



THE JUDICIARY OF THE KINGDOM OF BHUTAN

ANNUAL REPORT 2015

"Judiciary is a primary basis for protecting the sovereignty and security of our nation and to achieve the goals of Gross National Happiness (GNH) to enhance the unity, happiness and well being of our people for all time."

- His Majesty the Druk Gyalpo's Address
during the 19th National Judicial Conference, 11th June, 2010

The Court Crest and the Court seal

The Court Crest and the Court Seal, enclosed in a circle is composed of a wheel (*Khorlo*) placed over a lotus. It is surmounted by a jewel and framed by two dragons. The King, the Country and the People are based on the Rule of Law symbolized by the Golden Yoke (*sergyi nyashing*) and a Silken Knot (*dargye duephue*). The Golden Yoke represents the temporal laws and the Silken Knot represents the secular laws. His Majesty the Druk Gyalpo, symbolized by the wheel is the supreme head of this Dual System (*Lug Nye*). The *Chakra* or wheel symbolizes the power and wisdom of His Majesty the Druk Gyalpo and His Majesty's victory over all outer, inner and secret adversaries. "The spokes of the wheel signifies the rules of pure conduct; justice is uniform given their equal length; wisdom is the tyre; modesty and thoughtfulness is the hub in which the immovable axle of truth is fixed."

The wheel is placed within a mirror representing transparency and clarity with three types of calculating pebbles (*Deu Kar, ngag and thra Sum*) representing the evidentiary principles of proved, disproved and not proved. The mirror is encompassed by two dragons facing each other. The two dragons (male and female) denote method and wisdom. The male dragon facing left means defending external aggression and female dragon facing right depicts ensuring domestic tranquility. The dragons also signify the name of the Kingdom (*Druk*).

The parasol (*Dhugs*) protects from the blazing heat of the sun, and the coolness of its shade symbolizes protection from the pain of suffering, desire, obstacles, illnesses, harmful forces and other malevolent influences. It also symbolizes victory. The wheel and the mirror are placed upon a lotus, which blossoms unstained from the mire that lurks beneath the water. The Court crest and the seal are encircled by *vajras*, signifying indestructibility and the principle of *res-judicata*.



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Royal Court of Justice

CJB-5/2016/122

Date: 18th January, 2016

FROM THE OFFICE OF THE CHIEF JUSTICE OF BHUTAN

His Majesty the King has profoundly stated that: *“Rule of law involves fair administration of justice and non-arbitrary exercise of power by those in authority and the undisputed regard and compliance of the laws by the people.”*

Law is a rule prescribed by Parliament for the regulation of human conduct in society. It is the solemn will of the legislature. Law give us rules of conduct that protect everyone’s rights. Law balance individual rights with our obligations as member of society. His Majesty has commanded that:

“Law is like the air we breathe, its presence is unnoticed but its absence and bad laws will be lethal. Adherence to laws brings about discipline and order in society, ensuring peace and trust amongst people. Therefore, we must all respect law, and law must be upheld without question just as we do not question the need to breathe.”

The laws must be clear, concise, consistent, and direct. It must have a functional and utilitarian purpose and must be applied consistently and fairly by the executive and the judicial branches. Law is not an end, but a means to securing peace and stability. As envisioned by His Majesty, law is the embodiment of the hopes of the people and the rule of law is the protector of justice. Together, it must ensure the continued well-being of the people and sustain the whole edifice of our society and the nation. His Majesty has commanded that:

“... failure of justice persecutes an individual, but the lack of adherence to rule of law persecutes an entire nation.”



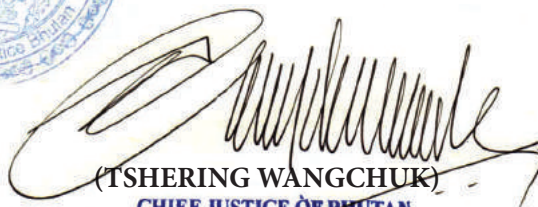
༄ དཔལ་ལྷན་འབྲུག་པའི་ཁྲིམས་ཀྱི་འདུན་ས།
Royal Court of Justice

The creation of a reliable, fair and efficient justice system is a necessary component of a just, equitable and fair society under the rule of law. The Judiciary of Bhutan, under the benevolent guidance of His Majesty and with support of the Government, has and will continue to uphold the rule of law, and shall endeavor to fulfill its mandates as provided under Article 21, Section 1 of the Constitution with utmost dedication.

The Judiciary is ecstatic, honored and privileged to greet the most joyous announcement of the impending birth of the Royal Heir, to the Golden Throne. The Judiciary offers its humble prayers for the good health of Her Majesty the Gyaltsuen and the safe and auspicious birth of the Royal Prince, who will continue to turn the wheel of *Choesid-nyi* and the glorious lineage of Palden Drukpa.

The Royal Courts of Justice reaffirms its pledge to endeavor in perpetuating public trust and confidence in the justice delivery system and the rule of law. The Judiciary shall continue to enhance competence of judicial personnel, initiate reforms and ensure progress with Bhutanese values and traditions being the essence of any change and strive to promote and preserve our culture, traditions and national language - Dzongkha.




(TSHERING WANGCHUK)
CHIEF JUSTICE OF BHUTAN

Supreme Court
Royal Court of Justice
Thimphu: Bhutan

1. BRIEF BACKGROUND

“Judiciary is the most important organ of the government followed by health services.”

- His Majesty's Address
(19th National Judicial Conference, 11th June, 2010)

The Judiciary is envisaged as a bastion of rights and justice. In any society, the preservation of constitution and an independent Judiciary go hand in hand. Judiciary has been designed under Article 1 Section 13 of the Constitution as one of the three separate arms of the Government with a sacred constitutional mandate of safeguarding, upholding, and administering justice fairly and independently without fear, favour, or undue delay in accordance with the rule of law.

After the end of the self-imposed isolation in 1960s, and the opening up of the country to the outside world, Bhutan has witnessed unprecedented socio-economic development. The Bhutanese legal system had to keep pace with the country's socio-economic development. As part of the process, the judicial personnel and the human resource needed their skills and knowledge to be upgraded and developed. Therefore, since the early 1990 many Bhutanese were educated in law outside the country and appointed as Justices and Judges.

Having started its development process late, Bhutan found itself in a unique position to be able to learn from the mistakes made by other nations on their path to development. The process of development pertaining to the Judiciary has also been somewhat similar. The policy of the Judiciary, has been to adopt good things from other systems wherever it was possible and felt necessary, while keeping the essence of the legal system, traditional and Bhutanese in nature. The recognition that justice is an essential component of a civilized society has gained a foothold in various government agencies. It is this scenario that has necessitated the judicial system to respond to the rapidly changing society in performing its tasks and responsibilities with a higher degree of efficiency and professionalism.

In light of the change in the governance of the country, it has become critical to

ensure independence of Judiciary and future development based on the following guiding principles: all Bhutanese have equal and unimpeded access to the law and legal process; the legal system is able to dispense justice swiftly and efficiently; the Judiciary is able to perform its tasks and execute its responsibilities with the highest degree of professionalism; ensure that law is accepted by all Bhutanese as being fair, responsive and relevant; organizational insulation of the Judiciary from the political and legislative machinery; improving court facilities and technology; enhancing the administration of Justice; promoting competence, professionalism and civility and broadening access to justice and service to the public and building trust and confidence.

The Bhutanese legal system, a legacy of the Zhabdrung and the teachings of Buddhism, is based on the principle that an independent, fair and competent Judiciary must interpret and apply the laws that govern us. The role of the Judiciary is central to the concepts of justice and rule of law. Therefore, the Judiciary of Bhutan must evolve into an effective branch of social service, and strive to maintain confidence of the Bhutanese people in the legal and judicial process. The Judiciary must uphold and protect the freedom and rights of the citizens against the strong and marauding powers of the state, the wealthy and the powerful. The rule of law administered by the courts must effect a reconciliation of individual liberty commensurate with the socio-economic progress achieved by Bhutan. To achieve this aim, the machinery and administration, infrastructure and facilities of the courts must evolve, adapt and keep pace with the changing times.

The Judiciary exercises its judicial authority and constitutional mandates through a four-tier court system- the Supreme Court as the final appellate court, High Court as the first and second instance appellate court for District Courts, District Courts as first instance court as well as first instance appellate courts in cases of districts having Sub-district Courts, and Sub-district Courts as the first instance court. Presently, there are twenty District Courts and fifteen Sub-district Courts with one Supreme Court and one High Court. The Judiciary has a total of 579 employees.

2. JUDICIARY AND RULE OF LAW

“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 trust and peace amongst the people, the nation will achieve untold prosperity.”

- His Majesty's National Address,
11th November, 2015.

The law affects nearly every aspect of our lives every day. We have laws to deal with crimes like robbery and murder, and we have laws that govern activities like driving a car, getting a job, and getting married. For example, when a law gives a person a legal right to drive, it also makes it a duty for a driver to know how to drive and to follow the traffic rules. His Majesty the King has often equated the existence of rule of law to following the traffic rules.

Even in a well-ordered society, people disagree, and conflicts arise. Law provides a way to resolve disputes peacefully. It helps to ensure a safe and peaceful society. It should not however, hinder the broader social objectives of a meritocratic and creative society. It must have the ability to foster trust and harmony in society. It must be enacted after thorough discussions and consultations in Parliament and with relevant stakeholders. Law making must basically involve meaningful and thoughtful deliberations. When new laws are enacted hastily and not understood well by the people, it leads to social difficulties thereby, leading to loss of faith in the law and eventually diminishing people's confidence in democracy.

3. INSPIRING PUBLIC TRUST AND CONFIDENCE

The Judiciary assures its independence through numerous reforms, notably the construction of new independent court buildings. This brings to the minds of people the essence of separation of power. Independent operation of courts help in the realization of the fair trial principles including open public trials.

The judiciary's responsibility to uphold the rule of law is possible only if judicial personnel conduct with utmost integrity and according to law without any form

“...the judiciary must continue to enhance trust and confidence in the justice system. The judicial officials must maintain judicial integrity based on the code of conduct and be united. If one or two are incapable, and fails to maintain integrity it will amount to failure as an entire institution. The judicial officials must be united, take responsibility, accountability, and serve with humility.”

- His Majesty's National Address,
11th November, 2015.

of outside interference whatsoever. In assuring commitment to the rule of law, the judicial personnel are mandated to follow a comprehensive code of conduct and ethics. Every case is a constant reminder to the judges and court officials that they must honor the importance of the role of judicial office to hear and decide the case fairly and in accordance with the law without fear or favor. This strengthens professionalism and service delivery by the judiciary, which in turn, ensures trust and confidence of the people in the justice system.

Every criticism, suggestion and comment offers an opportunity for judiciary to reform and grow. To address complaints received, problems associated with adjudications and procedures, and the need for uniformity in judicial act or omissions across the country, the Hon. Chief Justice of Bhutan issued notifications and directives. Such notifications and directives were aimed at ensuring uniformity in the application of laws and proceedings in the courts. Besides, complaint mechanism exists to raise issues related to judicial officials which must be in writing. Anonymous complaints are not entertained.

4. INFRASTRUCTURAL DEVELOPMENT

The construction of court buildings is an investment and service to Justice. The independent building demonstrates the fundamental importance of the Court of Justice in sustaining the whole edifice of society to uphold and protect the citizen and their freedom. A visible court infrastructure is important to inspire confidence of the people. It is an abode signifying the presence of the rule of law and justice. It is an integral part of the structural reforms. The architectural magnificence and modern facilities endows the majesty of law and elevates justice. External embodiment and environment within the court consecrate the sanctity of justice. It manifests regal

splendor, traditional elegance and modern comfort. The physical appearance of the buildings reverberate respect and remind the judges of their sacred responsibilities. It will remind the judges and court personnel of their duties to uphold justice and remember the lofty ideals that our forefathers laboured and preserved, so that the future generations will live happily under the rule of law.

The court buildings will not only facilitate the court officials to work independently but will also enhance the productivity of the judicial employees, thereby enhancing speedy and prompt delivery of Justice. The new court buildings have separate cell for male and female under-trials, waiting lounge, lavatory, canteen facilities, reception counter, registry, court rooms, library/record room, individual bench clerk's rooms and judge's chamber.

The Judiciary inaugurated and consecrated the Dagana and Zhemgang Court buildings and with the saving from Tsirang, Dagana and Zhemgang court construction projects and additional fund from the Royal Government of Bhutan, the Judiciary has also successfully completed construction of Dorokha Dungkhag Court. Further, with the generous funding from various donor agencies, Judiciary has started the construction of court buildings in Punakha and Wangduephodrang. The construction of Punakha District Court, which began on 8th April 2015, is scheduled to be completed by 8th February 2017 at a contract amount of Nu. 38,416,469.35 and Wangduephodrang District Court construction began on 19th April 2015 and is scheduled to be completed by 19th February 2017 at the contract amount of Nu. 36,412,197.87.

With funding from the Royal Government of Bhutan, the Judiciary is also constructing a Judge's residence in Gasa at a contract amount of Nu. 7,902,856.90.

5. HUMAN RESOURCE DEVELOPMENT

The Judiciary of Bhutan is relentlessly strengthening the judicial system by building highly competent and professional personnel in the Judiciary through systematic training and human resource development planning process. Human Resource Development has been one of the major reforms that the Judiciary undertook with the generous assistance of the donor agencies. These reforms are intended to gradually equip the Judiciary with appropriate and competent professionals.

“I am proud of the Judiciary which under the leadership of the Chief Justice has been a repository of highly educated and professional judges, custodian of our age old customs, traditions (driglam-namzhag) and culture, and the guardian of the national language which has been the basis of our success initiated by our forefather with wisdom and farsighted vision.”

- His Majesty's Address
(21st Annual Judicial Conference, 3rd July, 2014).

The Judiciary is composed of justices, judges and legal officers who are legally qualified, who have studied in different countries with different legal cultures. It is the vision of His Majesty to have more diversified human resources, equipped and qualified with knowledge, skills, right attitude and expertise of different legal traditions required in rendering continually challenging and complex judicial services. In line with this objective, two registrars of the Supreme Court were sent to Switzerland, a country that follows civil law tradition, to undergo Master studies at the University of St. Gallen in January, 2013. Similarly, eight Court registrars are undergoing their Masters studies in the same University. Two other court registrars are also undergoing Masters studies at the University of Vienna, Austria and at the George Washington University, Washington DC.

To familiarize judges and legal fraternity on topics relevant to the Bhutanese legal system and legal studies, a series of workshops and trainings were organized by the Supreme Court. Judicial personnel were also trained in the Individual Work Plan and other related topics.

Apart from in-country training, a group of delegates comprising of judges, an engineer and a legal officer from Bhutan National Legal Institute were sent on a study-tour to Switzerland.

6. AWARDS

In 2015, 48 judicial personnel, comprising of Justices, Judges and support staff have the honor to receive the Civil Service Awards 2015, under the prestigious seal and sign of His Majesty the King. Six employees were awarded the “Lifetime Service Award” for their lifetime service in the Civil Service. Among the “Dedicated Service

Award” awardees, nine were awarded the Gold Medal for their 30 or more years of dedicated service in the Civil Service, thirteen were awarded the Silver Medal for their 20 to 29 years of dedicated service, and twenty were awarded Bronze Medal for their 10 to 19 years of dedicated service.

The medals were awarded by the Hon. Lyonpo Tshering Wangchuk, the Chief Justice of Bhutan. The award ceremony began by reiterating His Majesty’s inspiring words of guidance to Civil Service. Lyonpo advised the gathering to perform better and professionally. The event ended with recitation of Zhabten – prayers for His Majesty the King’s good health, happiness and long life.

7. RECRUITMENT AND RETIREMENT

Every year, the Judiciary recruits new legal officers and judicial personnel to shoulder responsibilities of court registrars and bench clerks. In 2015, the Judiciary recruited two court registrars and twelve bench clerks.

In 2015, the following judicial officials and personnel have retired/superannuated:

SI. No	Name	Designation	Court	Remarks
1	Dasho Rinzin Gyaltsen	Justice	Supreme Court	Superannuated
2	Drangpon Ugyen Tenzin	Drangpon	Supreme Court	Superannuated
3	Rabjam Dorji Gyeltshen	Dungkhag Drangpon	Samdrup Choling	Superannuated
4	Rabjam Gyem Phub	Dungkhag Drangpon	Lamoizingkha	Superannuated
5	Chorten	Store keeper	Supreme Court	Voluntary resignation
6	Kinzang Wangchuk	Messenger	Supreme Court	Voluntary resignation
7	Sonam Gyeleg	Bench Clerk	Nganglam Dunkhag Court	Superannuated
8	Tobgye	Bench Clerk	Lhuentse District Court	Superannuated
9	Karma Lhamo	Bench Clerk	High Court	Voluntary resignation
10	Thinley Wangmo	Bench Clerk	Chukha District Court	Voluntary resignation

8. CASE STATISTICS AND ANALYSIS

(a) 2015 Case Status of all the Courts

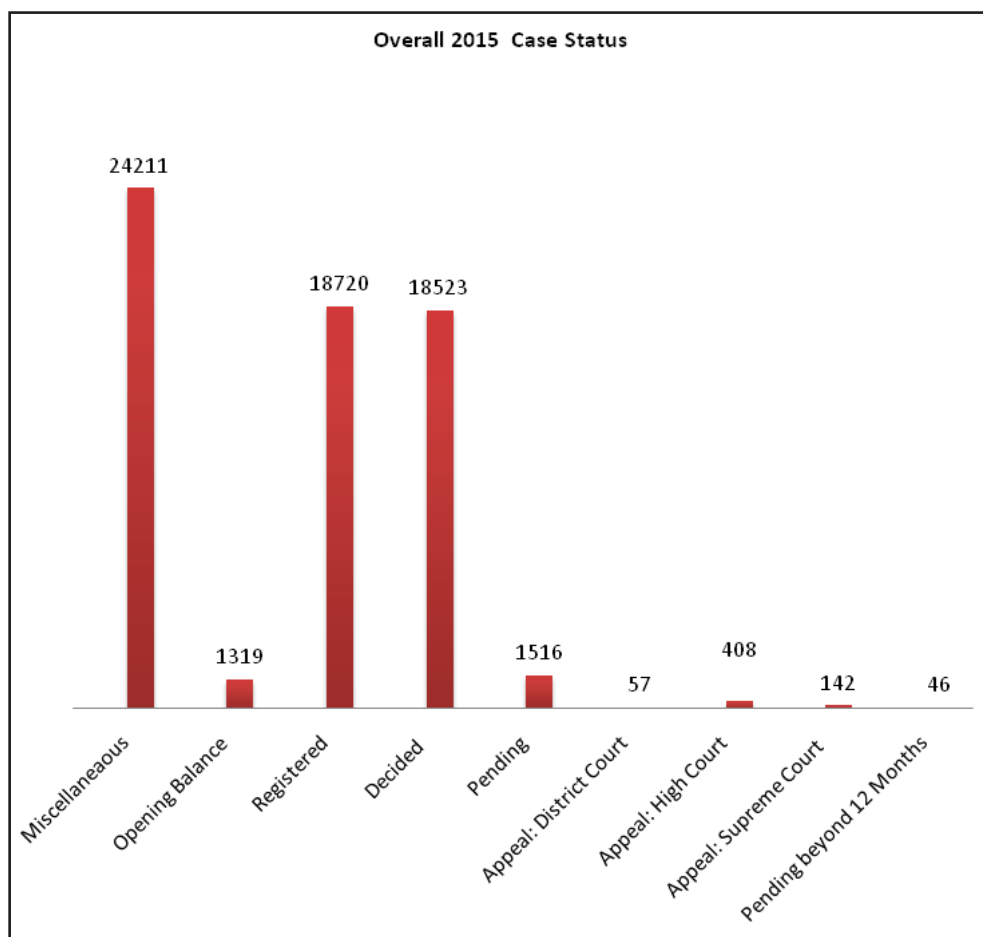
The table below provides information about each court's case load and case status for the year 2015.

Sl. No	Court	Bench	Miscellaneous	Opening Balance	Registered	Decided	Pending	Appeal: District Court	Appeal: High Court	Appeal: Supreme Court	Pending Cases beyond 12 months
1	Supreme Court	Tachog	35	5	11	6	10				0
		Langchen	29	2	4	2	4				0
		Khading	35	6	13	10	9				1
		Maja	35	3	17	13	7				0
2	High Court	Bench I	1481	27	204	170	61			66	0
		Bench II		10	204	195	19			76	0
3	Bumthang		461	47	299	315	31		7		2
4	Chukha		609	77	372	410	39		17		1
5	Dagana		487	55	342	357	40		13		3
6	Gasa		128	2	67	67	2		0		0
7	Haa		447	51	342	371	22		9		0
8	Lhuentse		472	58	234	254	38		5		0
9	Mongar		913	126	666	673	119		26		0
10	Paro	Bench I	1948	99	492	467	124				5
		Bench II		80	452	419	113		22		12
11	Pemagatshel		480	5	284	285	4		8		0
12	Punakha		1204	50	664	679	35		31		0

Sl. No	Court	Bench	Miscellaneous	Opening Balance	Registered	Decided	Pending	Appeal: District Court	Appeal: High Court	Appeal: Supreme Court	Pending Cases beyond 12 months
13	Samdrup Jongkhar		727	31	341	338	28		8		0
14	Samtse		1311	14	953	928	39		9		0
15	Sarpang		349	10	349	349	10		6		0
16	Thimphu	Bench I		38	176	193	21		9		3
		Bench II		52	347	338	61		38		1
		Bench III	8483	59	340	338	61		28		0
		Bench IV		28	338	331	35		36		0
		Bench V		52	350	342	60		36		5
		Notary		2	4323	4316	9		0		0
17	Trashigang		779	32	539	555	16		17		0
18	Trashiyangtse		408	10	246	253	3		12		0
19	Trongsa		559	31	254	256	29		12		6
20	Tsirang		356	0	356	303	53		8		0
21	Wangdue-phodrang		1539	58	937	938	57		22		0
22	Zhemgang		354	17	187	170	34		7		1
23	Dorokha		202	13	202	194	21	1			1
24	Gelephu		130	39	670	675	34	7	15		0
25	Jhomotsang-kha		10	9	235	234	10	0			0
26	Lhamoi-zingkha		74	6	74	74	6	2			0
27	Lingzhi		26	8	18	24	2	0			0
28	Nganglam		240	14	226	235	5	5			0
29	Pangbang		67	6	54	45	15	1			3

Sl. No	Court	Bench	Miscellaneous	Opening Balance	Registered	Decided	Pending	Appeal: District Court	Appeal: High Court	Appeal: Supreme Court	Pending Cases beyond 12 months
30	Phuentsho-ling		2336	51	1363	1227	187	34			2
31	Sakteng		112	0	72	72	0		1		0
32	SamdrupChoeling		158	2	127	121	8	1			0
33	Sibsoo		73	5	411	411	5	1			0
34	Sombaykha		118	3	105	100	8	1			0
35	Thrimshing		173	9	121	125	5	3			0
36	Wamrong		180	15	180	183	12	1			0
37	Weringla		159	8	159	162	5	0			0
	TOTAL		24211	1319	18720	18523	1516	57	**402+6	142	46

****** The actual appeal to High Court from District Courts is 402 cases. 6 cases reflected as appealed cases are those that have been remanded from the Supreme Court to the High Court. Therefore, the total appealed cases is reflected as 408 cases.



Analysis:

The case status or caseload of the Courts in 2015 was as follows:

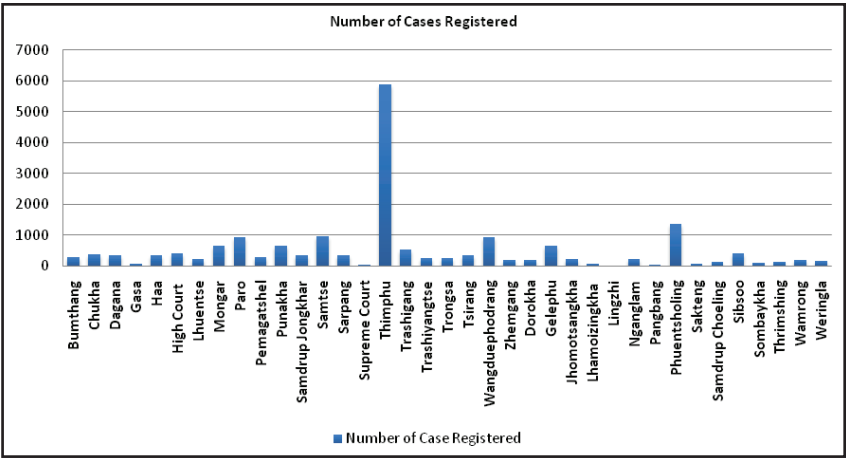
- (i) 1319 cases were brought forward as the opening number of cases for 2015,
- (ii) 24,211 cases were filed in 2015 of which only 18,720 were admitted and registered for adjudication,
- (iii) The highest numbers of cases were registered in Thimphu, Phuentsholing, Samtse and Wangdue with 5874, 1363, 953 and 938, respectively.
- (iv) Out of 18,523 cases decided, 14,444 cases were decided within 108 days. Therefore, 77.98% of cases were decided in less than 108 days.

- (v) Out of 18,523 cases decided, 408 cases appealed to the High Court. Therefore, in the year 2015 only 2.20 % of the total case has been appealed to the High Court.
- (vi) Out of 408 cases appealed to the High Court from the district courts, 142 cases have been appealed to the Supreme Court from High Court, which comprise of 34.8 %.
- (vii) There are 1516 pending cases, out of which, 46 cases have been pending beyond one year. From this it can be observed that only 3.03% of the total cases have been left pending.

(b) Comparison of Cases Registered and Decided by the Courts in 2015

The comparative analysis of cases registered and decided in 2015 by the respective courts is shown in the following graph.

(i) Comparative analysis of Cases Registered

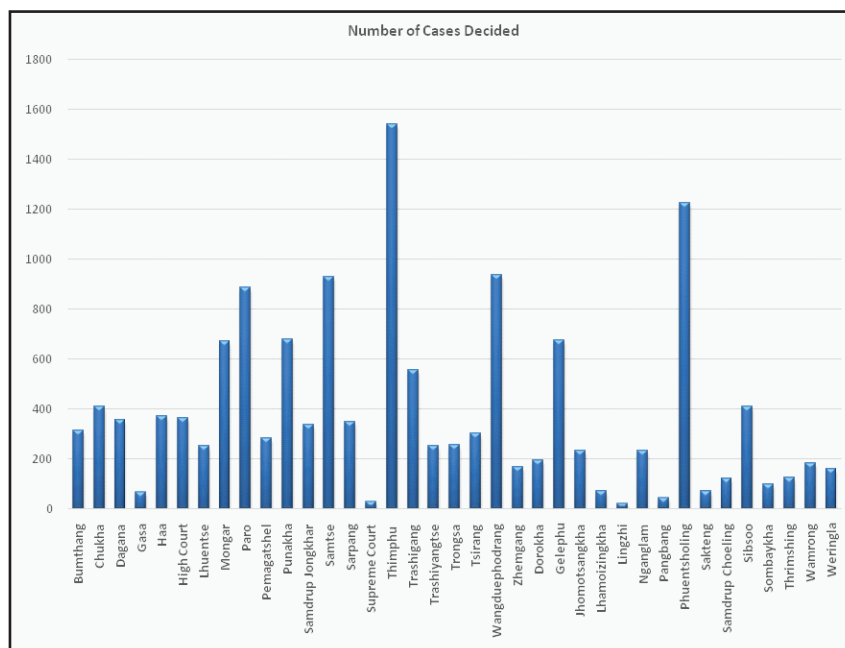


As shown in the above graph, amongst the 20 District Courts, the Thimphu District Court with five Benches has the highest number of cases registered with 5874 cases followed by Samtse District Court with 953 cases, while Gasa and Zhemgang District Courts have the least number of cases registered with 67 and 187 cases, respectively.

Amongst the 15 Dungkhag Courts, Phuentsholing with two Benches is the

highest with 1363 cases followed by Gelephu Dungkhag Court with 670 cases, while Lingzhi and Panbang Dungkhag Courts has the least number of cases registered with 18 and 54 cases, respectively.

(ii) Comparative analysis of Cases Decided



As shown in the above graph, amongst the 20 District Courts, the Thimphu District Court with five benches has the highest number of cases decided with 1542 cases and 957 Marriage Certificates totaling to 2499 cases followed by Wangduephodrang with 938 cases, while Gasa and Zhemgang District Courts have the least number of cases registered with 67 and 170 cases, respectively.

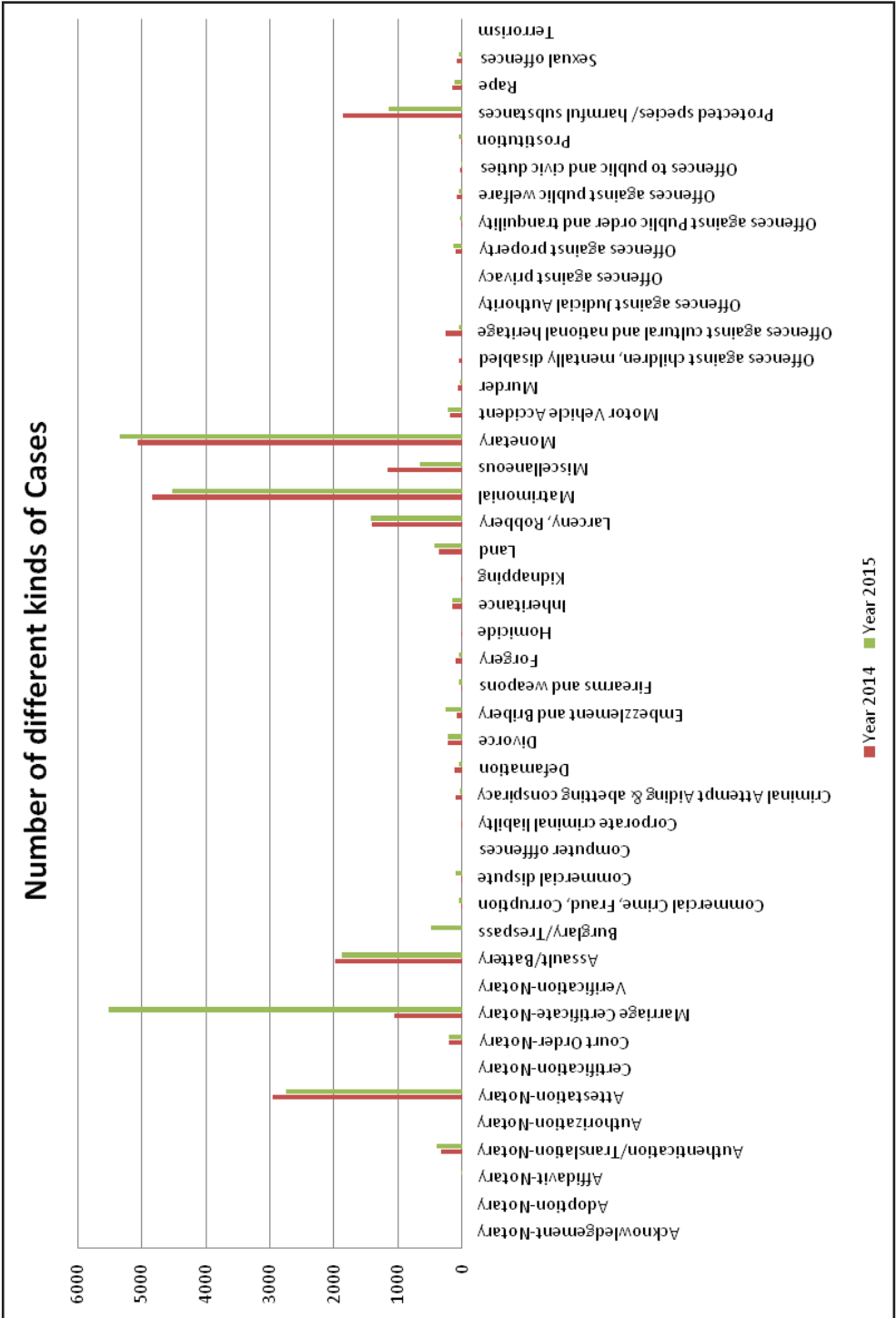
Amongst the 15 Dungkhag Courts, Phuntsholing with two benches is the highest with 1227 cases followed by Gelephu Dungkhag Court with 675 cases, while Lingzhi and Panbang Dungkhag Courts has the least number of cases registered with 24 and 45 cases, respectively.

(c) Number of different categories of cases

The table and the graph below lists the total number of different cases before the courts over the last two years.

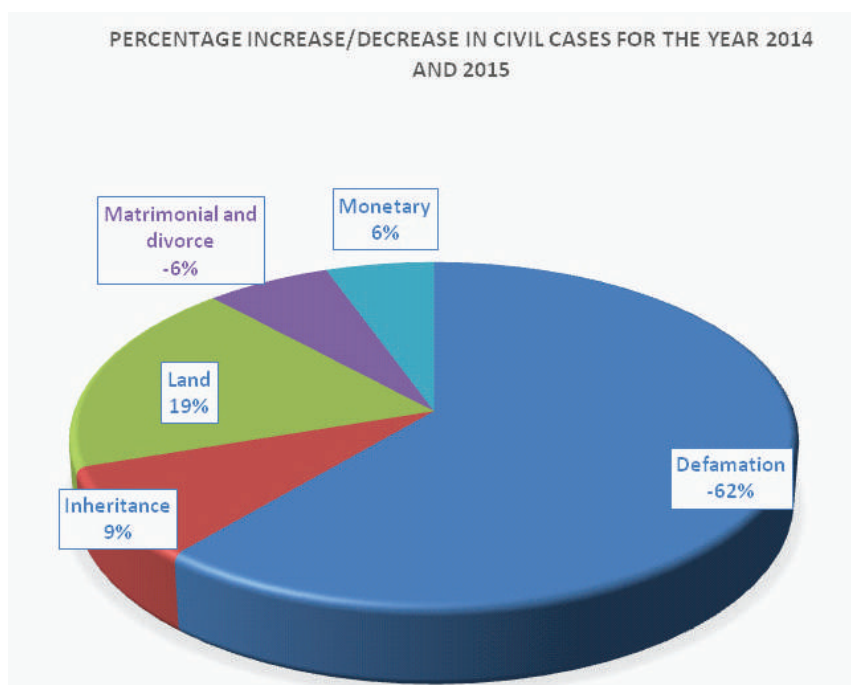
Sl. No	Case Nature	2014	2015
1	Acknowledgment-Notary	0	0
2	Adoption-Notary	9	4
3	Affidavit-Notary	8	12
4	Authentication/Translation-Notary	331	401
5	Authorization-Notary	0	0
6	Attestation-Notary	2956	2751
7	Certification-Notary	3	0
8	Court Order-Notary	201	205
9	Marriage Certificate-Notary	1057	5517
10	Verification-Notary	1	1
11	Assault/Battery	1976	1882
12	Burglary/Trespass		495
13	Commercial Crime, Fraud, Corruption	20	54
14	Commercial dispute	20	99
15	Computer offenses	1	0
16	Corporate criminal liability	15	0
17	Criminal Attempt Aiding & abetting conspiracy	102	39
18	Defamation	126	48
19	Divorce	221	219
20	Embezzlement and Bribery	93	266
21	Firearms and weapons	19	52
22	Forgery	105	57
23	Homicide	21	7
24	Inheritance	149	162
25	Kidnapping	16	2
26	Land	362	429
27	Larceny, Robbery	1402	1424
28	Matrimonial	4837	4514
29	Miscellaneous	1168	661
30	Monetary	5065	5347
31	Motor Vehicle Accident	194	231
32	Murder	68	34

Sl. No	Case Nature	2014	2015
33	Offences against children, mentally disabled	51	5
34	Offences against cultural and national heritage	268	52
35	Offences against Judicial Authority	0	0
36	Offences against privacy	3	6
37	Offences against property	100	134
38	Offences against Public order and tranquility	24	40
39	Offences against public welfare	91	59
40	Offences to public and civic duties	29	12
41	Prostitution	18	45
42	Protected species/ harmful substances	1855	1156
43	Rape	159	116
44	Sexual offences	93	61
45	Terrorism	0	4



(d) Percentage increase and decrease by nature of the Civil Cases

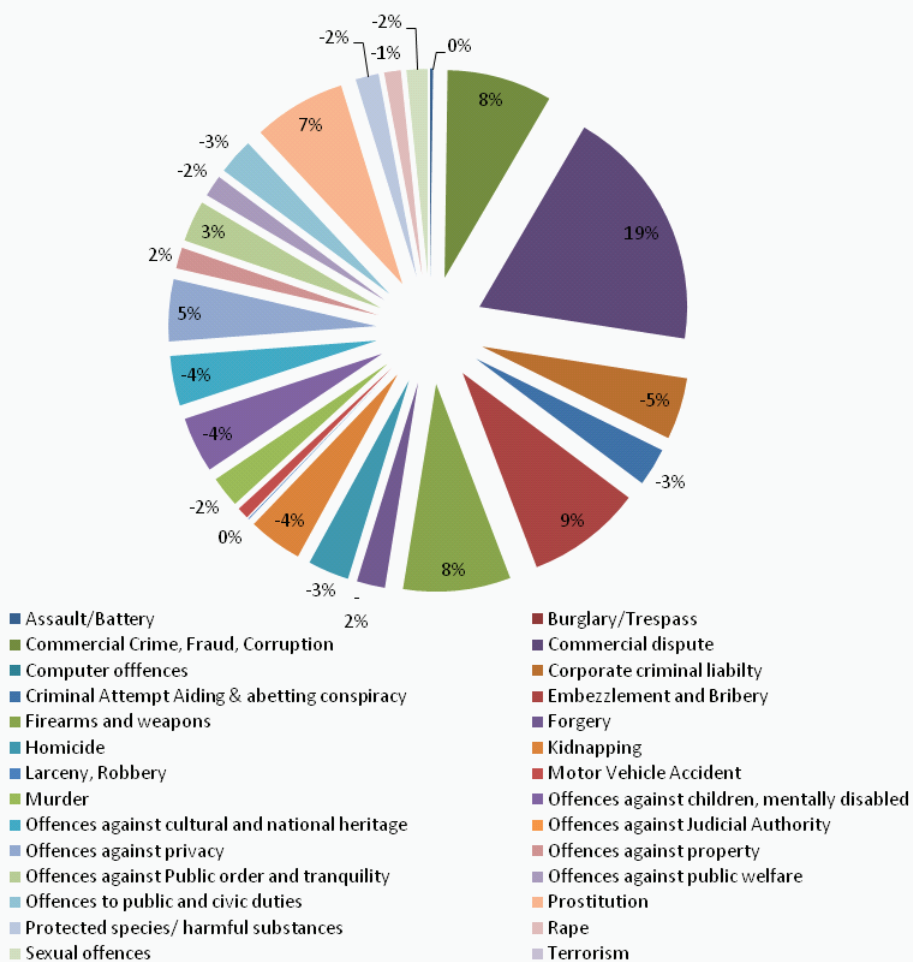
Sl. No	Case Nature	2014	2015	% 14-15
1	Defamation	126	48	-62
2	Inheritance	149	162	9
3	Land	362	429	19
4	Matrimonial and divorce	5058	4733	-6
5	Monetary	5065	5347	6



(e) Percentage increase and decrease by nature of the Criminal Cases

Sl. No	Case Nature	2014	2015	% 14-15
1	Assault/Battery	1976	1882	-5%
2	Burglary/Trespass		495	
3	Commercial Crime, Fraud, Corruption	20	54	170%
4	Commercial dispute	20	99	395%
5	Computer offences	1	0	
6	Corporate criminal liability	15	0	-100%
7	Criminal Attempt Aiding & abetting conspiracy	102	39	-62%
8	Embezzlement and Bribery	93	266	186%
9	Firearms and weapons	19	52	174%
10	Forgery	105	57	-46%
11	Homicide	21	7	-67%
12	Kidnapping	16	2	-88%
13	Larceny, Robbery	1402	1424	2%
14	Motor Vehicle Accident	194	231	-19%
15	Murder	68	34	-50%
16	Offences against children, mentally disabled	51	5	-90%
17	Offences against cultural and national heritage	268	52	-81%
18	Offences against Judicial Authority	0	0	
19	Offences against privacy	3	6	100%
20	Offences against property	100	134	34%
21	Offences against Public order and tranquility	24	40	67%
22	Offences against public welfare	91	59	-35%
23	Offences to public and civic duties	29	12	-59%
24	Prostitution	18	45	150%
25	Protected species/ harmful substances	1855	1156	-38%
26	Rape	159	116	-27%
27	Sexual offences	93	61	-34%
28	Terrorism	0	4	

Criminal cases for the year 2014 and 2015 in terms of percentage increase and decrease

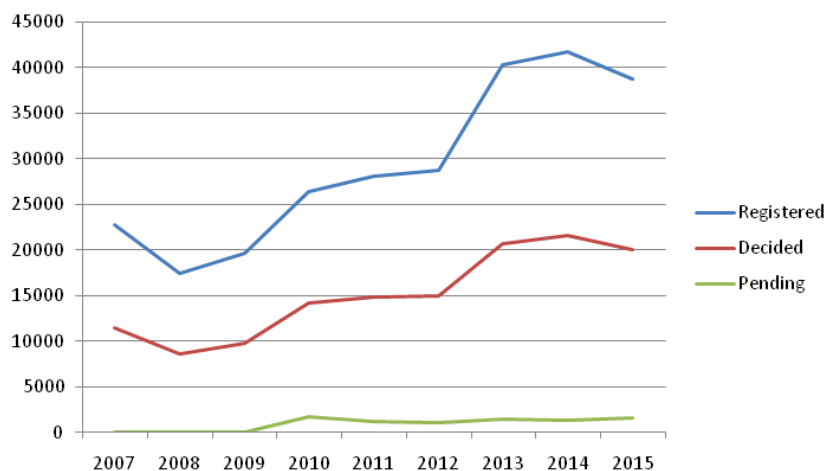


(f) General Trend of the Case

The general trend of the cases from 2007 to 2015 are as:

Case Statistics Summary 2007 to 2015

Details	2007	2008	2009	2010	2011	2012	2013	2014	2015
Opening Case Balance	2362	2197	1604	1901	1650	1226	1054	1042	11319
Case Registered	11342	8732	10007	12245	13215	13783	19653	20196	18720
Case Decided	11501	9388	9713	12518	13637	13926	19304	20243	18523



The graph shows that the number of registered cases in the country have sharply increased until 2014 with slight reduction in 2015. Similarly, the number of cases decided have also sharply increased until 2014 and remained more or less constant in 2015. The number of pending cases have marginally increased in 2010 and remained constant till 2015.

Appeal

According to Article 21 Section 2 of the Constitution, the Judicial Authority is vested with the Royal Court of Justice, which comprises of the Supreme Court, High Court,

Dzongkhag Court and the Dungkhag Court. Bhutanese legal system is of four tier court system.

The Dungkhag Court is the lowest court and is the court of first instance but in some Districts where there is no Dungkhag Court, the District Court is considered as the court of first instance. According to Article 7 Section 23 of the Constitution, the High Court is designated as the court of first instance for constitutional cases, which provides for one step appeal to the Supreme Court in keeping with the relevant laws related to appeal and the principles of natural justice. Section 109 (1) to (3) of the Civil and Procedure Code of Bhutan 2001, has conferred the right of appeal except for Negotiated Settlement effected under Section 150 of the Code.

The cost of appeal under Section 111(e) of the Code is to be borne by the Appellant whence his appeal is dismissed. The right of appeal granted under the Code is a substantive right and the subsequent sub-sections allow that right to be enforced. However, the right of appeal to have greater enforceability and in the interest of the parties, the immediate appellate court shall not charge the cost of litigation.

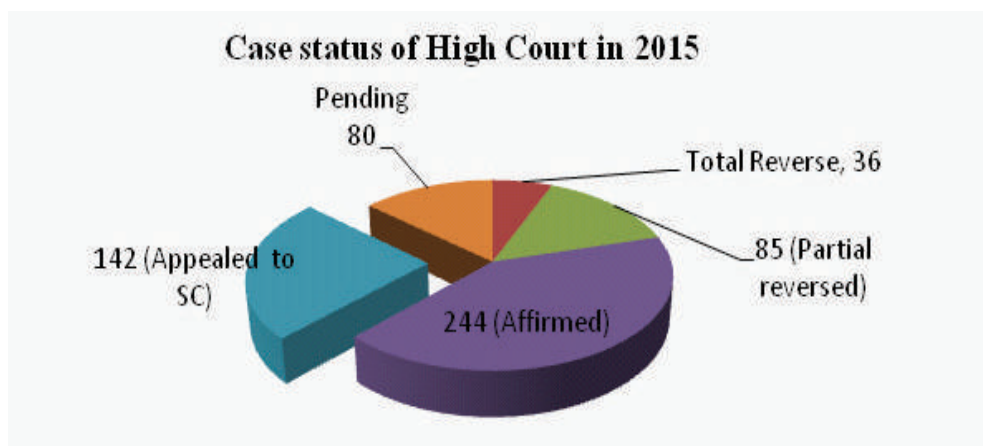
Furthermore, during the 21st National Judicial Conference, the members have resolved that it has become necessary to carve out an exception to the general principle of procedure under Section 110.4 which states, no fresh evidence on appeal can be submitted. The members were aware of the current scenario of *pro se* litigants and had to allow evidence to be submitted on appeal with a minor change in procedure as hearing of the case *de-novo* by the first appeal court.

High Court

According to the 2015 case status, out of the 18,523 cases decided by the District Courts in the country, a total of 402 cases has been appealed to the High Court and 6 cases have been remanded from the Supreme Court totally to 408 cases.

37 cases were brought forward from 2014 as pending cases, therefore, in 2015 the High Court has a total of $(408+37) = 445$ cases.

From the cases admitted, 36 cases have been reversed totally, 85 cases have been



partially reversed and 244 have been affirmed. So, the High Court has decided a total of 365 cases, which tantamount to 88.8%.

80 cases, which constitute 19.46% of the total cases registered, are pending before the High Court as of 31st December 2015.

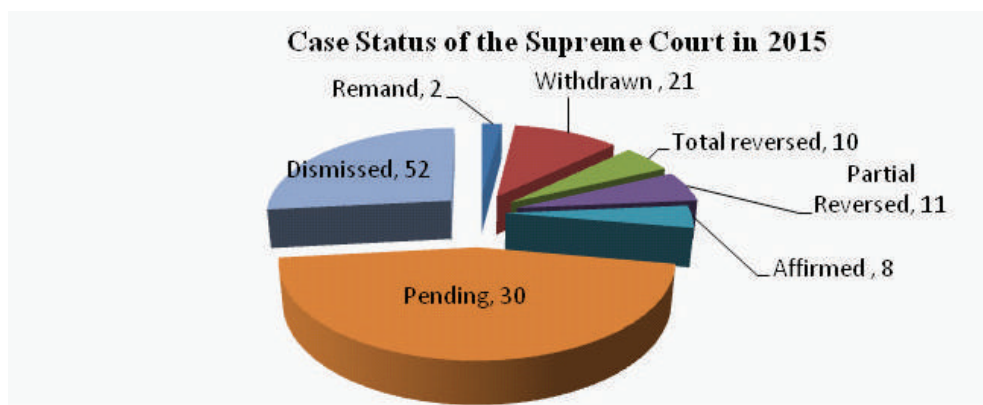
142 cases have appealed to the Supreme Court, which in percentage is of 35 % of the total cases.

From 365 cases, 9.8% of cases have been totally reversed, 23.28% has been partially reversed and 66.92 % have been affirmed.

Supreme Court

On appeal to the Supreme Court, the Chief Justice of Bhutan assigns the appeal petition in *seriatim* to the Justices. The respective Justice conducts review hearing independently, and along with the thorough examination of the documents on record (case file) prepares and submits a legal brief to all the Justices. The presiding Justice briefs on the merit of the appeal at the Justices Conference held every Tuesday and Friday. Thereafter, a vote is taken to either admit or dismiss the appeal.

The Supreme Court may dismiss the appeal and issue a written order for the cause of dismissal in accordance with section 32.1(c) of the Civil and Criminal Procedure Code and directs the Court concerned to enforce the judgment or may admit the



appeal in accordance with section 32.1(a) of the Code. Where cases are admitted, the hearings are scheduled in the afternoon and heard en-banc presided by the Hon. Chief Justice of Bhutan.

Additionally, the Hon. Chief Justice of Bhutan conducts miscellaneous hearings every Monday and Thursday to hear various matters related to court cases and other petitions submitted by the parties. There were 250 miscellaneous matters registered and heard in the year 2015.

In the year 2015, 142 cases have appealed to the Supreme Court from the High Court. 142 cases includes 8 cases that are still with the Registry of the Supreme Court. Therefore, 134 cases have been registered for the Review hearing.

After the Review hearing, the Supreme Court has dismissed 52 cases and 21 cases have been withdrawn by the parties. Therefore, the total cases registered are $(134 - 73) = 61$ cases.

Out of 61 cases, the Supreme Court has decided 31 cases, which is of 50.81%. Of the decided cases, 2 cases were remanded, 10 cases were totally reversed, 11 cases have been partially reversed and 8 cases were affirmed. The Supreme Court is left with 30 pending cases. Hence, including the dismissal, the Supreme Court has disposed $(52 + 21 + 2 + 10 + 11 + 8) = 104$ cases, which is 77.61%.

Out of the 104 disposed cases only 9.61% of cases have been totally reversed. It shows that not much of appeal cases are reversed.

9. MAJOR EVENTS OF 2015

i. Launching of the Book titled “The Constitution of Bhutan: Principles and Philosophies”.



On 21st February, 2015, the President of the Bhutan National Legal Institute, Her Royal Highness Ashi Sonam Dechan Wangchuck launched the book titled *“The Constitution of Bhutan: Principles and Philosophies”* at the Supreme Court, coinciding with 35th birth anniversary of His Majesty the King.

The book was authored by the Chairman of the Constitution drafting committee Lyonpo Sonam Tobgye. The 513 paged book explains the intent and concept of all the 35 Articles of the Constitution. Chronicling the history of Bhutan, it also acknowledges the active involvement and contributions of Their Majesties and the people in the Constitution making process through the public consultation conducted in all the 20 dzongkhags.

The book aimed at making the Constitution eternally relevant and responsive to any changing situations and to remedy any constitutional issues in the future. It is also expected to serve as the source of public reference.

Hon. Chief Justice Lyonpo Tshering Wangchuk expressed gratitude to Lyonpo Sonam Tobgye for taking on the responsibility to write the book. He said “... *the book will be an immense source of information to both current and future lawyers and constitutional scholars*”. As such, the book will always be a key to understanding the philosophical basis and principles of every provision of the Constitution. According to him, the book is an embodiment of Bhutanese history, culture, traditions and founding of a democratic constitutional monarchy with ownership belonging solely to the Bhutanese.

The book was published by the Judiciary with financial support from the Swiss Development Co-operation and Austria Development Agency.

ii. Consecration and Inauguration of Constitution Thangkas

On 4th November, 2015, the *Yonten Lopen of Zhung Dratshang* Tandin Tshewang consecrated, and Her Majesty the Queen Mother Ashi Dorji Wangmo Wangchuck and the President of the Bhutan National Legal Institute Her Royal Highness Ashi Sonam Dechan Wangchuck signed the commemorative note marking the inauguration of 34 Constitution thangkas at the Supreme Court in commemoration of the 60th birth anniversary of His Majesty the Fourth King.

The thangkas, symbolically reflect and represent principles derived from the Buddhist scriptures and important provisions of the Constitution, augments the constitutional visions and wishes of His Majesty the Fourth King, the father of the Constitution. It befits His Majesty the Fourth King's decades of golden reign and depicts the Constitution born out of His Majesty the Fourth King's personal initiative and, the wise and courageous decision.

One of the main objectives is to enable the Bhutanese who are not legally literate and the future generation to instantly understand, appreciate and grasp the meaning and significance of the provisions of the Constitution merely by seeing the thangkas.

Conceptualized by Her Royal Highness Princess Sonam Dechan Wangchuck, the Special Committee carried out extensive deliberations on the pictorial



representations of the provisions of the Constitution submitted by the sitting Judges throughout the country.

The 34 thangkas were created under close supervisions of the Special Committee by two local artists- Tshempon (Tailor) Sonam Tobgay and Lhadrip (Painter) Tshewang Tenzin.

The Constitution thangkas were left open for public viewing from 5th to 7th November, 2015.

iii. Establishment of the Green Bench

The environment has been very dear to His Majesty the Fourth King. He commanded that as Bhutan having a fragile ecosystem of fast flowing rivers, steep cliffs, and forests, it was important that the environment is preserved for the stability of the land and the safety of the people and their property. Since then, Bhutan has been successful in preserving its fragile eco-system for the benefit of the country as well as the world at large.

Today, the protection of the environment is one of the main pillars of the Gross National Happiness and the Constitution. His Majesty the Fourth King and His Majesty the King continues to serve as an inspiration to conserve and promote sound environmental policies. Bhutan has boldly committed to be a carbon sink, while remaining economically and also environmentally sustainable.

Such a strong environmental legacy must and will continue to guide Bhutan's development policies and programs. The establishment of the Green Bench on 2nd June 2015 with special procedures in the High Court was an effort on the part of the Judiciary to honor His Majesty the Fourth King on his 60th Birth Anniversary and to ensure the continued preservation of our fragile ecosystem and the promotion of sustainable development- as trustees of the Kingdom's natural resources and environment for the benefit of present and future generations.

A simple ceremony was conducted at the Supreme Court to mark the establishment of the Green Bench.

iv. Recitation of Kanjur

According to *Dho* (Buddhist Scriptures), "if one sees, hears of or offer or pray to *Buddha*, one shall accumulate boundless fortune." Recitation of *kanjur*, not only offers a precious opportunity of reading the holy scripture, but also hearing and contemplating its meaning. The boundless benefits we derive from such noble deeds range from realizing our "self" and taming our mind. It not only directs our deeds or actions in accordance with the Buddhist scriptures, but also become more humble and beneficial to others. Hence, recitation of religious text like *kanjur* is the seed to one's enlightenment, as well as its blessings are root to- benefiting all the sentient beings, removing the obstacles in our present lives and attaining Buddhahood on our death, and securing the wellbeing of the Kings, country and the people.

The recitation of *kanjur* was also a part of the celebration to commemorate the 60th birth anniversary of His Majesty the Fourth King. A three-day *kanjur* recitation from 18th-20th July, 2015 at the Supreme Court premises concluded on the auspicious day corresponding to the first sermon of Lord Buddha.

The Justices, Judges and the staff of the Supreme Court, High Court, Thimphu, Gasa, Punakha, Wangdue, Chhukha, Paro and Haa District Courts took part in the recitation. The venerable *Tshugla Lupon Rinpoche* of the *Zhungdratshang* graced the first day and the venerable *Laytshog Lupon Rinpoche* graced the last day of the *kanjur* recitation.



v. Judiciary's Dzongkha Essay Writing Competition, 2014

The Royal Court of Justice, Supreme Court of Bhutan declared the results of the first ever Judiciary's Dzongkha Essay Writing Competition, 2014 on 6th May 2015 at the *Kabgyoen Khangzang* of the Supreme Court. Mr. Sonam Penjor, Bench Clerk of Tachog Bench of Supreme Court stood first while Mr. Yonten Thinley, Bench Clerk of Jomotsangkha Dungkha Court stood second and Mr. Namgay Dorji, Bench Clerk of Samdrup Jongkhar Dzongkhag Court stood third. There were nine participants in total and the winners were awarded a cash prize of Nu. 20,000, Nu. 10,000 and Nu. 5000 respectively. A certificate and a Dzongkha dictionary each were given to other participants as a consolation prize.



The Dzongkha essay writing competition was conducted mainly to promote interest in Dzongkha, the National Language of Bhutan and mark the 60th Birth Anniversary of His Majesty the Fourth King. Funded by the Dzongkha Development Commission, the competition was open to all the judicial personnel.

vi. Talk on Judicial Accountability

On 24th February, 2015, Hon. Justice Monica, Supreme Court, Berlin, Germany, visited Bhutan and delivered a talk on judicial accountability.

She said that although it is constitutionally enumerated that the Judiciary needs to keep away from other branches of government, there are numerous ways in which justices/judges can be restrained and make accountable for their actions. She said that judicial independence only means independence from being subject to improper influence from the other branches of government, or from private or partisan interest, but not from being accountable.

vii. Workshop on Access to Justice

Reflecting on how to meet the constitutional guarantee of legal aid, a stakeholder consultation meeting on access to justice was organized by Bhutan National Legal Institute on 11th March, 2015.

It was funded jointly by the Swiss Development Co-operation and Austria Development Agency. The consultation workshop brought together some 30 representatives from Government, Judiciary, Office of Attorney General and the Bhutan National Legal Institute to explore on the implementation of access to justice plan and legal aid system for Bhutan.

viii. Workshop on Drafting of Contracts and Agreements

“Expertise in drafting international treaties must serve to protect the sovereignty and security of the nation. The Judiciary must make necessary plans, conduct research and develop appropriate strategies.”

- His Majesty's Address
(the 21st National Judicial Conference, 3rd July, 2014).

Mr. James Barlow visited Bhutan from 6th May to 15th of June, 2015. During his visit, he conducted a three day Workshop on Drafting of Contracts and Agreements in the Supreme Court Conference Hall. The Conference was attended by the Justices of the High Court, Judges of the District Courts, and legal officers from various government ministries, private and corporate organizations.

ix. Workshop on “Select Provisions from the new Civil Procedure Code in Switzerland personality rights and data protection- leadership and personnel management”



The Judiciary in collaboration with the Federal Administrative Court (FAC) of Switzerland, conducted a workshop on “Select Provisions from the new

Civil Procedure Code in Switzerland personality rights and data protection-leadership and personnel management” from 19th-21st October, 2015. The workshop was inaugurated by the Acting-Chief Justice of the High Court. Judicial personnel, ranging from judges to registrars and bench clerks attended the workshop.

x. Training on Individual Work Plan (IWP)

The Supreme Court, with support of the experts from the RCSC, trained 85 judicial personnel from various courts on developing the IWP and identifying competency behaviours to implement the new elements of Performance Management System from 24th- 25th August, 2015.

The opening ceremony of the training was graced by the Hon. Chief Justice of Bhutan.

xi. Inauguration of the Zhemgang District Court



On 5th December, 2014 the Hon. Chief Justice of Bhutan graced the consecration ceremony of the Zhemgang District Court. The construction that began on 5th December, 2012 was completed on 30th December, 2014 at the contract amount of Nu. 27,747,524.42, funded by the Austrian Development Agency.

Zhemgang court is built overlooking the Dzong and a part of the town. The court building is equipped with the modern amenities, such as, separate detention room for men, women and children, a spacious room for Judge and staff, a court room that could accommodate about 150-200 people, a conference hall cum *Choesham*, ramps for person with disabilities, lobby furnished with benches for the litigants and a cafeteria, etc.

xii. Dagana District Court Consecrated



On 10th January, 2015 the Hon. Chief Justice of Bhutan, graced the consecration ceremony of the Dagana District Court. The construction began on 15th November, 2012 at the contract amount of Nu. 25,950,527.29 funded by the Austrian Development Agency.

xiii. Inauguration of the Dorokha Dungkhag Court

Following the successful completion of the Dorokha Dungkhag Court construction under Samtse district, the building was inaugurated on 25th July 2015, by the Hon. Resident Coordinator Christine A. Jantscher and Hon. Chief Justice of Bhutan. The Court was constructed at a cost of Ngultrum 13.9 million.



xiv. International Conferences attended by Hon. Chief Justice of Bhutan and delegates

Hon. Chief Justice of Bhutan and delegates travelled to India on 13th March 2015 to attend the International Conference on Global Environmental Issues. The Conference was hosted by India and conducted at Vigyan Bhawan, New Delhi from 14th-15th March.

On 20th May 2015, Hon. Chief Justice of Bhutan accompanied by Judge Kinley Namgay and Registrar Chhimi Dorji attended the Asia-Pacific Roundtable on Environmental Rule of Law for Sustainable Development in Bangkok, Thailand.

Hon. Chief Justice of Bhutan and Justice Norbu Tshering of High Court attended the first UNCITRAL Asia Pacific Judicial Summit (Judicial Roundtable & International Conference) from 26th-29th October 2015 in Hong Kong.

Hon. Chief Justice of Bhutan and Justice Tshering Namgyal of High Court attended the Fourth South Asia Judicial Roundtable on Environmental Justice from 28th-29th November 2015 in Nepal.

xv. Chief Justice of Bhutan visits the Central Monastic Body at Punakha

The Hon. Chief Justice of Bhutan along with the Justices of the Supreme Court and High Court paid a humble visit to His Holiness the Je Khenpo and the monastic body at Punakha on 11th February, 2015. The visit was to seek blessings and pray for everlasting glory of Their Majesties, country and the people.

xvi. Oath taking ceremony



In accordance with Article 31 Section 6, the Third and Fourth Schedule of the Constitution, the Hon. Chief Justice of Bhutan Lyonpo Tshering Wangchuk administered oath to the newly appointed Home Minister, Constitutional Post Holders and Commissioners on 13th August, 2015.

xvii. Delegation to Switzerland

To contribute to the Judicial Strengthening Project, a delegation from the Judiciary and Bhutan National Legal Institute visited Switzerland from 28th September to 4th October, 2015. The delegation visited the Federal Administrative Court in St. Gallen and other Courts of Switzerland.

xviii. Undergoing DeSuung Training by the Justices and Judges



The DeSuung Training Program has been designed under the Royal Command of His Majesty the King to develop every person based on values branched by the sense of community, harmony, and cooperation, and encourage all citizens to actively contribute to the greater project of building a strong nation. In line with this, 23 sitting Justices and Judges attended the DeSuung Training Program from 10th-24th October, 2015.

xix. Farewell dinner to former Chief Justice Lyonpo Sonam Tobgye's Family

The former Chief Justice, Lyonpo Sonam Tobgye demitted office on 15th November 2014, after an illustrious career of 43 years in the service of the King, Country and the People. Lyonpo's long illustrious career would not have been possible without the support of his wife Aum Jambay. Therefore, recognizing Aum Jambay's role towards a successful career of His Excellency, the Judiciary organized a farewell dinner to Aum on 30th January 2015.

xx. Farewell to Justice Dasho Rinzin Gyaltsen

Justice Dasho Rinzin Gyaltsen demitted office on 14th January 2015. During the farewell gathering, the Judiciary took an opportunity to thank Dasho for his commitment and contribution to the Royal Government of Bhutan. The Judiciary heartily congratulated Dasho for his successful years of dedicated

service to the King, Country and People and wished him and his family a very happy and peaceful life ahead.

10. LANDSCAPING OF THE SUPREME COURT COMPLEX

(1) Preparation of garden in the Supreme Court Complex

From the compilations drawn from *Baekaran-* to *Nyen* (one of the 28 constellation), *Aou* (11th constellation), *Chu* and *Mendru* (23rd constellation); trees and flowers are to be offered. For this purpose, the garden of *Kuenga Rawa* (Pleasure Grove), should, therefore, be forever retained.

According to *Jamgen Mipham Rinpoche*, local deities will dwell in places where water, lakes, mountains, cliffs and trees exists. Such sacred places should not only be defiled by none, but also retain it by preserving it. A mere sight or information about sacred places that forms naturally pleases the soul and mind of onlookers or listeners.



For this very reason, and as a sign of our loyal and a humble contribution to the greater project of beautifying the whole Supreme Court complex, the staffs of the Supreme Court, High Court and Thimphu District Courts assembled at the Supreme Court on 22nd May, 2015 to prepare the garden. Portions of land besides the Supreme Court structure were respectively divided among the Courts. Though in divided lots, all worked together in their joint effort of creating a beautiful garden featuring a different range of mountains, trees,

flowing streams and calm ponds. As everyone hoped, some birds have already started to chirp and settle around the gardens. It is hoped that in the near future, many more will migrate and settle in their new peaceful home.

Today, different flowers, plants and trees that were planted grows intertwined with the natural environment. The flower like the lotus is a symbol of non-pollution by samsaric defects. The birds and other inhabiting the garden fearlessly wandering around in pure consciousness and thoughts will remind the eternal liberation. The preparation of small passes, valleys and mountains symbolizes that the path and fruits will not be blown away. The trees planted is a symbol of all sentient beings escaping from the head of worldly sufferings into the place of bliss.

Likewise, from mid-June, the Supreme Court staffs under closer direction and supervision of the Hon. Chief Justice of Bhutan also constructed a waterfall. The waterfall that possesses all eight qualities of purity is a symbol of cleansing the internal and external defilements to eliminate the misery of sentient beings.



In this way, gardening and its whole structure attribute Supreme Court as the unfettered justice institution that upholds the rule of law, and guardian of the undefiled Constitution and the lower courts. The name of the land on which the Supreme Court is constructed is called *Lhadrong* (the abode of God). Going

by the name of the land, the Supreme Court is a place where justice is delivered by restoring the right and punishing the wrong without any deception. Truth is sought to secure and render justice to ourselves and posterity by perpetuating good and chaste action, correcting those who have gone wrong, ensuring that the guilty do not escape and innocent do not suffer. At this temple of justice or palace of God, everyone receives what is due to them. Peace and tranquility would prevail in the minds of the people by the mere hearing of the name of the different benches of the court of record.

The Judiciary profoundly dedicates the whole garden to His Majesty Jigme Singye Wangchuck and His Majesty Jigme Khesar Namgyal Wangchuck, who have, in earnest, been protecting and preserving the country's pristine environment.

(2) Construction of Namgay Khangzang Chorten

Within the *Chagri* (boundaries) of *Zangdopelri*, there are eight *Deyshak* (epithet of the Lord Buddha) *Chorten* (stupa) that represents Buddha's enlightened mind like the body is represented by Statues and paintings, and speeches by



scriptures. Surrounding the *Zangdopelri*, the Buddhist scriptures state that there should be eight cemeteries.

Therefore, on 23rd May, 2015 all the Supreme Court staff along with some skilled masons constructed a *Namgay Khangzang Chorten* in the premises of the Supreme Court. The team started the construction at about 8 AM on 22nd May and completed the construction on 23rd May at around 3 AM in the morning.

(3) Installation of Choeten inside the Tabaab/Kangnim



On 16th July, 2015 the staffs of Supreme Court installed a *Choeten* inside the *Tabaab/Kangnim* or main entrance of the Supreme Court. The *Zung* installation ceremony of the *Choeten* was graced by the Hon. Chief Justice of Bhutan and Justices of the Supreme Court.

The vulnerable *Laytshog Lupon Rinpoche* of the *Zhungdratshang* consecrated the *Choeten*, coinciding with the auspicious day of the First Sermon of the Lord Buddha.

(4) Hoisting of Lhadar in the Supreme Court



On 27th May 2015, the staff of the Supreme Court assisted by others hoisted the grand *Lhadar* at the Supreme Court entrance, from where all the visitors are required to come in formal national dress and to follow the *driglam namzha* or national etiquette.

(5) Installation of Goddesses of Five Elements and the Bell

On 31st August, the staffs of the Supreme Court and High Court installed goddesses of five elements on the platforms made of stones in the Supreme Court premises. The goddesses were carved out of stone and imported from Odissa, India. The origins of five elements (both outer and inner Elements) in astrology origins from the way the teaching of astrology was simplified by *Manjushri* (Jampel Yang).



On the same day, *Dadril* (the bell of summons) was also installed. The bell was procured from Nepal. It has an engraved *Zungyik* (a sacred incantation). The *Zungyikon* the bell is similar to the bell of Bumthang's ancient *Kenchosum Lhakhang*, when translated reads as: "*Homange! All the phenomena (sarva dharma) results from the cause; those causes are spoken by Enlightened One; Cessation of a cause whichever is; Lord Buddha has spoken these words.*" It also contains a four-line holy verse composed by His Holiness the 70th Je Khenpo, Truelku Ngawang Jigme Chhoedra. It has been translated as "*The country being*



the center of classical dharma in the world; The exilir of assembled ocean of sutra, mantra and doctrines; May the teachings of secular and spiritual laws promulgated by the Glorious Drukpa Ngawang Namgyal eternally flourish.”

In general, a bell can be categorized as *Choedril, Jadril and Dadril*. In the context of Judiciary, its significance of it flows from its nature of being *Dadril (the Bell of Summon)*.

When all the Justices are required to sit for full bench case hearing, the bell will be rung to appraise the Justices to assemble for the hearing. Further, the toll of the bell is to endow all those who hear it with meaningful purpose.

(6) Supreme Court courtyard



The courtyard is a place that encompasses people seeking tranquility and peace. The Supreme Court flooring that the Judiciary constructed on 30th October reflects the description mentioned below.

The straight elongation of the courtyard from the main entrance to general courtroom resembles the oblong courtyard of the Lord of Death. The moment one enters the *tabaab*, the chamber of the Chief Justice of Bhutan

that resembles the palace of the Lord of Purgatory can be seen. To the litigants, this brings a visual realization of the trail of purgatory that we witness on the last day of every *Tshechu* (festival) and reflect on the fair trial legal system and due process.

(7) Inauguration of the Justice Pillar in commemoration of the 60th Birth Anniversary of His Majesty the Fourth King



The Justice Pillar constructed at the entrance to the Supreme Court, under the direction of the Hon. Chief Justice of Bhutan, as a monument dedicated to His Majesty the Fourth King, was also unveiled and inaugurated on 11th November.

The Justice pillar stone is one of the building stone for the construction of the High Court, in early sixties during the reign of His Late Majesty

the Third King. The top of the pillar signifies the formation of the universe with the symbol carved to represent the five elements in top down order- space, wind, fire, water and earth.

The long stone reflects the significant years of His Majesty the Fourth King's golden reign, in top down order- 2015 (marking His auspicious 60th Birth Anniversary), 2008 (marking the adoption of the Constitution), 2006 (marking the ever exemplary abdication of Royal throne in favor of His Majesty the King), 2001 (Royal Command to constitute the Constitution Drafting Committee), 1998 (marking His policy of decentralizing His administrative powers to the Lhengye Zhungtshog (Council of Cabinet Ministers), 1991 (marking His decentralization of power policy by institutionalizing Gewog Yargye Tshogchung), 1981 (marking His decentralization of power policy by institutionalizing Dzongkhag Yargye Tshogchung), 1974 (marking the ascending of the Throne as the Fourth King of fortunate Bhutan and its people), and 1955 (marking the birth of a Bodhisattva King of Destiny). The four-step that the stone stands on symbolizes the Four Noble Truth and contains noble judicial reforms and enactments during the reign of His Majesty the Fourth King. The five elements symbolically stand as witness of His Majesty the Fourth King's noble deeds.

The monument was constructed under the direction of the Hon. Chief Justice: firstly, to remind ourselves of His Majesty's greatest legacy and vast ocean of achievements within 34 years of his reign; secondly, to dedicate ourselves to the 60th Birth Anniversary of His Majesty the Fourth King, who has given so much of Himself to this country; and thirdly, as a precious relic for the Judiciary to pay homage, and look as the source of inspiration to work hard with dedication and loyalty in achieving His Majesty's aspiration of good governance and the rule of law.

The monument captures the essence of His Majesty's vision of rule of law in which eloquently affirms that the failure of justice persecutes an individual, but the lack of adherence to rule of law persecutes an entire nation. The black background slate signifies permanence and the golden letters depicts the golden deeds of His Majesty.

11. CHALLENGES

The challenges that the Judiciary faces today are not exclusive of the challenges mentioned in the 2014 Annual Report, which includes the difficulties arising from numerous amendments and enactments.

In addition to the challenges enumerated in 2014 Annual Report, some of the major challenges are:

- (a) Bhutanese have limited understanding of the operation of court systems. For example, appeal system that is statutorily designed to remedy the aggrieved litigants by higher judicial authority is often associated with frivolous complaints against the judicial personnel. Over the years, without considering different facts and circumstances of the cases, people have started to allege a baseless, generic, and stereotyped criticism. This at the outset damages the reputation of the Judiciary as the unfettered institution of justice. Therefore, like any other Judiciary of the world, perpetuating public trust and confidence in this changing society is one of the recurrent challenges faced by the Judiciary.

- (b) Although the complexity of the cases and workload of the courts have increased, the Judiciary has not been able to keep pace in terms of giving professional training to the judicial staff. Not much budget and financial independency have been allocated for trainings. Training and building human resources is essential for every institution to function properly and professionally.
- (c) Today, with the new concept of constitutional supremacy over the parliamentary supremacy in the country, notably realized through the passing and amendment of the Statutes, the courts will never remain free of its responsibility of deciding whether legislation is consistent with, or offends the Constitution. His Majesty said:

“The Judiciary cannot seek solace in the arguments that defects in laws are a legislative responsibility, and remain a mere spectator.”

Therefore, the Judiciary does not look at the provisions of the statute in the eyes of the foot soldier, who see only that part of the battle field that is right in front of their eyes, but from the eyes of those who see the whole war, and its complex maneuvers and the counter strategy to effectively interpret the laws in the context of other provisions and statutes. The Judiciary (especially the High Court and Supreme Court) must and has till date consistently engaged, to prevent inconsistencies in the laws which eventually affect the common man. The courts can do this, by interpreting the vague or conflicting statutes in a meaningful manner, adopting various principles and thumb rules regarding the interpretations of statutes, instead of merely interpreting and applying the provisions literally as an educated person. In doing so, it will often embrace social and moral questions that are of importance to society. This injects the Judiciary with three major challenges: (i) providing effective and efficient resolution of complex disputes, (ii) adapting to the evolving social change while retaining its social position of independence and public trust, and (iii) increasing the public understanding on the role of judges and the operation of the court system.

- (d) Given the present practice of liberal application of the appeal provisions by the Court, the litigants had and have the privilege of excessively and indifferently accessing the appellate courts. This has let most of the cases to go for appeal and burden the appellate courts, even by accepting the appeals that are not necessary and unwarranted. Some litigants appeal to harass the other party and use the appeal system as delay tactic especially in the monetary cases.
- (e) Maintaining its independence in this continually changing society poses another challenge. Judicial independence is the complete liberty of individual judges to hear and decide the cases that come before him or her without interference. However, the nature of cases brought before the courts today are such that places the Judiciary at the center of many debates about social change, social engineering and social values. Assuring the judges to maintain distance, but preventing their isolation from the community in which a judge lives, is a judicial challenge, especially in a small society where everybody knows everyone or is connected in one way or other. He or she must be sensitive to the issues and concerns that come before them, to make a value-based decision, which is difficult in practice.
- (f) The Judiciary as a separate arm of the Government is equally important and relevant to the country as any democratically elected government of the day. Criticisms on a court decision could be positively constructive as well as negatively de-constructive. This may not only gives the Judiciary a vital source of information to act more competently and relevantly, but also poses a serious challenge to the Judiciary of unwarranted and untrue criticisms. For example, if an unconfirmed and unwarranted comments are made in social media, it poses grave threat to the credibility of the justice system.
- (g) Every court could undertake educational initiatives to create awareness on the workings of the courts and judges on regular basis as desired by the public. However, it can be only done at the cost of delays and adjournments of the regular court proceedings. This poses a serious challenge and a dilemma to act or to omit.

- (h) Infrastructural development is vital for the institution to function independently and to fulfill its constitutional mandate of enhancing access to justice. Without adequate infrastructure, it may cause hindrance in administration of justice. Although, infrastructural development by constructing new court buildings have spread across the nation, there are still some courts namely Thimphu, Haa, Paro, Chhukha, Sarpang, Tashi Yangtshu, Gasa, Weringla, Sakteng, Lingzhi, and Sombaykha court, which needs proper infrastructure and facilities.
- (i) *Long term Human Resource*: For the past decade, Judiciary has been fortunate to recruit the best of the lawyers and court clerks. However, with the increase in litigation, the private law firms have mushroomed and it is proving to be more lucrative to venture into practicing law for the judges and the lawyers in the Judiciary. Judiciary has witnessed employees leave for better paying job causing shortage of good and capable people in the Judiciary. Such trend will ultimately cripple the human capital in the judiciary, which is pivotal for the sustenance of the institution.

12. REFORMS

Granting an audience to the Justices and Judges during the 19th Annual Judicial Conference, His Majesty the Druk Gyalpo pointed out “*the need to improve the legal system through timely and appropriate reforms and proactive initiatives.*”

Reforming its justice delivery system, whether through procedural law, substantive law, structural or human resource, has been the center to its modern evolution. In addition to the reforms reported in the 2014 Annual Report, the Judiciary under the guidance of Their Majesties and supervision of the Hon. Chief Justice of Bhutan, have been endeavoring to administer justice efficiently through number of reforms. Some of the reforms undertaken during the year 2015 are:

(A) Notification related to Land Disputes

The Hon. Chief Justice of Bhutan issued Notification no. SC/41/2015/2004 dated 10/06/2015 relating to strategies worked out by the Committee to remove difficulties

related to land disputes and provisions of Land Act, 2007 (Act). These difficulties were alleged to cause undue harassment to the Public.

As the guideline to future co-ordination between the Judiciary and the Commission, the Notification specifically clarifies and demarcates the roles and responsibilities of the Judiciary and the Commission under the Act as follows:

Land Related Disputes that the Commission ought to consider and resolve

- (1) Under Section 45 of the Act, the Commission shall correct errors in Thram and Cadastral records to resolve land disputes arising out of discrepancy between the Thram, Cadastral records and/or the area occupied on land.
- (2) Pursuant to the Letter no. NLCS/LRD/O7/2009/3787 dated 27/05/2009 written by the then Secretary of Commission, the Commission shall consider and resolve land disputes, firstly, if it arise from discrepancies between map and on ground, differences in acreage between map and on ground, plot number reflected in neighbor's name by mistake, and wrong name of the plots; and secondly, if the same is referred to the Local Authority and Reported to the District Administration.
- (3) The Commission must consider and resolve all disputes related to Thram, Cadastral records and/or the area occupied on ground. Therefore, the Commission shall widely interpret or accord inclusive interpretation of the phrase "*discrepancy between Thram, cadastral records and/or the area occupied on land*", and consider the following illustrative disputes to fall under its jurisdiction to resolve:
 - (a) An area of land having multiple Thrans,
 - (b) Not getting the Thram recorded in a person's name,
 - (c) Having the Thram recorded in different person's name,
 - (d) Dispute over right to a specific Thram,
 - (e) Having excess land, but not recorded in the Thram,
 - (f) Mistakes in plot numbers,

- (g) Recorded in the Thram and map, but missing on the ground,
- (h) Paper based transactions are different from ground realities,
- (i) Delays in updating a Thram in one's name despite lawful transaction,
- (j) Disputes over area and acreage subsequent to transaction,
- (k) Dispute over boundaries subsequent to transaction,
- (l) Dispute over location of the plots subsequent to transaction, and
- (m) Disputes relating to Thram, coverage, boundary, plot number in sale-purchase and/or Inheritance, etc.

Land related disputes on which the relevant Authorities must give decision

In obedience to Their Majesties' vision for integrated and amicable community bound to alternative dispute resolution to resolve their disputes, Investigation Committee or any Committee responsible for resolution of dispute must encourage parties to a dispute to resolve it amicably. However, if they fail to do so at their discretion, Investigation Committee or any such Committee must give decision. Such decision may be final if not contested by the parties. If the parties are aggrieved by a decision (which is administrative in nature), they are entitled to appeal before the court of law.

Land Related Disputes that falls under the jurisdiction of the Judiciary

The Judiciary shall hear and decide the following land related disputes:

- (a) Disputes arising out of sale-purchase or inheritance,
- (b) Disputes relating to the easement,
- (c) Under Section 51 of the Act, disputes that cannot be resolved by the Commission Secretariat, and
- (d) However, while hearing land cases relating to sale-purchase, inheritance or easement, if the court is of the opinion that the dispute in essence relates to Thram, Cadastral records and/or the area occupied on ground, the case shall be dismissed and referred to the Commission.

(B) Marriage Certificate

In Bhutan, parties desiring to obtain a Marriage Certificate must abide by the

provisions of the Marriage Act of Bhutan, 1980 and other relevant laws. The Marriage Act clearly enshrines the requirements and procedure to obtain Marriage Certificate. The applicants should appear in person before the Court along with their respective sureties.

The Marriage Act provides separate procedures for Bhutanese marrying a foreigner. However, in the absence of proper guidelines, the issuance of the Marriage Certificate between a Bhutanese and a foreigner was temporary kept pending. Therefore, Hon. Chief Justice of Bhutan on 16.1.2015 issued an order to formulate a clear guideline for Bhutanese citizens obtaining Marriage Certificate with foreign nationals. In compliance with the order of the Hon. Chief Justice, a detailed guideline has been framed and marriage certificates are being issued. The details of the procedure, documents required and checklists are available on the Judiciary website (www.judiciary.gov.bt).

(C) Case Management System (CMS)

The previous Case Information System(CIS) has been upgraded to Case Management System (CMS). CIS was an offline Microsoft Access database system whereby the case information was submitted through e-mail every month to the ICT Section of Supreme Court for the statistics and annual reports. However, the CMS is a web-based system that allows for timely and online entry of case information.

13. FORECAST FOR 2016

- (a) The Judiciary will be conducting the recitation of *Tenjur* in February, 2016 by the Justices, Judges and Judicial Personnel to mark the joyous occasion of the Royal Birth of the Gyalsey corresponding with the birth year of Guru Rimpoche and the 400th anniversary of Zhabdrung's arrival in Bhutan. The Royal birth signifies the continuity of Wangchuck Dynasty and symbolizes good tendrel that the nation shall continue to tread along the path of peace, progress and stability.
- (b) Convening of the 22nd National Judicial Conference.

- (c) *Judicial accountability*: The Judiciary is proposing to divide the District courts among the Justices of the Supreme Court. Each Justice will be looking after five courts, and will plan regular visit to the court to attend hearings and check the Judgments. The particular Justices will submit a confidential report to the Chief Justice of Bhutan on the behaviour, capability, courtroom control and the conduct of the Judge. The confidential report submitted can be used to generate track record of the judges concerned.
- (d) Thimphu District Courts will have specialized Benches. The current Five Benches will be designated as (i) Two Benches as Criminal Benches; (ii) One Bench as Family, Child and Civil Bench, (iii) Two Benches as Commercial Bench.
- (e) Judiciary jointly with G2C intends to improve service delivery and citizen satisfaction. With the above objective, the judiciary has endeavoured to implement an online notarization and registration for Marriage Certificate. This process will serve as a unified platform for the citizens of the country to consume services and Judicial officials to deliver the same with a significant reduction in turn-around time and citizen inconvenience.

14. DISTINGUISHED GUESTS WHO VISITED THE JUDICIARY IN 2015

Sl. No	Date	Details	Country
1	1/1/2015	Mr. Huang Chun Yuan & Mrs. Wang Yi Hua	USA
2	2/9/2015	Mr. Jai Jit	Siliguri
3	2/24/2015	Mr. Mark Spitzkatz and Mrs. Monica Nohre, Judge/Director & Judge/President, Rule of the Law Programme Asia	Singapore & Berlin Supreme Court, Germany
4	3/17/2015	Mr. Harald Meier, Team Leader (HME), Ms. Amna Khalid (KHAAM),	Swiss, SDC
5	3/21/2015	Thai Mahabodhi Society Delegation	Thailand

Sl. No	Date	Details	Country
6	3/26/2015	Ms. Denise Luethi Crisan, Head of East Asia Division & Evelin Stettler & country director	SDC
7	3/27/2015	Dasho Sangay Dorji & his guest from Hongkong	Hongkong
8	4/14/2015	Director of Havard Kennedy School, Director, Harvard Square	Cambridge
9	4/16/2015	Mr. Christen Mazal, Ex-country director of ADC	Austria
10	4/30/2015	Prof. Susan L. Karamanian, Prof. Martin J. Adelman and Mrs. Susan Ellen Adelman	Washington, US
11	5/6/2015	H.E. Ambassador Johnnes Matyassy, Assistant State Secretary, Asia and Pacific Division,	Federal Dept. of Foreign Affairs of Switzerland
12	5/18/2015	EU Ambassadors led by H.E. Mr. Joao Gomes Cravinho, Ambassador of European Union to Bhutan	Europe
13	6/10/2015	Mr. James Barlow	UK
14	6/29/2015	Representative from the Court of Thailand	Thailand
15	7/4/2015	Professor Manfred Nowak	ADC
16	8/31/2015	Ms. Nomita Agarwal	India
17	10/2/2015	Students from QUT, Australia	Australia
18	10/8/2015	Mr. Stephen Sonnenberg	RIL, Bhutan
19	10/16/2015	Mr. Nicholas Booth & Ms. Annamari Salonen, UNDP Programme Advisor on Governance, Conflict Prevention, Access to Justice and Human Rights & Portfolio Manager, Inclusive Governance	UNDP
20	11/2/2015	Mr R. Venkataramani & Ms. Yamouna DAVID, Supreme court advocate in India, member of the Law commission	India
21	11/23/2015	Mr. Pison Piroon, President of the Juvenile and Family Division of the Supreme Court of Thailand & his delegation	Thailand
22	11/25/2015	Justice Muhammad Mamtaz Uddin Ahmad, Press Council Chairperson	Bangladesh
23	11/25/2015	Dr. Martin Ney, German Ambassador to India	India
24	12/7/2015	Ms. Marlene, Environment Commissioner	Oliver, New Zealand

15. CONCLUSION

The Judiciary is aware and conscious of its constitutional mandate of carrying out its function in an increasingly challenging and changing Bhutan. To be able to carry this sacred mandate, all judges and justices must remain honest and true to his/her Oath. The Judiciary must conduct its judicial acts strictly in accordance with the rule of law, for the sole objective of perpetuating and inspiring public trust and confidence in the administration of justice. The moral high ground that the Judiciary sits on must remain clean with judges and justices of high integrity and honesty. They must have moral vigor and ethical fairness.

At all times, the Judiciary must remain independent and resistant to corrupt or venial influences. This shoulders the absolute responsibility of judges individually and collectively to conduct themselves in strict compliance with the Code of Conduct. No power vested in them must be exercised arbitrarily. Cases must be decided with the utmost diligence and care to ensure justice which must invariably translate to peace and happiness for the people. No judgment shall be pronounced without reasons. Truth must triumph and justice must be upheld.

The judicial officials must remind ourselves to remain united in furthering the objective and mandates of the Judiciary for the simple reason that if one or two are incapable and fail to carry his or her responsibility, it will amount to failure as an entire institution as commanded by His Majesty. Ensuring trust and confidence of the public in the institution is the sacred responsibility which cannot be compromised at any cost.

As the year 2015 successfully ends, 2016 offers the judiciary with opportunity to execute its responsibilities to make the year meaningful for the judiciary by striving to provide effective and efficient judicial service that seeks truth and secures justice. It also offers Judiciary with the opportunity to pledge ourselves to the Kings, Country and people that the Judiciary shall always seek to accomplish the visions of Their Majesties and fulfill the aspirations of the our people by upholding the rule of law and administering justice expeditiously, fairly and inexpensively with the larger aspirations of creating a fair and just society.

Law is not an end, but a means to securing peace and stability. Therefore, as envisioned by his Majesty, law is the embodiment of the hopes of the people and the Rule of law is the protector of justice (justice is the constant and perpetual desire to render everyone his right according to the law). Together, it must ensure the continued well-being of the people and sustain the whole edifice of our society and the nation.

The paramount duty of every individual is to ensure that falsehood does not triumph over the truth, that injustice does not eclipse justice. We must all contribute toward building a profound and caring justice system and enhance public confidence and adherence to the rule of law. Every Bhutanese must have absolute and uncompromising respect for the Rule of law. His Majesty commanded during the 19th National Judicial Conference, 11th June, 2010 that:

“... respect for the rule of law is fundamental to the success of democracy and a bright future for Bhutan.”

