the adoption of the *Diversion Guideline* and *Child Friendly Prosecution Guideline* that aimed to streamline the process of diversion and prosecution of children. The office continues to pursue diversion in close consultation with the RBP, NCWC and the Courts and hence this year, three cases of diversion were pursued.

Currently, from the total numbers of cases received from the RBP, only 15 cases are currently under review with the Office. Noteworthy in addition, there was spillover of 45 pending police cases with the Courts from the year 2016; thus it is evident that the Office had considerably handled more cases than it had received during the year.

Cases received from RBP



Offences against cultural and Natural Heritage

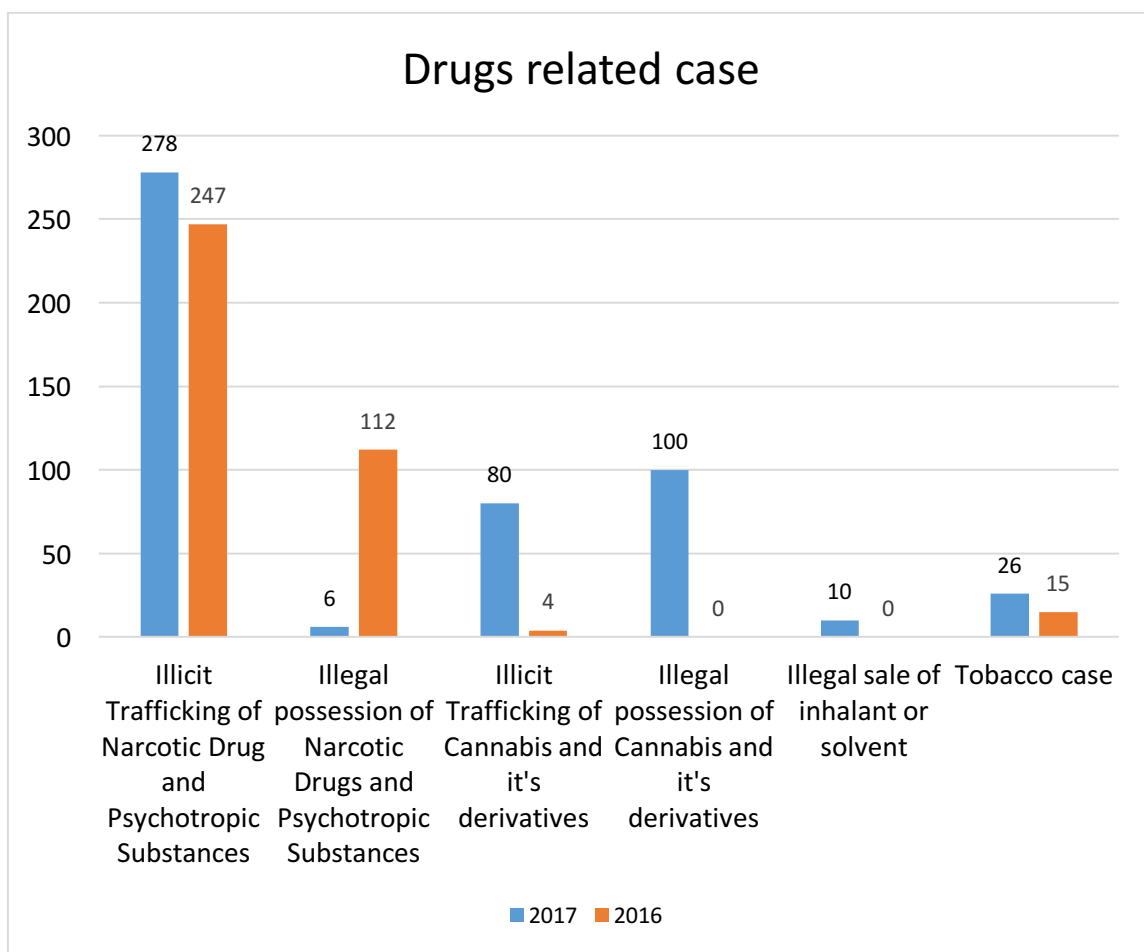


From the total police cases prosecuted, conviction was obtained in 638 cases and only 2 cases from Thimphu Dzongkhag court led to acquittal, which is 0.3 percent. The conviction rate for offences against Ku, Sung, Thuk-Ten or Zung is the highest which alone is 20.4 percent of the total 274 cases.

Increase in cases related to Narcotic drugs and psychotropic substances:

There is a continuous rise of cases of illicit trafficking of narcotic drugs, psychotropic substances, Cannabis and its derivatives and possession thereof as indicated in the graph below.

Drug related crimes



The increasing number of drug related case is due to stringent provisions in the law largely due to the *Narcotic Drugs and Psychotropic Substances Act 2015* (“NDPSSA”) that repealed the earlier legislation. This new legislation quantified the amount of drugs which resulted in re-defining Trafficking as opposed to the conventional understanding of what trafficking would constitute. The NDPSSA exhaustively listed all narcotic and psychotropic substances, authorizing only the Parliament to add or delete substances in the schedule or the whole schedule and/or quantification of any of the substances deemed to be abused/trafficked.

A new challenge arose in 2017 when a new drug named Spasmoproxyvon Plus (“SP Plus”) hit the discreet market. This new drug put the objectives of the NDPSSA to test through the cases of *State v/s Jamyang* and *State v/s Thinley Dorji*, followed by many other cases

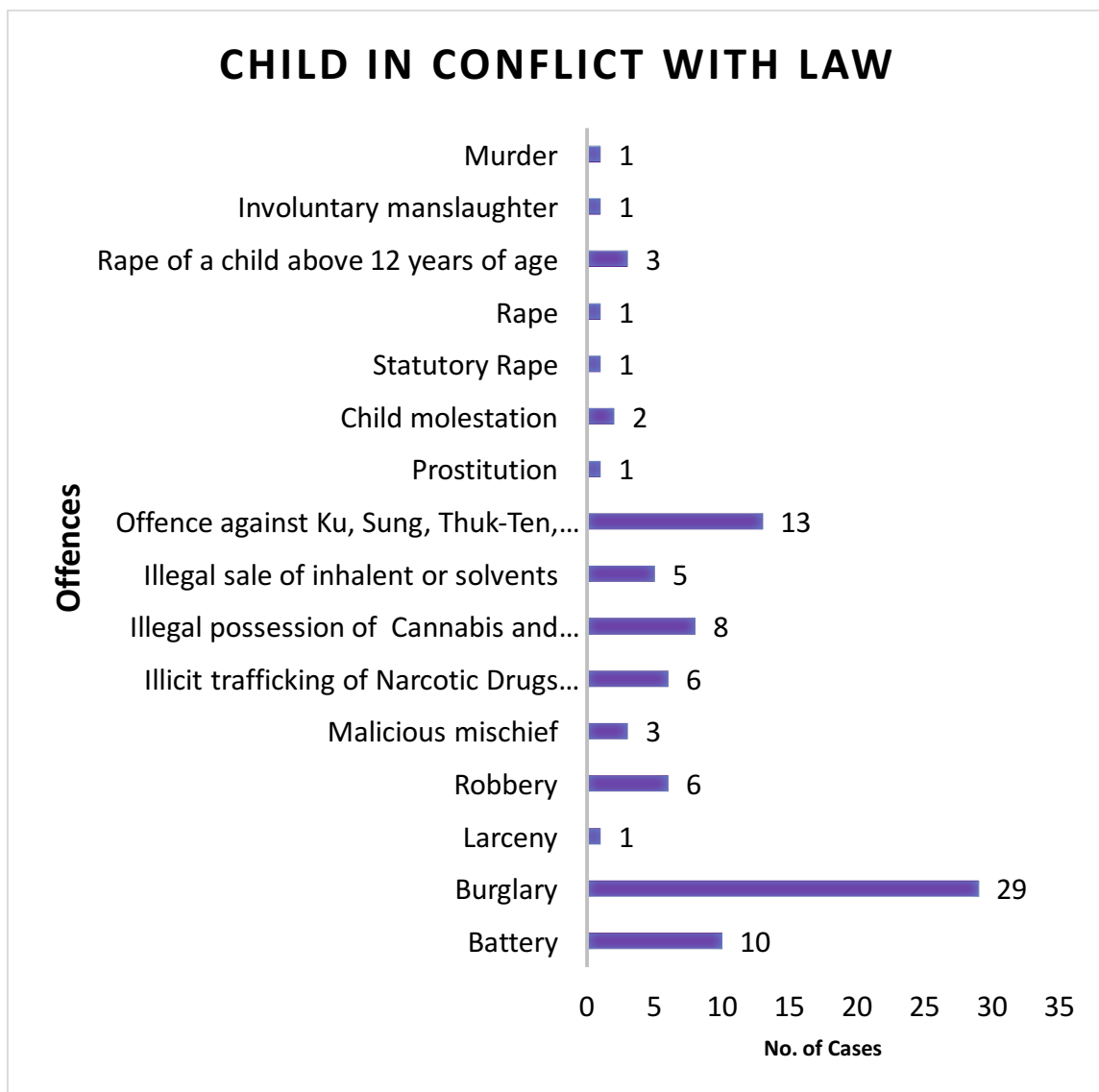
in the Courts. The SP Plus drug replaced the earlier favored drug Spasmoproxyvon (SP) that contained Detropoxyphene narcotic substance listed under schedule III of the NDPSSA. The new drug SP Plus became a natural replacement of the older drug SP that discontinued being produced in India and the new drug also contained opioid.

SP was manufactured by the Indian pharmaceutical company Wockhardt Ltd. under the name of Spasmoproxyvon which was banned by the Indian government in May 2013 and earlier by the U.S as well. Despite the ban, SP was available in the black market beyond the ban date. SP was also banned in Bhutan under the NDPSSA when it came to force on July 20, 2015. After the ban in India, the company replaced SP with SP Plus which hit the markets later in 2015.

The main bone of contention with regard to the cases involving SP Plus was tramadol, which was not listed in the schedule of the NDPSSA. Later the defense counsel raised in above cases that SP Plus was outside the scope of the NDPSSA. In the meantime, many of the accused were already languishing in detention centers around the country. In pursuant to these developments, the Supreme Court's ruling gave a sigh of relief to the aggrieved in cases involving SP Plus which allowed many convicts under NDPSSA by the lower courts to pay thimthue in lieu of imprisonment. The Supreme Court directed the Bhutan Narcotic Control Agency to amend the list in the schedules although this power was reserved for the parliament to decide on under the NDPSSA. Accordingly, the Parliament amended the Act in line with the directives issued by the Supreme Court.

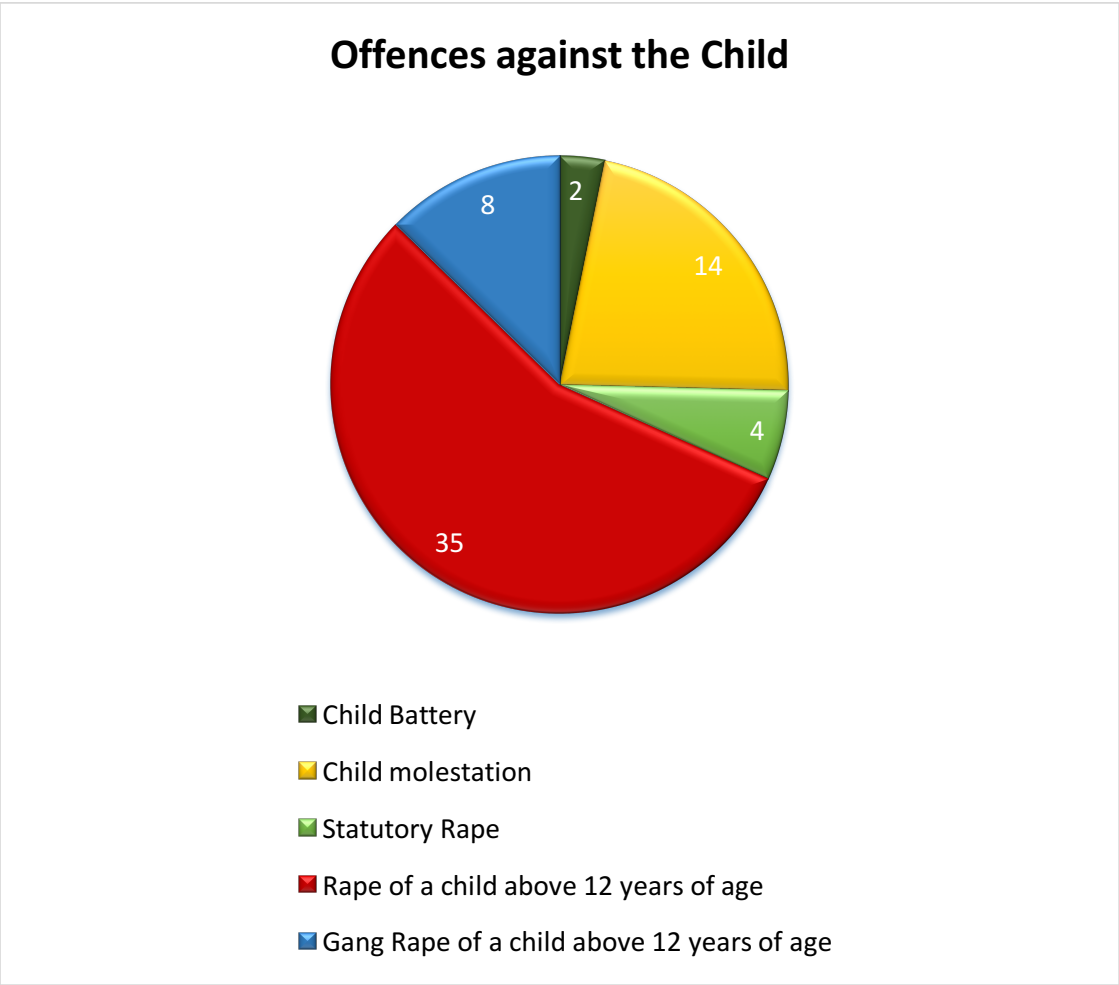
Looking at the statistics of drug offences referred for prosecution every year, the stringent provisions of the law seems to have less or no deterrence effect on curtailing the abuse of drugs or the number of drug peddlers as cases are on the continuous rise. These facts necessitate a detailed understanding of how a long term solution to tackle the social menace can be agreed upon. A reformatory approach is certainly an option that is gaining popularity and support elsewhere.

Cases of Child in Conflict with the Law



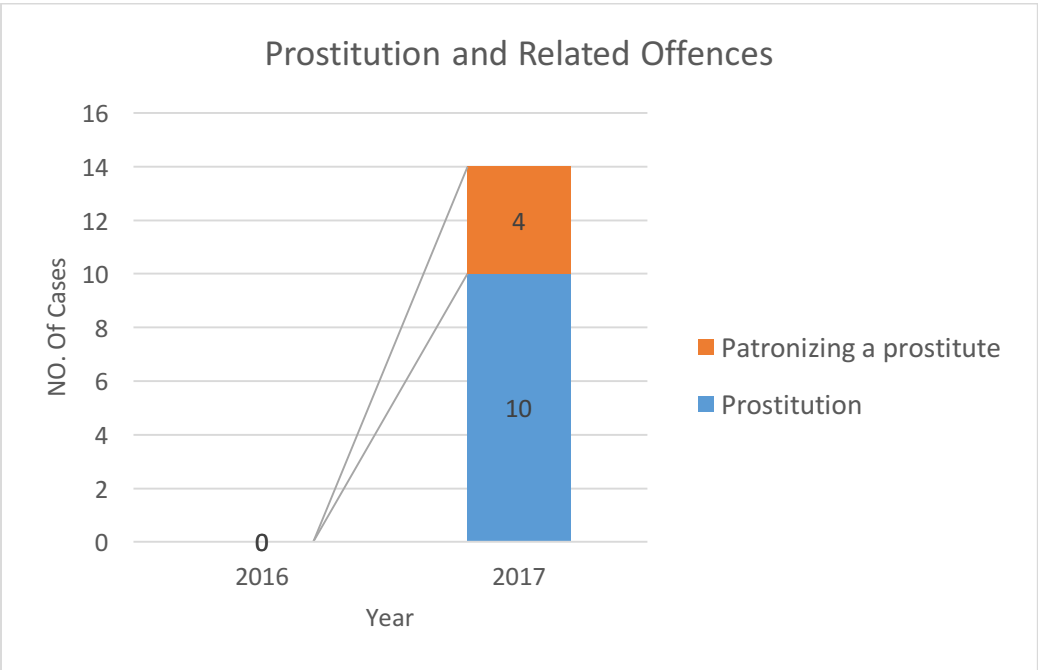
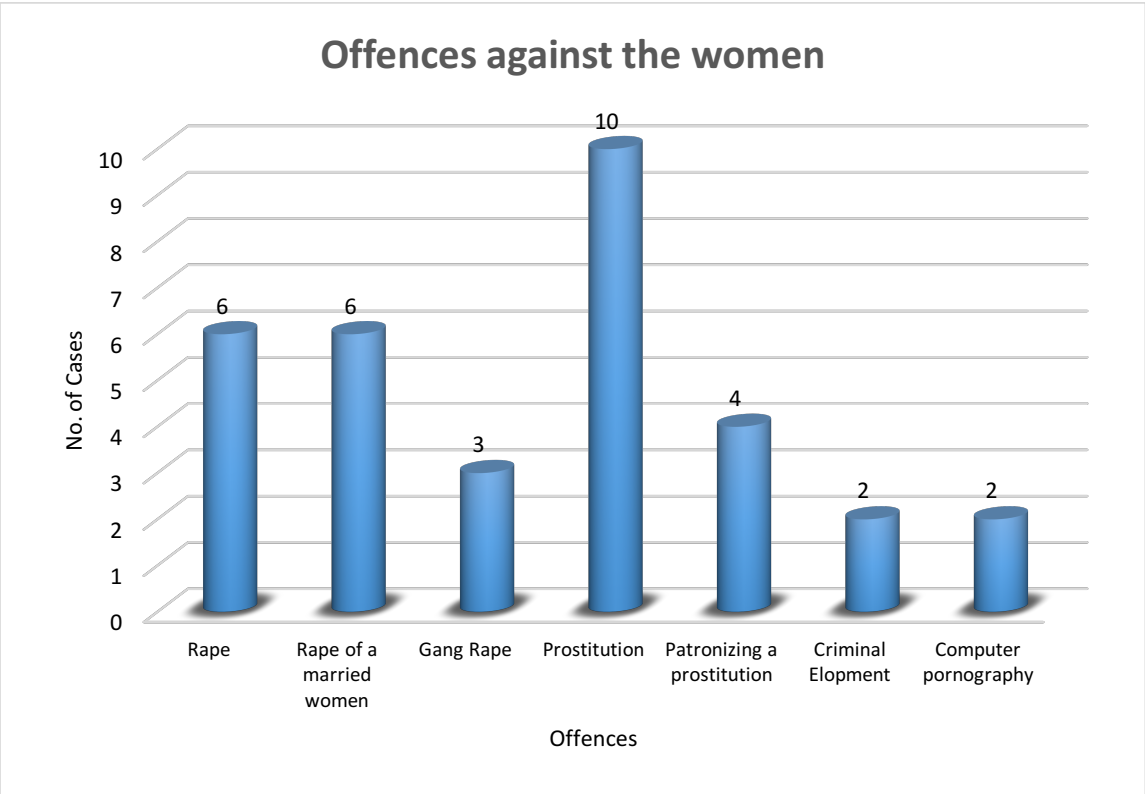
Out of the 1318 cases received from the RBP, 91 cases involved children who came in conflict with the law. The highest offences of crimes that involved children in conflict with law were burglary followed by offence against ku sung thuk-ten or zung.

Cases of offences against Child



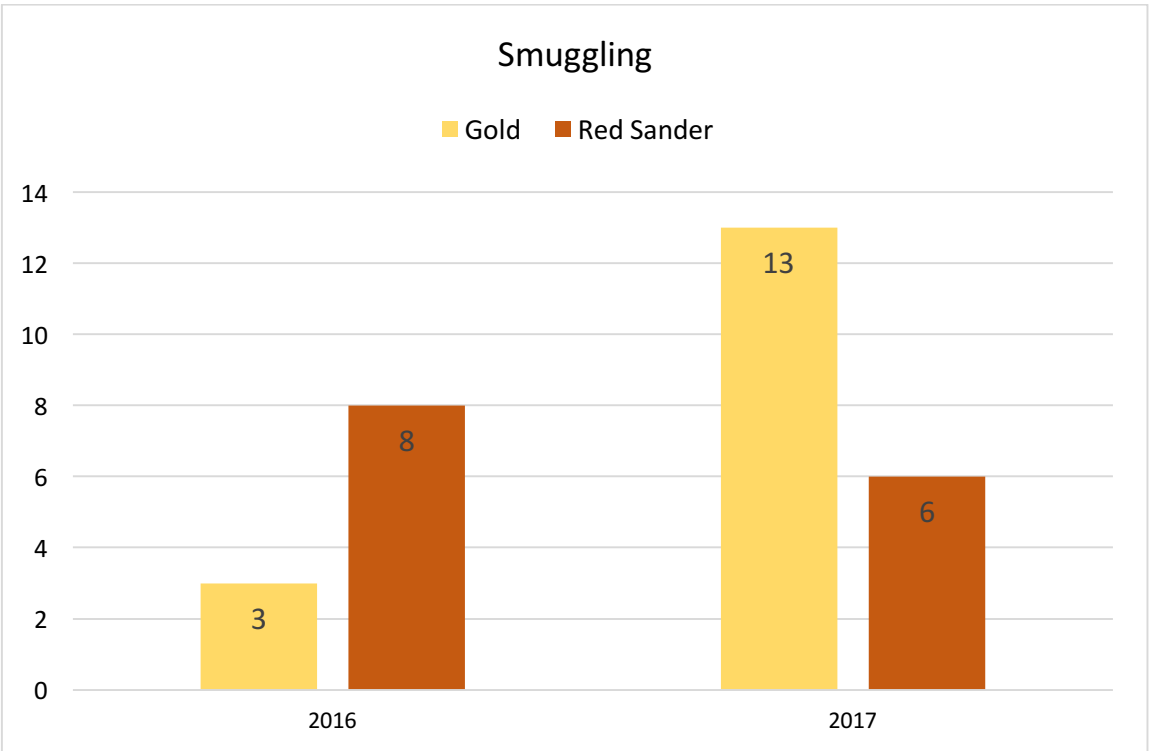
There were a total of 63 recorded offences committed against the child, however there could be even more cases involving violence against children left un reported. This data shows the vulnerability of children which have been prosecuted. One of the interventions that the Office could undertake is to continue to create more legal awareness on such sexual offences in schools and in communities through its dissemination programs.

Offences against Women, Prostitution and Related Offences



There were a total of 22 cases of offences committed against women that are categorized under sexual offences, computer pornography, kidnapping and related offences. In 2016, there was no single case prosecuted for the offence of prostitution and patronizing a prostitute. However, although the number of cases reported have increased in 2017, there may be a number of cases left un reported.

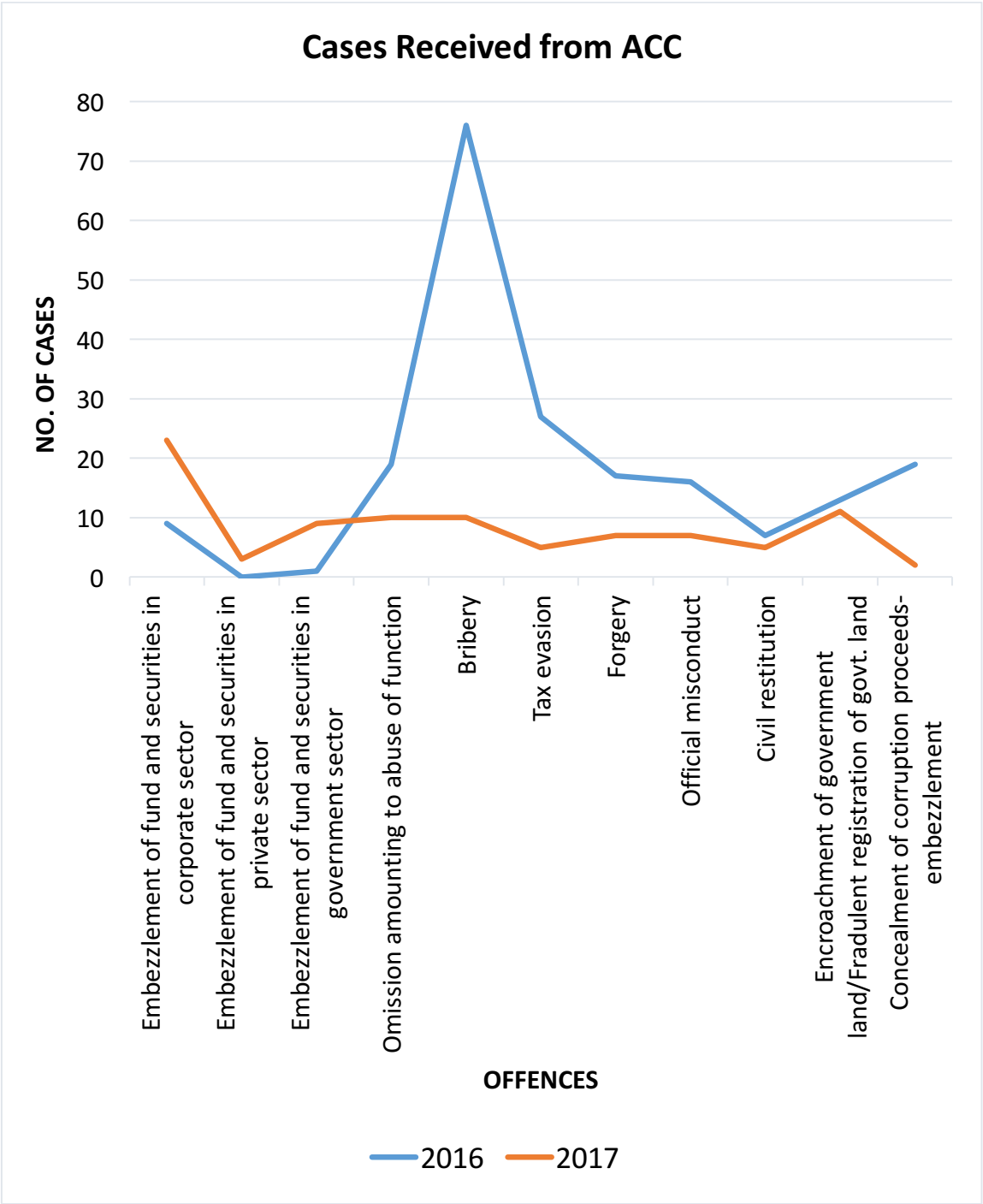
Offences of Smuggling



Among the number of offences that fall under smuggling under the *Penal code*, the Office prosecuted only 3 cases of gold smuggling in 2016, while 13 cases were prosecuted in 2017. The increase in cases maybe because smugglers have now begun to use roads as a means of transport to import gold illegally into the country. The case of *State Vs. Chundu Wangchuk, Rinchen Dorji and others* in 2016, marked the first case of such nature.

Unlike the increase in the smuggling of gold cases, the smuggling of red sanders in 2017 saw a decline from 8 cases in 2016 to 4 cases.

ACC Case Report



K. ACC Cases

In 2017, the Office received 23 investigation reports from the ACC. Currently, there are 7 ACC cases being prosecuted in different courts in the country, while the remaining cases received in the month of January are all under review by the Office including 3 cases of the 10 cases received in the month of January making total of 16 cases under review.

During the year 2017, the Office was still engaged in 26 spillover cases from the previous year in addition to the new cases received in various courts. Amongst the pending cases, 29 cases were completed with judgments rendered including some challenging cases like the Dungsam Cement Construction Limited case, RMA case, Tax evasion case, Customs case and the case against the ex-employee of BoBL.

ACC Cases under review: The Case Management System (CMS), individual prosecutor's case files and official correspondence, show that cases continuing to be under review process on the following technical, procedural and resources constraints reasons:

1. Corruption cases are technically complex and voluminous even for those that seem as simple cases. Thus, it entails more hours of study and deliberation before initiation of prosecution;
2. ACC case-reports received in volumes often contain many individual cases within it. An example of this is the *RICB's embezzlement of fund and securities* case of Paro, which was received in May 2016 and assigned to a team of prosecutors for review. It is an example of a case that involves 47 individuals with different offences on numerous counts, including one with 232 counts of forgery. It is pertinent in such cases to file separate cases to prove every individual charge and count beyond any reasonable doubt, as required by the criminal procedure Code. Similar case reports include: cases of encroachment of government land in and around Thimphu; illegal repatriation of INR by using Bhutanese ATM cards; embezzlement of public fund in relation to Dungsam Cement Corporation Ltd; and fronting and tax evasion cases of UDEE Clearing Agent.
3. There are instances where case-reports lacked clarity as a result of: missing documents; incomplete information; and inconsistency or contradiction of information within cases and reports- especially witness's statements and figures in financial transactions and calculations. It is inherently important to provide accurate information in substantiating cases without any semblance of doubt. The certainty of conviction and restitution (particularly, in embezzlement cases) depends on the accuracy of figures, among others. In cases that are under review, the useful hours have been spent on official correspondences, seeking clarifications and reconfirmation and further evidence from ACC and other relevant agencies.
4. When a case review is finalized with the final charge sheet (most charge sheet is initially drafted in English so that the accurate versions of facts, event, and evidence is captured based on the report which is in English), translations of the the charge

sheet from English to Dzongkha is yet another challenge, which often takes long hours and require a high degree of expertise. The case reports are so far received in English, for the reason that technical concepts are properly understood and communicated in the language of their origination or having application thereto; hence charge sheets are first drafted in English, which is then translated into Dzongkha with proper vetting Since Courts normally do not entertain cases filed in English. There are instances where charge sheets filed before courts were returned to the prosecutors with directives to file separately in Dzongkha; and

5. The existing number of lawyers currently engaged in prosecution is not adequate to handle the workloads resulting in delay on the review of cases since the office is committed not to compromise on quality of prosecution/litigation services. The workload has been gradually increasing as shown in the table below:

Cases over a period of 5 Years

Year	No. of Cases	Taken up by Head Office	Delegated to RBP & lawyers of other agencies	ACC Cases
2013	437 cases (775 defendants)	599	176	8 cases (45 defendants)
2014	422 cases (935 defendants)	683	252	8 cases (42 defendants)
2015	468 cases (970 defendants)	854	116	19 cases (173 defendants)
2016	1362	RBP=891; ACC=34 - (totaling 212 cases); Others=9: Total 1,112	-	34 Case Reports (42 defendants)
2017	1348	RBP= 1318; ACC=23 (totaling 235 Cases); Other Agencies=7: Total 1559	9	23 Case Reports

As of December 2017, the OAG has the same number of man force in 2016 with a total of 35 Attorneys handling workload of all three divisions including those on studies. There are 5 legal assistants, who equally carry out prosecutions and provide assistance in prosecution of complex cases. Only one language development officer carries out translation, editing of the drafts and vetting of the court submissions.

Cases returned or dropped: In 2017, no cases were returned to ACC for lack of proof beyond reasonable doubt or dropped from prosecution. The received case reports are still under active review by this Office.

L. Other Cases

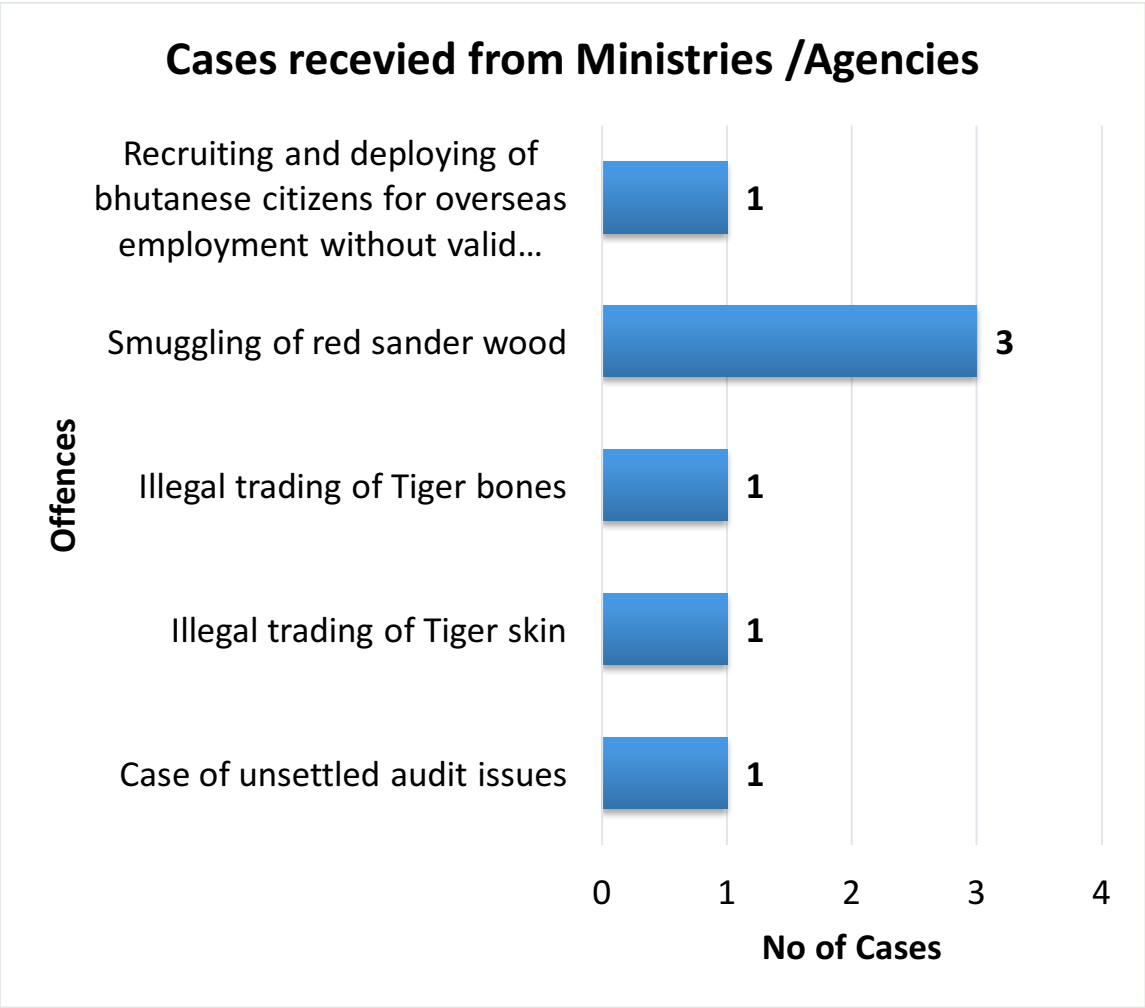
In 2017, a total of 7 cases were referred to the office from Ministries or the Cabinet for prosecution. From these, 1 case was referred from the Royal University of Bhutan routed through the Cabinet Secretariat pertaining to offence of unsettled audit issue; 5 cases were referred from the Ministry of Agriculture and Forest pertaining to offence of illegal trading of tiger skin, illegal trading of tiger bones and smuggling of Red sander wood and; 1 case was referred from Ministry of Labor and Human Resource (MoLHR) pertaining to offence of recruiting and deploying of Bhutanese Citizen for overseas employment without a valid license. Out of the 7 cases received, 2 cases are under review, 3 cases were returned for lack of evidence and 2 cases are under *sub judice* in the court.

Cases returned to the Ministry:

Ministry of Labor and Human Resource: The Office received a case in 2017 from the MoLHR on recruitment and deployment of Bhutanese citizens for overseas employment without a valid license involving 2 persons. After reviewing the case, the Office found that the case had not been routed through an investigating agency and the powers to investigate such matters by the MoLHR were lacking. Therefore, the case was sent back since the Office can commence prosecution only after receiving an investigation report from a lawfully competent investigating agency.

Ministry of Finance: The Office reviewed a case received in 2017 from the MoF. The case was regarding unsettled Audit issues related to inadmissible claims of stipend made by a former lecturer of Sherubtse College. The Office reviewed the case, and made a decision that the case was administrative in nature, which could be settled by the Agency concerned. Therefore, the Office returned the case to Royal University Bhutan (RUB) for settlement through administrative means.

Cases received from Ministries and Governmental Agencies



1.2 Internship Program



Intern Attached under Prosecution and Litigation Division

The Office also offers an internship program for law school students and law graduates every year. The interns who are selected are attached with Attorneys under the Department of Justice and assist the Attorneys with research for the purposes of Prosecution. The interns also assist in the works of the Department of Legal Services as and when required particularly for carrying out research on segregated topics of a given issue. It is a firm belief of the office that engaging young legal minds to understand the real-time application of law would go a long way to become officers of the court. This in turn would enable them to become effective contributors to the noble aspiration of the rule of law and understand the importance of the due process of law in the country.

The interns also get an opportunity to attend trial proceedings in various courts in the country.

1.3 Property and Judgment Enforcement Section (PJES)

In 2017, with the approval from the RCSC, the OAG specifically established a Property and Judgment Enforcement Section to see through the implementation of judgments on time and also to follow up on the pending judgments. The significance of establishing a separate section for judgment enforcement was to ensure that the what is due to the state is not kept in abeyance after the completion of prosecution proceedings. Previously, the execution of the judgments had to be carried out by the concerned prosecutors. This method however was found to be ineffective, due to the prosecutors being engaged in ongoing prosecutorial functions thus adding a cumbersome burden on them often resulting in undue delay in enforcing the judgment on time.

The PJES has received diverse judgments for execution, encompassing compensation claims in battery, rape and murder cases to restitution in burglary cases and restitution to Government for embezzlement and bribery cases. In the year 2017 itself, PJES received over 47 ACC judgments, 64 RBP judgments and 3 judgments of other Agency for enforcement. Out of these 47 ACC judgment, 29 were successfully enforced and 18 judgments are partially enforced.

For the RBP case judgments, 13 have been successfully enforced, while 9 judgments are partially executed and the remaining 41 judgments are currently before the court in the process of enforcement. In one RBP case, the Court ordered for rehabilitation and treatment of the defendant, which is also being looked after by the PJES.

Enforcement of judgment has always been a difficult task for any agency all around the world. Likewise, the PJES has been facing many challenges while executing judgments. For instance, judgment debtors are serving long term sentences, some are destitute, early release from prison poses difficulty in tracking their whereabouts and often, while following up with other agencies for information has resulted in undue delay in executing judgments.

In 2017, the PJES has recovered a total amount of Nu. 10,660,700.39m (Ngultrum ten million six hundred sixty-six and seven hundred and thirty-nine chetrum) only as restitution of the ACC cases.

1.4 Media and Information Services

This unit acts as Attorney General's Secretariat and facilitates higher degree of communication between the Attorney General and any external bodies. It is the duty of this Unit to efficiently inform the public and communicate transparently, any information on cases and other services of the OAG.

1.5 Library Section

This Section is responsible for administration of the library including proposal for up-gradation of law books and printing of Statutes when required. In 2017, the Office consolidated the Civil and Criminal Procedure Code, Penal Code and Evidence Act with printing of over 300 copies to make it more accessible and convenient for Attorneys. The Office also printed 250 copies of the newly adopted Rules of Procedure for Rendering Legal Opinion, 100 copies of the Prosecution Handbook that (adopted in 2017) and with the funding support of the Save the Children printed 1000 copies of the Diversion Guideline and the Child Friendly Prosecution Guideline that were adopted in 2017. These copies were circulated to all the in-house Attorneys, Lawyers in the Government and stakeholders.

Since OAG functions as a legal depository, it is incumbent for it to publish Statutes upon it being passed by the Parliament through print or online medium. The online information can be accessed at oag.gov.bt

2. DEPARTMENT OF LEGAL SERVICES

The Department of Legal Services is responsible for advising the Government on any legal matters and drafting and reviewing laws, which are normally carried out by the Ministry of Law. The Department of Legal Services is bi-furcated into two divisions in keeping with their distinct functions: Drafting & Review Division (DRD) and Legal Service Division (LSD).

2.1 Drafting and Review Division (DRD)



The DRD: With Chief Attorney, Dy. Chief Attorney and Attorneys of the Division

A. Mandate of the Drafting and Review Division

The core mandate of the DRD is to ensure quality and efficient services in: drafting and reviewing of bills (including amendment bills), delegated legislations (rules and regulations) and guidelines; and reviewing of existing laws. The DRD carries out its mandate if directed by the government through a cabinet directive accompanied by ‘Clear and Detailed Policy Guideline’ with regard to the legal instrument to be drafted or reviewed. For the purposes of drafting of legislations, the DRD may conduct consultation meetings only if that is so desired by the government reflecting a consultative approach of the government. Further, the DRD may review the existing laws and propose amendments to the government through various approaches: on the initiative of the Attorney General or constituting committees, whenever required. The DRD also assumes its mandate to act as the repository of laws in the country through the library functions of the office.

In executing the drafting and reviewing function, the guiding parameters for the DRD are to conduct thorough research on the subject matter of the legal instruments to comprehend the subject matter and understand it, and verify that the legal instrument is consistent with the existing laws including format and language of the proposed legislation.

B. Collaboration with the Government, ministries and government agencies in Drafting Implementable Laws

The DRD aspires and persevere to draft high quality laws that are consistent with the substance, format and language of the existing laws. Drafting implementable laws form a crucial component of high quality laws which also warrants reduction of need for amendments which could be curtailed through the concerted efforts of the government, ministries, agencies and the DRD. If the ministries or government agencies provide a ‘Clear and Detailed Policy Guideline’ while proposing for a legislation so that those form the basis of which drafting or reviewing bills or delegated legislations could be carried out, the plausibility of amendments in the laws may be reduced. ‘Clear and Detailed Policy Guideline’ would ensure clarity in grasping the existing problem and the best means of resolving the problem based on which the legislative text would be drafted. Hence, the culmination of combined efforts across the ministries, government agencies and the DRD would lead to practical and achievable laws to serve the dual need of the government and the people which would also be an attempt for evidence based decision making process.

A. Highlights of laws drafted in 2017

The DRD drafted two delegated legislations and one guideline in 2017.

B. Rules of Procedure for Drafting and Reviewing Bills and Delegated Legislations

The Rules of Procedure for Drafting and Reviewing of Bills and Delegated Legislation (Rules of Procedure) was framed with the objective to streamline the process of drafting and reviewing of a bills and delegated legislations in the OAG, and the ministries and government agencies collaborating with OAG; provide clear time-frames in drafting and reviewing function; specify the responsibility of a drafter; and stipulate on the content of 'Clear and Detailed Policy Guideline' in the form of Drafting Instruction. The adoption of the Rules of Procedure is envisaged to generate numerous gains including efficient and effective drafting and reviewing services being rendered by the OAG, circumventing or reducing repeated amendments in the existing laws and enacting enforceable laws.

During the drafting process of the Rules of Procedure, in-house meetings and consultation meeting with the relevant public bodies have been conducted to invite comments and feedbacks for the improvement.

C. Attorney General's Prosecutorial Order

The Attorney General's Prosecutorial Order was framed with the six broad objectives: streamline the prosecution process in the OAG; outline the systemic process of the prosecutorial service rendered; promote fair, impartial and just proceeding in criminal cases through formalized screening of cases; assist in framing appropriate and proportionate criminal charge based on the law, fact and evidence; ensure that reasoned grounds are accurately established on decisions about any case being decided on; and effectively assist in implementation of the Office of the Attorney General Act 2015. The Prosecutorial Order will be adopted by 2018.

D. Legal Aid Guideline

On the directive of the Honorable Prime Minister, the DRD drafted the Legal Aid Guideline. Although there are numerous laws providing the provision on rendering legal aid, in reality, the issue in so far as providing of actual legal aid is concerned, there is a lack of a mechanism and identification of a dedicated body or competent authority to undertake this responsibility. Therefore, the draft Legal Aid Guideline was drafted with the objective to encourage strategic focus on providing legal aid through a Legal Aid Centre to indigent persons to further the interest of justice, while being judicious in the expenditure of public resources. The draft Guideline comprises of provisions for access of legal aid in both criminal matters and to bring forth a suit or respond to a suit in a civil matter in limited scope.

Series of consultation meetings within the OAG, and the private lawyers as well as the government lawyers formed part of the drafting process to garner broader understanding and obtain the views of the bodies outside the OAG.

E. Highlights of laws reviewed

In 2017, the DRD reviewed five bills on diverse subject matters, two delegated legislations, a guideline, an international agreement and a Memorandum of Understanding. The subject matter of the bills ranged from chemicals weapons; insolvency, mines and minerals management, biodiversity to narcotic drugs and psychotropic substances. The review of the delegated legislations included Public Private Partnership Rules and Regulations, and Rules and Regulations on the Packaged Pilgrimage. The review of guidelines was on monument entry fees management. The DRD also reviewed an international agreement and a Memorandum of Understanding between the Royal Government of Bhutan and United Arab Emirates on Air Services.

The Law Review Task Force constituted through an Executive Order in 2015 with the Attorney General as the Chairperson, continues with its mandate and the DRD is serving as the Secretariat in coordinating the in-house and consultation meetings, recording the minutes of the meeting and assisting in compiling the reports. The Taskforce conducted a five-day meeting at Paro from August 28 to September 1, 2017 to compile the report on the basis of the consultation meetings with various stakeholders, assignments given to the respective members of the Taskforce and in-house meetings conducted throughout the year. The Taskforce is currently in the process of compiling the report, which may be submitted to the government in May 2018 and to the Parliament, if required.

F. List of Bills, Rules, Regulations or Guidelines drafted or reviewed, and meeting conducted by DRD in 2017

SL#	Bills/ International Agreements		Rules/Regulations/ Guidelines		Meetings conducted by DRD
	Drafted	Reviewed	Drafted	Reviewed	
1.		Chemical Weapons Bill			Consultation meeting on Legal Aid Guidelines with the ministries and Dzongkhag lawyers
2.		Insolvency Bill	Legal Aid Guidelines	Public Private Partnership Rules and Regulations	Consultation meeting on Legal Aid Guidelines with the private lawyers

SL#	Bills/ International Agreements		Rules/Regulations/ Guidelines		Meetings conducted by DRD
3.		Biodiversity Bill	Attorney General's Prosecutorial Order	Rules and Regulations on Packaged Pilgrimage.	Consultation Meeting on Rules of Procedure for Drafting and Reviewing of Bills and Delegated Legislations with ministries, government agencies, constitutional bodies and autonomous bodies
4.		Mines and Minerals Management Bill	Rules of Procedure for Drafting and Reviewing of Bills and Delegated Legislations	Monument Entry Fees Management Guidelines	Law Review Taskforce meeting for compiling the Law Review Taskforce Report
	Drafted	Reviewed	Drafted	Reviewed	
5.		Narcotic Drug, Psychotropic Substance and Substance Abuse (Amendment) Bill			
6.		Agreement on between the Royal Government of Bhutan and United Arab Emirates on Air Services			
7.		Memorandum of Understanding between Government of Bhutan and United Arab Emirates on Air Services			

G. DRD's future outlook

While much has been achieved in framing the Rules of Procedure to streamline the process of executing the drafting and reviewing function, there is still more to accomplish in terms of adopting and implementing the same. Developing drafting tools and software to render speedier quality services has been the focus of the DRD, which is hoped to be achieved in the coming years. The current circumstance of the DRD with limited Attorneys possessing the desired experience and expertise in drafting or reviewing legal instruments is hoped to gradually transform with the changing times.

H. DRD output at a glance

- 2 delegated legislation drafted
- 1 Guideline drafted
- 5 bills reviewed
- 1 agreement reviewed
- 1 Memorandum of Understanding reviewed
- 3 delegated legislation reviewed and, 3 consultation meetings conducted

2.2 Legal Services Division (LSD)



The LSD: With Chief Attorney, Senior Attorney and Attorney of the Division

The mandates of the LSD are broadly divided into two categories, which entail:

- (1) providing legal opinion on matters of law and such other issues of a legal nature as referred to it by the Government; and
- (2) providing legal education to lawyers and dissemination of laws to the general public to create awareness of legal development.

These functions are entrusted to the two sections, namely: the advisory section and the dissemination section of the LSD. The advisory section essentially deals with two legal regimes: Domestic law and the second one of International law. The subject matter on the desk of LSD to name a few ranges from international conventions and treaties (international law) to constitutional, criminal and civil matters (domestic law) that include taxation, delimitation, election, extradition, government contracts, etc.

A. Rule of Procedure for Rendering Legal Opinion 2017

Under section 101 of the OAG Act 2015, the Attorney General is empowered to make Rules, Guidelines, Manuals and such other orders for effective functioning of the office from time to time in accordance to the provisions of the Act. Accordingly, the Attorney General adopted the *Rules of Procedure for Providing Legal Opinion 2017*. Under the same power, the *Diversion Guidelines 2017* and *Child Friendly Prosecution 2017* and the Prosecution Handbook were also adopted in 2017.

The numbers of legal issues have been increasing with the rapid socio-economic development taking place in the country along with the legislative enactments and regulations. Towards these developments, there has been challenging requests for providing legal opinions to the Attorney General who being the legal advisor to the Government is mandated to provide legal advice and opinions on legal issues and questions under the Constitution of the Kingdom of Bhutan. In catering to these important requests, the rule of law is considered by the office to be paramount to ensure a just and harmonious society prevails and to act expeditiously within the ambit of the rule of law. The Attorneys of this division are required to provide support and assistance to the Attorney General in rendering effective legal advice and opinions and this rule is intended to facilitate and streamline the manner in which the Office addresses the legal issues raised by the various agencies of the government to the Attorney General.

This Rule also intends to provide for transparent and efficient modus operandi and at the same time reduce the turnaround time of the Attorneys in receiving and drafting legal opinion and advice. The Rule was adopted on 30th June 2017.

B. Highlights of issues reviewed by LSD in 2017

The legal opinions rendered in the year 2017 reduced moderately with sixty legal opinions rendered in total from eighty-three in 2016. In 2017 legal opinions covered matters relating to International Treaties and Conventions, interpretation of legal provisions including Acts, Rules and Regulations, Guidelines, and Memorandum of Understandings (MoUs).

The vetting of MoUs were carried out by the High Level MoU Committee consisting of Government Secretaries and Attorneys from OAG's LSD thus reducing the legal opinion referral pertaining to MoUs.

Although the MoU committee reduced legal opinion referrals, in reality, the referrals to the division have not decreased because the MoUs when referred to the committee are assigned to the member representative of the OAG, which is the Chief of LSD, prior to the Committee meeting. This takes the same time to review the MoUs individually and in addition the extra work is having to present the opinion before the Committee meeting, pointing out the difficulties and changes. Further follow up with the originating agencies for changes and improvements discussed during the committee meeting is also required to be carried out by the LSD.

One of the contentious matter was the fiscal incentives and the question of whether granting of FI requires to be approved by the Parliament. The office after studying the prevailing tax law, amendments of those, and the Supreme Court's decision in the first Constitutional Case (*Government v. The Opposition*) in 2011, advised the Ministry of Finance (MoF) that it need not be ratified by Parliament but must be submitted to Parliament for appraisal. This issue was simultaneously challenged by Druk Namrup Tshogpa (DNT) one of the registered political parties. The High court eventually dismissed the petition of the DNT in want of *locus standi*.

Legal opinions pertaining to financial matters were highest referrals with Ministry of Finance seeking legal opinion on financing agreements, tax deduction and green taxation, recovery of misappropriated fund, fiscal incentives, pricing of essential goods, and loan and credit policy, whereas MoWHS and MoFA had the least referrals.

The office has been playing an important role in the shadow for a long time in matters of International law and feels that further support and resources must be put in this area of law that is a subject matter having implication beyond one's control. Matters relating to treaties and conventions during the year related to Air Service agreements, Bi-lateral trade agreements, the declarations on elimination of neglected tropical Diseases endemic in the South-East Asian Region, Kingali amendment to the Montrel protocol, Male Declaration of WHO, BIMSTEC Convention, Moscow Declaration on eradicating tuberculosis,

WIPO, and WWF. All these topics were very technical while being specific to the objective that the proponents strived to achieve through support of the signatory countries.

There was also discussion about the established ADR Centre and its effective operation. The issue of the Service Conditions for the Centre was found to be one of the major blocks for its operation. The office interpreted that the ADR Centre can recruit its own employees being an autonomous body thereby emulating the intention of the very Act that established it. Recruitments were accordingly carried out, and the operations of the Centre commenced in pursuant of the objective of the legislation that had brought it to life.

C. List of Legal Opinions rendered for the year 2017

Sl. No	Referring Agency	Subject Matter	Month
1	Cabinet Secretariat	Inclusion of Chinese Language to the list of UNWTO Linguistic Diversity.	February 2017
2	Ministry of Information & Communications (MoIC)	Legal Opinion on Membership to Forum for Incidents and Security Team (FIRST) and Asia Pacific Computer Emergency Response Team (APCERT).	
3	Ministry of Finance (MoF)	Legal Opinion pertaining to clarification on constitution of the National Pension Board Members.	
4	Ministry of Finance (MoF)	Legal Opinion on Fiscal Incentive 2016.	March 2017
5	Ministry of Health (MoH)	Legal Opinion on Delhi ‘Call for Action’ to end Tuberculosis.	
6	Ministry of Agriculture & Forests (MoAF)	Legal Opinion on procedure after apprehending wildlife offenders.	
7	International Development Association (USA)	Legal Opinion on Financing Agreement for “Bhutan Development Policy Credit (DPC) Policy Based Loan.”	
8	Ministry of Information & Communications (MoIC)	Legal Opinion on Department of Air Transport under MoIC to join membership to Airports Council International (ACI) Asia Pacific.	
9	Gross National Happiness Commission (GNHC)	Legal Opinion on PIT exemption plea for Jigme Singye Wangchuck Law School Consultant.	

Sl. No	Referring Agency	Subject Matter	Month
10	Department of Macro Economic Affairs (MoF)	Legal Opinion on Financing Agreement for “Bhutan Development Policy Credit (DPC) Policy Based Loan.”	
11	National Library and Archives, DoC, (MoHCA)	Seeking Clearance for MoU between Tokyo National Research Institute for Cultural Properties (TNRICP) and Department of Culture (DoC).	
12	Ministry of Health (MoH)	Legal Opinion on legality of recovery of misappropriated funds from a deceased culprit.	
13	Ministry of Economic Affairs (MoEA)	MoU on Use of Inland Waterways for Transportation of Bilateral Trade and Transit Cargos between the Royal Government of Bhutan and the Government of the People’s Republic of Bangladesh.	April 2017
14	MoIC	Legal Opinion on the Air Services Agreement between Royal Government of Bhutan and Democratic Socialist Republic of Sri Lanka (Proposed Agreement).	
15	Cabinet Secretariat	Legal Opinion on admissibility of minimum price as tax deductible expense.	
16	National Environment Commission (NEC)	Legal Opinion on issues pertaining to four Mines/Quarries and public in Gidaphu.	
17	Ministry of Home & Cultural Affairs	Legal Opinion on the draft Agreement on Cultural Cooperation (‘Agreement’) to be signed between the Royal Government of Bhutan and The Government of People’s Republic of Bangladesh.	
18	Ministry of Foreign Affairs (MoFA)	Agreement between the Royal Government of Bhutan and the People’s Republic of Bangladesh on allotment of land under Hejo Samtenling local area plan (lap) for construction of Bangladesh Embassy premises in Bhutan.	
19	Ministry of Health (MoH)	Legal Opinion on legality of recovery of misappropriated funds from a deceased defendant.	

Sl. No	Referring Agency	Subject Matter	Month
20	Ministry of Health (MoH)	Legal Opinion on the adoption of 'Jakarta Call for Action on accelerating progress towards elimination of Neglected Tropical Diseases (NTDs) endemic in South-East Asian Region.	May 2017
21	Cabinet Secretariat	Legal Opinion on matters pertaining to SASEC Finance Ministers' Meeting.	
22	Ministry of Education (MoE)	Legal Opinion on MoU between MoE and Gangwon Provincial Office of Education, Republic of Korea on Education Exchange and Cooperation.	
23	National Environment Commission (NEC)	Legal Opinion on Kingali Amendments to the Montreal Protocol on Substances that deplete the Ozone layer.	June 2017
24	Anti-Corruption Commission (ACC)	Legal Opinion on Article 44(6) of the United Nations Convention Against Corruption and Section 1(D) of the Extradition Act of Bhutan 1989.	
25	Ministry of Agriculture & Forests (MoAF)	Legal Agreement on Agreement on the establishment of Asia Forest Cooperation Organization.	
26	Cabinet Secretariat	Identifying ACC as focal agency as required by United Nations Against Corruption.	
27	Ministry of Finance (MoF)	Legal Opinion on Shifting of the collection point of Sales Tax and Green Tax from point of import to point of sale for goods and services.	
28	Cabinet Secretariat	Legal Opinion on Service Conditions for Alternative Dispute Resolution Center.	July 2017
29	Ministry of Economic Affairs (MoEA)	Legal Opinion on becoming member to the Intergovernmental Forum on Mining Metals and Sustainable Development (IGF).	
30	Tourism Council of Bhutan (TCB)	Clarification regarding the nature of Sustainable Development Fee (SDF).	

Sl. No	Referring Agency	Subject Matter	Month
31	Bhutan Standards Bureau (BSB)	OAG endorsement for renewal of MoU between BSB and QCI.	August 2017
32	Bhutan Health Trust Fund (MoH)	Legal Opinion on Autonomy of Bhutan Health Trust Fund	
33	Bhutan Standards Bureau	MoU between BSB, Bhutan and QCI, India.	
34	Department of Bilateral Affairs (MoFA)	Inquiry on marriage documents of the Royal Court of Justice.	
35	Ministry of Economic Affairs	Legal Opinion on draft collaboration agreement on the project “Building Bhutanese Resilience Against Cataclysmic Events”.	
36	Ministry of Agriculture & Forests (MoAF)	Legal Opinion on the Agreement for the establishment of Asian Forest Cooperation Organization.	
37	Ministry of Economic Affairs	Legal Opinion on the Mineral Development Policy, 2017 (MDP).	
38	Ministry of Health (MoH)	Legal Opinion on the ‘Male Declaration’ proposed to be signed during the 70 th Regional Meeting of WHO Regional Committee for South East Asia in Male, Maldives, held on 6-19 September, 2017.	
39	National Pension and Provident Fund (NPPF)	Legal Opinion on the interpretation on the provisions of the NPPF Rules and Regulations	September 2017
40	Department of Law and Order, (MoHCA)	Legal Opinion on ratifying the BIMSTEC Convention on Cooperation in Combating International Terrorism, Transnational Organized Crime and Illicit Drug Trafficking.	
41	Ministry of Health (MoH)	Legal Opinion on the ‘Moscow Declaration’ that would be adopted during WHO Global Ministerial Conference on “Ending Tuberculosis in the Sustainable Development Era; a Multi-Sectoral Response” scheduled from 16-17 November 2017 at Moscow, Russia.	

Sl. No	Referring Agency	Subject Matter	Month
42	Ministry of Information & Communications (MoIC)	Legal Opinion on the [signed] MoU and initiated draft Air Services Agreement (ASA) between the Royal Government of Bhutan and the United Arab Emirates (UAE).	
43	MoIC	Legal Opinion on membership to International Mobile Satellite Organization (IMSO).	October 2017
44	Ministry of Finance (MoF)	Discussion in relation to ADB Framework Agreement- Supplement concerning guarantees.	
45	Ministry of Foreign Affairs (MoFA)	ADB Framework Agreement- Supplement concerning guarantees.	
46	MoEA	Legal Opinion on Depot Surcharge POL Pricing.	
47	Ministry of Home and Cultural Affairs (MoHCA)	Legal Opinion on BIMSTEC Convention on Cooperation on Combating Terrorism, Transnational Organized Crime and Illicit Drug Trafficking. (BIMSTEC Convention).	November 2017
48	Cabinet Secretariat	Legal Opinion on the Draft MoU between the Construction Development Board, Bhutan and Construction Industry Development, New Delhi, India.	
49	Cabinet Secretariat	Legal Opinion on the Draft MoU between the Construction Development, Bhutan and Construction Institute Thailand, Ministry of Industry, Thailand.	
50	Cabinet Secretariat	Legal Opinion on the Draft MoU between the Construction Development, Bhutan and Construction Industry Authority of Philippines, Philippines.	
51	Cabinet Secretariat	Legal Opinion on the Draft MoU between National Environment Secretariat, Bhutan and Ministry of Science and ICT, South Korea.	
52	Cabinet Secretariat	Legal Opinion on the Draft MoU between Ministry of Economic Affairs, Bhutan and World Intellectual Property Organization.	

Sl. No	Referring Agency	Subject Matter	Month
53	Cabinet Secretariat	Legal Opinion on the Draft MoU between Ministry of Health (MoH), RGoB, Jigme Dorji Wangchuck National Referral Hospital (JDWNRH), RGoB, and Wen Giving (WG), WA, Australia, on Construction of Gyalyum Kesang Choden Wangchuck National Eye Centre.	
54	Cabinet Secretariat	Legal Opinion on the Draft MoU between Ugyen Wangchuk Institute for Conservation and Environment Research, and Southern African Wildlife College on 'Transforming Bhutan's Ranger Training with technical and financial support from WWF-Bhutan.	
55	Cabinet Secretariat	Legal Opinion on the MoU between The Federal Department of Foreign Affairs of Swiss Confederation and Ministry of Foreign Affairs, Royal Government of Bhutan.	
56	Ministry of Economic Affairs (MoEA)	Additional legal opinion on becoming member to the Intergovernmental Forum on Mining Minerals, Metals and Sustainable Development (IGF).	December 2017
57	MoEA	Framework Agreement on the Facilitation of Cross Border Trade in Asia Pacific.	
58	Cabinet Secretariat	Legal Opinion on Draft MoU Between EdCIL (India) Ltd. and Ministry of Education.	
59	Tourism Council of Bhutan (TCB)	Legal Opinion on MoU between Tourism Council of Bhutan (TCB), Bhutan and The Designated Areas for Sustainable Tourism Administration (Public Organization) (DASTA) Thailand on 'Areas of Cooperation on the Supply side of the Tourism Sector'.	
60	Ministry of Information and Communications (MoIC)	Legal Opinion on Memorandum of Cooperation (MoIC) between Aeronautical Radio of Thailand Limited (Aerothai) and the Department of Air Transport, MoIC.	

D. Dissemination of laws



The LSD also carried out the legal awareness on the ‘*Child Justice System and Conflict with Law, Rights of Women, Combating Sexual Harassment for better society, Social Media and Youth*’ at Mendrelgang Central School in Tsirang on 4th May 2017 in collaboration with Tsirang Dzongkhag and the Royal Bhutan Police, Tsirang. There were 900 students from class VI to X, 97 teachers including support staffs and two early childhood care and development facilitators who attended the program.

2.3 Dzongkha Proficiency Section

In light of the courts requiring all the court proceedings to commence only in Dzongkha, there was a need to have a separate section called Dzongkha Proficiency Section preferably under the Department of Legal Services within its structure. Strengthening Dzongkha language proficiency and competency has become crucial for empowering prosecutors and relevant officials of the office so that they can communicate effectively and efficiently in the submissions possibly aiding in gaining citizens’ confidence in the justice services.

The current assignment of this Section is to assist in drafting and reviewing of court submissions; Dzongkha translation of other official documents; translating and updating of the contents of office website in Dzongkha; help lawyers in the Dzongkha proficiency

both written and spoken through trainings and assisting Attorneys in the translation of Bills and subsidiary legislations into Dzongkha.

Further, in pursuant to the letter received from the Dzongkha Development Commission (DDC), a Dzongkha Focal Person had been assigned as proposed by Attorney General in order to carry out Dzongkha development and promotional activities within the office as an additional task in line with DDC's policy which was based on Article 1(8) of the *Constitution of the Kingdom of Bhutan* 2008, Royal Commands of the successive Monarchs, resolutions of successive National Assembly discussions, as well as government policies, laws of the country, and the positive views and recommendations received from the government agencies and from the larger sections of the society. Therefore, in keeping with DDC's advisory, a separate budget is also proposed in the 12th Five Year Plan in order to carry out the aforesaid.

3. MANAGING UNDP PROJECT TITLED ACCESS TO JUSTICE

Establishment of Bar Council of Bhutan

The OAG has been facilitating the management of a UNDP project for support to establishment of Bar Council of Bhutan with funding support from the Austrian Development Cooperation which was inaugurated on 10th May 2017 at the Office of the Attorney General where the Bar Council Office is also housed as an interim before it can have its own structural presence. The first Honorable President of the Bar Council of Bhutan is Her Royal Highness Ashi Sonam Dechan Wangchuck, and other members of the Bar Council being two retired Judges (one from the Supreme Court and one from the High Court), three Private practicing lawyers and the Honorable Attorney General as an ex-officio member. The members of the Bar are practicing lawyers currently eligible for legal practice in Bhutan.

Legal Aid

The office has also been managing a UNDP project for support to establishment of a Legal Aid system in Bhutan with funding support from the Austrian Development Cooperation. Through this project, a study was carried out by a core group that looked at best practices and reported on the possible model for Bhutan. The report was also submitted to the Government for consideration, based on which the government issued instruction to draft a Legal Aid guideline. The drafting of the Legal Aid guideline and the consultations were also supported by UNDP through funding support from the Austrian Development Cooperation.

4. SECRETARIAT SERVICES



The Secretariat Services of the OAG consists of Administration, Finance, Human Resources, and Information Communication and Technology (ICT) Units headed by an Administrative, Finance and Human Resource(AFD) Head, Mr. Tshewang Rinchen and functions under the supervision of Acting Deputy Attorney General. It is the duty of the respective services such as Administration, Finance and Human Resources to carry out the policy and planning activity and look after human resource need of the OAG in consultation with head of the respective Departments/Divisions.

The ICT Services provide technical support in maintaining ICT infrastructure like Internet connectivity, Local Area Network, Computers, Servers and other IT equipment. Further, the ICT service also provide application-related support like maintaining the Case Management System (CMS) that was developed in 2016 and imparting knowledge and information on the use of other IT application tools used by the staff.

Currently, the Head of Drafting and Review Division under the Department of Legal Services, Mr. Sonam Tashi is the officiating Deputy Attorney General in absence of one mandated Deputy Attorney General.

A. Challenges associated to the secretariat services

The difficulties related to support services, particularly the administration and planning, attributes to lack of a human resource officer, planning officer and a procurement officer. Most of the administrative work related to human resources such as leave taking, promotion and trainings, the procurement work, tendering of works, etc. are multi-tasked by the only Administration with the help of finance and IT personals. It has always been the case with the OAG that most of the planning activities are being carried out by the Attorneys who do not have proper qualification and experience in the field yet contribute to this cause. Such functions are being carried out as a subsidiary function together with the regular legal service function of the Divisions. Further, due to the absence of dedicated personnel to look after the policy and planning sphere of the office, we do see a lot of stumbling in trying to move forward especially felt while trying to garner resources for the much needed planned long term growth.

B. Overview: Budget and Expenditure for the fiscal year 2017

Sl#	Title	Approved Budget (2016-2017)		Expenditure as on 30 th June 2017	Remarks
	RGOB Financing	Current (amount in millions)	Capital (amount in millions)	Amount (millions)	
1	Pay & Allowance	18.358		18.256	Including Supplementary budget
2	Other personnel Emoluments	0.364		0.336	
3	Stipend	0.180		0.240	Supplementary
4	Travel-In-Country	5.635		7.990	Re-appropriation and Supplementary
5	Travel-Outside Bhutan	0.500		0.469	Re-appropriation
6	Utilities-Telephones, Telex, Fax, E-mails, Internet	1.510		1.090	Re-appropriation

Sl#	Title	Approved Budget (2016-2017)		Expenditure as on 30 th June 2017	Remarks
7	Utilities-Telegram, wireless Transmission, Postage	0.050		0.018	
8	Utilities-Electricity, Water, Sewerage	0.150		0.337	Re-appropriation
9	S&M-Office Supplies, Printing, publications	0.570		0.649	Re-appropriation
10	Maintenance of Property-Vehicles	0.537		0.481	Re-appropriation
11	Maintenance of Property-Equipment	0.050		0.030	Re-appropriation
12	Maintenance of Property-Computers	0.060		0.009	Re-appropriation
13	Op. Exp.-Advertising	0.080		0.080	Re-appropriation
14	Op. EXP.-Taxes, Duties, Royalties, Handling Charges, Bank Charges	0.050		0.005	
15	Hospitality & Entertainment	0.160		0.224	Re-appropriation
16	Contributions-Provident Fund	1.567		1.575	Supplementary budget
17	Retirement Benefits	0.000		2.653	Supplementary
18	Furniture		0.200	0.093	Supplementary & Re-appropriation
19	Office Equipment		1.000	0.726	Supplementary & Re-appropriation
20	Computer & peripherals		0.400	1.136	Supplementary & Re-appropriation
21	General Provisions	0.500			Re-appropriated to relevant budget heads

Sl#	Title	Approved Budget (2016-2017)		Expenditure as on 30 th June 2017	Remarks
22	Office partitioning and compound development		1.000	1.475	
23	Rendering Legal Opinion	0.196	0.620	0.623	
24	Improve prosecution and litigation services	0.200		0.182	
25	Drafting and reviewing just and uniform laws		0.500	0.200	
26	Strengthening of child justice system in Bhutan	1.700		1.700	
27	Printing of Annual Report	0.100		0.099	
	GRAND TOTAL	32.517		40.053	

Challenges

One of the notable challenges faced by this Office is insufficiency of budget for in-country travel. The Office of the Attorney General has its office in Thimphu and one of its core mandate is to prosecute and litigate. This function requires the Attorneys and Prosecutors to travel to all Dzongkhags to charge sheet and attend court summons without postponement or cancellation. The nature of the work, which is beyond OAG's control, demands OAG's officers to be on move most of the time. More than often, lack of budget and the wait for the supplementary budget, constrains the Attorneys to make timely travel and submissions to the court.

Over the years, the number of cases have rapidly increased while the budget allocated for in-country travel has remained the same since 2015. In 2017, the Office received an increase of 14.21 percent of cases against the preceding year and an approved budget of Nu. 5.735m (Five Million Six Hundred and Thirty-Five Ngultrums only) has been appropriated for in-country travel. The budget exhausted by the sixth month, requiring the Office to request a supplementary budget of Nu. 2.255m (Two million Two Hundred Fifty-Five Thousand only) till June 2017. A total budget of Nu. 7.990m (Seven Million Nine Hundred Ninety Thousand only) alone for in-country travel was expended. One

intervention to reduce in-country travel expense and cut down on the cost of the State’s resources in the long run may be through the establishment of Regional Offices.

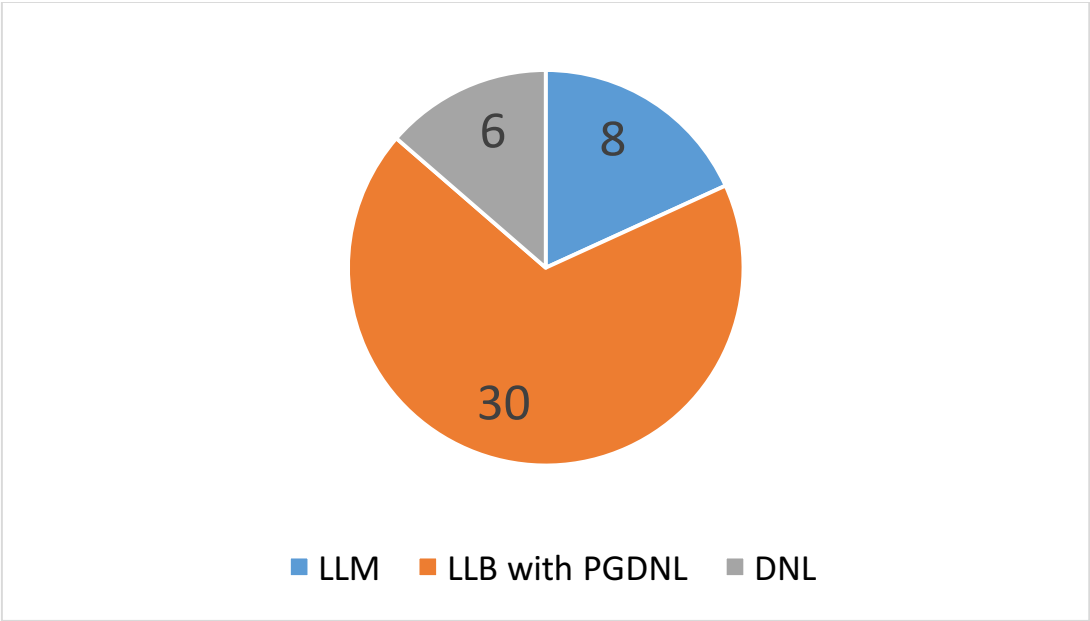
C. Award of Most Improved Website

The Office of the Attorney General received the award for ‘The Most Improved Website’ in the 4th National Website Competition held during 2016-2017. Out of 118 websites, our website jumped the rank from being in the 100s during previous competition to 17th position with a score of 68.78%. The National Website Competition is a nation-wide competition initiated by Honorable Prime Minister in 2014 and executed by Department of Information Technology & Telecom (DITT). The objectives of this competition are to encourage agencies to use their websites as a major channel for sharing information and services, to ensure regular updates and enhancements are made to websites, to increase the utility of websites for our citizens, and to improve public service delivery.

5. HUMAN RESOURCE STRENGTH

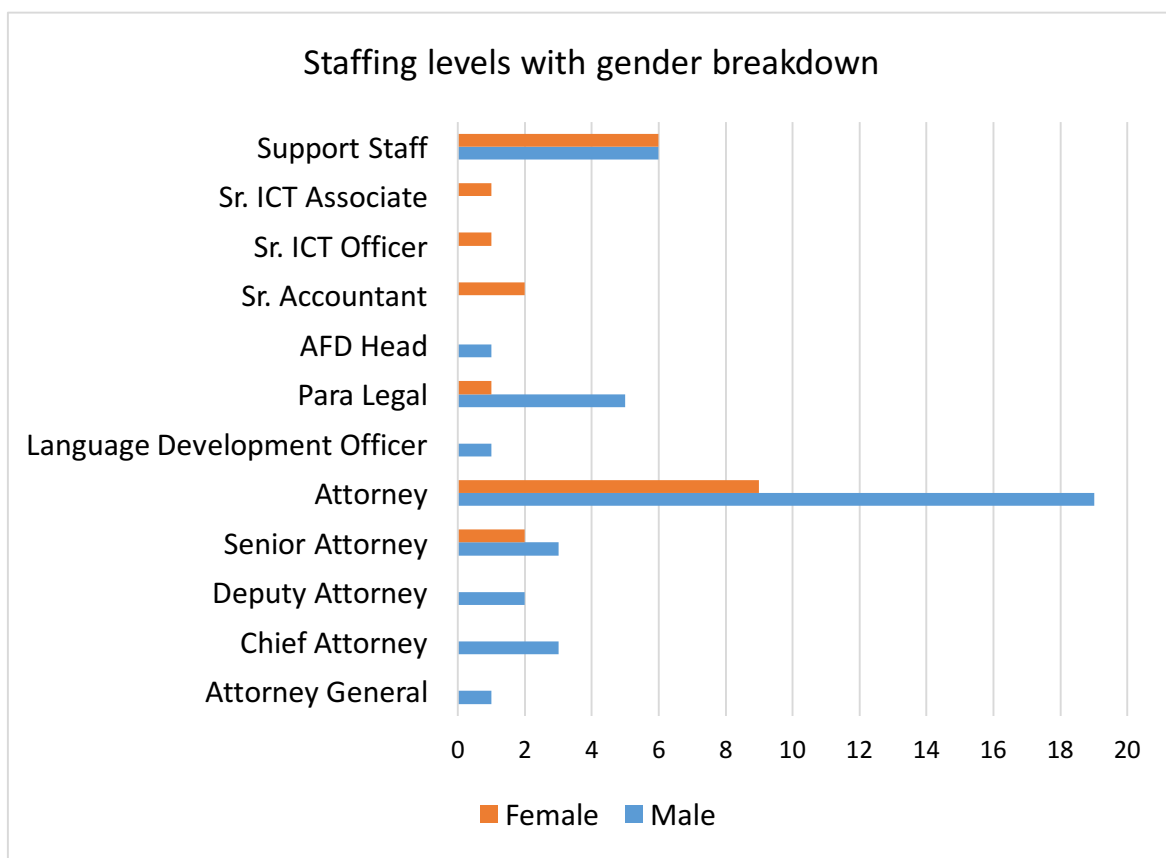
- Attorneys qualification breakdown in OAG

Qualification



The OAG has recruited more than 40 legal personnel in the last five years to meet its commitments and comply with its mandate. At present, this office has 44 legal personnel working in the office out of which 12 are female and the remaining 32 are male. Currently, a total of 8 Attorneys completed their Master Degree, 30 Attorneys have the Bachelor of law Degree with Post Graduate Diploma in National Laws and 6 Legal assistants have a Diploma in National Law.

Staffing levels with gender breakdown



Human Resource Development(HRD)

The Office participated in the following HRD programs:

1. 1 Senior Attorney and 1 Attorney from DRD attended the 32nd Int. Training Program in legislative Drafting in Bureau Parliamentary Studies Training in New Delhi, from 8th Feb to 11th March 2017.

2. 1 Attorney has attended the 7th Meeting of the BIMSTEC Sub-Group and Legal and Law Enforcement Issues in Yangon, Myanmar on 22nd to 23rd March 2017.
3. The Chief Attorney, Prosecution and Litigation Division, nominated for delegation to present the State Replies for the CRC Periodic report and the Initial reports of the Optional Protocols to the CRC, from 17th to 18th May 2017.
4. 1 Attorney has attended the Regional Workshop for Judges, Research and Police in South Asia on Effecting Country Terrorism from 5th to 7th June 2017 at Colombo, Sri Lanka.
5. 1 Attorney has attended the 29th South Asia Teaching Session (SATS) on International Humanitarian Law (IHL) from 3rd to 8th July 2017 at Ozo Colombo, Sri Lanka.
6. The Chief Attorney, Legal Service Division, attended the UNFPA, UN Women, UNODC and WHO Meeting on Multi-Sectoral to Respond to Gender-Based Violence against Women and Girls in Asia and the Pacific, from 28th to 30th June 2017, at Bangkok, Thailand.
7. The Account Assistant has attended the Training Program on Effective Accounts Management with Advanced Computer Application from 22nd May to 4th June 2017 at Katmandu, Nepal.
8. 1 Attorney has attended the APG Annual Meeting on Money Laundering from 15th to 21st July 2017 at Colombo, Sri Lanka.
9. Dy. Chief Attorney under DRD has attended the Bar Council Members visit to Singapore and Bangkok on 16th to 26th July 2017.
10. 1 Attorney as a GFP has attended the consultative taskforce meeting of Toll-Free Helpline for Women & Children in difficult circumstances from 23rd July to 3rd August 2017 at Kolkatta, Mumbai and Bangkok.
11. 1 Sr. Attorney as a GFP has attended the Gender Mainstreaming for Expert Group from 14th to 18th August 2017 at Bangkok, Thailand.
12. 1 Attorney has attended the International Meeting on Themed “Constitutional Amendments: The case of Mongolia from 18th to 19th October 2017 at Uaanbaatar, Mongolia.
13. The Dy. Chief Attorney, under DRD has attended the CSOA Board Member Meeting from 16th to 22nd October 2017.

14. 1 Sr. Attorney and 1 Attorney attended the 30th South Asia Teaching Session on International Humanitarian law from 13rd to 17th November 2017 at Pakistan,
15. The Chief Attorney, Legal Service Division attended the Regional Workshop on International Cooperation in Financial Investigations, Money Laundering and recovery of Assets from 17th to 19th October 2017 at Sri Lanka.
16. 4 Attorneys attended the 14th SAARC LAW Conference from 27th to 29th October 2017 at Colombo, Sri Lanka.
17. 1 Attorney attended the Regional meeting for South and South East Asian countries on effective Central Authorities for International Judicial cooperation in terrorist cases, including cases involving foreign Terrorist fighters from 7th to 9th November 2017 at Kandooma, Maldives.
18. 1 Attorney has attended the Stakeholders forum for State Parties in Asia on Adoption of Chemical Weapons Convention from 13th to 15th November 2017 at The Hague, the Netherland.
19. 1 Sr. Attorney attended the Regional Workshop on Whistle Blower and Witness Protection in the fight against corruption in South Asia from 22nd to 24th November 2017 at Male, Maldives.
20. 1 Sr. Attorney attended the Expert Group Consultation on the Development of the Regional Program for South Asia from 18th to 19th December 2017 at New Delhi.
21. 10 Attorneys, 1 Legal Officer from RENEW and 1 Legal Assistant attended the Training from 25th to 30th September 2017 at Maharashtra Judicial Academic and Indian Mediation Centre and Training Institute in India.
22. 1 Sr. Attorney, 8 Attorneys, 5 Legal Officers and 3 Legal Assistant attended the Training from 18th to 22nd December 2017 at Maharashtra Judicial Academic and Indian Mediation Centre and Training Institute in India.
23. The Sr. ICT Officer has attended the Training on Development of Practical problem-solving skills from 4th to 15th December 2017.
24. 1 Attorney has attended the International Bar Association Annual Conference 2017 from 4th to 14th October 2017 at Sydney Australia.

Staff Appointment /Transfer/Studies

1. Ms. Sonam Deki Retty Attorney, and Tshering Dorji Attorney joined this Office with effect from 1st January, 2017 after successfully completing their one year PGDNL from RIM, Simtokha.
2. Ms. Ngawang Lhamo, Messenger joined this Office with effect from 13th March 2017.
3. Mr. Tshewang Rinchen, The AFD/HRM Head joined this Office with effect from 1st June 2017.
4. Mrs. Jamyang, Sr. Attorney has gone for Extra-Ordinary Leave on 1st February 2017.
5. Mr. Phuntsho Gyaltsen Dorji, Dy. Chief Attorney under the LSD has gone for Extra-Ordinary Leave on 1st August 2017.
6. Mr. Dendup Tshering, Attorney, and Mr. Tshering Wangdra, Attorney have rejoined the office on 5th June 2017 after successfully completing their LLB Degree from Amity Law School, Amity University, Utter Pradesh, India.
7. Sonam Dendup, Attorney has transferred to Office of the Attorney General from Thimphu Dzongkhag Administration on 14th August 2017.

Staff Resignation

1. Chencho Om, Attorney, has voluntary resigned from Office of the Attorney General on 1st September 2017.
2. Ngawang Lhamo, Messenger has voluntary resigned from Office of the Attorney General on 31st July 2017.
3. Nima Gyeltshen, Driver has voluntary resigned from Office of the Attorney General on 13th October 2017

6. ACTIVITIES AND EVENTS

Annual Office Camping



The annual camping trip has always been a special spring tradition of the OAG family that also serves as a recreational opportunity where the staff and families come together. This year the Office went to Sangkhan Pang in Paro, about 6 km north of Drugyel Dzong on the way to Gunitsawa for a 2-day camping trip in May.

An institutional visit by the students of JSW School of Law



As part of orientation program to the very first batch of Bhutan's first law school, 20 promising students recruited through open and competitive exam by the JSW School of Law visited the OAG on 20th July 2017 to learn the future prospects for lawyers, and challenges pertaining to legal fraternity in the country. They were also keen to know how effective our legal system is in these changing times of our country. Although they had not formally joined the classes or started their legal education, they put up questions that is worthy of a promise for the future.

The Inauguration of the OAG Crèche



The establishment of crèche in the Office was felt crucial in creating a conducive and stimulating environment for the working parents and their children.

Accordingly, this office set up a crèche within the office premises in September with funding from the Government considering the number of employees constituted mostly by young parents whose spouses were also working fulltime.

Further, the recent needs assessment study carried out by the NCWC ranked OAG 8th in the priority list from amongst the government agencies with the need to establish a crèche. Although the crèche in OAG has been operating, it is still at a very infant stage, the crèche is running short of equipments for creating a better accessible, safe and stimulating environment for the children.

Bar Council



The OAG has been facilitating the management of a UNDP project for support to establishment of Bar Council of Bhutan with funding support from the Austrian Development Cooperation which was inaugurated on 10th May 2017 at the Office of the Attorney General where the Bar Council Office is also housed as an interim before it can have its own structural presence.

Lawyers Conference and Workshop: Promoting and strengthening Professionalism



The Lawyers Conference for the government lawyers is an event organized by OAG every two years since 2000. *The Bhutan Civil Service Rules* has designated the OAG as the parent agency for all the government lawyers falling within the category of legal services. Therefore, the Conference is organized with the view to provide a platform for the lawyers to raise their concerns related to the legal profession, and also to discuss emerging trends or issues stemming with the changing times in the legal field.

The Conference, organized from 28-29 November 2017 at Metta Resort, Paro attended by almost 63 lawyers and legal assistants from the OAG, ministries, government agencies, constitutional bodies and autonomous bodies.

The subject-matters for this year's Conference were those which were a concern in the present time in the legal arena. For instance, the importance of reliable evidence, processes for rendering legal opinion, drafting and reviewing legal instruments and uniformity in the format of court submissions were most relevant topics to advocate on considering the challenges faced by the lawyers regarding the same. Issues raised during the previous conferences were also discussed with the follow-up action taken by OAG to address the same. Further, group exercises were organized to understand the issues faced by the

participants in their respective agencies which would also be instrumental in seeking the way forward for OAG to function effectively as a parent agency.

Considering the escalating instances of contracts between government agencies and private parties and also the growing contractual disputes between parties in the country, a presentation by the lawyer representing the Construction Development Board (CDB) was included to promulgate the role of CBD in area of arbitration and the challenges faced. A slight deviation from the previous conferences was, the OAG invited an agency without any affiliation with legal profession, Department of Information Technology and Telecommunications to make a presentation on their parent agency framework for the IT officers. This was done to learn some of the best practices concerning the parent agency framework and how a successful framework functions. Further, presentations on Code of Conduct of lawyers and Social Media Policy formed a part of the program to remind the lawyers of their legally bound demeanor to ensure that the government lawyers, as a civil servant remain within the confines of the law.

Legal Aid Guideline Consultative Meeting with Government Lawyers

A consultative meeting with the lawyers of different dzongkhag and agencies formed part of the drafting process to garner broader understanding and obtain the views of the bodies outside the OAG. The consultative meeting was held on 30th November 2017 at Metta Resort in Paro.

Legal Aid Guideline In-house meeting

A consultative meeting with the Attorneys of OAG formed part of the drafting process to collect broader understanding on the topic from the Attorneys. The Attorneys recommended many suggestions to enable the Guideline to fulfill its purpose in ensuring every indigent person's access to the right to legal aid. The consultative meeting was held on 11th -12th December 2017 in Phuentsholing.

Legal Aid Guideline Consultative Meeting with Private Lawyers

A consultative meeting with the private lawyers formed part of the last drafting process to understand their opinions and obtain the views from the private practicing law firms. The provisions of the Guideline were thoroughly reviewed and comments welcomed. The consultative meeting was held on 26th December 2017 in the OAG Office in Thimphu.

Rules of Procedure for Drafting and Reviewing of Bills and Delegated Legislations, Consultative Meeting with Ministries, Government Agencies and Constitutional Offices

The DRD drafted the draft *Rules of Procedure for Drafting and Reviewing of Bills and Delegated Legislations*. Following the completion of the first draft, consultation meeting with the representatives from ministries, government agencies, autonomous bodies and constitutional offices was conducted on 29th December 2017 at Rochogphel Hotel, Thimphu. The division received many comments and suggestions for the improvement following the consultation meeting.

Dissemination to the Attorneys on Diversion Guideline 2017 and Child Friendly Prosecution Guideline 2017



Presentation of arrest and detention of a child, under the Guidelines for prosecution of CICL



Participants during group exercise on a case study. This has helped in assessing the knowledge gained by the participants, and family group conferencing when organized by a prosecutor in determining the best interest of CICL for alternative sentencing.

The UNICEF supported the Workshop for all the prosecutors working with the OAG on Dissemination of *Diversion Guideline* and *Child Prosecution Guideline* that was adopted in 2017. These Guidelines are key instruments for law enforcement agencies including Royal Bhutan Police, National Commission for Women and Children, OAG and the Judiciary in implementing legislations conferring protection and promotion of rights of a child, particularly through the *Child Care and Protection Act 2011*. The workshop was held on 13 & 14 December 2017.

7. RECOMMENDATIONS

1. The *Narcotic Drugs and Psychotropic Substances Act* 2015 (NDPSA) redefined Trafficking as opposed to the conventional understanding. Quantification of drugs as per the amended Act indirectly defines trafficking whereby a person caught in possession of more than a limited prescribed amount is considered as a trafficker. This has blurred the clear distinction made between an abuser and a trafficker.

Moreover, the statistic records till now have shown that the stringent provisions of the NDPSA 2015 have less or no deterrence effect on curtailing the abuse of drugs and the number of drug peddlers. These facts necessitate a detailed understanding of how a long-term solution to tackling the social menace can be agreed upon. A reformative approach is certainly an option that is gaining popularity and support elsewhere with the flooding of detention centers.

The crucial part of rendering treatment and rehabilitation to the drug abusers has played a very minimal role over the years in the absence of an established Compulsory Treatment Center (CTC) even though the assistance of CSO's in the country i.e. Chitrephendey Association and YDF have been sought. Furthermore, there is an absence of a confirmatory drug testing competent laboratory that is yet to be established. This has surfaced issues brought by defense counsels questioning the credibility and conflict of interest of the testing being carried out by the interim lab operated by BNCA. (*State Vs. Rinchen Tshering*) More importantly, the social reintegration programs have been completely left out to instill a sense of responsibility for making their lives easier while reintegrating back in the society after serving their time.

2. The Property and Judgment Enforcement Section is important in implementing the judgments in a timely manner to ensure what is due to the victims and State is not kept in abeyance after the completion of prosecution proceedings. The Section faces many challenges with judgment debtors serving sentences, some are destitute, early release from prison poses difficulty in tracking their whereabouts, especially in corruption cases where properties are not frozen. The Prosecution ensures to submit in its prayer for the freezing of properties from any transaction occurring. On the other hand, the already seized properties like vehicles incur heavy cost on maintenance and are yet another concern for the Office. At the moment the office lacks facilities and system in the management of seized properties which is important for the security of properties that have been seized.

3. The LSD has been playing an important role in the shadow for a long time in matters of International law and feels that further support and resources must be put in this area of law. The Office provides sound legal opinions and advice on various international legal instruments, such as international conventions, treaties, and agreements that Bhutan is ratifying or acceding to. However, the lack of the Office's involvement coupled with the limited understanding of the process to review such accords deters the Office from

determining any adverse legal implications. Recognizing this challenge, the introduction of an International Affairs Wing is timely to equip the office with the requisite knowledge and skills.

4. The Office of the Attorney General has its office in Thimphu and one of its core mandate is to prosecute and litigate. This function requires the Attorneys and Prosecutors to travel to all Dzongkhags to charge sheet and attend court hearing. The nature of the work, which is beyond OAG's control, demands OAG's officers to attend hearing based on the courts. One of the notable challenges faced by this Office is timely availability of budget for in-country travel.

Over the years, the number of cases have rapidly increased while the budget allocated for in-country travel has remained the same since 2015. In 2017, the Office received an increase of 14.21 percent of cases against the preceding year and an approved budget of Nu. 5.735m (Five Million Six Hundred and Thirty-Five Ngultrums only) has been appropriated for in-country travel. The budget exhausted by the sixth month, requiring the Office to request a supplementary budget of Nu. 2.255m (Two million Two Hundred Fifty-Five Thousand only) till June 2017. A total budget of Nu. 7.990m (Seven Million Nine Hundred Ninety Thousand only) alone for in-country travel was expended. One intervention to reduce in-country travel expense and cut down on the cost of the State's resources in the long run may be through the establishment of Regional Offices.

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