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OFFICE OF THE ATTORNEY GENERAL

Seek Truth & Ensure Justice

ANNUAL REPORT

2023



OFFICE OF THE ATTORNEY GENERAL

© 2023

LOWER MOTITHANG

THIMPHU: BHUTAN



“Rule of law brings about discipline in people and order in society. If there is order in society, there will be peace and trust amongst the people. If there is peace and trust amongst people, the nation will achieve untold prosperity.”

*His Majesty The Druk Gyalpo's Address on 11<sup>th</sup> November, 2015*



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## **MESSAGE FROM THE ATTORNEY GENERAL**

It is my utmost delight to introduce the 2023 Annual Report of the Office of the Attorney General. Guided by His Majesty's inspiring vision and profound wisdom, our Office remains steadfast in its commitment to fulfilling its duties, despite facing significant challenges, including the highest attrition rate the Office has ever experienced. This report outlines our current situation, achievements, challenges, and advancements that we made over the past year in upholding the rule of law, defending rights, and promoting justice. Our committed team has been working nonstop for the past year to solve legal issues of national significance, defend individuals' rights, and safeguarded the fundamental values of our Bhutanese legal system. Numerous cases have been successfully resolved as a result of our commitment to seek truth and ensure justice.

As the legal arm of the Government, the Attorney General serves as the Chief Legal Officer and shall be the legal advisor and legal representative of the Government. The office is the central litigation and prosecution agency of the Government and despite a significant attrition of experienced attorneys, the office continues to operate with tremendous vigor. Examining the previous year, the investigative agencies made 970 prosecution referrals in total: 926 cases referrals from Royal Bhutan Police involving 1531 defendants, 31 cases involving 140 defendants referred by the Anti-Corruption Commission, and 13 cases from agencies involving 21 defendants. The office recorded a rise in cases from 659 cases involving 1300 defendants in 2022 to 970 cases involving 1692 defendants in 2023.

In our efforts to enforce judgements in a timely manner, the office has restituted a total of BTN 10.284M to the Royal Government of Bhutan, BTN 21.459 to the victims as compensation, and BTN 28.297 as loan repayment to the financial institutions. Further 0.75 acres of land have been compensated to the victims through our enforcement process. The office organized auctions for properties seized in connection with crimes, and various substances have been transferred to the relevant agencies for destruction. The office has repatriated two illegal immigrants to India and the Philippines, administratively penalized two individuals, and implemented diversion and rehabilitation initiatives in cases involving children.

Likewise, in advising the government during the year under review, the office rendered a total of 91 legal opinions on various subjects. Among these, the International Affairs and Environment Division rendered 59 opinions on matters within the purview of public international law. The Legal Services Division provided 11 opinions, while the Finance and Corporate Division rendered 21 opinions. It is important to note that this tally excludes other opinions provided to Ministries, agencies, Dzongkhags, Thromdes, etc. Furthermore, the Drafting Division digitized 98 national legislations and 28 international treaties and conventions.

Despite the challenges we have faced, the results of our collective efforts have been remarkably promising, underscoring the significance of our overarching goal. Looking ahead, we are confronted with the formidable task of fulfilling our constitutional and statutory mandates. In our quest to enhance the efficiency of our service delivery, the Office will take a



leading role in spearheading data integration efforts among the various justice sectors as part of the 13th Plan. In alignment with Outcome 2 of the governance cluster and other objectives outlined in the 13th Plan, the Office, in collaboration with other entities within the justice sector, will diligently work to not only improve the effectiveness of our justice services but also ensure their accessibility and inclusivity.

I highly encourage every team member to review this report as it provides a comprehensive overview of our achievements, obstacles and underscores the importance of our work. Let us continue to uphold the principles that define our Office and strive for even greater excellence in the pursuit of justice. I extend my heartfelt appreciation to each and every member of the Office for their unwavering dedication to upholding the principles of justice.

Officiating Attorney General

## OUR VISION, MISSION & 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.




### MISSION

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

### VALUES

Efficiency  
Objectivity  
Fairness  
Transparency  
Professionalism

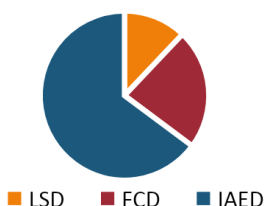
## AT GLANCE: 2023 IN NUMBERS

Total case referrals		Restitutions and compensations		
	RBP: 926	RGOB	VICTIMS	FIs
	ACC: 31	10.284M	21.459M	28.297M
	Others: 13			

## CASE STATUS IN NUMBERS

Pending	Appeal	Under Review
<b>331</b>	<b>90</b>	<b>157</b>
Disposed/closed	Case dropped	Diversion
<b>652</b>	<b>28</b>	<b>17</b>

### Legal opinions



Drafted 2 Rules and reviewed BCSR 2023

Digitized 126 laws: 57 National laws and 28 international treaties.

Consolidation and translation of Marriage Act

### HR CHALLENGES

HR CHALLENGES		WAY FORWARD: 2024 onwards
Resignation	<b>23</b>	Data integration across justice sector
Extra-ordinary leave	<b>13</b>	Harmonization & consolidation of laws
Recruitment	<b>25</b>	Enhance e-litigation to reduce time & cost
Professional strength	<b>39</b>	Reduce turnaround time for legal services

*“In our pursuit to enhance public satisfaction of our services”*

## 1. REPRESENTING THE GOVERNMENT

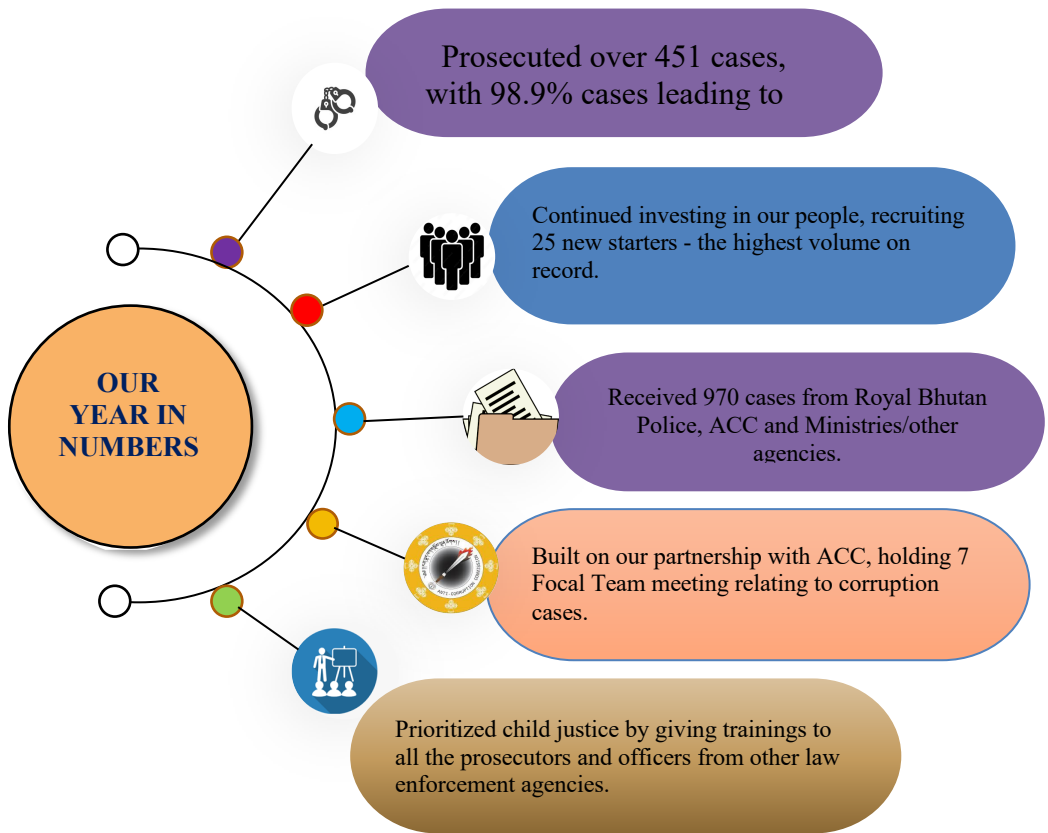
The Prosecution and Litigation Division (PLD) within the Department of Justice (DOJ) hold exclusive responsibility to prosecute both criminal and civil cases on behalf of the state. Its authority is derived from Article 29 of *the Constitution* and Section 10 of the *Office of the Attorney General Act, 2015*. As a pivotal component of Bhutan's criminal justice system, the DOJ collaborates with entities such as the Anti-corruption Commission and the Royal Bhutan Police to administer impartial and just prosecution. The division advocates for the rights of the Bhutanese people, upholds criminal and civil laws, and aspires to be a:

***“leading public organization committed to truth and justice, fostering a society harmonized by the rule of law and good governance”***

Comprising about 27 dedicated and young prosecutors, the PLD ensures to enhance public safety and strengthen the trust of our community using our legal expertise and digital skills guaranteeing fair trials and expediting prosecution. Upholding the principles of fairness, objectivity, and impartiality is crucial to delivering justice for victims, defendants and the public at large.

As we review each case thoroughly, our tasks are diverse and sometimes complicated. We handle a wide range of offences, from petty cases and sedition to domestic violence and multi-million financial fraud cases. What these cases share in common is their potential to severely impact victims and the economy at large.

## OUR YEAR IN NUMBERS



## HOW WE ARE STRUCTURED

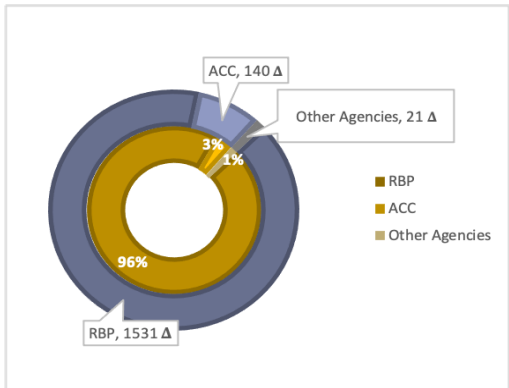
Districts	No. of Prosecutors
Thimphu	All prosecutors
Paro	3
Wangduephodrang/Punakha/Gasa	2
Chukha/Haa/Sandrupjongkhar	4
Dagana/Tsirang/Sarpang	2
Samtse	2
Trongsa/Zhemgang/Bumthang	2

Pemagatshel, Trashigang/Trashiyangtse	1
Lhuntse, Mongar	1
<b>TOTAL</b>	<b>17</b>
<b>9 prosecutors assigned to prosecute corruption-related cases irrespective of jurisdiction</b>	

The Prosecution and Litigation Division (PLD) assigns prosecutors to each of the Nineteen Dzongkhags. The number of prosecutors in a Dzongkhag varies based on the caseload, with some Dzongkhags having two to three prosecutors. Given the high volume of cases referred from Thimphu, each prosecutor also handles cases from the Dzongkhag. The Chief Prosecutor oversees the prosecutors. Additionally, within the PLD, a specific group of prosecutors focus exclusively on cases referred by the Anti-Corruption Commission, concentrating their efforts on prosecuting corruption-related offences. These prosecutors work alongside with the Property and Judgment Enforcement Division, a specialized division tasked with handling all aspects of Judgment enforcement and significant property confiscation works.

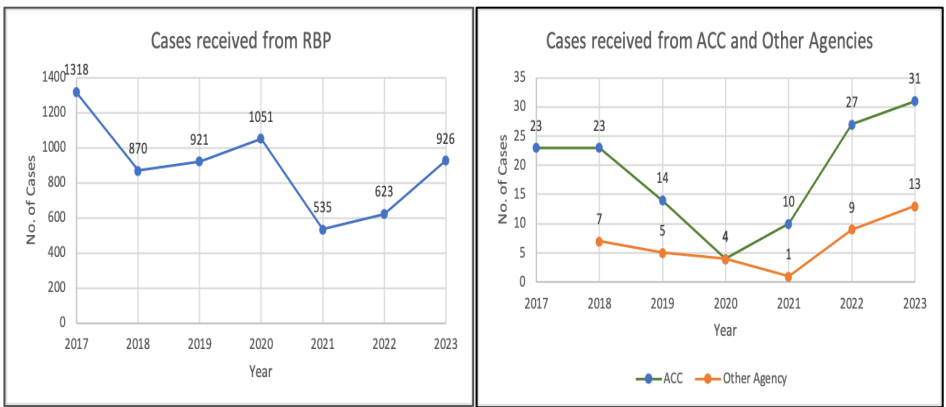
### 1.1. HIGHLIGHTS OF CASES RECEIVED IN 2023

The statistical summary for the year 2023 sheds light on the operational dynamics of the Prosecution and Litigation Division. The Royal Bhutan Police (RBP) consistently dominated the caseload, contributing 96% of the



cases (926 cases with 1531 defendants). The Anti-Corruption Commission (ACC) played a smaller role, accounting for 3% of the caseload with 31 cases and 140 defendants. Other agencies, including Ministries, collectively constituted 1% of the caseload, involving 13 cases and 21 defendants. This distribution highlights the

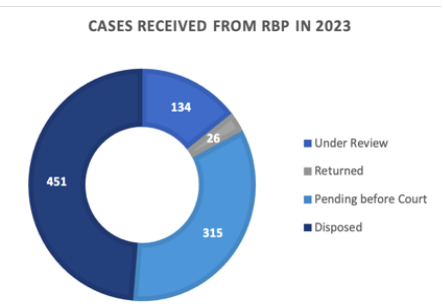
diverse nature of the Division’s workload and emphasizes collaborative efforts with various agencies to seek truth and ensure justice.



**Figure:** Cases received from RBP, ACC and other agencies

The analysis of past caseloads reveals intricate dynamics among referring agencies and a notable rise in cases received by the Office. In 2023, compared to 2022, there was a 48.6% increase in cases from the Royal Bhutan Police (RBP), as illustrated above. Additionally, the Office observed a 14.8% increase in cases from the Anti-Corruption Commission (ACC) and a 44.4% increase in cases from other agencies, as depicted above. *The total number of RBP cases between 2017 till 2020 reflects higher numbers as it reflects the total numbers of defendants involved in the case instead of total number of cases referred by RBP.*

**(i) Cases Referred by the RBP**



**Figure:** Status of RBP Cases

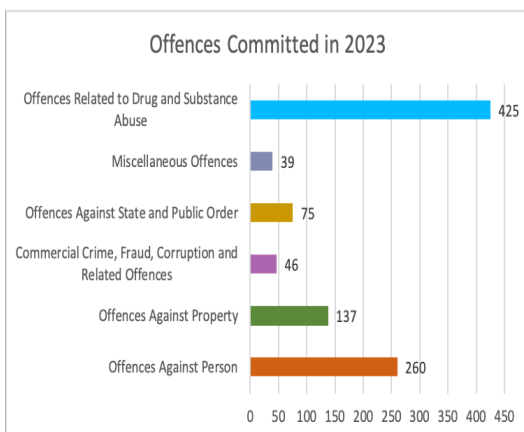
In 2023, the Office received 926 cases involving 1531 defendants from the RBP. Out of the total cases received, 48.7% of the cases have been disposed of, 2.8% have been returned, 34% are pending before the Court, and 14.5% are still under review.

**(ii) Dzongkhag wise RBP case referral**

Dzongkhag	Cases	Defendants	Dzongkhag	Cases	Defendants
1. Bumthang	13	18	2. Samdrupjongkhar	36	57
3. Chukha	184	226	4. Samtse	60	82
5. Dagana	20	32	6. Sarpang	74	109
7. Gasa	1	3	8. Thimphu	327	631
9. Haa	7	20	10. Trashigang	12	13
11. Lhuntse	7	10	12. Trashi Yangtse	11	14
13. Mongar	18	67	14. Trongsa	12	17
15. Paro	65	114	16. Tsirang	13	16
17. Pemagatshel	8	10	18. Wangduephodrang	33	42
19. Punakha	22	38	20. Zhemgang	3	13
<b>TOTAL CASES FROM 20 DZONGKHAGS</b>				<b>926</b>	<b>1532</b>

As shown in the table, the highest number of cases originated from the capital with a total of 327 cases involving 631 defendants, followed by Chukha with 184 cases involving 226 defendants. Out of 184 cases, 175 cases involving 208 defendants originated from Phuntsholing. The Office saw the least number of cases from Gasa Dzongkhag with just 1 case involving 3 defendants.

**(iii) TYPES OF OFFENCES**

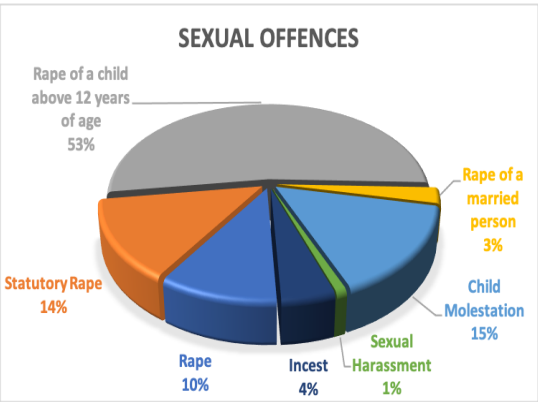


Among the 926 cases referred by the Royal Bhutan Police (RBP), numerous instances involved multiple defendants and various offenses. According to Figure, the Office handled 260 cases related to offenses against persons, encompassing a range from homicide and battery to other sexual offenses.

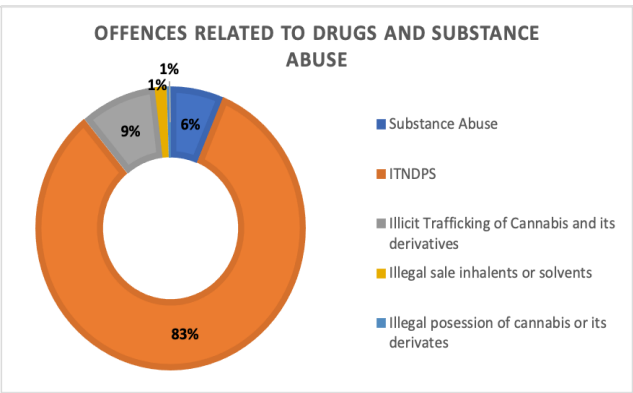


***(iv) Sexual offences***

The Office recorded a 34.1% increase in sexual offence cases, reaching a total of 110 cases. Within this, 53% concerned rape of a child aged 12 and above, 15% were related to child molestation, and 14% were cases of statutory rape. The remaining 18% encompassed diverse offenses such as rape, incest, sexual harassment, and marital rape as shown in the pie chart.



***(v) Offences related to drugs and substance abuse***

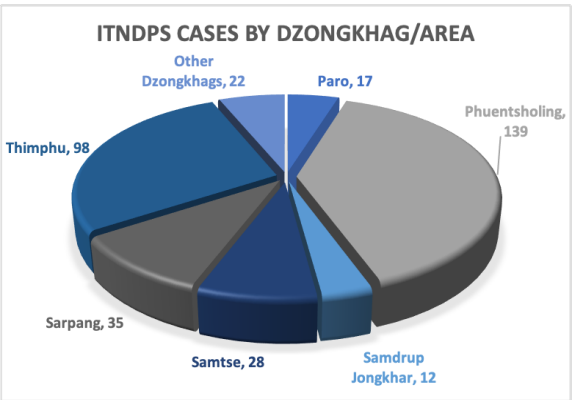


In 2023, the Office observed a substantial 214.8% surge in drug and substance abuse cases, totaling 425 compared to the previous year's 135. Illicit trafficking of narcotic drugs and psychotropic

substances (ITNDPS) constituted 83% of these cases (351 instances), followed by 9% involving illicit trafficking of cannabis and its derivatives (39 cases). The Office reported 27 cases of substance abuse, 6 of illegal inhalant/solvent sale, and 2 of possession of cannabis.

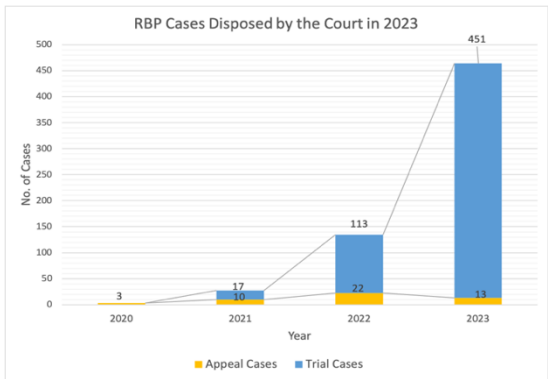
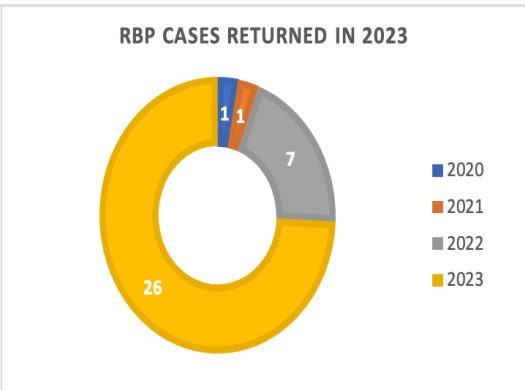
**(vi) ITNDPS by Dzongkhag**

The ITNDPS cases in 2023 rose by 234.3% from the prior year (105 cases). The figure provided depicts that Phuentsholing led with 39.6% of ITNDPS cases, trailed by Thimphu at 27.9%, while other Dzongkhags collectively accounted for 22 cases.



**(vii) Case returned or dropped from prosecution process**

In 2023, the Office returned a total of 35 cases to the RBP. This includes 26 cases referred by the RBP in 2023, out of which 2 were only partially returned. The remaining number of cases returned includes 7 cases referred by RBP in 2022 and one each in 2021 and 2020.



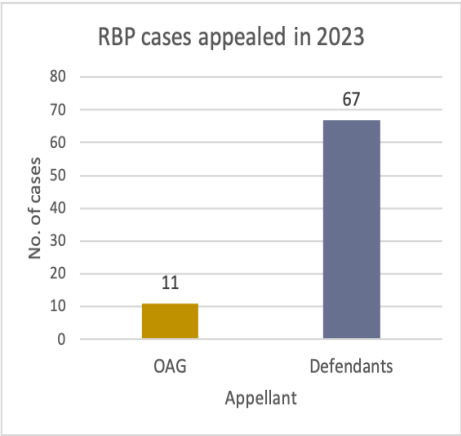
**(viii) Cases disposed by the Court**

In 2023, the Office received judgments for 629 cases referred by the RBP. Out of the total judgments received, 92.4% pertain to trial cases from 2023 (451 cases), 2022 (113 cases), and 2021 (17 cases). Out of 451 trial cases referred and

disposed in 2023, the Office secured conviction for 98.9% (446) of the cases, acquittal in 0.4% (2 cases), and deferral of judgment in 0.7% (3 cases). The remaining 7.6% of the cases disposed of by the Court in 2023 pertain to appeal cases from 2023 (13 cases), 2022 (22 cases), 2021 (10 cases), and 2020 (3 cases) as illustrated in the graph.

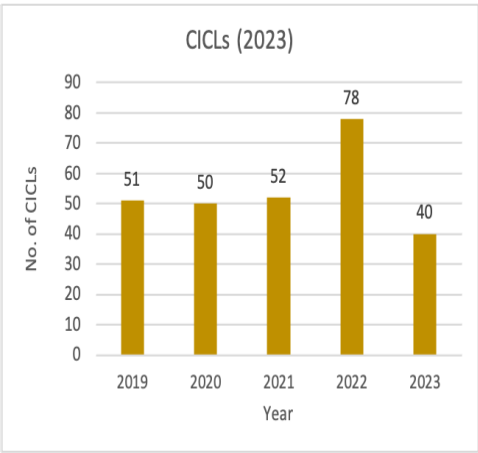
**(ix) Appeal cases of RBP**

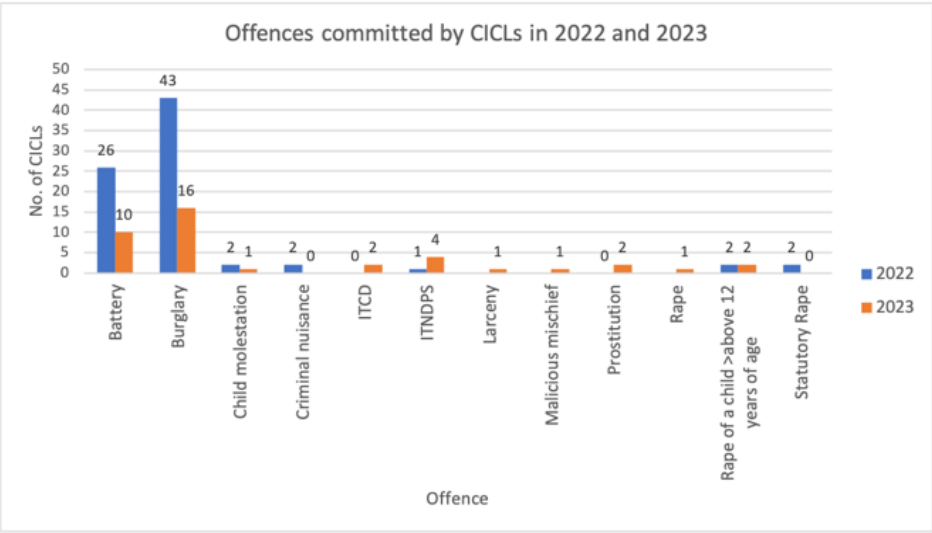
Out of the total judgments rendered in 2023, 12.4% were appealed to higher Courts, with the Office appealing 11 cases and the defendants appealing 67 cases as illustrated in graph.



**(x) Cases Involving CICL**

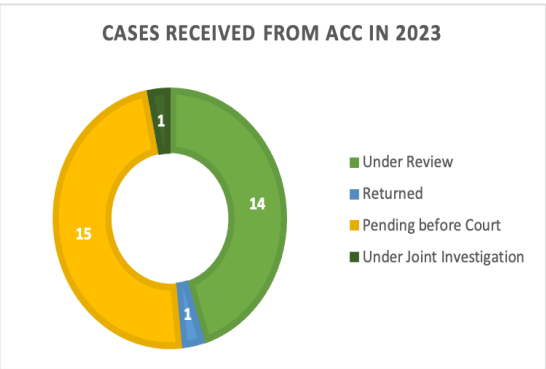
The Office dealt with 40 children in conflict with law (“CICL”) in the year 2023. This amounts to 2.6% of the total defendants (1531) referred by the RBP in 2023, as compared to 6.8% in 2022. In comparison to 2022, the Office saw a decrease in the overall number of CICL in the year 2023 by 48.7%. Out of 40 CICLs referred to Office, the Office sent 17 CICLs on diversion.





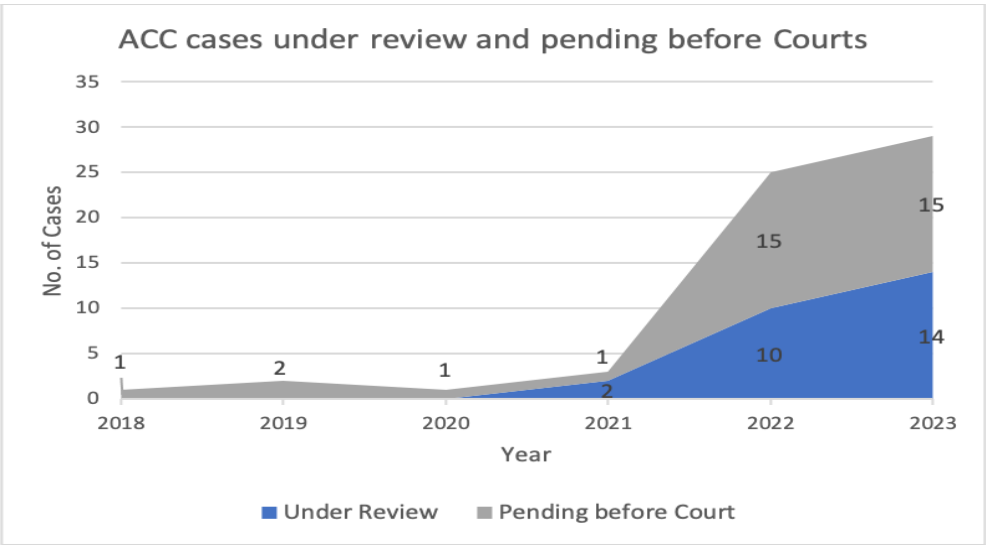
The comparison of the offences committed by CICLs in 2022 and 2023 demonstrates that there has been a substantial decrease in the number of battery and burglary cases involving CICLs by 61.5% and 62.7% respectively. Meanwhile, the Office has observed an increase in the number of illicit trafficking of cannabis and its derivatives and ITNDPS offences committed by CICLs.

### 1.2. CASES REFERRED BY ANTI-CORRUPTION COMMISSION

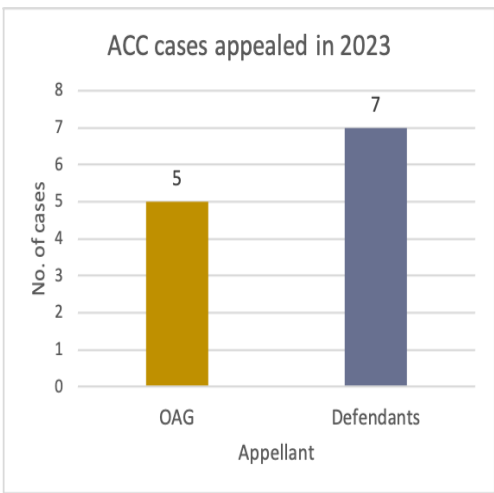


In 2023, the Office observed an increase in the number of cases and defendants referred by the ACC with 31 cases involving 140 defendants – up by 14.8% compared to 2022. Out of the total cases received from ACC, 1 was returned, 1 is under joint investigation, 15 are pending before the Courts, and 14 are under review.

**(i) Under review and pending before courts**

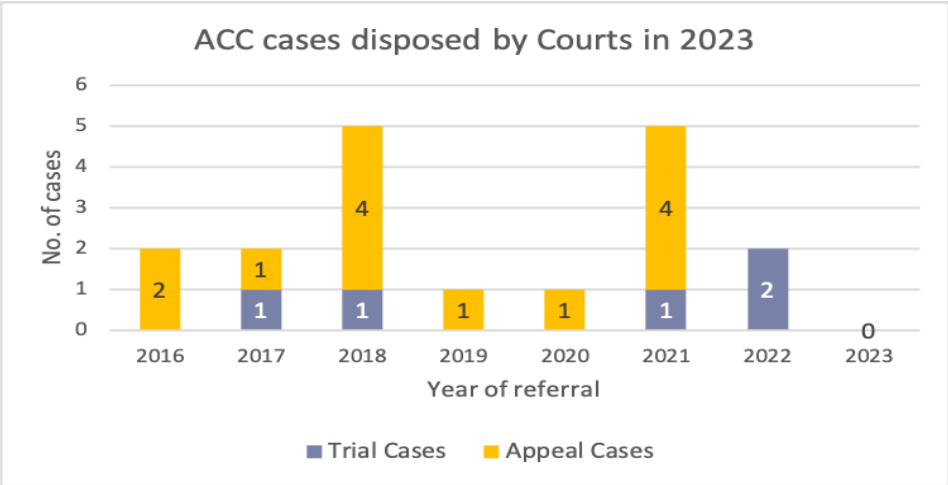


As of 31<sup>st</sup> December 2023, a total of 26 cases – 14 from 2023, 10 from 2022, and 2 from 2021 – are under review. The Office has 35 cases – 15 each from 2023 and 2022, 1 each from 2021, 2020 and 2018, and 2 from 2019 – pending before the Courts.

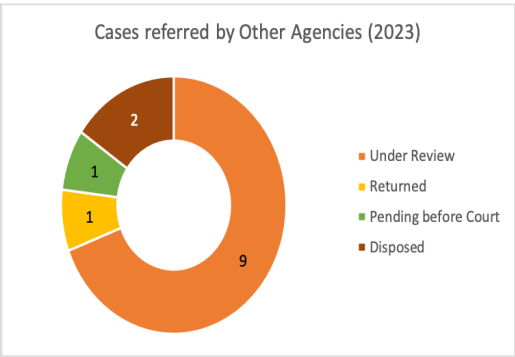


**(ii) Cases Appealed and Disposed**

In 2023, the Office received judgments for 18 cases referred by the ACC. This includes 5 trial cases and 13 appeal cases as illustrated in the graph. Out of 18 ACC cases disposed of by the Court, a total of 12 cases were appealed – the 5 cases by the Office and 7 by the defendants – as shown in the graph.

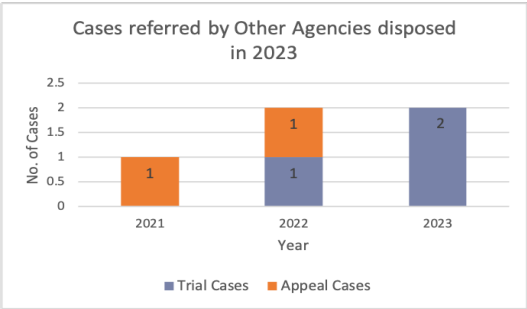


**1.3. Cases referred by other Agencies: Cases Received and Disposed**



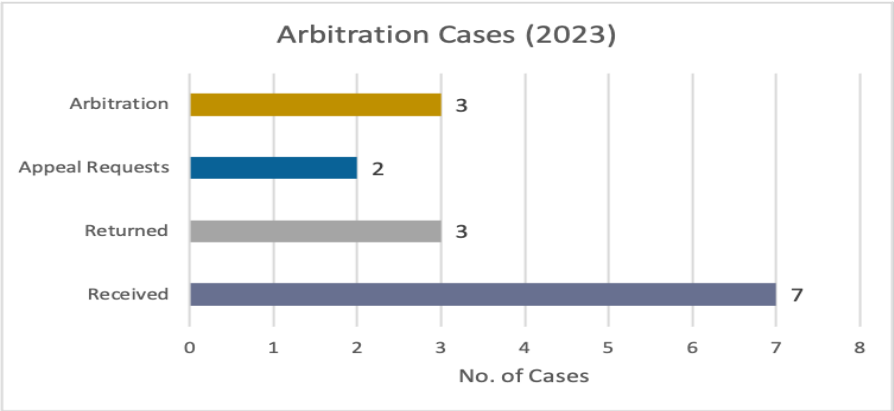
The Office saw a 44.4% rise in cases from Other Agencies (like Ministries, Dzongkhags, and Thromdes).

In 2023, they received 13 cases involving 21 defendants, four more than the previous year. These cases involve issues like risking protected species, illegal tiger skin trade, contract disputes, land encroachment, and civil restitution. Out of these, 1 case was returned, 2 disposed, 1 pending in court, and 9 under review. The graph shows judgments for 5 cases from Other Agencies, including 2 from 2023, covering 3 trial cases (one from 2022) and 2 appeal cases initially referred in 2021 and 2022.



**1.4. Arbitration Cases**

In the year under review, the Office received 7 arbitration cases. Out of the total cases received, 3 were returned to the referring agencies, from which 1 returned to the Office as an appeal request. The Office also received an appeal request for another case. The Office arbitrated and received arbitral awards for three cases. All three were appealed by the other parties to the High Court and are pending the High Court’s judgment.



## 1.5. HIGHLIGHTS OF CASES

### State v. Phajo Nidup

In 2022, the Anti-Corruption Commission initiated an investigation against Phajo Nidup for engaging in fraudulent loan schemes. The investigation uncovered that Phajo Nidup obtained 102 OD loans and Transport loans from various banks between 2016 and 2019, totaling Nu. 785.37 million, with 82 of these loans turning into Non-Performing Loans (NPL). The primary method involved mortgaging one land multiple times in different banks and securing loans on the same mortgaged land. Additionally, for transport loans, Phajo Nidup submitted inflated quotations and fake receipts, colluding with RSTA officials to fictitiously register vehicles.

Phajo Nidup faces over 50 cases, both civil and criminal, with 13 criminal cases forwarded for prosecution in 2023. Over 60 other defendants, including bank officials, civil servants, and individuals from private businesses, are implicated. Charges against them include Bribery, Money Laundering, Forgery, Abuse of Functions, Solicitation, Deceptive Practice, Tempering of Public Documents, and other relevant offenses. As of December 2023, the office has registered all cases, with many nearing the end of trial at the special bench.

### State v. Sunil Rai (Murder case)

Defendant Sunil Rai faced charges of two counts of murder and one count of attempted murder for killing his adoptive parents and attempting to kill his adoptive brother. He initially attacked the victims with a sickle, causing severe injuries. When the adoptive mother and brother managed to take the sickle away, the defendant retrieved a knife (*khukhuri*) from the kitchen and assaulted them multiple times. The adoptive brother, although injured, managed to escape, while the adoptive parents tragically died on the spot. The defendant disposed of their bodies in a septic tank. Sunil Rai was convicted by the Tsirang Dzongkhag Court and received concurrent life imprisonment sentences.



### **State v. Sangay Thinley and five others (Rape case)**

The case came about when two female students went missing and their parents filed a missing report. The girls were located through Facebook messenger but they were found to be sexually involved with adult men. Upon investigation, seven adult men (defendants), 3 minors (victims) and a girl of 18 years of age (victim) were found to be involved in the case. Four of the defendants were charged with rape of a child above 12 years of age as they had sexual intercourse with two minors who were 17 years old. Another one of the defendants was charged with rape, serving alcohol beverages to a child and aiding and abetting to child molestation. Other defendants were charged with child molestation and sexual harassment. The case is currently sub-judice.

### **State v. Sonam Norbu (Murder case)**

On the morning of 14/08/2023, a father filed his daughter's (victim) missing report in the police station. Then in the evening, the victim's body was found on the river bank of Wang chu. After studying the injuries on the body, the post-mortem report suggested that drowning may not have been the cause of the death. Additionally, it was found through the victims' call record that the last person she contacted was the defendant. Also, the CCTV footage showed that she was with the defendant at the time she was said to be missing. Therefore, the defendant was charged with murder under section 138 of the Penal Code of Bhutan. The case is currently sub-judice.

### State v. Karma Yangki and 17 others

This case has 10 parts in itself. There are 18 defendants and 10 victims. One of the victims had reported to the police about his wife and her friend selling his land to multiple buyers without his knowledge. Upon investigation, it was found that it first began when one of the victims had to borrow money from defendant Karma Yangki and his land had to be mortgaged to her disguising it as sale. After which, the defendant colluded with victim's wife and sold the land to multiple buyers. The victim was unaware of it as his signatures on the documents were all forged by his wife. Other defendants had participated in the illegal conducts of defendant Karma Yangki. The defendants are charged with various offences ranging from forgery, tax evasion, usury, deceptive practice, solicitation, aiding and abetting, failure to report a crime, fraudulent cheque writing, hindering of prosecution and impersonation.

## 2. JUDGMENT ENFORCEMENT EFFORTS

Despite encountering staffing shortages, the Property and Judgement Enforcement Division diligently worked on enforcing judgments forwarded by the Prosecution and Litigation Division. In 2023, the division received a total of 610 cases for judgment enforcement, encompassing 61 corruption-related cases and 549 cases from the RBP.



*Diagram: Total judgement enforced in 2023*

Regarding the ACC cases, 5 cases have been concluded, 17 cases are temporarily closed, and 39 cases remain pending. Similarly, out of the 549 cases received from RBP in 2023, 124 cases have been concluded, 82 cases are temporarily closed, and 343 cases are still pending.

## Enforcement efforts in Numbers



- Restituted a sum of Nu. 10.284 million to the Royal Government
- Nu.21.459 million to the victims as compensation
- Nu.28.297 million only as loan repayment.



Compensated 0.75 acres of land to victims.



Conduct 3 times Sealed bid auction



-Handed over 53,622 numbers SP+, 80 numbers N10 2,409 grams of Cannabis/Hashish, 60 packets of Navy Cut, 1759 packets of BABA to BNCA



Initiated community services and rehabilitation and counselling for 11 defendants.



Administrative actions taken against 2 individuals



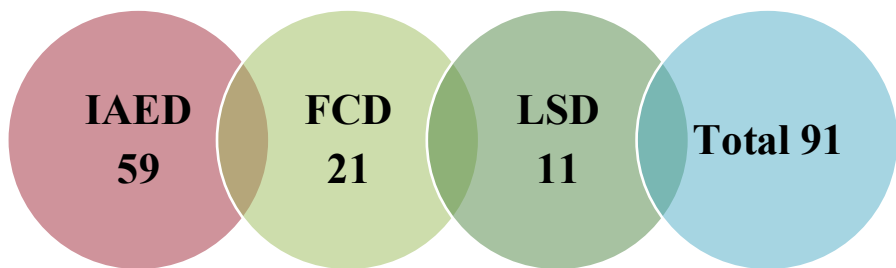
Deported 2 illegal immigrants to India and Philippines.

In our endeavors to ensure the effective execution of court judgments pertaining to prosecutions and litigation initiated by the Office, numerous judgments were enforced. These actions led to the restitution of Nu. 10.284M to the Government, compensations totaling Nu. 21.459M paid to victims, and Nu. 28.297M repaid to financial institutions as loan repayment. As illustrated in the diagram above, proceeds from criminal activities were liquidated through auctions, and significant quantities of substances confiscated were handed over for disposal. Additionally, the Division initiated 11 rehabilitation programs, undertook administrative actions against 2 individuals, and facilitated the deportation of 2 illegal immigrants to India and Philippines.

### 3. ADVISING THE GOVERNMENT

The Attorney General designated as the Chief Legal Officer of the Government, is the legal advisor and legal representative of the Government to advise on matters within the domain and authority of the Government and such other legal matters being entrusted to it. The Office strives to improve our effectiveness and efficiency by establishing and defining specialized divisions within the Department of Legal Services namely the Drafting and Review Division (DRD), and three advisory divisions that comprise of the Legal Services Division (LSD), the Finance and Corporate Division (FCD), and the International Affairs and Environment Division (IAED). These divisions are tasked with providing expert guidance to the government, ensuring the fulfillment of our constitutional obligations.

The financial and Corporate Division (FCD) provides legal services pertaining to financial and corporate matters, while the International Affairs and Environment Division (IAED) concentrates on strengthening the provision of specialized legal services in matters falling under the purview of public international law. The Legal Services Division (LSD) focuses on constitutional, administrative, criminal and other legal matters that fall outside the scope of IAED and FCD. The Drafting and Review Division (DRD) is mandated to review bills and delegated legislations referred by the Government. The division drafts bills, harmonize and consolidate laws amongst others.



*Diagram: Total Written Legal Opinions rendered in 2023*

In comparison to 2022, when the Department of Legal Service issued 111 written legal opinions, the number of written legal opinions the Department provided to the government in 2023 decreased to 91. While the IAED provided 59 legal opinions which was seen to be an increase from the former year. There was a reduction of the legal opinion referrals to the LSD with 11 legal opinions and FCD with 21 legal opinions rendered. The decrease in numbers of legal opinions sought during the year under review is due to the government term coming to an end.

### **3.1. LEGAL SERVICES ITS SUBJECT MATTERS**

#### ***(i) General legal services***

Throughout the past year, the Legal Service Division issued 11 written legal opinions to the Government and its affiliated agencies. Serving as the primary contact point or focal point for legal matters, the division offered guidance to legal professionals in ministries, agencies, Dzongkhags and Thromdes. The division extended its support to address legal concerns in Dzongkhags and Thromdes particularly Lhuntse, Samdrupjongkhar, Paro and Thimphu Dzongkhags among others. The subject matter of the legal advice sought from the LSD ranges from constitutions, medical law, mutual legal assistance, arbitration, land laws, procedural and penal laws etc.

#### ***(ii) Finance and Corporate legal services***

The FCD provided 21 written opinions on varied subject matters that includes fiscal incentives, international loan and grant agreements, international commercial agreements, arbitration, international procurement contracts, interpretation of Acts, non-disclosure agreements, hydropower, membership to international associations, and international consulting agreements. The meticulous review of the agreements and the background documents of the controverted concerns churned an average of 4-16 issues and proposed equivalent actions.

**(iii) Legal services in matters of public international law**

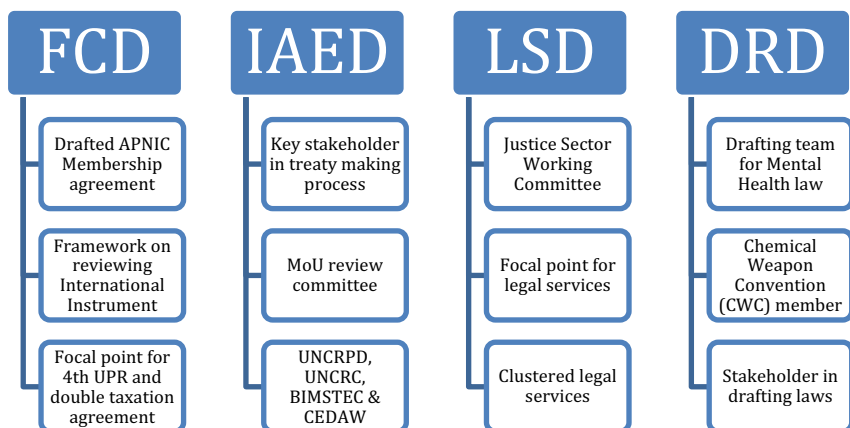
In the field of international law, the IAED has played a crucial role in promoting Bhutan's interests. Throughout the year under review, the division has been engaged in providing guidance to the Government and its agencies with the referral of 59 instruments and other requests, encompassing a wide array of international instruments such as conventions, treaties, protocols, charters, agreements, memorandums, and other pertinent issues concerning Bhutan's interest. These referrals covered diverse subject matters including development cooperation, projects, intellectual property rights, the United Nations Convention on the Rights of the Child (UNCRC), proposed reservations and ratifications to the Convention on the Rights of Persons with Disabilities (UNCRPD), de-identified bonds, food safety and standards, the Global Biofuels Alliance, the role of the Bhutanese Embassy in adjudicating cases, regional declarations, international forum memberships, trade, Air Service, the International Solar Alliance, and labor and spare parts supply.

**(iv) Improve in TAT**

To improve service delivery standards and timely delivery of legal services, the IAED rendered all of its legal opinions ***within a minimum of 5 working days***, after a meticulous review of the instruments, background documents, and laws that provided for pre-emptive legal advice and equivalent actions which is a reduction of 10 working days stipulated under the *Rules of Procedure for Rendering the Legal Opinions 2018* while being proactively engaged in many consultations that involved treaties and other pertinent issues concerning Bhutan. Likewise, the FCD and LSD provided its opinions within 7 to 15 working days bringing its average TAT to 11 working days.

### **3.2. Coordination and legal guidance to the Government**

Throughout the reviewed period, the four specialized divisions within the Department of Legal Services collaborated with the Government and its agencies across diverse fields.



♣ In 2023, the FCD drafted the APNIC Membership Agreement between the Government Technology Agency and Telcos or ISPs. Additionally, the division developed a Framework for Reviewing International Instruments to provide guidance to in-house attorneys in reviewing international loan and grant agreements, ensuring the provision of high-quality legal services. The FCD has been appointed as the focal point for the 4th Universal Periodic Report (UPR). Currently, the division, along with other stakeholders, is in the process of drafting the initial report for submission to the Ministry of Foreign Affairs and External Trade, which serves as the coordinating agency for the UPR. Similarly, an official from the FCD has been appointed as the focal person for the Double Taxation Avoidance Agreement.

♣ In the field of international affairs, the International Affairs and Environment Division continues to be critically involved and meaningful contributes as a key stakeholder to the Treaty-Making process of the Government & post treaty reporting obligations of the State. Our engagement in international affairs in 2023 include preparation of the Common Core Document for Bhutan, preparation of the TIP National State Report submission, submission of inputs to the list of issues for the combined Sixth and Seventh Reports of Bhutan to the Committee on the Rights of a Child (UNCRC), Convention on the Elimination of all Forms of Discrimination of Women (CEDAW) report, consultation meeting on the BIMSTEC Convention on Mutual

Legal Assistance, Ratification of the Convention on the Rights of Persons with Disabilities, including rendering support to the Ministry of Foreign Affairs and External Trade by providing legal counsel and guidance to the Women and Child Committee of the National Assembly on the reservations proposed to the UNCRPD and law of treaties; & World Trade Organization accession works as part of the negotiation team and the most recent providing assistance to the Universal Periodic Review reporting works. The IAED represented the MoU Review Committees from the OAG and developed and proposed a revised MoU framework submitted to the Cabinet Secretariat to guide the concerned agencies. The Division also worked towards incorporating provision of treaties in the Depository of laws spearheaded by the Drafting and Review Division.

- ♣ The Legal Service Division ensures proper coordination amongst the justice sector working committee that host 9 justice sector institutions. After transferring the project management unit from the then Gross National Happiness Commission, the OAG was represented by the Division in implementing Justice Sector Programs which successfully concluded on 30 December 2023. The division is currently leading the development of the Justice Sector Strategy Plan 2024-2029. Serving as a focal point for legal services, the division ensures prompt delivery of legal opinions, in addition to written opinions, to Ministries, Dzongkhags, and Thromdes. Furthermore, the division has formulated the Standard Operating Procedure for clustered legal services and is collaborating closely with the Royal Civil Service Commission to implement clustered legal services.

#### **4. DRAFTING FOR THE GOVERNMENT**

In response to the government's policy requirements and the imperative for civil service transformation, the Drafting and Reviewing Division drafted four bills, finalized 41 amendment bills, and scrutinized three delegated legislations in 2022. However, following the conclusion of the government's term, the division did not receive any government bills for review or drafting.



#### **4.1. Drafting and reviewing of delegated legislations**

(i) ***Drafting of Cannabis Rules and Regulations 2023:*** The division collaborated with the Bhutan Food and Drug Authority (BFDA) to initiate the drafting of Cannabis Rules and Regulations. These regulations aim to regulate the cultivation and harvesting of cannabis for medicinal and industrial purposes. Additionally, they govern the production and manufacturing of cannabis products for industrial use, as well as the trade and utilization of such products.

(ii) ***Drafting of Rules of Procedure for Civil Litigation 2023:*** Sections 12 and 13 of the Office of the Attorney General Act 2015 require the office to represent the government in civil suits. However, due to the absence of proper procedural guidelines, the division began drafting the “*Rules of Procedure for Civil Litigation*”. These procedures will provide guidance to lawyers and prosecutors in handling civil cases before tribunals and courts.

(iii) Reviewing of ***Bhutan Civil Service Rules and Regulations 2023.***

(iv) Currently, the division is focusing on consolidating and translating the Marriage Act of 1980. Additionally, the division is a member in the National Implementing Legislation for the Chemical Weapon Convention (CWC) and serves on the drafting team for the Mental Health Law and involved in consultation on Forest and Nature Conservation Rules 2023.

#### **4.2. Depository of laws**

In 2023, a notable accomplishment of the division was the digitization of national legislations. This endeavor was initiated to archive and offer public access to national laws via a unified platform, aiming to streamline the confusion caused by different ministries, departments, and agencies maintaining their respective laws on separate websites. The digitization project unfolded in two phases: the first phase began in August 2023 with the active participation of eight officials. Through a week-long workshop, forty-one (41) legislations were successfully digitized. Subsequently, the second phase of the workshop commenced in September 2023, involving sixteen officials completed digitization of fifty-seven (57) national laws

and twenty-eight (28) international treaties and conventions. A total of 98 National Laws and 28 treaties are digitized.

## 5. OTHER PROGRAMS

### 5.1. JUSTICE SECTOR PROGRAMME

After assuming the secretariat role for the Justice Sector Working Committee Secretariat (JSWC) since August 26, 2021, the OAG has adeptly overseen a variety of cross-sectoral activities and meetings notably the National Steering Committee meeting (NSC), 8 Project Steering



Committee (PSC), 13 Justice Sector Working Committee (JSWC) and multiple operational meetings amongst the 9 justice sector institutions and donor agencies. Under the OAG's guidance, the Justice sector achieved a

significant milestone by successfully completing the implementation of the 4.5M Euro Justice Sector Programme (JSP) funded by the Austrian Development Agency (ADA) in December 2023, thereby marking a truly remarkable success story. As required by the project document, the secretariat also submitted progress report 4 to the ADA highlighting the activities and its progress. The secretariat coordinated the conduct of the NSC, during which the NSC instructed the justice sector to formulate a Justice Sector Strategic Plan for the period 2024-2029. Presently, the secretariat is collaborating with the justice sectors to develop Justice Sector Strategy Plan II.



As part of the JSP, the Office established a facility for seized properties to strengthen the security of assets seized in relation to criminal offenses. This facility is furnished with a closed-circuit system, computers, steel safes, a vault, a deep freezer, and other

amenities. To improve the administration of confiscated properties, the Office of the Attorney General (OAG) and the Anti-Corruption Commission (ACC) collaboratively developed a Joint Standard Operating Procedure in addition to existing Seized Property Management Manual 2022. The purpose of this facility is to protect seized assets and proceeds of crime throughout the investigation and prosecution process.

## **5.2. INCREASING LEGAL LITERACY & UPSKILLING PROGRAMS**

Given the limited awareness of the services offered by the Office, as highlighted in the survey conducted by Bhutan Transparency Initiative, the Office organized an awareness program in five western Dzongkhags. With the aim of ensuring effective and streamlined delivery of legal services across all 20 Dzongkhags, Thromdes, and the



awareness initiative specifically targeted participants such as Dzongkhag sector heads, *Gups*, *Mangmis* of all gewogs, officials from Thromdes/municipalities, and other relevant officials.

The program concentrated on elucidating the roles and functions of the



Office of the Attorney General, outlining the mechanisms & procedures for availing legal services from the regional offices. This was complemented by question-and-answer sessions addressing various legal issues.



This initiative has allowed the Dzongkhag to grasp the fundamental mandates of the Office. Furthermore, it has empowered them to comprehend the specific roles and subsequently access legal services from the Office. The Office has observed a growing trend in the number of opinions sought by the Dzongkhags and an increased number of civil cases being referred to the Office for legal representation in court.

As mandated by the Office of the Attorney General Act, the Office regards continuous legal education as a crucial program for ongoing learning and professional development within the field of law. It serves the purpose of keeping legal professionals updated on legal developments, enhancing their skills, and maintaining a high level of competence in their specific areas of practice. This form of education is indispensable for individuals in the legal profession to adeptly navigate changes in laws, regulations, and legal practices, ensuring they deliver effective and well-informed legal services to their clients.





During the year under review, the Division introduced the Training of the Trainer program and Child Justice Training focusing on child justice. These initiatives not only benefited the prosecutors of the office in handling cases involving children in

conflict with the law but also facilitated the coordination and enhancement of capacities across other justice institutions, including the Judiciary, Bhutan National Legal Institute, Royal Bhutan Police, NCWC, RENEW, Nazhoen Lamten, Bar Council, and JSW Law. Beyond enriching their knowledge, such legal education initiatives contribute to achieving a uniform application of legal principles on specific subject matters.

## 6. HUMAN RESOURCE MANAGEMENT



In light of the notable high attrition observed by the Office in 2022, the office took proactive steps by recruiting 10 Attorneys on a regular basis and appointing 15 Attorneys on a contractual basis making a total recruitment of 25 Attorneys in the year 2023 alone.

However, during the period under review, a total of 23 Attorneys resigned from the Office including 7 of them who were recruited in the year 2023. In the same year, 8 Senior Attorneys availed Extraordinary Leave, taking

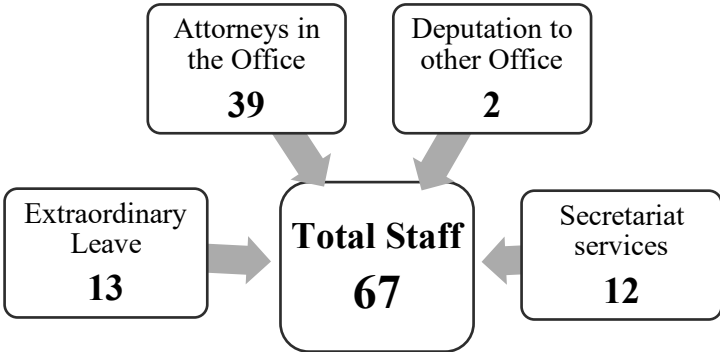
a total number of officials on EOL to 13, creating a significant gap in both numbers and experience. The majority of the Attorney who resigned from the Office or those on Extraordinary Leave had an average tenure of around 8 years or more working experience in the Office.

Consequently, Attorneys working under the Department of Justice found themselves tasked with handling a total caseload ranging from 50 to 70 cases. Similarly, the four divisions within the Department of Legal Services are currently staffed with 9 Attorneys, with each division functioning with 2-3 Attorneys falling short of the approved staffing level for the Department by 8 Attorneys.

### 6.1. *Staffing levels with position title and gender breakdown*

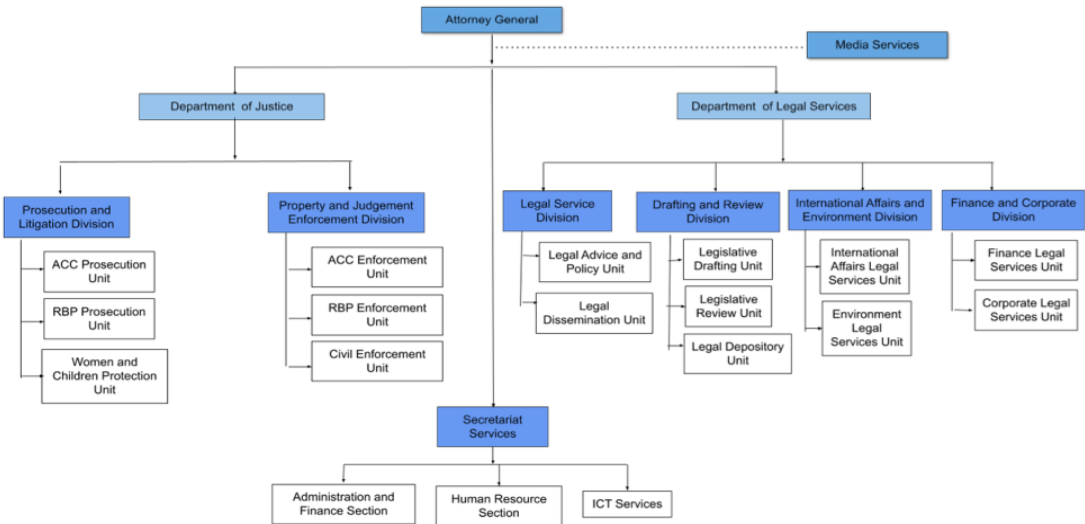
Position Title	Male	Female	Total
Attorney General	1	0	1
Chief Attorney	2	0	2
Dy. Chief Attorney	6	7	13
Senior Attorney	10	5	15
Attorney	7	13	20
Assistant Attorney	0	0	0
Legal Assistant	3	1	4
Language Development Officer	1	0	1
Head, AFD	1	0	1
Sr. Adm. Assistant	0	1	1
Assistant ICT Officer	0	1	1
Librarian	0	0	0
Store Assistant	0	1	1
PA to Attorney General	0	1	1
Telephone operator/receptionist	0	1	1
Support Staff	4	1	5
<b>Total</b>	<b>35</b>	<b>32</b>	<b>67</b>

6.2. Current strength of the Office



As on 30 December 2023, the Office currently has a total of 67 employees. Out of 67, 12 officials work for the secretariat services while 13 are currently on EOL and 2 on deputation to other Offices. Excluding the Attorney General, we have 39 Attorneys who render professional legal services to the Government. While 30 Attorneys work for the Department of Justice catering Prosecution, litigation and enforcement services, 9 Attorneys work for the Department of Legal Services.

6.3. Organogram of the Office





## 7. CHALLENGES AND THE YEAR AHEAD

The significant attrition rate of experienced attorneys had several impacts on the functioning of the office. The prosecutors and attorneys are over-worked to execute our responsibilities, often confronting challenges and risk while representing the State. Further, the office lacks specialized attorneys in the field of criminal law, drugs, finance, drafting, finance, taxation, public international law and many others. Nevertheless, the office has always made it a priority to employ all resources at our disposal to carry out our mandates, and in the face of these challenges, we have acted decisively to defend and uphold the rights of the Bhutanese people and prosecute those who would do them harm as ensuring Governments rights are protected in the realm of corporate, finance and international affairs.

### 7.1. CHALLENGES

- ♣ Lack of succession planning, and a need to further expand its staffing and resources to respond to significantly increased workloads across all divisions. The efficient use and management of the OAG's resources is limited as a result of a lack of human resource, planning, and management capacity in the OAG.
- ♣ Rigid staffing pattern and high attrition in the Office has attributed to the office struggling to manage the diverse array of legal matters it encounters.
- ♣ Inability to retain senior and highly skilled Attorneys has impacted overall expertise of the Office, hindering its ability to address complex legal issues. This has also led to unfilled post of chief and executive positions, which have remained unfilled for several years. Currently, both the departments are without a director and 4 divisions out of 6 are currently being headed by Officiating Chief Attorneys appointed by the Office consisting of P2 & P3 Senior Attorneys.
- ♣ High caseloads and backlog cases impact timely initiation of prosecution and litigation process.
- ♣ The need to build the professional capacity and specialist knowledge, skills of its staff to better meet the emerging demands placed upon the organization. Lack of resources has hindered the effort of the Office to

specialize lawyers in specific areas of laws. This has necessitated a more generalized approach to legal matters.

- ♣ Keeping abreast of legal precedents, court decisions, and academic research is essential. However, the Office is not able to invest in continuous legal education and research to maintain a comprehensive understanding of the law and make evidence-based decisions or take pre-emptive measures in dealing with cases.
- ♣ The need to improve and expand the institution's internal case management systems to provide adequate case management data; collection of managerial data; and dissemination of performance data.
- ♣ Strengthening security for prosecutors from threats by defendants while prosecuting cases, so that they can perform their professional functions without threats, intimidation, hindrance, harassment, improper interference.
- ♣ Legal literacy and awareness of rights in Bhutan is universally low. The OAG is also mandated by law with raising legal awareness. A further challenge, therefore, is to ensure coordination of such activities with other sector institutions with parallel mandates.
- ♣ As a central prosecuting agency, establishing public trust and confidence in our services remains a challenge, despite our utmost diligence and meticulous consideration of laws and evidence.

## **7.2. YEAR AHEAD**

Despite the obstacles and challenges we face; the Office is committed to realizing our vision of becoming a leading organization dedicated to seeking truth and ensuring justice in the pursuit of a harmonious society guided by the principles of the rule of law and good governance. In pursuit of our mission, we are dedicated to providing prosecution and legal services to the State in a fair and professional manner. To accomplish this mission and to enhance the justice system throughout this challenging journey, the Office will actively engage and undertake initiatives to ensure that justice is not only effective but also inclusive and accessible to all.

- ♣ The justice sector serves as the foundation for progress and prosperity. As the secretariat to the Justice Sector Working Committee, responsible for coordinating with various justice sectors, the Office

will strengthen coordination at leadership and operational level among the sectors to achieve Outcome 2 of the Governance cluster.

- ♣ The Office will spearhead the development of the Justice Sector Strategy Plan 2024-2029; identify cross sectoral priorities and implement a robust monitoring and evaluation plan.
- ♣ The Office will play a lead role in data integration amongst the key justice sector institutions and complete by 2029. The system will promote streamlined transfer and management of cases and data thereto; collection and tracking of case-flows and trends; collection and reporting on performance. The initiative will empower leaders to make well-informed decisions based on trends, patterns, and statistical insights. It will aid to manage performance, develop real-time evidence-based reporting, budgeting and, provide expedited public access to information.
- ♣ The office will play a key role in the harmonization and consolidation of the national law which is one of the important projects for the 13<sup>th</sup> Five- Year Plan in coordination with other stakeholders. It will be a continuation of our full engagement during the civil service reform where the office reviewed 46 legislations impacted by the transformation.
- ♣ To make legislation more accessible to the public, the Office will continue to work on digitizing laws which include laws and its background history to capture the intent of laws.
- ♣ The office will collaborate with justice sector institutions to launch coordinated legal advocacy and dissemination programs and leverage technology to enhance public awareness of laws.
- ♣ collaborate with the RCSC to arrange timely training and refresher courses for legislative drafters and legal professionals as part our initiative to continuing legal education. This initiative also involves exploring long-term educational opportunities to cultivate expertise through specialization in specific areas of law.
- ♣ To harness the power of technology, the Office will focus on enhancing e-litigation facilities. This initiative aims not only to expedite service delivery but also to substantially reduce prosecution and litigation costs.

- ♣ Establish institutional linkages with other Attorney General Chambers wherein the IAED will continue to facilitate these works that have already been initiated. Complete signing of MoU with Attorney General's Chamber Singaporean 2024-2025.
- ♣ Coordinate with other Justice Sector agencies to nurture public trust and transparency in the justice system.
- ♣ Collaborate closely with the Royal Civil Service Commission and other pertinent stakeholders and continue to address the challenges in retaining highly-skilled, diversified staff to address concerns pertaining to law enforcement, litigation, management, and other areas.
- ♣ Strictly monitor and evaluate plans, policies, projects, activities etc. of the Office to achieve 95% or more in terms of execution in line with the 13FYP.

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