



Seek Truth & Ensure Justice

# Annual Report 2022

# Table of Content

<b>OAG AT A GLANCE 2022</b>	<b>2</b>
<b>REPRESENTING THE STATE</b>	<b>3</b>
<b>JUDGEMENT ENFORCEMENT EFFORTS</b>	<b>14</b>
<b>DRAFTING LAWS TO ADDRESS GOVERNMENT POLICY NEED</b>	<b>17</b>
<b>ADVISING THE GOVERNMENT</b>	<b>21</b>
<b>COORDINATION WITH GOVERNMENT</b>	<b>24</b>
<b>JUSTICE SECTOR PROGRAMME AND ACTIVITIES</b>	<b>27</b>
<b>PUBLICATION</b>	<b>40</b>
<b>CHALLENGES AND THE YEAR AHEAD</b>	<b>42</b>



## ATTORNEY GENERAL'S REVIEW

It is my pleasure to present the Attorney General's Annual Report 2022. Guided by the vision and wisdom of His Majesty The King as well as the laws of the kingdom, the Office continues to work earnestly towards fulfilling the mandates bestowed on it by the Constitution of the Kingdom of Bhutan.

The Office of the Attorney as the legal arm of the Government is the central prosecuting and litigating agency that continues to work with great determination despite huge attrition of senior attorneys. Reviewing the last year, a total of 659 prosecutorial referrals were made by the investigating agencies, of which 623 cases involving 1139 defendants were forwarded by RBP, 27 cases involving 130 defendants were referred from the ACC, and 9 cases involving 31 defendants were made by other government agencies. *“Thus, the Office recorded a rise in cases from 544 cases involving 939 defendants referred in 2021 to 659 cases involving 1300 defendants in 2022.”*

Through diligent prosecution and enforcement, the Office restituted a staggering sum of Nu. 44.27 and 11.94 million to the Government and the victims respectively. Further, 1.1 acre of land was reinstated to victims and 3.8 acres of land was declared as Government Reserve Forest Land. 27 individuals' Professional Driving Licenses were canceled, and 10 individuals were administratively sanctioned. To uphold child justice and to ensure rehabilitative measures and reintegration efforts, 3% of RBP cases underwent diversion as it involved child in conflict with the law, who were committed to community services instead of penal sentence.

As envisioned by His Majesty The King and in an effort to fulfill the Civil Service transformation, the Office reviewed a total of 46 existing laws to align with the civil service restructuring. In addition to continuing its effort to review and consolidate laws, the Office drafted an exclusive framework, i.e. *the Civil Service Reform Bill 2022*, to legitimize the civil service reform and fulfill its objectives. The said Bill was introduced as an urgent ‘*Omnibus*’ Bill during the 8<sup>th</sup> session of the Third Parliament and came into force on 15<sup>th</sup> December 2022. Similarly, the Office was also acutely involved in



operationalizing and formally establishing a legal aid system in the country which entailed compiling and presenting the *National Legal Aid Operational Plan Report 2022*, *Draft Legal Aid Rules 2022*, *Stakeholder Analysis and Sensemaking Report*, and *Legal Aid - Deep Listening Report* to the Government.

The Attorney General has rendered 111 legal opinions on different subject matters, which range from criminal matters, taxation issues, trade disputes, arbitration, loan and grant agreements, Memorandum of Understanding (MoUs) with foreign entities, and so forth. The Office was also involved in guiding the government in the areas of international law, finance and corporate law and the statutory interpretation of constitutional and domestic laws.

To enhance institutional capacity building and up-skill government lawyers, the Office developed various manuals, which include the *Child Justice Training Manual*, *Legal Due-Diligence Framework*, Training modules on various legal areas such as finance and corporate law, public procurement, criminal law, environmental and international law. Further to enhance efficiency, transparency and integrity of service delivery, the Office adopted the *Uniform Charge-Sheet Drafting Manual*, *Uniform Criminal Investigation Report Drafting Manual*, *Induction & Internship Manual* and 5 other Standard Operating Procedures. The Office also developed a Legal Advocacy Program specific to spreading legal awareness amongst civil society organizations in the country.

Harnessing technology, the Office outsourced and developed the *Enterprise Legal Management System* (ELMS) to ease monitoring the workload and workflow of attorneys as well as the manner in which the Office delivers its services. The Office also continues to update and revamp its website to ensure it is accessible and user-friendly to the public. Further, for smooth implementation of 12<sup>th</sup> FYP activities and coordination of matters related to the justice sector, the Office continues its role as the secretariat for the Justice Sector Working Committee (JSWC). Further, in order to uphold His Majesty's vision to provide unhindered, consolidated and efficient services, the Office provides attestation services to support the Office of the Public Notary, which is now situated within the compound of the Office.

## **A year ahead**

To complement the *Civil Service Reform Act 2022*, which is a transitional law, the Office has 35 Bills (consolidated from 46 current Acts) prepared for deliberation before Parliament if required, to provide clarity and ensure coherent implementation of the novel roles of the ministries and agencies. To address the concerns on the proliferation of laws, the Office will continue its effort to review and consolidate laws in consultation with the relevant agencies to ensure simple yet implementable laws. As part of the consolidation efforts, the Office has also pledged to work and function as the depository of laws.

In an initiative to strengthen adherence to rule of law and due process, the Office will execute legal advocacy programs to ensure that the general public and the civil society organizations are better informed of the laws. With the introduction of the ELMS, the Office will continue to work towards inter-agency data integration with the relevant stakeholders such as the Anti-Corruption Commission, Royal Bhutan Police and the Royal Court of Justice.

The Office saw a staggering increase on the front of drug trafficking which is of great concern for Bhutan. To deter prospective drug traffickers, the Office will ensure stringent enforcement of drug laws and pray for the severest of punishments against drug traffickers. The Office through collaboration and cooperation between the enforcement agencies will strive to raise awareness on drug trafficking and solicit assistance against illicit drug trafficking.

The Office would like to reaffirm our commitment and effort to serve the *tsa-wa-sum* to work to the best of our abilities in seeking truth, ensuring justice and promoting rule of law in the country by ensuring transparency and accountability as core principle in delivering our mandates.



(Lungten Dubgyur)

**Attorney General**

## **OUR VISION, MISSION AND VALUES**

### **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.**

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### **Mission**

**To deliver prosecution and legal services to the state in a fair and professional manner.**

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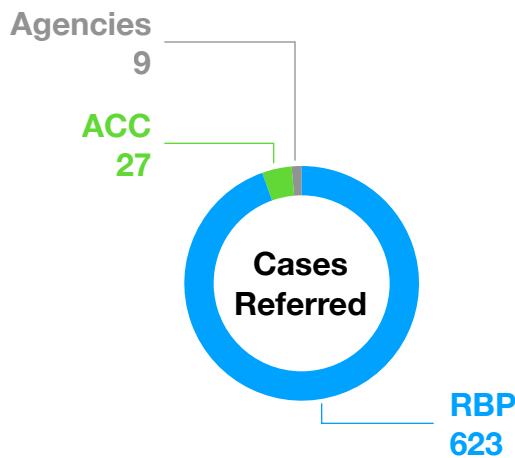
### **Values**

**Efficiency; Objectivity; Fairness; Transparency; Professionalism.**

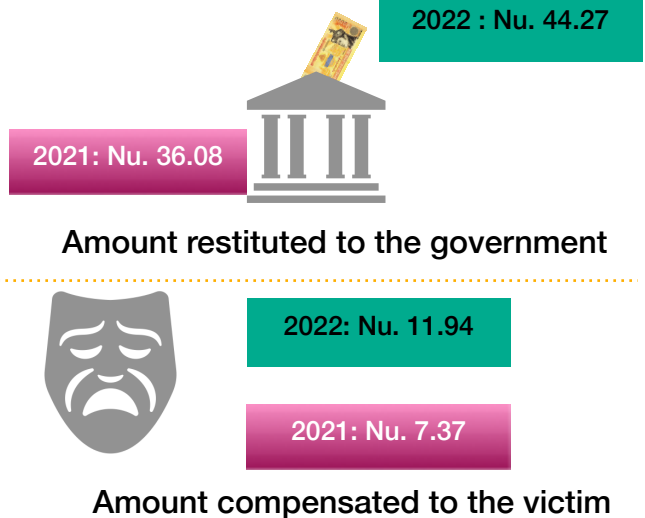
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# OAG AT A GLANCE 2022

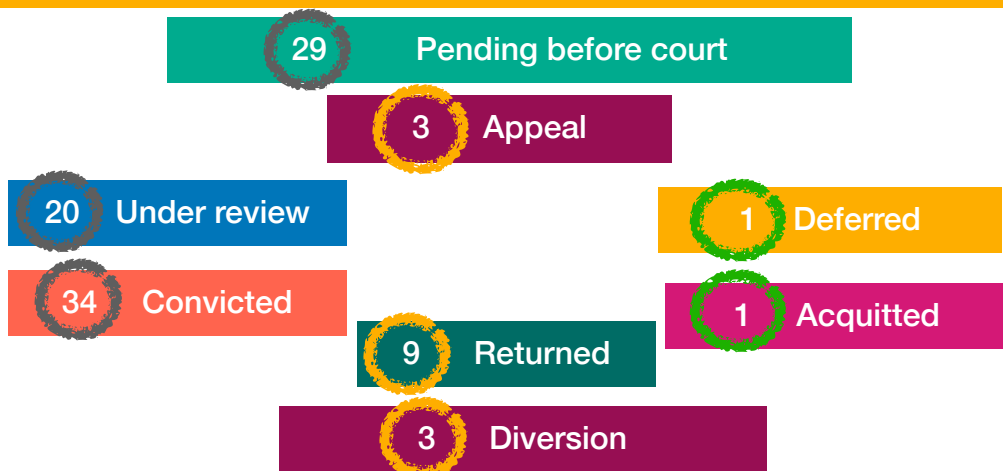
## Total Case Referral



## Restitution and Compensation (in million)



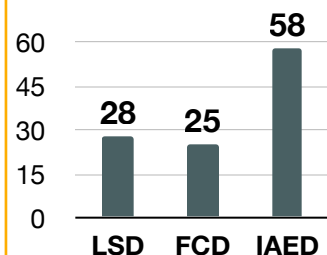
## Case Status (in Percentage)



## Drafting and Review of Laws



## Legal Opinions



## REPRESENTING THE STATE

The Prosecution and Litigation Division (PLD) under the Department of Justice (DOJ) is the only Division vested with the mandate to prosecute and litigate criminal and civil cases on behalf of the State. It derives its authority from Article 29 of the *Constitution* and Section 10 of the *Office of the Attorney General Act 2015*.

The DOJ is at the heart of the criminal justice system in Bhutan, working with the Anti-Corruption Commission, Royal Bhutan Police, and other governmental agencies to deliver justice through independent and fair prosecution. The division represents the rights and interests of the Bhutanese people and enforces criminal and civil laws. Our vision is to be:

*“a premier public organization that seeks truth and ensures justice in pursuit of a harmonious society with the rule of law and good governance”*

We have 22 dedicated and experienced prosecutors whose responsibility is to ensure that the right individual is prosecuted for the right offences and that trials are fair so that criminals are brought to justice wherever possible.

We make our decisions independently without any interference from the investigating agencies or the government. To ensure justice for victims, defendants, and the general public, we must always be fair, objective, and unbiased.

In 2022 OAG brought about 421 prosecutions, with 228 cases resulting in a guilty plea or conviction. However, the conviction rate alone does not assess our performance. A fair trial conducted properly results in a guilty or not guilty verdict. Our mission is not to increase the number of guilty verdicts, but to ensure that every case that meets the legal requirement outlined in the OAG Act and Rules of Procedure for Prosecution and Litigation (ROP) is heard in court and prosecuted independently and fairly.

District	No. of Prosecutor
Thimphu	All Prosecutors
Paro/Haa	3
Wangduephodrang/Punakha/Gasa	3
Chukha	3
Sarpang	2
Samtse	1
Samdrup Jongkhar	1
Mongar/Lhuntse/Trashigang/Trashiyangtse	1
Pemagatshel/Zhemgang/Bumthang/Trongsa	1
Dagana/Tsirang	1

#### **ACC case Prosecutors**

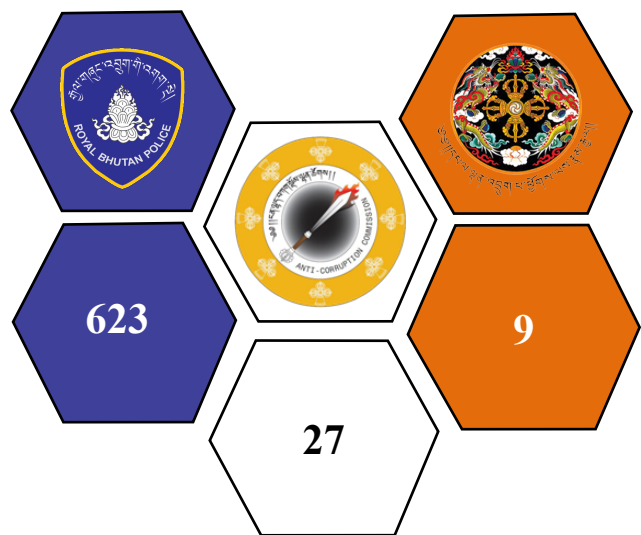
**There are 7 prosecutors assigned to prosecute corruption-related offences irrespective of jurisdiction**

The PLD has prosecutors assigned to each of the nineteen Dzongkhags other than Thimphu. The number of prosecutors for the Dzongkhags is proportionate to the number of cases therein, with certain Dzongkhags having two to three prosecutors. Due to the large number of cases referred from Thimphu, all the prosecutor are assigned cases on a seriatim basis. The prosecutors are headed by the Chief Prosecutor and work closely with local police. Within the PLD we have few prosecutors dealing with cases referred by the Anti-Corruption Commission, who are solely dedicated to prosecuting corruption-related offences.

The table below shows the total number of cases referred by the investigating and other agencies:

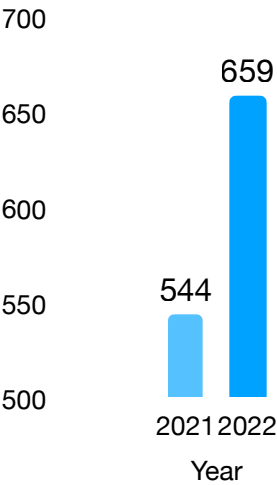
<b>Agencies</b>	<b>Dzongkhag</b>	<b>No. Of cases referred</b>	<b>No. of defendants</b>
<b>RBP</b>	Thimphu	227	475
	Paro/Haa	83	145
	Wangduephodrang/Punakha/Gasa	53	100
	Chukha	71	113
	Sarpang	41	76
	Samtse	23	38
	Samdrup Jongkhar	17	25
	Mongar/Lhuntse/Trashigang/ Trashiyangtse	58	89
	Pemagatshel/Zhemgang/ Bumthang/Trongsa	19	37
	Dagana/Tsirang	31	41
<b>ACC</b>		27	130
<b>Ministries and other agencies</b>		9	31

Highlights of cases received in 2022



During the year under review, the OAG received a total number of 659 cases for criminal prosecution as shown below:

The above figure comprises only cases received between January and December 2022. There are many cases from the preceding years which were closed in 2022. To avoid double counting, and to ensure consistency with figures for previous years the conviction records for the previous year are not included in this year’s data.



A comparative study between the number of cases received by OAG in 2021 and 2022 indicate that the office recorded an increase in the number of cases being referred.



## Casework Statistics

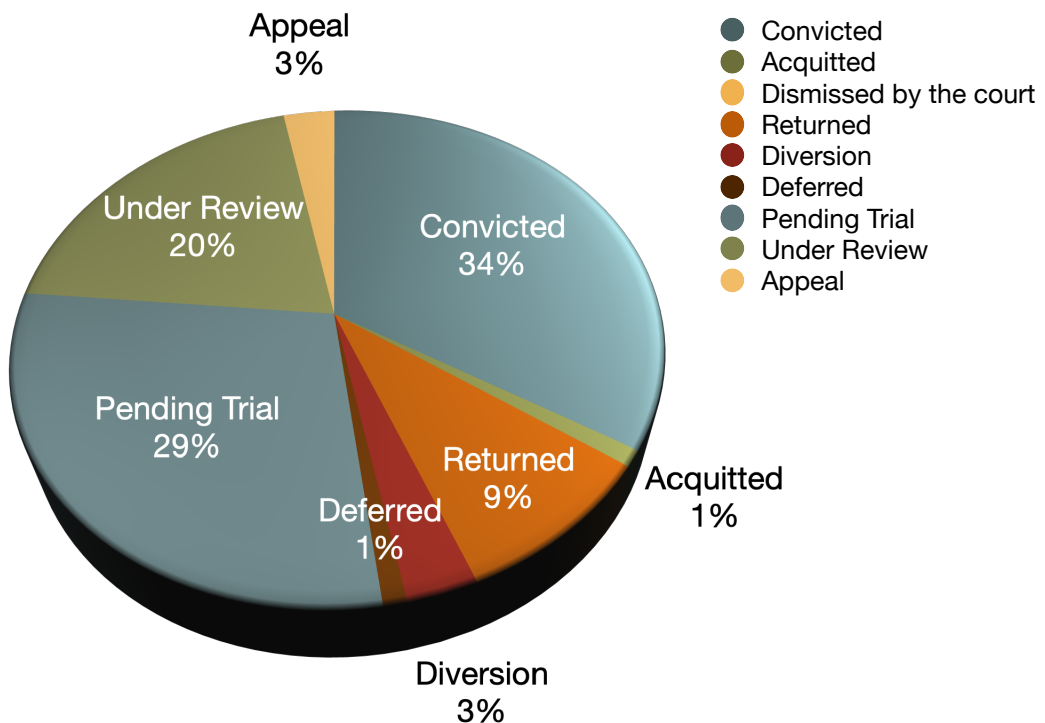
The prosecutorial service is crucial to the PLD's function, and its quality and timeliness are critical to fair and impartial prosecution. It is still a difficult period for the PLD as we make improvements while tackling ongoing backlogs created by the pandemic. Nonetheless, we have collaborated extensively with our criminal justice system partners, particularly the ACC, to bring about significant changes.

In these statistics, a defendant denotes one individual charged in the court which may sometimes involve one or more counts of charges. If a case involves more than one individual, each is considered a defendant. Occasionally the prosecutors deal with several defendants under single case referrals. The annual casework statistics in this report include defendants prosecuted by the OAG from cases forwarded by RBP, Anti-Corruption Commission, and other government agencies.

The table below shows the number of cases dealt with by the office and its decision between review of the case till appeal.

	<b>% out of the total cases received</b>
Pre-charge decision (Corpus)	4
Case returned	9
Out of court disposal	3
Prosecuted by the OAG	71
Appeals	

## Case Status/Statistics



In 2022, 228 defendants were convicted with only 3 acquittals; 60 Cases were returned to investigating agencies; 19 defendants involved a child in conflict with law (CICL) cases have been routed through diversion, 4 cases were deferred, 196 cases are pending before trial courts and appellate courts at various levels of proceedings, and 132 cases are still under review with the office.

26 of the 27 cases received from ACC in 2022 are under review, with one case pending before the court. 1 of the 9 cases received from Ministries and other agencies has been returned, 2 have been closed, and 6 are still being reviewed.

## Covid- 19

The pandemic had a seismic impact on our way of functioning and has presented unexpected obstacles to the prosecutors and the wider criminal justice system leading

to a backlog of cases and an increase in workload per prosecutor. Throughout the pandemic, our prosecution service has transitioned into digital solutions utilizing digital platforms and a hybrid working system. We are fully engaged in implementing the best practices of curbing expenditures through virtual training and E-litigation while continuing to focus importance on collaboration and coordination. Our priority in this current situation was to reduce the pandemic's impact and ensure that the critical task of delivering justice continues.

### **Public confidence**

Safeguarding public confidence in our legal system is one of the core mandates of the office. We collaborate with partners to support victims while also upholding the rights of the defendants in a manner that is fair and understood by all communities.

We understand the complexities and challenges of maintaining public trust in both our organization and the criminal justice system as a whole. This necessitates that we provide both impartial and fair prosecutions that the public expects from us. During the course of the prosecution, there are instances where the prosecutors and the victims had different views of the law and the victim's expectations from the case. This has helped us in recognizing the importance of communicating with the victim's needs and expectations from us. As part of our initiative to seek out the difference and hear the victim's voice, we have included the *victim personal statement* and *consultation with the victim* in the ROP 2022. We also recognize the esoteric knowledge of legal officers and the need to do more to communicate the role this office plays in the criminal justice system. People will value and trust the organization more as they have a better understanding of what we do, why, and how we do it. The experience from the cases and information we receive enable us to contribute to ongoing initiatives and find new areas for reflection and take appropriate action accordingly.

## **Crime Prevention**

OAG, as the Public Prosecutor's office, is responsible for the prosecution of criminal cases and represents the State in many hearings in the courts. The ROP for the prosecutors establishes the fundamental principles that prosecutors must adhere to while making case decisions. The PLD in fulfilling its mandate has continued to provide prosecution services over a wide spectrum of cases. The year 2022 has brought in some notable cases pertaining to sedition, sexual offences, and drug trafficking cases.

## **Case Highlights**

### **1. State v. Namgay Tshering**

In August 2022, Namgay Tshering was arrested by the Police and indicted for charges involving sedition, libel, impersonation of an official, and escape from lawful custody. He was found guilty of all charges and sentenced consecutively to 25 years in prison, showing a zero-tolerance policy toward actions that aim to sow communal strife and social instability.

### **2. State v. Karma Wangchuk and four others.**

In May 2022, during a routine security search, the Police seized 8 numbers of IDL explosives-Emuldyne weighing 125 grams each from the defendants. The defendants used the explosive for illegal fishing. Three of the five defendants were charged with illegal possession of explosives under the penal code and sentenced to three years and three months in prison each. Two defendants were sentenced to three months in jail as per the Fire Arms and Ammunition Act for misusing explosives under their lawful custody.

### **3. State v. Tshering Deki and two others**

The three defendants were charged with Breach of Trust, Forgery, and Deceptive practice on several counts. In this case, the defendants deceived the victims under the pretext of hiring their vehicles and then sold them by forging agreements. They were sentenced consecutively with a minimum of 26 years in prison and ordered to pay a huge compensation of Nu.85,76,900/- to victims. All the defendants appealed to High Court against the trial court's judgment praying for concurrent sentencing and lesser compensation. The High Court on 19/09/2022 in its judgment reduced the sentence to thirteen years and eleven years respectively. However, the restitution amount remains the same.

### **4. State v. Thinley Dorji and Karma Tenzin**

In June 2022, the Supreme Court sentenced two defendants to three years in prison for dealing in the sale of musk pods. The duo were charged with the offence of risking protected species under the Penal Code of Bhutan. The Apex Court, in its judgment, referred to the harmonious construction in interpreting the sentence provisions of the Forest and Nature Conservation Act, 1995, and the Penal Code of Bhutan, dismissing the defendant's appeal on the application of specific law and the rule of lenity.

### **Offence against Children**

The crimes committed against children are some of the most troubling crimes that we are dealing with firmly as it is most devastating to the victims and society at large. These crimes include sexual offences, Trafficking in person and child abuse. Amongst those cases that are taken before the court, the prosecutors are committed to bringing the offenders to justice. This year we saw a decrease in the number of rape of minor case

referrals by 1.7% in comparison to 2021. While this is an inconsequential difference, we see significant improvements made in this area, and it will be a priority for us in the year ahead.

The sentencing guideline ensures that the OAG is focused on combating crimes against children, implementing the deterrent effect by seeking stringent punishment against such offenders. The vigorous investigation and prosecution of criminals of such crimes are critical tools that incapacitate offenders and help to deter crime. The department remains steadfast in its commitment to address any challenges associated with rape and sexual offence cases and it will be a priority for us.

## **Case Highlights**

### **1. State v Tshering Zam (Voluntary manslaughter)**

The case state v Tshering Zam illustrates caveat over the instances involving unlawful abortions in recent years. On July 2022, the office charged the defendant with involuntary manslaughter. After an unsuccessful attempt at abortion, the defendant gave birth to a live baby. She then wrapped the baby in plastic and placed it inside a cabinet beneath the toilet sink ultimately causing the death of the child. Tshering Zam received a three-year jail term in August 2022.

## **Offense Against Women**

OAG/DOJ has always taken a firm stance in incidents of violence against women. The PLD's legal expertise, casework quality, and coordination with other law enforcement groups across the criminal justice system all contribute to combatting such acts. The crimes against women include sexual abuse, rape, domestic violence, and human trafficking focusing on sexual exploitation and prostitution. The department in its

commitment ensures to continue to invest carefully and significantly to work with other agencies to build public confidence in its handling of violence against women.

## **Case Highlights**

### **1. State v. Namgay Pem**

In this case, the defendant, a victim of human trafficking herself, through social media, deceptively enticed five women whom she knew well to work overseas by providing false information and promises. Four of the five women had been repatriated by the government while one of them returned after paying the bondage of US\$4000 to the Company by herself. The defendant was charged with five counts of Trafficking in Persons and pleaded for a maximum sentence for each count.

### **Review and Prosecute in a timely manner**

Cases that take too long can have serious consequences for everyone involved, including victims, witnesses, and defendants. It is an important responsibility of ours to do everything possible to speed up processes that are within our control.

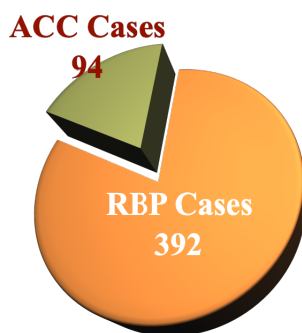
With the focus on revamping timely justice service delivery in prosecution and in order to align with the Annual Performance Agreement, the Individual Work Plan has been revised in line with Key Performance Indicators (KPI) to achieve our target from July 2022. This work plan will capture compliance with the turn around time (TAT) for each prosecutor. It will assist us to review and take decisions timely thereby expediting the delivery of justice. However, the revised ROP continues to ensure priority is given to serious cases that involve a higher risk of threat or harm.

The inclusion of judgment appraisal and judgment report submission in a timely manner will enable us to coordinate with the investigation agencies and also identify where improvements are needed in collaborating with our partners to support joint discussion and action. An aim to obtain a 75% prosecution success rate based on the total number of cases prosecuted will provide a key component of the OAG's commitment to increase

and promote transparency and accountability in the prosecution service. It is essential to ensure that the OAG has the tools necessary to deliver a service that is professional, effective, and of the highest quality.

## JUDGEMENT ENFORCEMENT EFFORTS

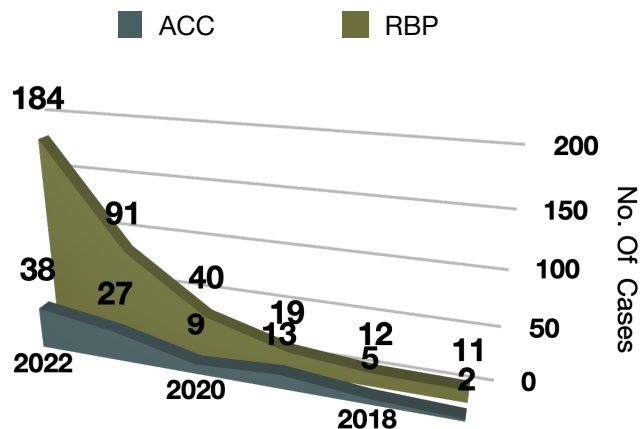
Although the Property and Judgement Enforcement Division is understaffed with an Offg. Chief, 2 Attorneys, 2 Assistant Attorney (Contracts) and a Legal Assistant, the division made significant advancement towards the effective judgement enforcement. In the year 2022, the PJED received 486 cases for enforcement out of which 94 cases were pertaining to corruption cases, while 392 are cases forwarded by the Royal Bhutan



Graph showing total cases

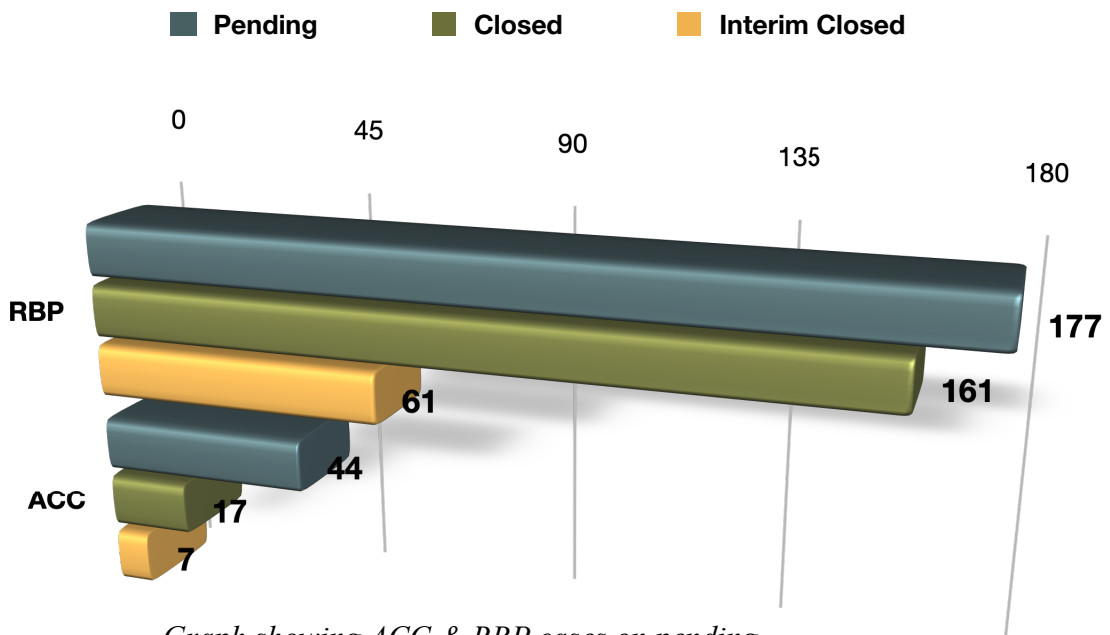
Police.

In total, the division enforced 94 ACC cases in the year 2022 out of which 2 were those pending cases of 2016 and before, 5 for the year 2018, 13 for the year 2019, 9 for 2020, 27 for 2021 and 38 for 2022 respectively.





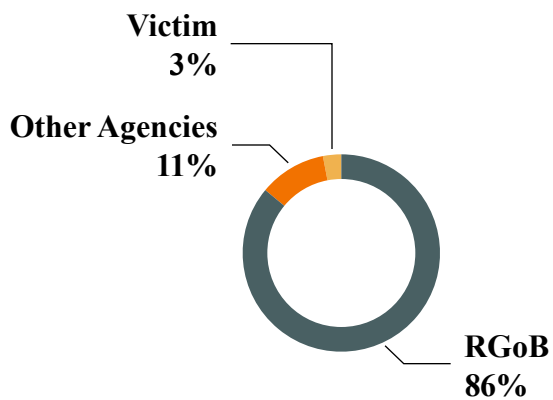
Pertaining to the ACC cases, 13 cases were closed, 17 interim-closed and 44 are still pending. Similarly, out of 392 cases of RBP dealt in 2022, 4 were for 2016 and before, 7 for 2017, 12 for 2018, 54 for 2019, 40 for 2020, 91 for 2021 and 184 for 2022. A total of 161 are closed, 177 still and 61 interim-closed.



*Graph showing ACC & RBP cases on pending, closed and interim-closed status*

## Restitution or Compensations

The PJED, through judgment enforcement, restituted a sum of Nu. 44.270 (Ngultrum forty-four million two hundred seventy hundred thousand only) to the Royal Government, (Nu. 17. 780 in ACC and Nu. 26.4890in RBP); Nu. 353.965 (Ngultrum three hundred fifty three million nine hundred sixty-five hundred thousand only) to other agencies Nu. 11.940 (Ngultrum eleven million nine hundred forty hundred thousand only) to the victims as compensation, and Nu. 0.31 (Ngultrum thirty-one hundred thousand only) as reimbursement to the defendant.



	Restituted 1.10 acres of land to victims.
	3.799 acres of land declared as Government Reserve Forest Land.
	3 defendants reinstated back to their service.
	cancelled 27 Professional Driving (PD) licenses.
	Administrative actions taken against 10 individuals.
	Initiated community services and rehabilitation for 19 defendants.

## DRAFTING LAWS TO ADDRESS GOVERNMENT POLICY NEED



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### Civil Service Reform Bill 2022

The significant achievement in the year 2022 is drafting of Civil Service Reform Bill 2022 as a single “Omnibus Bill”. This bill is a legislative proposal to alter or amend 46 existing Acts as per the Civil Service Transformation Policy. It was carried out by a committee constituted as per section 60(3) of OAG Act. It was proposed as a government Bill before the Parliament and came into force on 15<sup>th</sup> December 2022



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### Environment and Natural Resource



This Bill consolidates 6 major existing Environmental laws under one single umbrella legislation in the country. The bill brings the Environmental principles and procedure and also simplifies the processes and requirements in availing environmental and natural resources related services by the public.

### **Surface Transport Bill**

This Bill is a single uniform law that covers construction and surface transport related matters. It is intends to consolidate the policy and regulatory mandates related to construction and road transport carried out by the Construction Development Board, Road Safety Transport Authority and the Department of Roads.

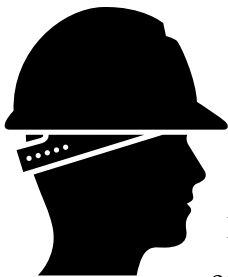


### **Bhutan Food and Drug Authority Bill**

This Bill consolidates 6 major existing regulatory laws as one single umbrella regulatory law in the country. It aims to translate one health policy of protecting the health of humans and animals by regulating products related to food, drugs and medicine.

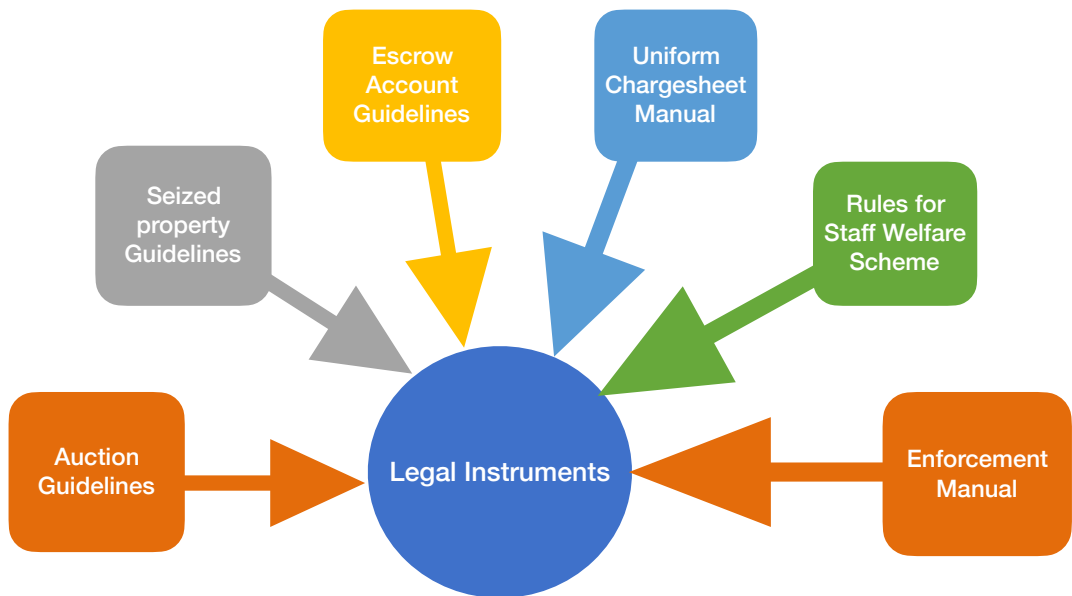


### **Bhutan Qualification Professional Certification Authority Bill**



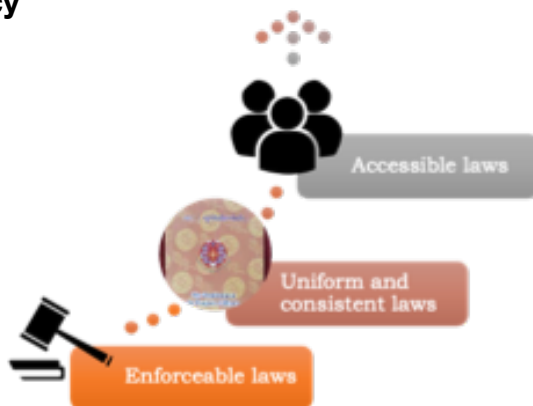
This Bill intends to bring all the qualification and professional certification authorities under single authority and provide professional certification services from a single window. The bill consolidates existing proliferated professional certification bodies.

**Review of OAG's institutional PROCEDURES to strengthen justice service delivery.**



**OAG'S Legislative Drafting Policy, Procedure and Process**

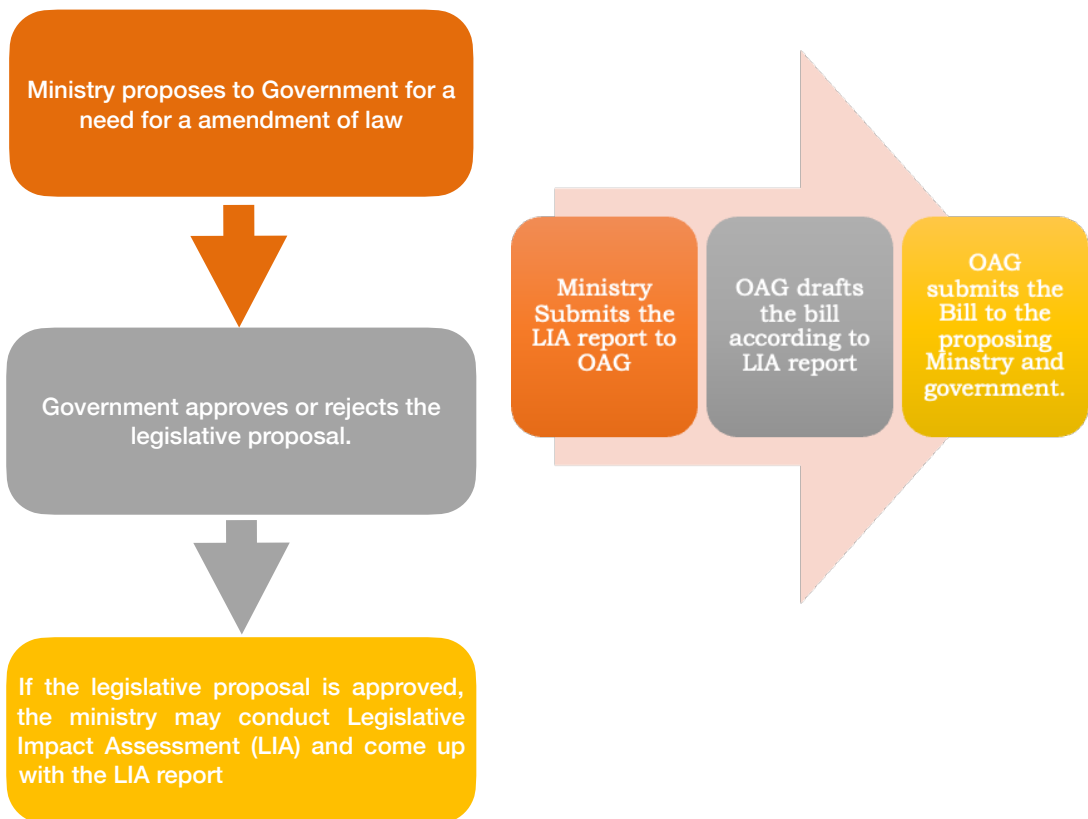
☒ **Our policy**



## ☑ Our procedure

The *Rules of Procedure for Drafting and Reviewing of Bills and Delegated Legislations 2018* streamlines the process of drafting and reviewing of bills and delegated legislations in the office. The RoP provides a clear time frame for drafting and reviewing of a bill and delegated legislation; specifies the responsibility of a drafter; and stipulates the contents of a Clear and Detailed Policy Guideline in the form of Drafting Instruction.

## ☑ **2 STEP** LIA Process



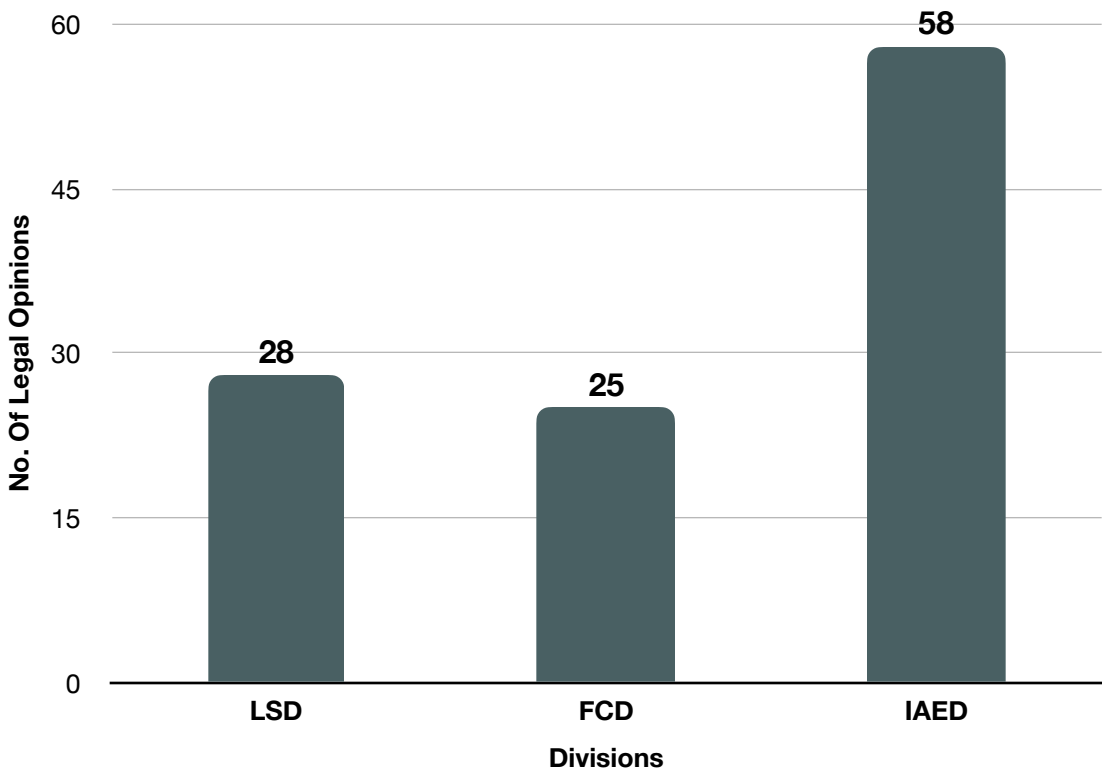
## ADVISING THE GOVERNMENT

To uphold our constitutional mandate, the OAG strives towards working more effectively and efficiently with the creation and delineation of specialized advisory divisions to deal with various subject matters. While the International Affairs and Environment Division (IAED) focuses to strengthen the rendering of specialized legal services in international law environmental matters, the Finance and Corporate Division (FCD) renders legal services related to the finance and corporate matters. The Legal Service Division (LSD) focuses on the Constitutional, administrative, penal and other legal matters which do not fall within the ambit of IAED and FCD.

In ensuring the government acts in accordance with the Rule of Law, the Office strengthened and streamlined the processes to guide legal due diligence.



During the year 2022, the office rendered 111 written legal opinions to the Government from which IAED rendered 58 legal opinions on matters concerning international affairs. The LSD and FCD rendered 28 and 25 legal opinions respectively. The office rendered 88 legal opinions in the year 2021.



#### ☒ Legal counsel on International affairs

***“A total of 35 MoUs were legally vetted”***

On the international law front, the OAG played an important role to advance Bhutan’s interests as the Office received 58 international instrument referrals alone from the government ministries, agencies, and statutory bodies seeking legal opinion. Further the office was proactively engaged in many consultations that involved treaties and other pertinent issues concerning Bhutan.



In addition to the MoU's, the OAG vetted:

- \* Bilateral and Multilateral Agreements on mutually beneficial areas of development cooperation;
- \* Paro Declaration adopted in the 75th Session of the WHO Regional Committee for South-East Asia; and
- \* Rendered support to develop a publication "Regulation and Laws that promote Health Goal Sustainable Development Goals SDG 3 in South East Asian Countries" on legal frameworks supporting achievements of Sustainable Development Goals (SDGs) 2030 in the South-East Asia Region published by the World Health Organization-SEARO.

#### **Legal counsel on finance and corporate matters**

- \* The legal opinion sought by ministries and government agencies mostly surrounded international trade, loan and grant agreements entered into by ministries with international banks or organizations.
- \* Other subjects such as procurement related issues, consumer protection matters, arbitration cases, finance matters, tourism levy, and contract interpretations, were also routinely dealt with by the FCD.

#### **Other advisory areas**

- \* In addition to the above areas, the office guided the Government providing legal advice on constitutional matters, administrative matters, substantive and procedural laws and interpretation of national laws covering electoral, labour, gambling, local government etc.

## Summary of the areas of legal services, 2022

LSD	FCD	IAED
<ul style="list-style-type: none"><li>* Constitution</li><li>* Administrative</li><li>* Penal law</li><li>* Labour laws</li><li>* Local government Laws</li><li>* Codification of laws</li><li>* Thromde laws</li><li>* Gambling</li></ul>	<ul style="list-style-type: none"><li>* Finance</li><li>* Tax</li><li>* Contracts</li><li>* International trade</li><li>* loan agreements</li><li>* grant agreements</li><li>* Arbitration</li><li>* Tourism</li><li>* Consumer protection</li><li>* Procurement</li></ul>	<ul style="list-style-type: none"><li>* MoU</li><li>* Treaties</li><li>* Environment</li><li>* Bilateral</li><li>* agreements</li><li>* Multilateral agreements</li><li>* UNTOC</li><li>* TIP</li><li>* Contract</li></ul>

## COORDINATION WITH GOVERNMENT AGENCIES

### ✓ **MOU with the Anti-Corruption Commission**

The year 2022 marks a decisive moment for the OAG and the Anti-Corruption Commission, as the two offices signed an MOU to strengthen cooperation and coordination. This establishes a clear vision for both organizations and helps us focus our efforts and mandates to combat corruption and work closely with each other in dealing with corruption offences.

### ✓ **Legal Aid**

*Legal Aid Project* funded by the UNDP with committee members from the respective divisions under the Department of Legal Service germinated into the following reports which were instrumental in operationalizing legal aid in Bhutan.



## ☑ **Coordination in International affairs**

- MoU Review Committee on subsequent entry of agreements to the MoUs;
- Department of Law and Order concerning mutual legal assistance and extradition matters and for National Interest Analyses for the ratification of treaties such as the UNTOC and its TIP Protocol, and the UN Convention of Transferred of Sentenced Persons.
- Foreign Relations and Human Rights Committee, and the Social and Cultural Committee of the National Council and National Assembly of the Parliament during the ratification process of the UNTOC Convention and its TIP Protocol.
- Consultation of the Framework agreement on the establishment of the International Solar Alliance requested by the Social Committee of the National Council of the Parliament;
- Ministry of Foreign Affairs on the settlement/litigation of property referred from the Royal Bhutanese Consulate, Kolkata; Officials and domestic help overstaying in the U.S. referred from the Permanent Mission of Bhutan (PMB), New York (NY); and Contract of sale and rider to the contract of sale on acquiring property in New York, by the PMB NY.
- Reviewed and vetted loan and grant agreement between the Royal Government and the international counterparts.

## **Engagement in treaty reporting obligations**

- ▶ Preparation of the updating of the Common Core Document for Bhutan as part of Bhutan's human rights reporting obligation coordinated by the Ministry of Foreign Affairs.
- ▶ Preparation of the combined sixth and seventh Reports of Bhutan to the Committee on the Rights of the Child coordinated by the National Commission of Women and Children.

## **advise in joining the international membership**

- ▶ International Cybersecurity focused communities such as Global Forum on Cyber Expertise (GFCE) and Cybersecurity Alliance for Mutual Progress (CAMP).
- ▶ International Organization for Migration.

## **Other legal services**

- ▶ Drafted the Rules of Procedure for the Finance and Corporate Division and Rules of Procedure for rendering legal services in Public international Law
- ▶ Developed four training modules on public procurement, and reviewing international financial agreements, public international laws and child justice.
- ▶ Developed legal advocacy programs for the Civil Society Organization and Convention on the Rights of Persons with Disabilities.
- ▶ Committee members
- ▶ Provided induction to new recruits on finance, corporate, international affairs, ROP and other legal services
- ▶ Guest lecture to JSW School of Law

# JUSTICE SECTOR PROGRAMME AND ACTIVITIES

## ✔ Virtual Capacity Development for attorneys

On 13 April 2022, Mr. Hemant Battra, Vice President of SAARCLAW and its former Secretary General, who is a leading expert in areas such as policies governing economics, trade, corporate governance, commercial transaction and treaties, presented a virtual training program on Corporate law & Contract Due Diligence to around 40 attorneys and legal assistants from this office.



As part of the virtual training program, Judge Ronald Kye, who currently serves as a Superior Court Judge in Los Angeles, California, USA, spoke to about 40 attorneys and legal assistants on the "*US Criminal Justice System, Mental Health Issues and US jurisprudence*" on 13 April 2022.



## ✓ **Mid-Term Evaluation**

On 13 May 2022, First Call Partners (Evaluator) were contracted by the Royal Government of Bhutan (RGoB)'s Office of the Attorney General (OAG) virtually to conduct a mid-term evaluation (MTE) of the “*Contribution to the Legal Sector Programme/Justice Sector Programme (JSP)*”, funded by the Austrian Development Agency (ADA). The contract award followed an open tender for the services led by the RGoB via their E-Government procurement portal. Ms. Namgay Om, Sr. Attorney/ Component coordinated as the Evaluation Manager (EM) for the MTE led and supported by the Project Manager and the JSWC Secretariat.

In line with the evaluation criteria stipulated by the Organisation of Economic Cooperation and Development Assistance Committee, and in compliance with the ADA Guidelines for Programme and Project evaluations, the evaluation was designed to assess the effectiveness and sustainability of the interventions since the commencement of the JSP in November 2019. The Evaluator submitted their inception report as per the ToR and work schedule on 13 June 2022. On 25 July 2022, the MTE Inception Report was approved by ACO/ADA and fieldwork commenced including a range of Key Informant Interviews.

Furthermore, the EM and the Secretariat successfully invited the Evaluators to Bhutan between 29 July 2022 and 14 August 2022 to complete the final report that was submitted on 21 October 2022. The report focused primarily on assessing effectiveness and sustainability, analyzing the project's progress against its outputs, and where possible, its outcomes, reflecting on the opportunities, documenting best practices and lessons learnt, and making recommendations to inform operational level decision making for the remainder of the JSP until June 2023, and strategic decision making post 2023.





*The Mid-Term Evaluation Team and Justice Sector Advisor with the JSWC members*

#### **☑ Justice Sector Program’s International Advisor’s Visit**

As per the contract drawn on 27th October 2020 between the Gross National Happiness Commission, the erstwhile PMU Secretariat, and Mr. David Morgan, the consultant, was expected to make 3 visits to Bhutan to provide his expertise. After relaxations of travel restrictions, he was finally able to visit in person and had earlier been rendering his services to the secretariat and the working committee remotely. Mr. David was invited to make his visit by the secretariat between 2nd and 14th August 2022, which was planned to coincide with the 6th Project Steering Committee Meeting. He was specifically tasked with the following:

- ▶ Facilitate the establishment of the Justice Sector National Steering Committee (JSNSC) for overall policy/strategic guidance, prioritization of sector-wide

development activities, supervision of the implementation and coordination on joint reporting on change and progress under NKRA 16;

- Review progress and provide advice regarding the planned national Legal Needs Survey;
- Advise and support the Justice Sector Secretariat during the Mid Term Evaluation of the Justice Sector Programme. (Although the visit was concurrent with the field work for the Mid-Term Evaluation, meetings were conducted separately as their purposes were different.)



*6th Project Steering Committee Meeting held on 8 August 2022.*

Further, the advisor also developed report on the following:

- \* Assessment report on status of NKRA 16 vis-à-vis SDG 16.
- \* Review of the functionality of the national coordination mechanisms.
- \* Cross cutting issues including gender, corruption, and social safeguards.
- \* Programme Management.
- \* Monitoring and Evaluation.
- \* Institutional Partnerships.





*JSP International Advisor Meeting with the JSWC and PSC members*



## ✔ **Electronic Legal Management System**

The office officially launched the Enterprise Legal Management System (ELMS). The centralized cloud-based system will improve accountability, transparency and efficiency in the delivery of services. Besides, it will also give the office the platform for interagency data integration, which will greatly enhance the Justice Sector's capacity in the administration of Justice.

## **Capacity Building:**

The office participated in the following:

- \* Phuntsho Gyaltsen Dorji, Offg. DAG of the Department of Legal Services was a Member of Implementation Review Mechanism (IRM) delegation from Bhutan to “*Review of Implementation of the United Nations Convention against Corruption (UNCAC) of Japan*” which was held in Tokyo, Japan from 12-14 September 2022.
- \* Tshering Dorji, Sr. Attorney of the Prosecution and Litigation Division under the Department of Justice attended the “*South Asia Regional Consultation on Wildlife Crime*” on 7-8 December 2022, held in New Delhi, India.
- \* Namgay Om, Offg. Chief Attorney of Finance and Corporate Division under the Department of Legal Services attended the Asian Development Bank's event titled “*Strengthening Insolvency Systems in Asia and Pacific*” on December 15-16, 2022 held in Manila, Philippines.

## **Human Resource Management:**

### ✔ Appointment

- Sangay Dorji was appointed as the Attorney in the OAG under the Property and Judgement Enforcement Division, under the Department of Justice on 1 January 2022.

- ▶ Phuntsho Gyaltsen Dorji, Chief Attorney of the Legal Services Division, was appointed as the Officiating Deputy Attorney General of the Department of Legal Services with effect from 1 May 2022.
- ▶ Ugyen Wangdi, Dy. Chief Attorney, was appointed as the Officiating Chief Attorney of the Legal Service Division with effect from 1 May 2022.
- ▶ Namgay Om, Dy. Chief Attorney, was appointed as the Officiating Chief of Finance and Corporate Division under the Department of Legal Services with effect from 1 May 2022.

#### Transfer

- ▶ Choeki Wangmo, Legal Officer of the Legal Division under the Ministry of Economic Affairs was transferred to the Prosecution and Litigation Division under the Department of Justice on 1 January 2022.
- ▶ Kanjur Wangmo, Committee Secretary III of the Legislative & Procedural Division under the National Assembly Secretariat was transferred to the Legal Service Division under the Department of Legal Services on 1 January 2022.
- ▶ Phuntshok Namgyal, Sr. Attorney of the Prosecution and Litigation Division was transferred to the Legal Division under the Anti-Corruption Commission on 1 March, 2022.
- ▶ Pema Tshering, Accounts Assistant II of Thimphu Dzongkhag Administration was transferred to the Secretariat Services under Office of the Attorney General on 23 December 2022.

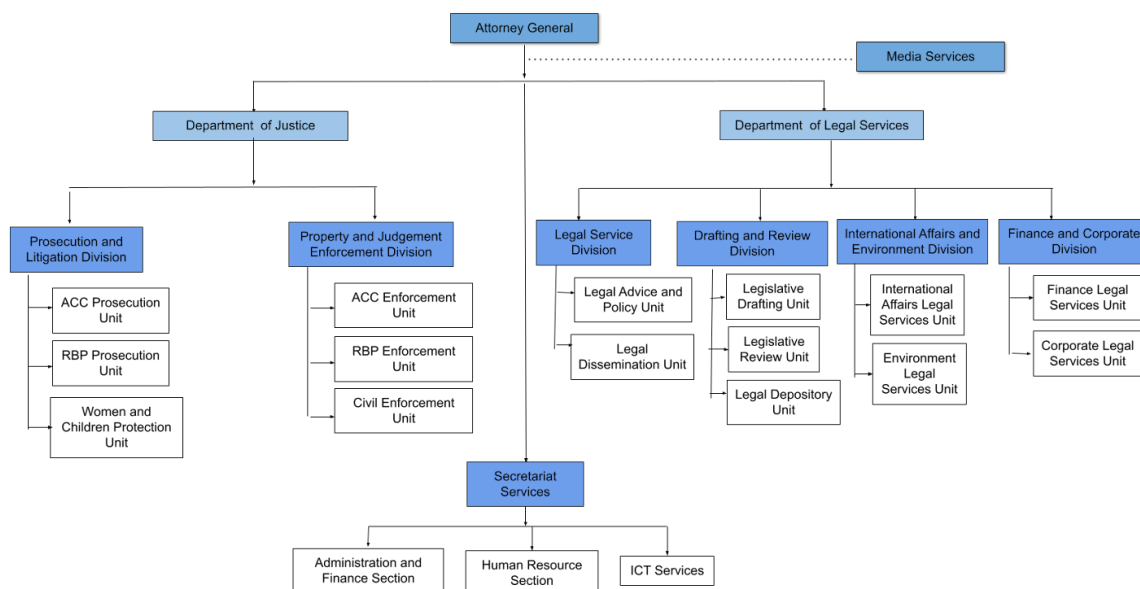
#### Separation:

- ▶ Passang Dema, Dy. Chief ICT Officer, resigned on 6 October 2022.
- ▶ Namgay Dorji, Dy. Chief Attorney of Drafting and Review Division, resigned on 31 October 2022

- Ugyen Tshomo, Accounts Assistant III, resigned on 28 November 2022.
- Dargo Wangmo, Security Guard, resigned on 31 December 2022.
- Thinley Penjor, Dy. Chief Attorney of the Prosecution and Litigation Division, resigned on 31 December 2022.
- Ratna Bdr. Gurung, Messenger, contract term ended on 31 December 2022.

☑ HR Staffing and Strength:

## *Organogram*

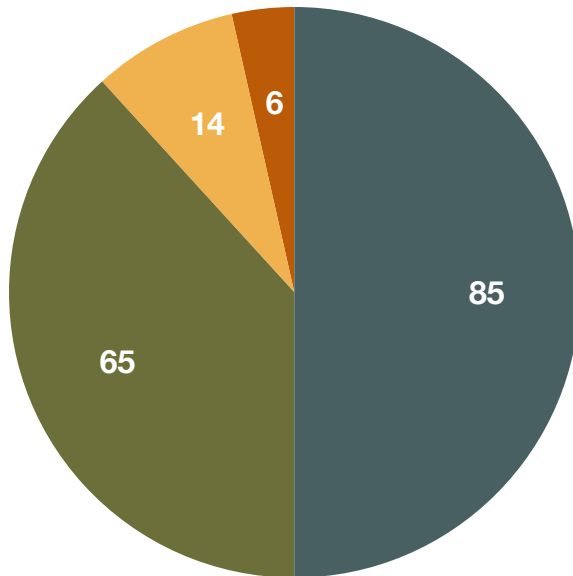


## HUMAN RESOURCE STRENGTH Staff(Position Title) breakdown in OAG

Position Title	Male	Female	Total
Attorney General	1	0	1
Dy. Attorney General	1	0	1
Chief Attorney	2	0	2
Deputy Chief Attorney	5	5	10
Senior Attorney	8	7	15
Attorney	7	7	14
Assistant Attorney	1	0	1
Legal Assistant	5	1	6
Language Dev. Officer	1	0	1
Head AFD	1	0	1
Human Resource Officer	0	1	1
Finance Officer	0	0	0
Account Assistant	1	0	1
Sr. Adm Assistant	0	1	1
ICT Officer	0	1	1
Sr. ICT Associate	0	1	1
Jr. Librarian	1	0	1
Store Assistant	0	1	1
PA to AG	0	1	1
Telephone Operator/ Receptionist	0	1	1
Support Staff	3	5	8
<b>Total</b>	<b>37</b>	<b>32</b>	<b>63</b>

## 12th FYP Staffing

● Approved Staffing 
 ● Existing 
 ● EOL 
 ● Separated



12th FYP approved staffing for the Office of the Attorney General							
Department	Division and Section	Position Title	Position Level	Qualification	Approved	Existing	Gap
Office of the Attorney General	Secretariat Services	Personnel Assistant	S5A	Class XII with IT	1	1	0
		Admin. Officer	P5A	Bachelors	1	1	0
		HR Officer	P5A	PGDPA	1	1	0
		Finance Officer	P5A		1	0	1
		ICT Officer	P5A	Bachelors	2	1	1
		ICT Technical Associate	S2A	DIMS	1	1	0

12th FYP approved staffing for the Office of the Attorney General

Department	Division and Section	Position Title	Position Level	Qualification	Approved	Existing	Gap
		Adm Asst. IV (HR Asst)	S1A	Class XII	1	1	0
Office of the Attorney General	Secretariat Services	Accounts Ass. V	S2A	DFM	1	2	-1
		Store Asst.	S5A	Class XII	1	1	0
		Dispatcher/ Receptionist/ Telephone operator	O4	Class X	1	1	0
		Messenger	GSP		1	0	1
		Security Guard	ESP		2	1	0
		Gardener	ESP		1	1	0
		Cleaner	ESP		1	1	0
		Helper/ Assistant	ESP		1	1	0
Total					16	13	3
Department of Justice	Office of the Deputy Attorney General	Dy. Attorney General	EX	Bachelors	1	0	1
		Personnel Assistant	S5A	Class XII with IT	1	0	1
	Total				2	0	2
	Prosecution & Litigation Division	Chief Attorney	P1	Bachelors	1	1	0
		Attorney	P4A	PGDNL	30	29	1
		Legal Assistant	S2A	DNL	6	6	0
	Total				37	36	1

## 12th FYP approved staffing for the Office of the Attorney General

Department	Division and Section	Position Title	Position Level	Qualification	Approved	Existing	Gap
Department of Justice	Property & Judgement Enforcement Division	Chief Attorney	P1	Bachelors	1	0	1
		Attorney	P4A	PGDNL	4	3	1
		Legal Assistant	S2A	DNL	1	1	0
	<b>Total</b>				<b>6</b>	<b>4</b>	<b>2</b>
	Media & Information Section	Media & Information Officer (Attorney)	P4A	PGDNL	1	0	1
	<b>Total</b>				<b>1</b>	<b>0</b>	<b>1</b>
	Library Section	Library Asst.	S2A		1	1	0
	<b>Total</b>				<b>1</b>	<b>1</b>	<b>0</b>
Department of Legal Services	Office of the Deputy Attorney General	Dy. Attorney General	EX	Bachelors	1	0	1
		Personnel Assistant	S5A	Class XII with IT	1	0	1
	<b>Total</b>				<b>2</b>	<b>0</b>	<b>2</b>
	Legal Service Division	Chief Attorney	P1	PGDNL	1	1	0
		Attorney	P4A	PGDNL	4	2	2
	<b>Total</b>				<b>5</b>	<b>3</b>	<b>2</b>
	Drafting & Review Division	Chief Attorney	P1	PGDNL	1	0	1
		Attorney	P4A	PGDNL	4	3	1
	<b>Total</b>				<b>5</b>	<b>3</b>	<b>2</b>



12th FYP approved staffing for the Office of the Attorney General							
Department	Division and Section	Position Title	Position Level	Qualification	Approved	Existing	Gap
Department of Legal Services	International Affairs and Environment Division	Chief Attorney	P1A	PGDNL	1	0	1
		Attorney	P4A	PGDNL	3	1	2
	Total				4	1	3
	Finance and Corporate Division	Chief Attorney	P1A	PGDNL	1	0	1
		Attorney	P4A	PGDNL	3	2	1
	Total				4	2	2
	Dzongkha Proficiency Section	Dzongkha Coordinator	P5A	Bachelors	1	1	0
	Total				1	1	0
TOTAL					85	65	18

*Note: Drivers will be as per the No. of BG. Vehicles*



## PUBLICATIONS

### ☑ Under the Justice Sector Program

On 1 November 2022, coinciding with the Coronation Day of His Majesty The King, the office launched the following historic documents supported by the Austrian Development Agency through their Justice Sector Program 2019-2023:

- ▶ Uniform Criminal Investigation Report Drafting Manual 2022;
- ▶ Uniform Charge-Sheet Drafting Manual 2022; and
- ▶ Child Justice Training Manual 2022

The office in collaboration with the Royal Bhutan Police has developed two manuals, namely the “*Uniform Investigation Manual 2022*” and the “*Uniform Charge-Sheet Drafting Manual 2022*.” These manuals will assist investigators and prosecutors in the course of their investigations and prosecution respectively and ensure adherence of due process, rule of law, and respect for individual rights that will significantly streamline the administration of criminal justice in Bhutan. With this framework, the office and other justice sector



*The Hon'ble Chief of Police, joined by representatives from other law enforcement agencies, inaugurated the launching ceremony.*

institutions will be equipped to systematically deliver criminal justice services with promptness, professionalism, consistency and uniformity.

In addition, the office through multiple deliberations and stakeholder consultations developed a comprehensive training manual for service providers and child protection officers, titled the “*Administration of Child Justice in the Kingdom of Bhutan.*” In order to develop a comprehensive end-to-end process of the administration of child criminal justice, institutions such as the Royal Court of Justice, BNLI, NCWC and Nazhoen Lamten were closely engaged in dialogue during the consultation process.

### **Enhance Prosecution Services**

#### Revised Rules of Procedure for Prosecution and Litigation 2022

This year, the ROP for Prosecution and Litigation 2018 was revised. The revised ROP 2022 provides a standard procedure for pursuing appropriate criminal charges of appropriate severity and exercising discretion to not pursue criminal charges in applicable circumstances. It also provides procedures for proper assessment and decision-making for waiving prosecution and in determining whether or not to appeal a judgment or decisions rendered by the appellate court. The ROP will ensure that the decisions taken to prosecute and the declining of prosecution are taken transparently in accordance with the law. The revised ROP includes the procedures for teamwork between the Prosecution and investigating agencies to improve coordination and collaboration when dealing with cases.

#### Sentencing Guideline

The prosecutor bears an important duty for ensuring justice to both the offender and the victim in terms of a guilty plea and assisting the court to reach its decision as to the appropriate sentence. To have consistency and uniformity in sentencing, the PLD has developed a sentencing guideline that is part of the ROP.

The chapter provides guidance on the factors that a prosecutor should take into account when charging an offender for highest or minimum sentence. We have classified a range of offences from the Penal Code such as crimes against children/minors, acts against national security and social harmony, and other heinous crimes including corruption-related offences under the ACAB as serious offences.


### **Enhance Enforcement Services**

To enhance the enforcement services, following manuals and guidelines were published:

- ▶ Concept Note for establishment of an enforcement division;
- ▶ Standard Operating Procedure (SOP);
- ▶ Guideline on Sealed Bid Auction 2022;
- ▶ Escrow Money Management Guideline 2022; and
- ▶ Seized Property Management 2022.

## **CHALLENGES AND THE YEAR AHEAD**

While representing the State, the prosecutors face constant difficulties and risks as they strive to fulfill our diverse mandates. Some challenges and risks are recognizable and obvious, while others are subtle, or are on the horizon. It has always been a priority for the office to use every available resource to fulfill our mandates and in the face of these difficulties, the office has taken decisive action to safeguard and protect the rights of the Bhutanese people and bring those who would do them harm to justice.

 **Public Outreach:** The office is using forward-thinking and swift techniques to meet our crucial responsibility of preserving and enhancing public trust in this modern age of social media, where it is influential in just about every possible way.

The media management guideline is one strategy the office has put into place to manage risks and challenges faced with social media. This measure controls the entire organization's media policy to address the full spectrum of the office's risk in sharing information with the public. The other is proper communication with the victim and helping them understand our mandates and roles in the delivery of justice.

## **Law Enforcement**

### Drug Trafficking:

Drugs affect the lives of our youths without regard for age, gender, or economic status. Drug trafficking is a nationwide problem, particularly in the capital and border towns in the southern region that has a pernicious effect on vulnerable young people and adults, as we saw a 46% increase in drug offences in 2022 compared to the previous year. Some of the solutions being discussed to address drug trafficking issues include severe enforcement of drug laws and stringent punishment against drug traffickers (Dealers). Collaboration and cooperation between the enforcement agencies are ongoing to raise awareness of the general public to solicit their assistance against illicit drug trafficking.

### Financial crimes and expertise

Over the last decade, offences relating to financial fraud are on the rise and to have an efficient prosecution service in such financial-related crimes, the office is looking forward to addressing this obstacle by training prosecutors in financial law and engaging with experts from partner organizations.

## ☑ Legal services

The office in rendering legal service faces numerous challenges including lack of expertise in the field as well as matters *res integra*, i.e. Questions of law that have not been examined or tested before by the courts and so forth.

- ▶ To become an expert body for the government in international, environment, financial, commercial and corporate laws.
- ▶ To test the Rules of Procedure for Rendering Legal Services in Public International matters and endeavors to engage itself constructively in the treaty-making process and treaty reporting obligation of the Government to which Bhutan is a party.
- ▶ The office also looks forward to establishing institutional linkages with other Attorney General Chambers wherein the IAED will continue to facilitate these works already initiated.
- ▶ The immediate forward plan to assist the office in serving as the repository of treaties for the country and provide information to the Bhutan Treaty-Making Practice to ensure the Rules of Procedure for Treaty Making are universally adhered to by all agencies.
- ▶ The office endeavors to undertake research and publication on international, finance, corporate and other legal issues.
- ▶ Develop frameworks to review international loans and grant agreements, and train new recruits with the focus of ensuring uninterrupted rendering of specialized financial, commercial and corporate legal services to the government.
- ▶ Leverage digital means to enhance public awareness on laws.

### **☑ Drafting and review of laws**

- ▶ Make legislation more accessible and accurate for public information;
- ▶ Timely training and refresher course to legislative drafter and legal professionals;
- ▶ Consolidate and harmonize laws through proper coordination with relevant stakeholders;
- ▶ Leverage Technology to improve systems and processes.

### **☑ Hiring and Staffing**

The current economic crisis and the danger it poses to the government workforce continue to have an influence on how the office does business and endeavors to fulfill its mission. With only 22 prosecutors, the office is currently facing an acute shortage of manpower in the prosecution division. The other divisions that renders legal and drafting services to the government also share a similar challenge.

The office is working towards addressing the challenges associated with retaining and developing a highly-skilled, diverse workforce to address law enforcement issues, litigation matters, management challenges, and so forth, by working closely with the Royal Civil Service Commission and other relevant stakeholders.



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