

ANNUAL REPORT OF THE JUDICIARY OF THE KINGDOM OF BHUTAN, 2007

Introduction

Pursuant to the royal command of His Majesty for an efficient judicial system to provide speedy and effective administration of justice, the Judiciary of Bhutan continues to improve its performance for the achievement of justice, social harmony and progress through human resource development, periodic trainings and the use of Information and Communications Technology.

The Judiciary of Bhutan recognizes that judicial reforms are not events, but rather long term processes. The Judiciary is resolved and committed to be more responsive, more successful and more progressive. It continuously strives to adopt and implement credible and comprehensive reform strategies to create a justice system that would be conducive to the progress of a democratic society, rapid socio-economic development and social harmony.

Independence of the Judiciary

An independent and impartial Judiciary is essential for the creation, preservation and advancement of a democratic society. The independence of the Judiciary received yet another impetus and inspiration through the Royal Assent to establish Dungkhag Courts in every Dungkhag. The establishment of Dungkhag Courts would ensure justice to all and accessibility of justice to every citizen recognizing the separation of judicial power in keeping with the mandate of the Constitution.

Access to Justice

The enactment of the Civil and Criminal Procedure Code in 2001 has contributed to the Judiciary in terms of efficiency and certainty. It has made the courts more “user friendly” and contributes to uniform facilitation of the access to justice.

The Civil & Criminal Procedure Code was instrumental in strengthening the Judiciary. Through this Code, the courts have become “user friendly” and access to justice has been ensured. The Code has streamlined the registration procedure, hearing processes and upheld the principle of the due process of law enhancing transparency of the courts. Further, the Judiciary is ready to abide by the mandate of the draft Constitution to “safeguard, uphold, and administer Justice fairly and independently without fear, favour, or undue delay in accordance with the Rule of Law to inspire trust and confidence and to enhance access to Justice.”

Transparency

To enhance transparency, the judgments of the High Court are posted on the Judiciary website which will be supplemented by the judgments and decisions of all the courts to be posted on the website in the near future.

Legal empowerment through legal education

Legal education and dissemination of legal information has been accorded greater emphasis to create awareness on the rule of law, element of fair trial, and the necessity of due process of law to ensure that justice is understood and implemented. Consequently, the Judiciary has published and distributed legal pamphlets under the title “Know the Law to Protect Your Right”. Further, the radio and television programmes continue to disseminate legal information empowering the people with knowledge in substantive and procedural laws.

Infrastructure

Dispensation of justice must be assisted by infrastructure development. Independent Court buildings incorporating the rich architectural traditions of Bhutan and specifically designed to cater to the needs of the Judiciary depict the physical separation of powers and independence.

Under the Danish funding, courts in Phuntsholing, Samtse and Samdrup Jongkhar have been constructed while courts in Mongar and Gelephu are under construction. The construction of the Supreme Court under the funding of the Indian Government is also under progress.

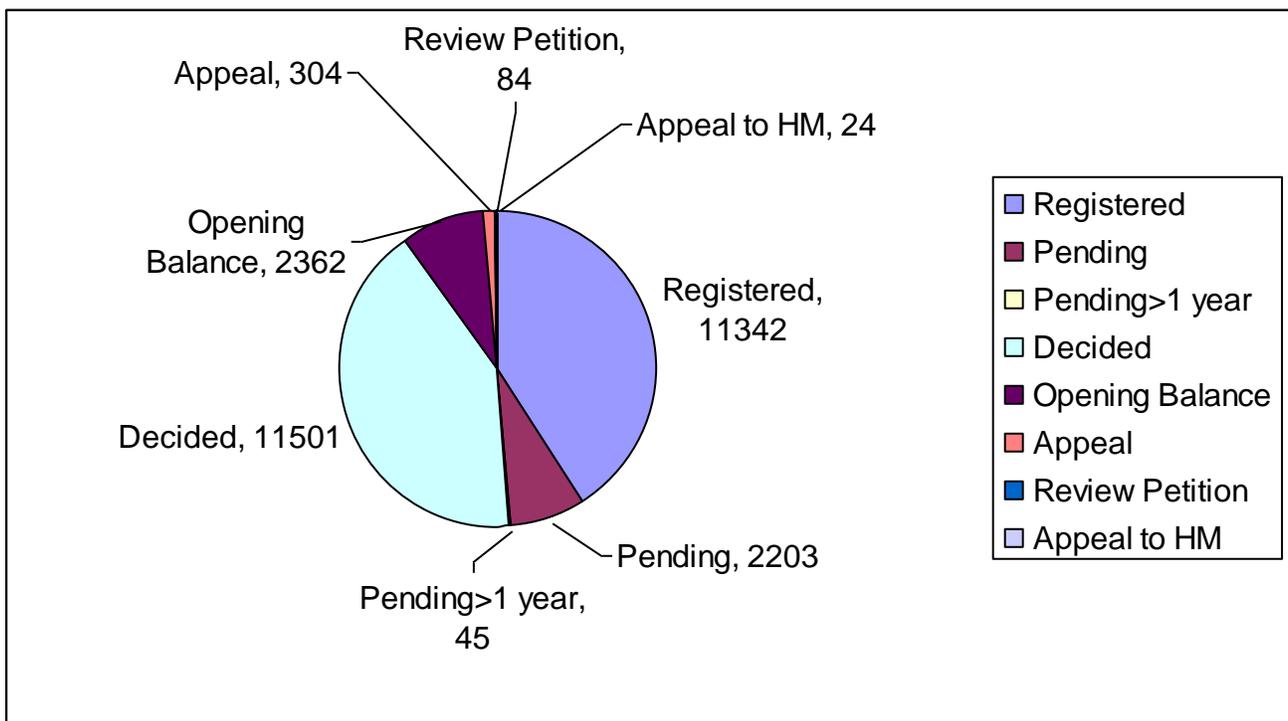
Public Service

Taking cognizance of speedy dispensation of justice, additional Benches have been established in Thimphu, Paro, Phuentsholing and Wangdiphodrang. Similarly, the Judiciary has established Public Notary Office in the Thimphu District Court to render efficient public service and to reduce case intensity and delays in obtaining certificates, affidavits and other legal documents, thereby, alleviating public harassment.

Performance

The various judicial reforms initiated by the Judiciary have made the judicial process more efficient, guaranteed due process to the litigants and ensured greater efficiency on the part of the courts. The courts have become user friendly and the hearing processes have been improved making the Judiciary more transparent. As exhibited by the Report of 2007 below, the Judiciary has made tremendous improvements in fulfilling its mandated role:

- (a) Opening balance for 2007 was 2,362.
- (b) Total number of cases registered in all courts as of 31st December 2007 was 11,342.
- (c) Total number of cases decided in all courts in 2007 was 11,501.
- (d) Total number of cases pending in all courts as of 31st December 2007 was 2,203.
- (e) Cases decided within 108 days in 2007 were 7,536.
- (f) Cases pending beyond 365 days as of 31st December 2007 is 45.
- (g) Case appealed in 2007 was 304.
- (h) Cases for review petition in 2007 were 84.
- (i) Cases appealed to His Majesty the Druk Gyalpo in 2007 was 24.



Analysis of the report

- (a) The statistics of the decided cases are very encouraging. A total of 11,501 cases were decided by the courts throughout Bhutan. On an average, 26 judges of the Dzongkhag and Dungkhag Courts have decided 442.35 cases besides hearing and presiding over other administrative and miscellaneous matters. Each judge is expected to decide 150 to 300 cases a year.
- (b) The quality of service is directly dependent on the timeliness of the service. The statistics with regard to the time taken in deciding the cases are equally gratifying, as most of the cases were decided within 108 days and there are only 45 cases pending for more than 365 days.
- (c) A critical measure of the quality of justice is the degree of procedural fairness and consistency with which it is administered. The statistics of the hearing stages indicate that the hearings conducted by the judges have been very elaborate, exhaustive and consistent, thereby, ensuring a fair and consistent application of the due process.
- (d) The case hearing statistics show that a total of 6,906 hearings were conducted by the judges of all the courts. On an average, each judge has conducted 6.28 hearings in a day. The increase in the hearing and sittings indicate that the judges throughout the courts have used the available court time more productively.

Quality of Justice

Against the 304 cases appealed to the High Court from different Dzongkhag Courts, 166 cases were affirmed, 22 cases were settled through alternative dispute resolution, 60 cases were reversed by different Benches of the High Court, 24 cases were appealed to His Majesty the Druk Gyalpo and the remaining 70 cases were either withdrawn, remanded, dismissed or disallowed from filing a subsequent suit in accordance with the principle of Res-judicata. There were 84 review petitions proffered to the Full Bench of the High Court.

Challenges

Bhutan has unimpeded access to appeal to the higher courts. Appeal is necessary because this process is an indispensable component of natural justice bringing about vertical check and balance. The challenge for the Judiciary will be to streamline the appeal process so that the right is not misused. The Judiciary will have to strike the right balance between the right to appeal and the dangers of the right being misused resulting in delays, harassment and a financial burden on the state and the respondents.