



Assessment Report of Implementation Progress of the Domestic Violence Prevention Act of Bhutan 2013 and its Rules and Regulation

**National Commission for Women and Children
Royal Government of Bhutan
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Foreword

The assessment of the implementation of Domestic Violence Prevention Act 2013 (DVPA) is first of its kind carried out by the National Commission for Women and Children (NCWC) since enactment of the Act in 2013. The assessment was carried out with the objective to assess the implementation progress of the Act and its rules and regulation, and identify gaps and challenges.

The DVPA was drafted based on recommendations from various consultations that highlighted need for a specific legislation to address increasing issue of domestic violence in the country. The DVPA of Bhutan is a landmark in Bhutan's commitment to end domestic violence. It establishes the nature, types and the process of domestic violence, defining it in various forms. It identifies the act of domestic violence as a violation of basic human rights and recognizes the fact that it is prevalent in Bhutan. The Act, approaches the act of domestic violence by identifying institutions, establishing procedures and imposing accountability in provision of prevention and protection services. The Domestic Violence Prevention Rules and Regulations was adopted in 2015 to ensure effective implementation of the Act.

Conducted through a series of discussions and interviews, the assessment report highlights the progress made by relevant agencies and individuals in implementing the provisions of the Act and its rules and regulations. Besides identifying the challenges faced by agencies concerned, the assessment also evaluated the relevance of some of the provisions in line with various national and international developments since the enactment of the Act. Furthermore, the report provides numerous recommendations for the government and its non-government partners to accelerate the implementation of the DVPA and its rules and regulation.

Finally, NCWC would like to acknowledge with deep appreciation the support rendered by all the stakeholders to carry out this assessment. We hope that findings and recommendations from this assessment will assist to develop strategies and interventions to expedite the DVPA implementation.

Tashi Delek!



Lyonpo Dr. Tandi Dorji
Chairperson
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The assessment was conducted under the guidance of Director and Women Division, NCWC. We also would like to express our gratitude to the Protection and Legal Services, NCWC for their active engagement throughout the assessment. Our sincere gratitude also goes to the National Consultants, Mr. Tenzin Choeda and Ms. Pema Lhazom of Tenzin Consultancy.

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ACRONYMS

ADB	Asian Development Bank
ADC	Austrian Development Cooperation
BBCC	Bhutan Board for Certified Counselors
BHU	Basic Health Unit
BNLI	Bhutan National Legal Institute
CA	Competent Authority
CBSS	Community Based Support System
CCPA	Child Care and Protection Act of Bhutan
CCPC	Civil and Criminal Procedure Code of Bhutan
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CIDC	Children in Difficult Circumstance
CMIS	Case Management Information System
CSO	Civil Society Organization
DNA	Deoxyribonucleic Acid
DVPA	Domestic Violence Prevention Act of Bhutan
DWCC	Dzongkhag Women and Children Committee
GBV	Gender Based Violence
GFP	Gender Focal Person
HA	Health Assistant
JDWNRH	Jigme Dorji Wangchuk National Referral Hospital
JSWSL	Jigme Singye Wangchuck School of Law
MoE	Ministry of Education
MoH	Ministry of Health
MoLHR	Ministry of Labour and Human Resources
NCWC	National Commission for Women and Children
NSB	National Statistical Bureau
OAG	Office of the Attorney General
OSCC	One Stop Crisis Centre
PCR	Police Crime Report
RBP	Royal Bhutan Police
RCSC	Royal Civil Service Commission
RCJ	Royal Court of Justice

RENEW	Respect, Educate, Nurture and Empower Women
RGoB	Royal Government of Bhutan
SCF	Save the Children Fund
SNV	Netherlands Development Organization
SOP	Standard Operating Procedures
TOR	Terms of Reference
TWCC	Thromde Women and Children Committee
UNDP	United Nations Development Fund
UNFPA	United Nations Population Fund
UNICEF	United Nations Children Fund
VAC	Violence Against Children
VAW	Violence Against Women
WCP	Women and Child Protection
WIDC	Women in Difficult Circumstances

EXECUTIVE SUMMARY

Domestic Violence Prevention Act 2013 was drafted through a collaborative effort coordinated by National Commission for Women and Children. This review of the Act takes place after 7 years of the enactment of the Act.

The Act provides for general principles, institutional development, systems and processes to address domestic violence in all its varied manifestations. The definition encompasses physical, sexual, economic and emotional violence. Most of the provisions related to institutional development and systems are in varying stages of development. All the procedural aspects defined by the Act have a high degree of compliance.

A domestic violence victim can now call for help from anywhere, anytime and expect an immediate response and protection as well as access a range of recourse including prosecution of the perpetrator in a court of law. The act has led to institutional developments within the key stakeholders, including the Ministry of Health, RENEW (service provider), the Royal Court of Justice and the Police, substantially enhancing their capacities to respond to domestic violence cases.

The responsibilities of each of the stakeholders continues to be streamlined to institute an efficient, seamless response and case management system, through guidelines and the Standard Operation Procedures. To support these are now more qualified personnel such as counsellors, mediators and legal professionals.

There prevails also a greater national consciousness about domestic violence in general and in particular a rising group of professionals in different agencies who are finding renewed sense of satisfaction trying to make a difference to the lives of the victims of domestic violence.

For the victims, the different choice of services and recourses made available under the Act has given them a sense of empowerment.

There are several gaps in the implementation of the Act. Much of the services such as shelters, livelihood skills development and advanced medico-legal services are only available in Thimphu. One of the critical element of the Act, that of the appointment of Protection Officers could not be implemented as envisaged. As a result, the interim protection and protection orders which are the most important aspect of the Act have not been used.

Generally, the pace of implementation of the provisions of the Act has been rather slow, partly due to the lack of adequate professional staff within the NCWC, which is mandated by the Act to be the Competent Authority responsible for providing direction, coordination and monitoring the implementation of the Act.

Despite implementing series of advocacy and sensitization activities related to domestic violence and the Act by NCWC and the other stakeholders, reporting of domestic violence continues to be very low. Also of significance is the low level of awareness of the provisions of the act amongst the senior administrators of the government.

While the government has been supportive of the activities related to addressing domestic violence, there prevail issues of a high dependency on donor assistance, for some of its key activities.

The study makes the following recommendations to help address the prevailing gaps in terms of processes, systems and institutional building:

- i. Review the provision on mediation
- ii. Establish balance between Confidentiality and Information
- iii. Improve use of available human resources and skills.
- iv. Strengthen and clarify the role of Competent Authority
- v. Develop a training plan and a learning system
- vi. Continue advocacy and awareness programs
- vii. Strengthen the Role of Communities
- viii. Review the Act in line with the GBV SOP
- ix. Make access to justice friendlier
- x. Standardize medical terms
- xi) Establish a standard and secure chain of custody for evidences including medical certificates and injury report.
- xii. Provide more attention for offences not reported
- xiii. Develop a National Strategy and Action Plan to prevent Violence Against Women and Children
- xiv. Appoint Protection Officers in the Dzongkhags and Thromdes

- xv. Enhance Coordination between the agencies working on preventing and responding to DV
- xvi. Strengthen CSOs to provide services
- xvii. Establish social benefits for the victims of domestic violence
- xviii. Expand and deepen partnerships
- xix. Review and strengthen the DVPA regulations

INTRODUCTION TO THE REVIEW

Domestic Violence – A national issue

1. Domestic violence is not confined to class, education or location but persists across all sections of society. The position occupied by women and children in society, the dynamics of gender relationships, power-play within the family, and the notion of what is proper, often imbedded deep in the social psyche all have a bearing on this. Other externalities such as alcoholism, substance abuse and poverty are also known to aggravate this.
2. The Constitution of the Kingdom of Bhutan guarantees the commitment of the country towards elimination of all forms of violence and discrimination against women¹. Bhutan is also signatory to international conventions such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child ratified in 1981 and 1990 respectively.
3. The Domestic Violence Prevention Act 2013 was drafted through a collaborative effort coordinated by National Commission for Women and Children (NCWC) with drafting members from the Royal Court of Justice (RJC), Royal Bhutan Police (RBP), Office of the Attorney General (OAG), as well as Respect, Educate, Nurture and Empower Women (RENEW). The process involved wide consultations with the other stakeholders particularly Ministry of Health (MoH), Ministry of Education (MoE) and Ministry of Labor and Human Resources (MoLHR) . In addition, the Gender Focal Persons (GFP) in all Ministries, Autonomous Government Agencies and the private sector were consulted.
4. This review takes place 7 years after the Enactment of the Act and it was commissioned with the following objectives:
 - *Conduct a comprehensive assessment of the implementation progress of the DVPA-2013 and its rules and regulations;*
 - *Assess the challenges faced in the implementation of provisions of the Act, and*
 - *Provide recommendations to strengthen the implementation of the Act and its rules and regulations*

¹ Articles 9.3 and 9.17, Principles of State Policy and Article 5, Fundamental Duties, Constitution of the Kingdom of Bhutan.

Methodology

5. The study was undertaken in two parts. The first part (first two weeks) was devoted to:
 - i. Understanding the broad scope of the tasks as defined in the TOR through one-on-one meetings with the key officials of NCWC including the Director, Legal and Protection Service Division and Information and Technology Services who manages the Central Management Information System (CMIS)
 - ii. Understanding the resources that were already available for the review including the documentation that were in the public domain as well as those that were available from relevant agencies and individuals.
 - iii. Conducting desk review of the literature including the DVPA and DVP Rules and Regulations 2015. For a complete list of documents used for this review, please refer to the Bibliography at the end of this document.
 - iv. Meetings with officials of the RBP, OAG, and One stop Crisis Centre.
6. Based on this, a broad overview of the implementation status of DVPA was established. It also identified a number of issues, including coordination, human resource constraints, differences in opinion between various agencies in approaches towards the perpetrators of violence (softer vs. harder), and aspects of duplications and gaps in the services. On the basis of this, the consultants prepared a plan to (i) get more in-depth information on the status of the DVPA implementation, section by section, (ii) identify gaps and issues, and (iii) recommend ways to address these issues. The plan with the listed questions to be posed to the stakeholder representatives was presented in the form of an Inception Report to the NCWC and based on the discussions and input received from the officials, the Inception Report was finalized.
7. The second part of the study comprised of the field study during which key stakeholders were met for discussions focusing mainly on policies, processes, issues and results relevant to stakeholders and service providers consulted for the study.
8. The report is presented in 3 parts. Part I provides the status and compliance level of the Act based on the results of the interview with the representatives of the relevant agencies and the documentation that were made available to the review team. This is the most detailed part of the report covering each provision of the Act. Part II provides an overview of the achievements and the gaps as assessed against the broad objectives and intent of the Act. Part III details out the main issues that have impeded the implementation of the Act. Where appropriate recommendations are made to address these issues.

PART I

REVIEW OF DOMESTIC VIOLENCE PREVENT ACT AND ITS REGULATIONS

The Preamble

9. A defining feature of the Act is the recognition for harmony, coexistence and respect within families and domestic relationships.
10. This sentiment resonates amongst the front-line workers engaged in addressing domestic violence- the law enforcement officers, the local government officers, the Community Based Support System²(CBSS) volunteers and the Royal Court of Justice. This in turn has manifested in very few convictions for the perpetrators of domestic violence compared to mediated settlements. Indeed some have observed that the whole machinery arising out of DVPA is geared towards preserving the integrity of the family, although it must be mentioned that there are a significant group of officials who believe mediation does not help reform the perpetrators, and conviction is a more effective deterrent for the perpetrators. This dichotomy of thought runs through the Act and in case managements.
11. Another statement of the preamble is the need to prevent domestic violence to enable this state of coexistence. However, it will be noted later that the actual provisions of the Act are overwhelmingly geared towards reformative, and not preventive measures.

Chapter I: Preliminary

12. The Act came into force on March 18, 2013 and Regulation for the Act was adopted in 2015 to ensure effective implementation of the Act. Most of the provisions of the Act have been acted upon or complied with. The ones that have not been implemented are due to resource constraints-both financial and human.
13. The scope of Act extends to whole of Bhutan. However, in terms of services, it appears to be more Thimphu and urban centric. While the Act does not extend to domestic violence committed by Bhutanese living across the border in Jaigaon (estimated at over 3000), the CBSS volunteers play an active role in providing support to these victims through counselling and providing them advice on the recourses available to them.

² RENEW's front line workers for supporting the programs related to women and children, comprising of volunteers from different walks of life but mostly civil servants.

Chapter II Domestic violence

14. This Chapter deals with the definition of Domestic violence. DVPA brought into focus the problem of domestic violence and defined a course of action for its redressal, principally through the law enforcement agencies and service providers. But the Act is by no means the first to do this- legal or otherwise. The Penal Code 2004 already criminalized battery (sections 157, 158 159) and sexual violence (sections 177, 181, 183, 184, 185, 186, 197, 198, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210). The physical violence is graded by the DVPA as petty misdemeanor or misdemeanor under aggravating circumstances, which is the same as the provisions of the Penal Code for battery. More serious injury leading to temporary or permanent disabilities and death of the victim are to be dealt with relevant provisions of the Penal Code. Similarly, the compensations to the victims as provided for in DVPA section 84, 85 and 86 is the same as provided for by the Penal Code sections 39, 40, 41 and 42.
15. For sexual violence, the Penal Code has a more extensive description of categories and grading of the violence committed by both partner and people other partners, while the DVPA focuses on sexual abuse committed by intimate partners or those in domestic relationship. The act also brings into the fold the concept of “intimate partner relationship” and other forms of violence such as “emotional violence.” It also criminalizes economic violence which would have been treated as civil case otherwise.
16. The DVPA provides for certain provisions like the jurisdiction of the court to direct the defendant or victim to undergo counselling or compulsory rehabilitation during the case proceedings which is not covered by the penal code and Civil and Criminal Procedure Code of Bhutan (CCPC). , It also provides for interim protection and protection order to protect the victim from further violence which is similar to the provisions of CCPC which covers the general provisions of granting preliminary injunction or the temporary restraining order upon the request of the plaintiff/ defendant to protect from any immediate/irreparable harm prior to or during the judicial proceedings. The DVPA also provides for several legal course as well as protection, protection, necessary psycho-social support to the victims. The Act criminalizes all acts of violence within the domestic sphere and ensure a prompt and just legal remedy for the victim as well as hold the perpetrators accountable.

Chapter III Implementing Authority

17. Until a Competent Authority is established under this Act, NCWC is envisaged to function as the Competent Authority (CA). Established in 2004, NCWC is responsible for promoting and protecting the rights of women and children in the country and continues to be the competent authority for not only DVPA but also the Child Care and Protection Act 2011 and Child Adoption Act 2012. NCWC's mandate is far-reaching, and it is expected to play a greater role in spearheading new laws, policy formulations and monitoring of the state of women and children while at the same time taking on the role of implementing many of the core programs related to women and children. This has given rise to a situation where NCWC is wearing the hat of a regulator (as CA) while also providing services such as operating helpline and other associated services for domestic violence victims.

Function of the Competent Authority

Section 8 of the Act outlines the following functions:

(1) Develop, coordinate and monitor such programs and activities for the effective implementation of this Act by the relevant agencies.

18. Gauged against the responsibilities listed out in the Act and further elaborated in the Regulation, the achievement of CA is mixed. Where the CA has achieved much is in the area of advocacy and sensitization, streamlining of processes, assessing the extent of the domestic violence in the country and instilling domestic violence as an issue within the national consciousness. Where gaps persist are in establishing direction and coordination and monitoring of the programs. The details of achievement and gaps are given in the subsequent paragraphs:

19. The Act identifies relevant partners for the effective implementation of the Act. These are the RCJ, RBP, MoH, OAG, RENEW (service provider) and the media. Besides these partners, the CA and the Service provider work closely with functionaries of local governments, particularly with the dzongdags and the thrompons. While there does not appear to be a consolidated capacity development program for all stakeholders mandated by the Act, training is being provided on a need basis for case managers such as the Protection Officers, Police and RENEW officials, and basic counselling for the some of the CBSS volunteers. In addition, the stakeholders as part of their own organizational mandate invest in education and training of their staff which have a bearing on their competencies to address domestic violence related issues.

20. For streamlining the system, CA has also developed Standard Operating Procedure (SOP) on Case Management for Women and Children in Difficult Circumstances (WIDC) which is relevant for domestic violence cases. The SOP for Gender Based Violence (GBV) which looks at responding to and prevention of GBV is also being finalized and a GBV SOP pocket guide for front-line responders and case managers were developed. These are developed in consultation with the stakeholders. Apart from establishing greater understanding of the provisions of the Act amongst the case workers, such a process help ground the SOPs on the field conditions in which the managers and service providers operate. In addition, the following guidelines have been developed: (i) Guideline for Accreditation and Management of Shelter Homes for W&CIDC, (ii) Guidelines for Accreditation of Service Provider, (iii) Guidelines for the Alternative Care of Children and (iv) Media Guidelines for Reporting on Women and Children.
21. One of the important roles expected of the CA is to set up a systematic coordination mechanism amongst the relevant stakeholders, and promote effective coordination and communication within the stakeholders. This is being carried out through the following mechanisms: NCWC itself is largely a coordinating organization, in the sense its membership is drawn from the different agencies responsible for the wellbeing of women and children. The Commission is chaired by the Hon'ble Minister for Foreign Affairs while the Vice Chair is the Hon'ble Minister for Health (the only woman Cabinet Minister in the current Government). The members are the Government Secretaries of MoH, MoE, the Secretary of the Dratshang Lhentshog, the Drangpon of the Family and Child Bench, General Secretary of Tarayana, Principal of a Private High School, the Superintendent of the Women and Child Protection Division of the RBP, and Program Officer of the Office of the Gyalpoi Zimpon. This body is responsible for providing direction and coordination for the affairs of women and children in the country.
22. At the next level is the National Women and Child Welfare Committee. This committee is mandated to be instituted under the CCPA 2011. But its constitution and Term of Reference has been broadened to include the welfare of women as well. This was approved by the Cabinet during the 162nd Lhengye Zhungtshog meeting. The members of the committee are experts on women and children protection issue and comprise of (i) a representative from OAG, (ii) MoLHR, (iii) Women and Child Protection Division (RBP); (iv) One Stop Crisis Centre, JDWNRH; (v) Nazhoen Lamteon and RENEW and (vi) NCWC (Member Secretary). The current chairperson is the Representative from WCPD, RBP. This Committee is expected to function as a technical body providing advisory support and services to the NCWC and technical backstopping to the CA on issues and services pertaining the protection of women and children as provided for under the CCPA, DVPA and CAA.

23. At the local level, are the Dzongkhag Women and Children Committees (DWCC) in each of the 20 Dzongkhags and the Thromde Women and Children Committees (TWCC) in each of the four Thromdes, and headed by the dzongdags and the Executive Secretary, respectively. The following are the members of the Committees (i) Kidu Officer; (ii) Representative from Women and Child Protection Unit/Desk, RBP; (iii) Representative from Dzongkhag Hospital (Psychiatric Department); (iv) Representative from MoE (Counselling Division); (v) Representative from Community; and (vi) Representative from NCWC (Protection Officer - Member Secretary).
24. In addition to these, there are the Gender Focal Persons (GFP), Child Focal Persons and Gender and Child Focal persons in every Ministry and Autonomous Agencies of the Government as well as the major corporations and CSOs. They not only serve to represent the interest of women and children in agencies but are engaged in coordination tasks to including the programs necessary for ensuring effective implementation of the DVPA and its rules and regulations. The NCWC organizes annual meetings for the GFPs, child focal points and the Gender and Child Protection Focal Points to discuss issues and challenges faced by the focal points in fulfilling their roles as focal points as well as to inform and get feedbacks on policies and programs including emerging issues. NCWC has also established a Helpline Response Team at the dzongkhag level to help respond more effectively to women and children who require immediate care and support.
25. While all these systems have been created and are operational, there continues to be issues with coordination. For example, while the stakeholder's representatives were involved during the key stages of the Central Management Information System (CMIS) development, none of the agencies have conceded to adopting it. Similarly, while each agency generates its own information system and records information on cases managed by them, not all of the agency report to the NCWC as required by the Act. At one point in 2017, the Chairperson of the NCWC was prompted to send a circular to all government agencies reminding them of the role that has been mandated to the Commission.
26. There also prevails confusion on the division of responsibilities particularly with respect to NCWC and RENEW. As mentioned above these arise primarily because of NCWC's dual role. With the accreditation of the service providers, the roles are expected to be clarified further. Furthermore, the findings from the capacity assessment of CSOs and relevant government agencies working on women and children being carried out by the NCWC will provide insights into strengthening roles of NCWC and its CSO partners.

27. Monitoring is generally weak. The Regulation lists out a number of monitoring activities to be carried out by NCWC including monitoring visits to the services providers to ensure the protection of the rights of victims, monitor and ensure effective execution of judgment and court orders, monitor the functioning of the Protection Officers appointed under the Act and monitor any other activities related to domestic violence. These are yet to be fully institutionalized at a systemic level. They are also contingent on the accreditation of CSO like RENEW as service providers and designation/appointment of social welfare officers as required by the Act.

(2) Develop reintegration programs and activities to facilitate livelihood of the victims

28. RENEW, is the only agency that provides livelihood training programs for domestic violence victims. This includes courses ranging from one to 3 months in tailoring, embroidery and basket weaving using recycled materials. The scope of the training program has broadened to include other livelihood and vocational skills development program like baking, mushroom cultivation and domestic help.

29. NCWC has also been coordinating with the development partners such as the Asian Development Bank (ADB) to improve the economic status of vulnerable women and girls in the selected rural areas by enhancing their capacity to access livelihood (including micro enterprise) and employment opportunities. Supported by ADB, the program supported the creation of Women's Self-Help Groups for agricultural projects, production units for agricultural and homemade products using local and recycled raw materials, and market access to these products. Another component of the project helped establish socioeconomic security and physical safety of market vendors and informal sector workers leading to the establishment of two market vendors' cooperatives in Thimphu.

30. Reintegration of the victim into normal productive life is a primary objective of all the actors engaged in addressing domestic violence. This is undertaken primarily through counselling but also included para-legal measures and provision of daily basic needs as based on the needs assessment of the victim and on a case by case basis. There are other reintegration programs such as building livelihood skills being provided by relevant government and CSOs, although with limited sustainable economic means.

(3) Conduct periodic study to monitor the situation of domestic violence

31. A national survey on violence against children and young people was conducted by NCWC with the support from UNICEF. Conducted between 2013-2016, the study³ revealed the extent of violence amongst children as follows:

(64%) aged 13–17 years have experienced at least one incident of physical violence in their lifetime. The majority of boys and girls (44.8%) first experienced physical violence before they reached their teenage years

Children reported experiencing at least one incident of sexual violence in their lifetime (12.8%), with a slightly larger proportion of girls (13.5%) than boys (11.9%).

47.4% of children reported experiencing emotional violence with prevalence rates higher for girls (52.3%) than for boys (40.9%).

32. The study also included domestic violence against children and revealed that of those who experienced physical violence, 43.3% of boys and 43.8% of girls experienced them at home. Similarly, 44.8% of boys and 43.0% of girls reported the perpetrators were either parents or adult care givers. With respect to sexual violence, some were reported to be occurring at home and perpetrated by adult relatives.

33. A National Study on Prevalence of Violence Against Women and Girls (VAW/G) was completed in 2017⁴ through financial and technical assistance from Austrian Development Cooperation (ADC) and UNDP.

34. The study revealed that more than two in every five women (44.6%) experienced one or more forms of partner violence in their lifetime be it physical, sexual, psychological or economic. Almost one in three (30.0%) experienced any of these types of violence in the last 12 months. Controlling behaviors are the most commonly reported form of violence followed by emotional, physical, economic and sexual violence.⁵

35. A study conducted by NCWC which is not in direct reference to domestic violence but nevertheless a contributing factor in understanding domestic violence is “Accounting for Unpaid work” conducted in 2017 with the support of the Asian Development

3 Research on Violence Against Children in Bhutan 2016, A Report, NCWC and UNICEF Bhutan.

4 National Study on Women’s Health and Life Experiences 2017, A Study on Violence against Women and Girls in Bhutan, NCWC.

5 National Study on Women’s Health and Life Experiences 2017, A Study on Violence against Women and Girls in Bhutan, NCWC.

Bank. The study revealed that 71 percent of unpaid care and domestic work is being carried out by women indicating the existence of stereotypical notion around gender division of role which may also be one of the risk factors for domestic violence against women.

(4) Develop programs and activities to advocate against domestic violence

(5) Take all measures to ensure that the provisions of this Act are given wide publicity through public media including the television, radio and the print media at regular intervals

36. The NCWC carried out following activities between 2015-2016: Details on all advocacy and awareness activities is available on the NCWC webpage⁶ .

- i. sensitization for the dzongkhag officials about the DVPA and other relevant Acts with its key stakeholders;
- ii. sensitization programs for School Guidance Counselors and students of high school students;
- iii. one day sensitization program on the laws and programs relating to child protection and gender equality to the field officers and Program Officers of Tarayana Foundation;
- iv. platforms such as annual conferences of the senior police officers, annual health conferences and annual Gender Focal Persons conferences were used to sensitize the relevant stakeholders about the issues and programs relating to gender violence;
- v. sensitization for the newly elected parliament members about its roles and functions including that of programs arising from DVPA;
- vi. Observations of international days for Women and Children and other national events where media is invited;
- vii. topical discussions forums on national TV in spreading advocacy messages about domestic violence; and
- viii. Advocacy on women and child protection issues during the annual ECCD forums.

⁶ www.ncwc.gov.bt

(6) Conduct periodic sensitization and awareness training on the issues addressed by this Act

37. In addition to the activities outlined under (37), following activities were carried out:

- (i) a three-day training program on instrument, guideline and SOP for the newly appointed Protection Officers of the Dzongkhags and Thromdes,
- (ii) training on CMIS for all the stakeholders including the RCJ, RBP, RENEW, and MoH
- (iii) sensitization of the DWCC of the 20 dzongkhags and TWCC of the 4 Thromdes on DPVA, the TOR for these committees, the helpline facilities and the Case Management systems. As mentioned above, these are not quite enough.

38. While there were various advocacy, awareness and training programs were conducted for the protection officers, various committees established under the Act, relevant partner and general public, the findings from the assessment revealed need for such training and awareness program on a regular basis. Furthermore, it also revealed a room for more focused and coordinated approach to the capacity building and awareness programs.

(7) Establish central database management system in order to maintain upto date record of all the domestic violence cases in the country.

39. A CMIS for managing cases of women and children in difficult circumstance, children in conflict with the law and adoption has been developed and implemented since September, 2017. The system was intended to be used by all the stakeholders' including the service provider, RBP, RCJ and OAG. However, while consultations were held amongst these stakeholders during the design of the system, none of the stakeholders have adopted it yet. The existence of their own system catering to their specific mandates and management systems, the concern over security breaches in a widely shared network, and the unresolved questions on the level of integration with existing management systems appear to be some of the reasons behind this.

40. The lack of full utilization of the CMIS by all the relevant stakeholders has neither lead to realization of objective to have up-to data through a central based management system nor preparation of a consolidated report on the domestic violence situation in the country on an annual basis as outlined in the Regulation.

41. Nevertheless, every agency maintains their own management information system and are able to generate the set of data required for an aggregated national report. However, the data categorization is not uniform among the agencies making it difficult for the NCWC to consolidate the information as required by the Act. Furthermore, case data are not shared by most of the agency despite efforts to gather the information by the NCWC.
42. As per the Regulation, the CA has to maintain a registry of all the service providers for domestic violence with updated records of the services and the personnel. Accordingly, NCWC does maintain a list of all the service providers and their contact numbers. These are RENEW, Nazhoen Lamten, One Stop Crisis Centre, RBP's Women and Child Protection Division, and all the protection officers of the dzongkhags and thromdes.

Finance

(9) The government shall provide adequate budget for the effective implementation of this Act.

43. The government provides the operational costs of the NCWC and an annual grant for programs to support specific activities for shelter and to meet basic requirements for women and children in need. Most of the capital activities including that of advocacy, sensitization, trainings, development of regulations, SOP and guidelines and studies/ research have been financed by the development partners. The lack of adequate budget was highlighted as a challenge in ensuring full implementation of the Act particularly in strengthening/establishment of services for victims as mandated by the Act.

Functions of the Government

10. The Government shall:

(1) Ensure all the relevant agencies/focal persons to collaborate with the Competent Authority for effective implementation of this Act.

44. This is being ensured through the GFP, CFP and GCFP who represent the interests of women and children and as per the provisions of the Act. However, the assessment found gaps in this area which will be discussed further in the Recommendations section.

(2) Through concerned agencies or institutions provide community-based services responding to special needs, problems, interests and protection of victims of domestic violence.

45. Towards this, NCWC has established the DWCC in the 20 dzongkhags and TWCC in 4 thromdes. These Committees are expected to act as an arm of the NCWC “to render timely services to women and children in need of care and protection.” Although NCWC has provided a detailed TOR and sensitized the members about their roles in responding to domestic violence, they are yet to become operational. None of the dzongkhags and thromdes that were covered by this review had formally yet met. Furthermore, there are few programs carried out at the community level on an adhoc and uncoordinated manner. There is no set procedure or system to engage community members in provision of services to the victims. While there are some initiatives being carried out by the CBSS volunteers it is on a need basis without a comprehensive approach and often limited to awareness and advocacy programs. Nevertheless, SOP on GBV Prevention and Response is expected to provide clear guidance for the NCWC and its partners to work towards setting up a system for providing community-based support services.

46. Although it’s too early to even speculate about the effectiveness of the DWCCs and TWCC, it bears reminding that the Act already provides a system of reporting on domestic violence and identifies institutes and officials therein for addressing various facets of the case. It’s not clear how much added value this new body will bring in terms of effectiveness of the response system or in the quality of service delivery. This section combined with sections 23, 24 and 25 appear to have been prompted by an intent to empower and encourage the communities to become more responsible for responding to domestic violence cases within their jurisdiction. If this is so, then institution of such a body⁷ could undermine the intent of these sections.

(Further details on this will be discussed on this under the Recommendations section)

⁷ The Committees are represented by a community leader (usually the Dzongkhag Tshogde Chairperson). However, the issue here is that these are all dzongkhag centric and civil service centric and takes away the responsibility from the gewogs and chiwogs where the majority of the population still reside.

Chapter IV Complaint

Reporting

11. A complainant may report the domestic violence to:

- (1) Royal Bhutan Police;**
- (2) Protection officer;**
- (3) Service provider/the social welfare officer;**
- (4) Competent Authority; or**
- (5) Members of the Local Government**

47. Against these provisions, most of the domestic violence cases are reported to the RBP, and the Service Provider. Comparatively, a lower number are reported to the Protection Officers or the CA. For this review, the local government (Gewog offices) were not consulted. However, the VAW report indicates that a sizeable number also report to the local authority and get help from it.

48. The SOP on management of cases related to women and children in difficult circumstances and SOP on GBV prevention and response further strengthens the provision related to report and registration of case and provides clear procedure reporting of domestic violence cases.

12. The authorities mentioned under section 11(2, 3, 4 and 5) shall upon receipt of the compliant conduct physical verifications and report immediately to the nearest police station, if the victim so desires.

49. Physical verification is only possible for physical or sexual violence however, many reported cases are cases of emotional and economic violence. The RENEW and NCWC officials try to verify and establish basic facts of the case but the cases are rarely reported to RBP by these agencies. This is because of the difficulty providing evidence for emotional and economic abuses and the cases are registered based on preliminary evidence only. The same situation occurs for physical violence without marks or bruises. Moreover, in most cases the victims who come to these agencies come there because they do not want to go to the Police or the Court, but seek immediate relief in the form of swift mediated settlement and some sanction against the perpetrator. This is because of the stigma that the victim or even the family is exposed to. For those cases which are directly reported to the police, the same procedures are observed, but the Police have issues with collecting evidences of emotional and economic violence. Therefore, more skilling/training is required for undertaking this aspect of the program.

50. Furthermore, the assessment observed that this provision is not in line with the roles and procedures of GBV case management outlined and in the SOP on GBV Prevention and Response where the roles of case managers are limited to conducting needs assessment of victims and not investigating to determine if it is a case of domestic violence. Therefore, the provision warrants a review in line with the survivor centered approach and principles GBV case management.

Registration of complaint

13. A complaint of domestic violence may be registered in the police station by:

- (1) The victim;***
- (2) Any person acting in the best interest of the victim;***
- (3) Any person having care or custody of a victim who is a minor;***
- (4) The protection officer or the social welfare officer of the service provider caring for the victims;***
- (5) Educational Institutions; or***
- (6) The police personnel may suo moto register the complaint.***

51. The complaints are mostly registered in the police station by the victims and there are no many incidences where the agencies and individuals mentioned above registers the cases on behalf of the victims. It's not known whether this is because of lack of knowledge amongst the public and the officials concerned or due to considered choices.

14. The police personnel, social welfare officer and protection officer shall maintain a record of all complaints and reports under this Act and shall contain:

- (1) The names, sex and relationship of the parties;***
- (2) The domestic violence alleged, whether it involved any weapon or resulted in personal injuries and whether the injuries inflicted required medical treatment;***
- (3) Whether the defendant is a recidivist or not; and***
- (4) Any other information, if necessary.***

52. The Police maintain their record according to their format, Police Crime Report (PCR). This form is the legal basis on which cases are investigated and pursued. The Service provider, The case managers (counsellors and legal officers) of RENEW maintain their own case registration records which contains all the required fields. The Protection officers use the case management forms which are designed to fulfill these requirements.

Procedure and content of complaint

15. A complaint may be made orally or in writing or through other means of communication and if made orally, it shall be reduced to writing and read over to the complainant.

16. A complaint in writing or reduced to writing shall be signed by the complainant.

53. These provisions are being complied by RBP, Service Provider and Protection Officers.

17. Every complaint shall be kept confidential and shall not be disclosed except to the investigation officer, Court and prosecuting agency if required.

18. The identity of the complainant shall be protected and shall not be disclosed except by the order of the Court.

54. The complaints and the complainants are kept in confidence, by all the agencies involved.

Petition before Court

19. A petition on domestic violence may be filed before the Court by:

- (1) Royal Bhutan Police;**
- (2) The Victim;**
- (3) The Complainant;**
- (4) Protection Officer;**
- (5) Competent Authority; or**
- (6) Service Providers.**

55. The petitions for domestic violence cases are usually filed by the Police and the

victim. Other agencies do not have the jurisdiction to file the case directly to the court. For offence of misdemeanor and above, the responsible agencies for prosecution is the OAG, but very few domestic violence cases are graded thus to be pursued by OAG. It did not prosecute a single domestic violence case in 2017 and only one case in 2018⁸.

Establishment of Protection Unit or desk

20. There shall be Women and Child Protection Unit or desk at every police station which shall be adequately staffed with at least one female police personnel with relevant expertise in domestic violence.

56. As of 2020, there were 3 WCP units in Thimphu, Phuntsholing and Paro; and 11 WCP desks covering Wangdi Phodrang, Samdrup Jongkhar, Gaylegphug, Trashigang, Samtse, Mongar, Tsirang, Trongsa, Punakha, Sarpang and Haa police stations. The units have separate detention centres for children, although detention of children is rarely practiced and only used as a last resort. But the facility is useful for other services and sometimes used as emergency shelters for domestic violence victims. The rest of police stations in the country (there are 39 in total), also handle domestic violence cases, but do not have designated protection units/ desks. All the police stations have at least one female personnel. Although all police personnel (officers and NCOs) are provided basic orientation on DVPA as part of their regular pre-service programs and in-service training programs, there is a further need for sustained capacity building of the all police officials including non-commissioned officials. This is also because of the regular transfer of police officials leaving a capacity gap in the WCPU/Desks.

57. The WCP desks and units are established in police stations that cover larger population with higher incidence of crime. According to the RBP's Statistical Yearbook 2018⁹, Thimphu Police Station alone recorded 56 percent of the crime in 2018. Altogether, the police stations where WCP desks and units were located recorded 89 percent of the crime, indicating a high coverage of the population although by physical numbers they account for 33 percent of the police stations. There is a plan to set up additional WCP desks in rest of the police stations. RBP also plans to increase its female police force from 19 officers and 415 NCOs (2016 baseline) to 28 Officers and 630 NCOs by the end of 12th Five Year Plan (2023)¹⁰.

⁸ Annual Report 2018, Office of the Attorney General

⁹ Derived from Table 1.3, Statistical Yearbook 2018, Royal Bhutan Police.

¹⁰ 12th Five Year Plan, NKRA 10: Gender Equality Promoted and Women and Girls Empowered

Duties of police personnel

21. In addition to Royal Bhutan Police Act, police personnel shall:

(1) Protect the victim and ensure that further violence is not perpetrated

58. The first reporting is done through RBP's hotline number. 113, and usually by the victim. In such a case, the victims were asked to come to the police station if she/he is able, otherwise the police dispatch a team to the place indicated by the victim. The response time depends on the distance of the place from the police station. Meanwhile if the police sense there is likelihood of further violence, they ask the victim to either seek shelter in a neighbour or the gup's house. If a CBSS volunteer is nearby they direct the victim to that person and also inform the volunteer accordingly. Once the police dispatch reaches the scene, they take over the case and protect the victim from further harm. For walk in cases and those that are able to come to the police station themselves, the police first ensure victims 'safety. They also refer the cases to protection officers and service providers for those requiring further support such as counseling, livelihood etc.

59. There are some issues reported in provision of police services to victims of economic and emotional abuses requiring urgent interventions and are reported at odd hours. The victims were mostly asked to come to police stations for reporting and rarely provided mobile or online police services.

60. If the perpetrator cannot be traced and is still at large, the victims were placed in a safe place. If it's within the vicinity of RENEW shelter, the victim is escorted there by the Police. In some instances, the victims are also housed in the WCP unit's child detention centre¹¹. If the perpetrator is caught or comes to the station on, and if he/she is determined to cause further risk to the victim they are held under detention.

61. The assessment also found that there is limited support from the RBP to competent authority and service providers in locating the perpetrators of economic and emotional abuse.

(2) Investigate the domestic violence and refer for the prosecution as per the existing laws

62. Upon ensuring the safety of the victim including getting a medical examination if the injury is to do with physical and sexual violence, the Police completes the PCR which provides the legal basis for further investigation. Every case is registered and investigated. However, the prosecution depends on the severity of the offence and other conditions/ provisions laid out in the Act.

¹¹ This is practiced in Phuntsholing WCPU.

(3) Aid or assist in obtaining shelter, medical treatment or any other services or measures deemed appropriate for the victim

63. For cases in Thimphu, the police send the victim with police escort to the Forensic Department of JDWNRH and for other police stations, to the medical officer of the District hospital for medical examination and certification of injury (injury report). They have standard forms for the request and the certifications. In some cases, they also get the CBSS volunteer to help in escorting the victims for this service.
64. If the victim is in emotional distress and the investigation officer deems that the victim requires immediate counselling, they will call the help of counsellors. Depending on the location, these could be school guidance counsellors or counsellors of RENEW and NCWC. In the hospitals, the forensic department can also refer the victim to the psychiatric department or other services depending on the assessed needs of the victims. The district hospitals also are now staffed with nursing staff trained in mental health.

(4) Advice the victim of his or her right under this Act

65. A core element that runs through the investigative process including counselling and legal advice is explaining to the victims and the perpetrators of their rights under this Act.

(5) Take statement of the victim by the police personnel of preferably the same sex.

66. Most victims who come to report are women. But sometimes some woman prefers to report to men police. All the police stations now have women personnel to enable this choice. The Police is encouraging more women to join the force to fulfill the human resource requirement needs under the Act.

22. If the offence is of misdemeanor and below, and the defendant is not a recidivist, police personnel may release the defendant on surety if detained or may allow the matter to be settled mutually if the victim so desires, considering:

- (1) The nature and circumstance of the offence;
- (2) The frequency and severity of the abuse;
- (3) The age, maturity and state of mind of the victims;
- (4) The reparation of the injury and compensation to the victim;
- (5) The safety of the family; or/and
- (6) The best interest of the victim.

67. Out of 421 domestic violence and child protection cases registered with the RBP countrywide in 2019, only 89 were charge sheeted, and 104 were withdrawn (mediated). In Phuntsholing WCP unit, of the 41 cases registered in 2019, only one was prosecuted. RBP supports mediated settlement as opposed to prosecution for domestic violence cases. The following appear to be some of their reasoning:
- i. Most victims are dependent for their livelihood on the perpetrator. Prosecuting the perpetrator and putting him away for a month or so may be a punishment for the perpetrator but is more punishing for the victim who is deprived of her livelihood and that of the family. Prosecution can also lead to divorce, which can have longer impact on the family and the victim. This is because the country as yet does not have appropriate social safety net schemes such as welfare and employment schemes for the victims.
 - ii. Prosecution or even detention for that matter generally aggravates the situation with the perpetrator seeking to get his revenge again.
68. The police are not themselves involved in mediating. The officers ask the victim and the perpetrator to get someone to mediate for them- only if the victim desires for a mediated settlement. However, the mediation services offered by the private practitioners are expensive for the concerned parties.
69. The DVPA rules and Regulation requires the RBP to maintain a separate record of the cases allowed to settle mutually and share with competent authority on regular basis. Further, they are required to monitor the situation of these cases to protect the victims for further harm. However, there are only few WCPU/Desks maintaining this information and the cases are not monitored.
70. If in the course of the investigation it is revealed that the person is a repeated offender (not to be confused with recidivist) the police seek prosecution. They also prosecute if they assess that the perpetrator reveals no remorse for the actions. But by and large, the proportion of cases that make to the prosecution stage is low.
71. The literature review for the assessment found discrepancy between this section and the principles and procedures on mediation in the SOP on GBV Prevention and Response. Therefore, review of this section in line with principles and approaches of GBV case management will provide proper guidance and clarity on this.

Chapter V Protection Officer and Service Provider

Appointment of a Protection Officer

23. *The government in consultation with the Competent Authority shall designate Child Welfare Officer as Protection Officer to exercise the powers and perform the duties conferred under this Act.*

72. NCWC has established a Protection Services, with 3 Protection Officers on contract and headed by a deputy Chief Counsellor. The team is responsible for management of domestic violence related cases that come directly or are referred to NCWC. However, the protection officers in the dzongkhags are yet to be appointed as envisaged by the Act. As such, the dzongkhag legal officers are designated as protection officers to fulfill the roles and responsibilities provide for by the Act as an interim measure. The primary responsibility of Legal Officers are as legal advisors to the dzongdags and guide the administrations through legal provisions and the processes. They also represent the dzongkhag administration in civil and criminal cases. They are also NCWC's Gender Focal Persons for the dzongkhag and the Probation officer appointed under the CCPA. In addition, these officers are also taking on the role of Kidu Officer, Environmental Officer, General Secretary for the Dzongkhag Sports Association, Secretary for Multi Sectoral Task Force, Secretary of D/TWCC, ACC investigation team coordinator and volunteers of CBSS. Therefore, only 5% of the Legal Officer's time is allocated for the role of Protection Officer in practice. Moreover, most of the legal officer are reluctant to take on the role of the protection officer despite providing lots of capacity building program including sensitization and awareness due to lack of executive order from RCSC. Furthermore, the Protection officer in dzongkhag do not manage the cases as per the existing standard operating procedures. In some cases, there is little support and ownership from the chairperson of the D/TWCC.

73. Some protection officer who took part in this assessment received between 1 to cases from their jurisdiction in 2019 while some received around 17

24. *The Protection Officer, appointed under this Act shall possess such qualification and experience as may be prescribed by the Competent Authority.*

74. The DVPA Regulation 2015 stipulates the protection officers should have a degree or at least a diploma in social work, psychology, gender, child development, education, counseling and sociology. While the Protection Officers in the NCWC have degrees in counselling, the designated POs in the dzongkhags and thromdes all have a law or para law degree.

25. The terms and conditions of Protection Officer shall be in accordance with the relevant laws.

75. Of the 24 Protection Officers in the fields, 11 are on contract, while the rest are part of the regular civil service. Their service conditions are governed by the Civil Service Act 2010 and the Bhutan Civil Service Rules and Regulations. Furthermore, they are guided by their terms of reference, the standard operating procedures and code of ethics for protection officers.

26. The Protection Officer shall be under the supervision and guidance of the Competent Authority for discharge of duties under this Act.

76. Within the Civil Service system, the Legal Officers are under the administrative supervisions of the dzongdag or the thromde's Executive Secretary/ thrompon. However, their parent agency for professional support and guidance is the OAG, who can also transfer them across the different units and agencies. For DVPA related functions, they are required to report to multiple agencies.

Duties of Protection Officer

27. The Protection Officer shall:

(1) Assist the law enforcement agencies in the discharge of their functions under this Act.

77. The protection officers Os work closely with the police personnel in their locality. But the two are yet to fully understand the scope of their cooperation, as the position of PO has only recently been established. In Phuntsholing WCPU for example, there was only one case of WIDC where the police and PO partnered. However, the police officers interviewed are all welcoming of any helping hand they can render, including that of the protection officers as well as RENEW CBSS volunteers.

(2) Ensure that a domestic violence incident is reported to the police station and service providers, in such form and manner as may be prescribed and forward a copy to the Competent Authority

78. Not all domestic violence incident that comes to the protection officers are reported to the police station especially when the incidence is seen as very minor, and in many cases the victims do not want the incident to be reported to the police. There is no uniformity in reporting form. In some Dzongkhags, as soon as the incident is reported, the protection officers undertake an initial assessment of the facts and consult the Dzongdag for advice on the next steps. In other dzongkhags, the protection officers handle the case on their own, and report to the Dzongdag only

if they believe the case is serious enough and warrant his/her attention or the case needs specific intervention or that of the D/TWCC for its resolution.

79. For every case, a report of the case with the case details and action taken are submitted to NCWC, through the CMIS as required. However, there have been several system glitches in the past, and when this happens, the report is been submitted via email.

(3) Make an application to the Court or police station, if the victim so desires, for issuance of an interim protection/protection order or registration of crime information report

80. As mentioned in an earlier section, very few cases that come to the attention of the protection officers get registered with the Police, but in the event, it is required, they provide the necessary assistance. So far, none of the dzongkhag/thromde Protection Officers who took part in the assessment have sought the orders for their cases as they believe they have no legal standing as Protection Officer (locus standii) either with the Police or the Court of Law. This could be addressed in the form of a letter from NCWC designating the person as Protection officer as mentioned in the Act. However, the protection officers of NCWC do seek interim protection and protection orders for the victims.

(4) Assist the victim to avail free legal aid and relief provided under the relevant law

81. Although, the protection officers in the dzongkhag are the case managers and are required to facilitate the victim to seek support based on the need assessment and map all the available services in their dzongkhags, however, the services provided by them currently are confined mostly to legal counsel/ advice. For other professional services they have to refer to the NCWC or RENEW. The protection officers of the NCWC facilitates and support the victims to seek free legal aid, shelter, medical and livelihood and reintegration services.

(5) Maintain a list of all service providers that provide legal aid, counseling, shelter home and medical facility in a local area within the jurisdiction of the Court

82. They are aware of the services including that of private providers in their dzongkhag/ thromde, however, the list of these service providers is not maintained. The Protection Officers, NCWC maintains a list of all service providers including the various focal persons.

(6) Accommodate the victim in shelter home, if the victim so requires and inform the police station and the Court of competent jurisdiction;

83. The shelter services for domestic violence are only available with RENEW and There are initiatives and plans from RENEW to establish a shelter in every dzongkhag. The protection officers collaborate with RENEW to provide shelter services based on the need assessment.

84. There were incidences where the case managers (Protection Officers) had to put up the victims in their own houses. They were aware of the associated risks, but had no choices.

(7) Get the victim medically examined and forward a copy of the medical report to the police station, and the Court of competent jurisdiction if required.

85. This is being done, but with varying degree of compliance because of the different ways this provision is interpreted. Medical examinations are usually done only for the victims of physical and sexual violence. The assessment found that the medical examinations are done based on perceived severity of injuries by the protection officers rather than as a necessary protocol for all the victims. Furthermore, some respondent believe that the examination is for medical treatment or observation but not necessarily for medical certificate, which would be required if the case is referred to the Police.

(8) Facilitate compliance of Court order

86. None of the Protection Officers have received court orders yet. This may possibly also be because of lack of locus standii as observed earlier in case of dzongkhag protection officer, or the lack of knowledge amongst the Court officials of their appointments.

(9) Ensure non-disclosure of the informer and victim's identity, and any information obtained from the victim except to the lawful authority

87. While the protection officer adheres to the privacy and confidentiality protocols in all matters relating to cases of domestic violence, there were some incidences of breaching this section by the media and social media users. A more stringent protocol may need to be established for this aspect of the Act for full compliance.

(10) Monitor the situation of domestic violence in his or her area of jurisdiction

88. Most Protection Officers have a general sense of the extent and type of domestic violence in their dzongkhags/ thromdes. For example, in Samtse the cases are most prevalent in the Doya communities, contributed in part by alcoholism. In Paro, domestic violence is believed to be most prevalent amongst the those who migrated in search of employment, economic opportunities. In Dagana a survey is being conducted, most dzongkhags and thromdes do not as yet have a system to assess and monitor the domestic violence situation in their areas of jurisdiction.

(11) Carry out advocacy programs and activities against domestic violence in his or her area of jurisdiction

89. It is important to note here that under Local Government Key Area Results 10, dzongkhags and thromdes are provided specific budget heads to cover activities related to addressing gender issues. However, the type of advocacy being carried out really depends on the Dzongdags. In Dagana, the dzongdag who is an ex Director General of NCWC makes a special effort to sensitize and advocate against domestic violence as standalone programs or as part of other public engagements which may not be the case in other dzongkhags. Overall, the Protection Officers do not have the reach or the resources to conduct such activities on their own.

(12) Perform such other duties as may be prescribed under rules and regulations.

90. The Protection Officers are also the Secretaries to the DWCC and TWCC, and as such responsible for reporting, recording minutes of the meetings and following up on the decisions of these committees. They also provide specialized GBV services like counseling to the victims.

91. The Protection Officers of the NCWC also take on the role of child welfare and probation officers. Further, as a government case manager, they provide case management services including making sure that the victims receive all the services as per their needs. They also provide other specialized services such as counseling, legal advice and participate in the court proceeding as an independent observer. They also participate in the consultations related to development of policies and programs related to women and children. As such, there is a need to streamline the roles of protection officers in line with the SOP on GBV.

Conflict of interest

28. *The Protection Officer shall declare any conflict of interest that may arise or appear to arise between his or her duty and private interest, pecuniary or otherwise. In the event of conflict of interest, the case may be referred to the Women and Child Protection Unit /Desk with Royal Bhutan Police.*

92. There were no reported cases where the Protection Officer recused themselves because of conflict of interest. Most Protection Officers are aware of this clause. A mechanism to implement the provision on conflict of interest has been initiated. A conflict of interest form was developed by the NCWC and a training was provided to the Protection Officers on the form. Furthermore, the form has been shared with all the Protection Officers for use.

29. *If a Protection Officer fails or refuses to discharge the duties as required under this Act without sufficient cause, he or she shall be liable for administrative action under the relevant laws.*

93. There was no reported case where this section had to be invoked. Furthermore, there is no locus standi or executive order designating the dzonkhag legal officers them as protection officer, therefore, this provision is not applicable to them.

Service Provider

30. *Any registered Civil Society Organization with the objective of protecting the rights of victims shall be accredited by the Competent Authority as a service provider for the purpose of this Act.*

94. RENEW is the only CSO whose main mandate is to provide services to the victims of GBV and DV in particular. As such, it was also member of the legislative taskforce and involved in drafting of the Act. RENEW provides services such as counselling, case management, legal aid and representation, shelter and skills development of the victims. It also plays a key role in preventing domestic violence through various awareness and advocacy programs. Skills.

95. While there has been overlap of roles between RENEW and other agencies including NCWC, the enactment of this Act and development of SOP for management of cases related to WIDC and CIDC and SOP GBV has provided clarity on the roles and responsibilities

96. 95 percent of the cases that come to RENEW are walk in cases. The rest come from NCWC, the RCJ and RBP. The reference from NCWC is usually for counselling, livelihood skills training and shelter services. From the courts the services are for mediation in case of divorce cases. From the Police the victim is referred to for shelter services and for counselling. However, RENEW has no legal mandate for mediation as per the DVPA and mediation is not recommended as per the SOP on GBV. Therefore, the current practice points to the lack of clarity on the roles of agencies involved which needs to be addressed accordingly.
97. RENEW has submitted its application for accreditation as required by the Act but was asked to submit additional documents which is pending. It's not known what elements of the services currently on offer by RENEW for domestic violence cases meet the standards required for accreditation. While RENEW can continue to provide services without accreditation, implementation of this section will ensure that the service provided are in line with the set standards and provision of the Act. Furthermore, it will provide basis for the Competent Authority to monitor the services on a regular basis.
98. The application for accreditation of Nazhoen Lamtoen, another CSO which provides shelter, counseling and other services to the child victims of domestic violence is also under review by the NCWC.

31. The Competent Authority shall submit a list of the accredited service provider and services available to the Court and police.

99. RENEW is the only service provider for domestic violence victims while Nazhoen Lamtoen also provides services for child victims. Both are registered CSOs and have been working with NCWC and the law enforcement offices for some years now.

32. Every service provider shall have a certified Social Welfare Officer.

100. There is no designated Social Welfare Officer in RENEW as well as Nazhoen Lamtoen. However, the counselors carry out the functions of the Social Welfare Officer provided for under section 33 of the Act.

Function of Social Welfare Officer

33. A Social Welfare Officer shall:

(1) Function as a nodal entity of the service provider dealing with the domestic violence victims

101. The head of counseling department, RENEW function as the nodal entity and assess the calls and assign the cases to the different officials in RENEW. He/she also maintains a record of the cases and monitors the case through different stages of its management.
102. The focal officer responsible for managing cases of CIDC including child victims of Nazhen Lamtoen serves as a nodal entity for the agencies on all issues related to child victims of domestic violence.

(2) Record the domestic violence incident report

103. RENEW counselors have a form for recording the incident with details of the identity of the victim, the alleged perpetrator and the description of the incident as reported by the victim. Each incident record is provided a distinct code number. If the same person comes next time, they use the same file but provide a different code number. Most clients that come to RENEW are not literate and therefore their report is written down by the officials and read to them for confirmation. RENEW accepts all cases that come to them.
104. Similarly, Nazhoen Lamtoen the focal officer maintains record of child protection issues which include child victims of domestic violence in a standard format.

(3) Get the victim medically examined and forward the medical report to the police station

105. This is done if the case involves physical and sexual violence.

(4) If the victim desires, file a petition before the Court through protection officer

(5) If the victim desires, submit the complaint of domestic violence to the police station having jurisdiction

106. If the injury is serious or sexual in nature, they refer the case to the police. But from the records, it appears that very few cases need such action. This is also because most victims who come to RENEW do so because they do not want to go to the Police.

(6) Ensure that the victim is accommodated in the shelter home if the victim so desires

107. While RENEW is the only agency that operates shelter for domestic violence victims, Nazhoen Lamtoen also provides shelter services for child victims of domestic violence. The shelter is located in Sisina, which is about 20 km outside Thimphu. An individual/family may stay for up to six months but in some incidences may remain longer if there are no other secure or suitable alternatives for the victims. The shelter also provides counselling, legal aid (where needed), emergency medical aid, crisis intervention, meditation practices, education for the children and livelihood training for individuals. However, the service providers are unable to provide services to victims of domestic violence who are alcoholic or with mental health issues, or other disabilities because of lack of capacity.

(7) Assist victim with livelihood until such time the victim can sustain himself or herself.

108. RENEW provides on a need basis livelihood skills programs for the victims of domestic violence within the shelter home as well as in its other facilities. The program comprises of a month to three months training program in weaving, tailoring, embroidery, homemade candies (amla, ginger etc.), baking, mushroom cultivation, basic training on domestic help. Livelihood and skills development programs are also provided by other CSOs such as SABAH Bhutan, Tarayana Foundation and Bhutan Association of Women Entrepreneurs in collaboration with RENEW and relevant government agencies. However, these trainings and livelihood development programmes does not necessarily translate to sustainable economic opportunity and reintegration into the community and labour market and there are no CSOs ensuring this transition.

34. If any social service provider fails or refuses to discharge the duties as required under this Act without sufficient cause, he orShe shall be liable under the relevant laws.

109. So far, there has not been any cause to complain about the services provided by RENEW.

Health services

35. The Ministry of Health shall:

(1) Establish appropriate facilities with trained medical and health personnel to cater to victims of domestic violence

110. The Forensic Medicine Department was first established as Forensic Medicine Unit in February 2005. In 2017, a basic Forensic Toxicology laboratory was established with one GC-MS Machine. The Department is mandated to provide Clinical Forensic Medicine services and Forensic Pathology Services. In Clinical Forensic Medicine, the Department provides medico-legal services to victims of interpersonal violence, sexual violence, and domestic violence as well as work related and road traffic accidents. It is also mandated to provide medical age estimation services to people with unknown or uncertain ages. In Forensic Pathology, the Department is mandated to investigate unnatural deaths in collaboration with the RBP.
111. The Department is also the National Referral Centre for all the Regional and District Hospitals and Basic Health Units with respect to Medico-legal related issues and offer tele-consultation as well as training of the healthcare workers. In addition, clinical trainings in Forensic Medicine for MBBS graduate internship and Health Assistant trainees are undertaken by the Department.
112. The Department is currently run by one Forensic Medicine Specialist, 1 Forensic Laboratory Technologist, 2 Forensic Health Assistants, 1 Forensic Nurse and 1 ward boy. Most of the clients that it deals are victims of violence that are brought in by the police. Sometimes, the emergency and OPD sends in cases when they suspect the client is a victim of domestic violence or of sexual assault.
113. To service the dzongkhags and remote communities, the Forensic Department has provided a week-long attachment training program for a focal person in every dzongkhag hospital. It also provided a 3-day basic training in forensic medicine to the HAs in the BHUs for identification of injuries. This is usually provided to every new appointment. Within the JDWNRH, the department works in collaboration with the emergency department, OPDs, and the Psychiatric Department who provide other services to the victims as required.
114. The Department operates based on a SOP (Management of Intimate Partners and Sexual Violence 2017) which is specific to the operation of the work related to forensic department and GBV Guideline which is used by other health centers in the country. The Department gets a maximum of 5 cases per day out of

which one may be domestic violence related case. Each domestic violence case examinations take 20-30 minutes. However sexual violence related examinations can last up to a day. When the case involved is of serious nature, the officials make a joint decision on their findings and conclusions. Besides clinical work, they are also called in to testify before the court of law when required, wherever the case is being prosecuted. While the normal duty hour is 9-2pm, they are on call 24/7 for sexual and life-threatening emergencies related to domestic violence. All evidences are maintained properly submission to the Police or court of law.

115. Victims are referred to the Psychiatric Department if they exhibit any signs of mental illness, alcohol or drug abuse. While perpetrators are sent for mandatory counselling by court during the case proceedings as per the provisions of the Act, the forensic unit also refer them to psychiatric department for support in some cases. However, the findings revealed that the referral procedures are lengthy and available during office hours only. This delays the timely provision of services as often the domestic violence cases are received during off hours. Futhermore, the clients are discharged due to limited bed after detox which as per the procedures should be sent to rehabilitation centres for further support. As such, there is a need to look into the procedure to ensure timely and uninterrupted services to the victims.

(2) Establish a One Stop Crises Centre which shall facilitate the victims in receiving the medical treatment and maintain records of treatment of victim.

116. The one-stop crisis centre (OSCC) is a requirement made by the DVPA as well as the CCPA. The centre once established would provide all services such as medical treatment, forensic investigation and psychosocial care to the domestic violence victims. The establishment of the Department of Forensic Medicine is one step towards this direction. The Department is also expected to have mortuary and autopsy facilities in 12th FYP. There are no plans as yet for forensic DNA facility, forensic radiology and forensic odontology. There are also plans to establish forensic medicine services in the monger and gelephu referral hospitals in the 12th FYP. Furthermore, there are OSCC focal points in the dzongkhag hospitals who are trained on domestic violence.
117. As mandated by the DVPA, the OSCC maintains a record of all the cases and their treatment as per the hospital policy, and submitted to the Ministry monthly.

36. The Medical and Health Personnel shall:

(1) Provide necessary medical treatment to the victim and inform the police along with medical report if the victim so desires.

118. According to the Bhutan Medical and Health Council Regulation 2009, “all medical and health professionals shall disclose information even if it is obtained in confidence from patient when it is necessary to do so in the interest of the security of the state, the maintenance of law and order, in the court of law and infectious diseases of public health importance or communicable diseases. It is obligatory to inform police on crimes.” Therefore, this provision conflicts with that Regulation. The SOP on GBV acknowledges this issue and provides guidance for the health workers in such situation. However, there is a need to review the relevant legislations regarding provisions on mandatory report to ensure that it is being done in keeping with the basic principles of GBV case management.
119. As covered in the aforesaid section the Department of Forensic Medicines along with the other collaborating Departments in JDWNRH provide necessary examinations, treatment and medical report/ certificate if required. The latter is usually required by the police as part of their investigation. In circumstances where a walk-in patient is suspected to be a victim of violence; the Department report the incident to police with necessary evidence.
120. In the dzongkhags, the district hospitals provide the necessary medical treatment to the victims. In addition, the Medical officers are responsible for providing medico legal services. In this context the Medical Officer examine and certify the injury report when requested by the Police. The Police have a standard request form which is sent along with victim and the escort. The injury report can only be signed by a medical officer¹².
121. The remote communities are served by the BHUs. They only provide basic medical treatment, and are not authorized to certify injury reports. If such a service is required, they will have to refer the case to the district hospital.

(2) Conduct medical examination with due regard to the right of privacy of the victim

122. All the hospitals have private examination rooms. If intimate part of the body needs to be examined this is generally undertaken by a person of the same sex, if available. However, most hospitals don't have qualified female doctors to undertake this, which is an issue, as most victims of domestic violence are women.

¹² Bhutan Medical and Health Council Guidelines for Writing Medical Certificates and Reports -2009

Community Services

37. *The community may provide or strengthen a wide range of community-based support measures for the victim, including community centre and services to respond to the problems of victim who is at risk.*

123. With numerous campaigns by the various government institutions such as NCWC and Civil Society Organizations such as RENEW, domestic violence issues are now being highlighted as worthy of attention. Even so, most programs deriving from the Act are centrally driven by law enforcement agencies and its emissaries including the CBSS volunteers. Therefore, while the potential role that can be played by communities has been recognized by the Act, the means and systems have not been enunciated either in the Act or the Regulation. In fact, going by the provisions of the Local Government Act and the Alternative Dispute Resolution Act, the traditional role played by the local leaders in dealing with domestic violence cases (mediation) have been significantly reduced. While some services are provided by the local government functionaries and the community, these services are ad-hoc and needs based hence there is a need to strengthen these services to make it more systematic and professional involving Gewog functionaries and CBSS volunteers.

38. *The community may with assistance from Competent Authority provide such services and measures to the victim to facilitate livelihood and to re-integrate into the society.*

124. There are some isolated cases of support provided to meet the basic needs of the victims, however, these supports needs to be institutionalized and provided in a more systematic and professional manner.

39. *The government shall endeavor to provide assistance to the community to establish facilities to provide adequate shelter for victim who has no home to live in or is not able to live at home.*

125. So far, there was no assistance provided by the government to the communities to establish shelter for domestic violence or other victims of violence. RENEW has a plan to expand the shelter homes to three more locations across the country and set up service centres in all dzongkhags. To that extent, some dzongkhags have already identified the sites.

40. A volunteer, voluntary organization, social institution and other community resources may contribute effectively to address the issues related to domestic violence in the community.

126. The only voluntary organization engaged in addressing domestic violence issues in the community is RENEW's CBSS. In December 2005, RENEW started experimenting with the CBSS as a way of engaging volunteers to join hands with RENEW to raise awareness to reduce and prevent occurrences of domestic violence or GBV. The project was first piloted in Thimphu with funding from the British High Commission Delhi and UNDP, and with technical assistance from SNV-Bhutan. Encouraged by its success, the project was expanded to Paro and Chhukha in 2007, with support from UNFPA. By 2011, CBSS was established in all 20 dzongkhags.
127. While the CBSS volunteer is based in the communities, the volunteers are in the strict sense of the term not drawn from the communities and therefore do not represent the communities. They are mostly teachers and civil servants many of whom at one point were nominated by their offices to become CBSS members. Overtime this has reduced to a fraction of the initial numbers. For example, Phuntsholing alone had, at one time, 85 volunteers. Now there are only 7.
128. The volunteers have been at the forefront in conducting advocacy as well providing counselling and mediation services. They also play a key role in facilitating shelter services for the victims. After the enactment of the DVPA, the roles of the stakeholders including RENEW and its volunteers are more clearly defined and regulated. Within this new environment, CBSS volunteers are expected to continue providing advocacy services as well as help domestic violence victims to get professional support and services from designated agencies and service providers.

Chapter VI Conduct of Trial

Conduct of trial proceeding

41. The Court shall hear the cases of domestic violence under this Act expeditiously in accordance with Civil and Criminal Procedure Code.

129. All courts hearings are conducted in accordance with the Civil and Criminal Procedure Code (CCPC). As per the CCPC, a Court shall conduct a preliminary hearing of a case within ten days of registering it in the Court.

42. Notwithstanding anything contained in the Civil and Criminal Procedure Code, no person may be present during the hearings except:

(1) Court officials;

(2) The parties to the case;

(3) Any person who filed an application on behalf of the victim or complainant;

(4) Jabmi or legal representative of the party to the case;

(5) Witnesses if any;

(6) One or two person supporting the victim;

(7) One or two person supporting the defendant; or

(8) Any person the Court may permit.

130. Only those involved in the case are permitted by the court to be present during the hearing. Members of the public and press are not allowed to witness the proceedings of domestic violence cases.

43. The Court may, if satisfied, in the interest of justice exclude any person from attending the hearing.

131. Most often the victims do not have to attend the hearing, and the legal representative of the party to the case is deemed an adequate representation.

44. Notwithstanding anything contained in this Act, the Court may hear the case in camera.

132. Some aspects of the hearing is often undertaken in-camera. This is usually undertaken to hear from the victim in private to protect the witness.

No publicity

45. Unless the Court authorizes, the proceeding shall not be published in any newspaper, magazine or transmitted through audio-visual electronic medium in any form which may reveal details of the case or disclose the identity of the parties to the case.

133. The Royal Courts as a matter of policy do not divulge the details of an ongoing domestic violence case including the identities of the parties to the case or any information that may reveal their identities.

46. The media shall maintain professional standards including privacy in reporting and covering cases of domestic violence.

134. NCWC in collaboration with the Bhutan Media Foundation has developed a media guideline on sensitive reporting of cases related to women and children and circulated a guideline to all the media houses. It also organized a workshop for the media professionals in collaboration with the Journalist Association of Bhutan. However, there were incidences of violating the professional standards by the social media users and such incidences are reported to be difficult to monitor. As such, a social media standard/guideline on the issue is deemed necessary.

47. The media shall assist the prevention and creation of awareness on domestic violence through positive publication.

135. Since the enactment of DVPA, all the media houses have become more engaging on the domestic violence issues as gleaned from their news coverage and feature stories. Most of the stories and information appear to have been however provided by the agencies tasked with addressing the issues, the principals being NCWC and RENEW. The stories are usually linked with events undertaken by these organizations. The assessment found that there is little by the media houses to use their reach or profession to provide insights about the issue or change public opinion against domestic violence through positive publications.

Duty of the Court

48. The Court shall inform the victim or his or her Jabmi or legal representative of:

- (1) The relief available under this Act;**
- (2) The effect of any order which may be granted by the Court;**
- (3) The right to file a separate criminal complaint against the defendant if a separate criminal offence has been committed by the defendant; and**
- (4) The right to claim compensation for any loss suffered or injury caused by domestic violence.**

136. During preliminary hearing of domestic violence cases by the Family and Child Bench, Thimphu, the registrar explains the provisions of the law and recourses as well as rights that can be exercised by the victim and the defendant. The plaintiffs are urged to revise the petition so that it is comprehensive and includes the specific recourse they are seeking from the court. They are also advised to pursue additional cases if it is deemed necessary. For example, some cases will require separate matrimonial suits being filed. Under such circumstances the court will facilitate concurrent judgment for both the civil suit (matrimonial) and the criminal suit. However, the procedure in other courts are not clear due to lack of dedicated bench or judge presiding over such cases. Furthermore, there is lack of clarity in procedures for cases where petition is directly filed to the court.

49. The Court shall maintain a record of petition filed, interim protection order and protection order issued by the Court under this Act.

137. This is being complied with. It is part of the Case Management Information system of the RCJ. Separate registers are also maintained by the court clerks.

Counseling

50. The Court at any stage of the proceeding under this Act may direct the defendant or victim, either singly or jointly to undergo counseling with any service provider who possesses such qualification and experience in counseling or institution identified by Competent Authority which renders counseling to the victims of the domestic violence.

138. An issue that was highlighted in the interview for this report was the lack of sufficient knowledge amongst the Judges and the court officials on the type of counselling services available, the time required for such services and their effectiveness for

various facets of issues faced by the victims and the defendants. While they are aware that counselling services are available with NCWC and RENEW, online sources are utilized for additional information which sometimes are not in line with the Act and relevant to the Bhutanese context.

51. The Court at any stage of the proceeding under this Act may direct the defendant and/or victim to undergo mandatory rehabilitation, if deemed necessary.

139. This is being implemented for two of the services that are available, alcohol and drug detox and rehabilitation programs. However, the court usually directs the parties for separate rehabilitation venues, even when both may require the same services in order to protect the victim. However, there are issues with implementing this provision effectively due to lack of adequate services.

Bail and Bond

52. Where the Court is required to determine whether to grant bail to the defendant, the Court may consider, inter alia:

- (1) The need to secure the health, safety and well-being of the victim, and child;**
- (2) Any hardship that may be caused to the members of the family if bail is not granted; and**
- (3) Any other matter which may be relevant**

140. Bail is granted on a case-by-case basis. While there are no standard procedures for undertaking risk assessments for granting bail, the judge considers all the factors under section 52. In addition, the judge assesses the risk of the person absconding, and also consults with the victim. There have been cases where the victims have also pleaded with the judge for granting of bail.

53. If the Court grants bail to the defendant, such bail order shall include conditions that the defendant:

- (1) Shall not harass or molest the victim or family members of the victim;**
- (2) May not reside on the premises where the victim resides; and**
- (3) Shall not violate any other conditions issued by the Court.**

141. The Police is responsible for ensuring that the person does not violate the conditions of the bail.

Chapter VII Interim Protection and Protection Order Application

54. Where an act of domestic violence is or being committed or there is a threat to commit, an application for interim protection order or a protection order may be submitted to the Court by:

(1) The victim;

(2) The complainant;

(3) Any person acting in the best interest of the victim;

(4) Any person having care or custody of a victim who is a minor;

(5) The protection officer or the social welfare officer of the service provider caring for the victims; or

(6) Competent Authority.

142. The Interim and Protection Orders are often requested upon the release of a defendant from detention on bail. In most cases there is no need for protection orders as the defendant is under detention for the full duration of the case. However, NCWC has requested for interim protection order where required.

143. The protection officer can submit the application for the interim protection order, however, the court does not accept the interim protection order if the case is not registered in the court. This has adverse negative impact on the service and protection of the victims. Furthermore, the requirement of interim protection order often arises during emergencies and off hours and in such cases the current procedure of issuing interim protection order does not serve the purpose of ensuring the protection of victims.

144. It also is reflective of the wide powers the police wield. The Police do not have to go through the trouble of applying for the protection order when they can detain the person. It is also because of the lack of adequate awareness of the police and judges on these orders.

Content of protection order/interim protection order

55. *A protection order/interim protection order may, where appropriate:*

- (1) Prohibit the defendant or the person from committing or aiding to commit the domestic violence;*
- (2) Prohibit the defendant from entering any place or premises where the victim resides and works;*
- (3) Direct the defendant to pay monetary relief in respect of the victim's needs and those of any child or dependent of the victim;*
- (4) Direct the temporary custody of any child or dependent of the victim and defendant to any person or institution;*
- (5) Regulate or deny the defendant to have access to child if the Court is so satisfied in the best interest of the child;*
- (6) Direct the defendant to afford the victim or any child or dependent of the victim access to their place of residence and the use of facilities associated therein;*
- (7) Direct the defendant to pay adequate compensation in the prescribed manner for any personal or physical injury, pain, or loss suffered by the victim;*
- (8) Direct the victim and the defendant to undergo counseling if necessary;*
- (9) Direct the defendant to do any act which the Court considers necessary or desirable for the well-being of the victim or any child or dependent of the victim; or/and*
- (10) Any other conditions as the Court may deem necessary.*

145. All these appear to be relevant to cases where the perpetrator has not been detained. For cases the orders are relevant for the person on bail, and the content of the order are usually for ensuring the bailed person avoid committing further violence. The details of the content are also relevant for preventing a crime from taking place. But as stated earlier, such protection orders have not been used by the system, as no requests were made.

Interim protection order

56. A Court may issue an interim protection order before commencement of trial, where reasonable grounds exist without show-cause notice to the defendant if necessary.

146. The Courts exercise this prerogative when and if necessary.

57. An interim protection order shall be issued by the Court in the presence of the parties or their Jabmi or legal representative.

147. This is being complied with. However, most of the courts has not issued such orders and the assessment is not able to ascertain to extent to which the courts comply with the provision.

58. Notwithstanding section 57 of this Act, a Court may issue an interim protection order ex-parte, if the Court is satisfied that there is prima facie evidence that:

(1) The defendant is committing or has committed domestic violence; and

(2) Undue hardship may be suffered by the victim or an irreparable harm may be caused as result of such domestic violence if an order is not issued immediately.

148. This is being complied with.

59. The Court shall give a copy of interim protection order to the victim, complainant, Protection Officer, Social Welfare Officer of the Service Provider, Royal Bhutan Police and defendant or legal representatives.

149. This is being complied with.

60. An interim protection order shall remain in force as specified in the order or unless it is substituted by the protection order.

150. This is being complied with. Interim Protection orders are usually issued for a specified limited time, while the protection orders are valid for the duration of the case.

Protection order

61. Upon registration of an application for protection order under section 54 of this Act, the Court shall serve a show cause notice to the defendant directing him or her to respond to the notice on the date specified which shall not be more than fifteen days.

151. There were only one or two incidences where protection order has been issued by the court. Therefore, it is difficult to ascertain whether the provision is being fully complied with. In addition, the assessment also found that the maximum period for show cause notice period is quite long and as such recommend to relook at the provision in line with the principles of do no harm to the victim.

Determination of an application for protection order

62. The Court shall determine an application as soon as it is filed after issuing the show cause notice to the defendant under section 61 of this Act.

152. The application for protection orders are lengthy in most cases and in some cases it becomes difficult to obtain the protection orders for those parties who are not legally married

63. The Court may conduct the hearings for protection order independently or concurrently to the trial proceedings.

153. This is being complied with.

64. The Court shall not deny protection order on the grounds that other legal remedies are available.

154. The court does deny protection order because of other legal remedies, which in this case is detention. However, it is being issued for only cases which are registered with the police or court and this limits the victim and agencies working on the issue seek protection from further harm.

65. The Court may modify or confirm the interim protection order into protection order or terminate the interim protection order and may issue protection order:

- (1) If the defendant fails to appear within the date specified under section 61 of this Act;**
- (2) During or on completion of the trial proceeding if necessary; or**
- (3) During protection order hearing if necessary.**

155. This is being complied with.

66. The Court shall give a copy of protection order to the victim, complainant, Protection Officer, Social Welfare Officer of the Service Provider, Royal Bhutan Police and defendant or legal representative.

156. This is being complied with.

67. A protection order shall not bar a party from initiating civil or criminal proceeding.

157. This is being complied with.

68. A protection order shall remain in force for a maximum period of nine months, which may be extended if required, unless the order is annulled by the Court earlier at the joint request of the parties.

158. Protection orders remain in force usually for the duration of the case, unless it's annulled on the request of the parties. Since most criminal cases are concluded well before period of nine months, this provision is complied with.

Variation or setting aside of protection order

69. The Court may set aside or vary the protection order if it is:

(1) Satisfied that the conduct of the defendant is improved; and

(2) The application for setting aside or variation for protection order is made with the consent of the victim.

159. This is being complied with.

Finality and enforcement of interim protection and protection orders

70. Any interim protection order or protection order issued by the competent Court shall be final and binding unless appealed and revoked by the higher Court or revoked by the same Court.

160. This is being complied with.

71. If the defendant breaches any term or condition of an interim protection order or protection order issued by the Court, the victim or his or her legal representative may enforce the order through the assistance of the Royal Bhutan Police or by filing a petition of enforcement before the competent Court.

161. Usually an interim protection and protection orders specify the penalties associated with any breaches in the term of conditions and defendant is dealt as per the conditions specified in case of any breaches.

72. Upon filing a petition of enforcement under section 71 of this Act, the Court may direct the Royal Bhutan Police to enforce the order along with an arrest warrant if necessary.

162. This is being complied with.

Seizure of arms and dangerous weapons

73. The Court may through separate order or through interim protection order or protection order require the Royal Bhutan Police to seize any arm or dangerous weapon in the possession or under the control of a defendant/victim, if the Court is satisfied that:

(1) The defendant/victim has threatened or expressed the intention to kill or injure himself or herself or any person in a domestic relationship, whether by means of such arm or dangerous weapon: or

(2) Considering the condition of the defendant/victim, the possession of such arm or dangerous weapon is not in the best interest of the defendant/victim or any other person in a domestic relationship.

163. This provision does not really protect or prevent a person from hurting someone or self. Even a kitchen knife can become a dangerous weapon in the hands of a determined individual. However, it's one of the provisions in the law which can be useful if ever such a situation does arise. It can also be highly relevant if the victim/defendant has access to a gun. So far there has not been a case reported to the Family and Child Bench for such an order to be invoked/issued.

74. Any arm or dangerous weapon seized under section 73 of this Act shall:

- (1) Be given a distinctive identification mark and retained in police custody for such period of time as the Court may determine; and**
- (2) Be returned to the defendant or if the defendant is not the owner of the dangerous weapon to the owner thereof, by order of the Court and on such conditions as the Court may determine.**

164. This is being complied with as it is consistent with the relevant provisions of CCPC.

Chapter VIII Offence and Penalty

Offence

75. Any person who commits domestic violence within the meaning of sections 4(1) and (2) of this Act shall be liable for offence as per the Penal Code of Bhutan.

165. DVPA Section 4(1) refers to physical violence and section for 4(2) refers to sexual violence. Physical violence as per the Penal Code will be an assault or battery according to the nature and circumstances of the injury. An assault is graded as violation while a battery is graded as petty misdemeanor. Sexual violence, depending on the nature and the relationship of the victim to the perpetrator can be graded from anything from a petty misdemeanor to 4th degree felony

166. The essence of this provision is that since these violations are criminal by definition, they have to go through the due legal process of reporting, investigation, state prosecutions, court hearings, determination of the guilt of the perpetrator beyond reasonable doubt and sentencing of the guilty party and compensations to the victims.

167. This of course directly contradicts DVPA section 22 which states that if the offence is a misdemeanor and below, and the defendant is not a recidivist, police personnel may release the defendant on surety if detained or may allow the matter to be settled mutually if the victim so desires and fulfills certain conditions that are further specified by the Act.

76. Any person who commits domestic violence within the meaning of section 4 (3) and (4) of this Act shall be liable for offence of:

(1) Petty misdemeanour; or

(2) Misdemeanour, if aggravated circumstance is present.

168. This section refers to the economic and emotional violence. Because of the difficulty of securing evidences for such cases beyond reasonable doubt, hardly any cases are prosecuted on these grounds alone. But most cases that involve economic and emotional violence also involve physical violence.

77. A person who violates section 17 and 18 of this Act shall be liable for penalty under the Penal Code of Bhutan.

169. This section refers to provisions that protect the identity of the complainant of domestic violence which is to be only revealed to Court and prosecuting agency if required.

78. A defendant shall be liable to the next higher degree of punishment if he or she was earlier convicted, or convicted again on the same or similar offence.

170. It is considered as one of the aggravating circumstances, in which case the next higher degree of punishment is given.

79. Any person who fails to comply with the terms and conditions of an interim protection order or protection order shall be liable for an offence of contempt of Court.

171. This is complied with. This section is similar to that of the Penal Code provisions, which provides the court with more extensive powers related to such eventualities. This section can also help implement the interim protection and protection order.

Reporting of false information

80. Any person who knowingly gives or causes to be given any false or misleading information relating to the commission of domestic violence by a person with malicious intent shall be guilty of an offence of petty misdemeanour.

172. This provision is in line with the the Penal Code (426), but it is rarely used. This is because there are no reported incidences of false reporting made. The participants of the assessment revealed this provision as a deterrence for people who come forward to report case of domestic violence as witness.

81. The Court shall consider the mitigating and aggravating circumstances provided in this Act when the defendant is sentenced.

173. This is being complied with.

Mitigating circumstances

82. The mitigating circumstances for sentencing under this Act may include:

- (1) Absence of prior record of domestic violence of the defendant;**
- (2) Commission of domestic violence under duress or under the instigation of another person by the defendant; or**
- (3) Any other circumstance the Court may deem appropriate.**

174. These are complied with. The police also use the mitigating circumstance under the penal code (23) depending on the case.

Aggravating circumstances

83. The aggravating circumstances for sentencing under this Act shall include:

- (1) Commission of crime by the defendant who has previously been convicted of a crime that was punishable by imprisonment/thrimthue or crime of the same or similar nature;**
- (2) Posing a grave risk of death or serious bodily injury to the victim;**
- (3) Causing bodily injury to victim with a weapon; or**
- (4) Commission of domestic violence as a result of intoxication.**

These are complied with. The Penal Code (24) has a much more extensive list of circumstances which are also considered depending on the case. There are only few cases that where such circumstances are considered by the OAG and RBP.

Compensation

84. The Court may order a defendant who is sentenced for an offence of domestic violence under this Act to pay appropriate compensation or damages in addition to the sentence.

175. This is being complied with.

85. If the Court determines that compensatory damages are appropriate, then a defendant convicted of an offence shall pay appropriate compensatory damages at the rate of the minimum wage at the time of an offence for:

- (1) Ten years to the surviving spouse or next of kin of the victim and the cost for forty–nine days for seven people towards the expense incurred in the funeral rites of the deceased victim, when the crime has resulted in the death of the victim;**
- (2) Ten years if the crime causes permanent total disability to the victim;**
- (3) Seven years, if the crime causes permanent partial disability to the victim;**
- (4) Five years, if the crime causes temporary total disability to the victim; or**
- (5) The daily wage lost of victim when the crime has resulted in temporary loss of wages.**

176. These are the provisions from the Penal Code (39) and is being complied with.

86. In addition to compensation or damages, the Court may order the defendant to pay expenses of the victim’s medical treatment or other ancillary and incidental expenses incurred on account of the offence committed by the defendant.

177. This is also from the Penal Code (42) and is being complied with.

Offences not provided under this Act

87. Any offence not specified under this Act relating to the offence of domestic violence shall be governed by other relevant laws of Bhutan.

178. This would be the case even without this section.

Immunity from liability

88. No legal proceeding shall lie against the protection officer and service providers for any damage caused or likely to be caused for any act done or discharge of duties in good faith under this Act.

179. There has been no case so far against the Protection Officer and service providers, despite there being many threats to harm and take these officials to court. However, the assessment found that there is a need for more clarity on whether the CBSS volunteers will be protected by this section.

Chapter IX Miscellaneous

Rulemaking power

89. *The Competent Authority may frame rules and regulations for the effective implementation of this Act.*

180. In accordance with the power vested by this Act, NCWC has framed a set of regulation for effective implementation of the Act in 2015. (Refer to 3rd Part of this Report for observations and recommendations on this)

Amendment

90. *The amendment of this Act by way of addition, variation, or repeal shall be affected by a simple majority of the respective Houses or vote of not less than two-thirds of the total members of the Parliament present and voting on the motion submitted by one third of the members of either House.*

181. There have been no amendments proposed yet for any part of this Act. The proposal for amendment can come from any agency involved in implementing aspect of this Act, and the process will need to be coordinated by NCWC along with the relevant committee in the Parliament.

Authoritative text

91. *The Dzongkha text shall be the authoritative text, if there exists any difference in meaning between the Dzongkha and the English text.*

182. This is being complied with.

PART II CONCLUDING OBSERVATIONS

183. The Act provides for general principles, institutional development, systems and processes to address domestic violence in all its varied manifestations. Most of the provisions related to institutional development and systems are in varying stages of development. All the procedural aspects defined by the Act have a high degree of compliance.
184. In terms of overall policy and strategy, there are two broad paths allowed by the Act. One is through the mediation recourse. Some have labelled this as decriminalization of violence. The other is through the prosecution in a court of law. It treats men and women on equal terms. It treats violence of any kind as a crime. But its implementation is inadvertently in favour of the mediation route which leads to the preservation of the marriage and family. This is because people who are in the frontline, faced with choices of a victim's traumatic experience, want to help in the way they know and can work. Therefore, the choice of a solution is dependent not only on the severity of the violence but also on the dispositions of the law enforcement and service providers as well as the expressed wishes of the victim. Because of lack of social benefit schemes, there is often no recourse other than continuation of a relationship, even when that relationship may be abusive. Of the cases that are reported, only about 10% make it to prosecution which comprise mostly physical violence. The rest are either dropped by the victims themselves or resolved through a mediated settlement. However, the SOP on GBV Prevention and Response does not recommend mediation for GBV cases which is in contradiction to the section 22 of the Act.

Achievements

185. The Act provided legal basis/requirement for the range of services that were already being provided by service agencies such as RENEW including shelters, livelihood skills training, counselling, legal aid and medical aid for the survivors. While the enactment of Act did not contribute much to the establishment new services for the victims, it served as a regulatory framework to ensure quality control of these services through accreditation of the service providers and certifications of the personnel. Some of the other significant achievements are as follows:

Strengthening access to online services 24X7

186. A victim or anyone witnessing domestic violence can call NCWC's woman and child help line 1098 or the Police's 113 for help. The 100% mobile coverage combined with the toll-free numbers guarantees universal access to these helplines, 24/7. The response time is almost immediate in terms of online advice. However, the duration of in-person services dependent on the location of the households and victims. The immediate need is usually to protect the victim from further violence and harm, which can be provided by the law enforcement officers. Their reach is quite extensive but is also dependent on the accessibility and distance of the households from the roadside. For cases that are difficult to reach, the police direct the victim to take shelter with CBSS volunteers in the neighborhood and local government officials till they are able to get there. For non-emergency situations, NCWC, RENEW and other service providers are also available on call, but only during office hours. Besides, people can also walk into a police station, report the incident to Protection Officer, CBSS volunteer or local gup/ mangmi or tshogpa.

Establishment of team of responders

187. The calls received through the woman and child helpline and other helplines get directed to either the law enforcement officers, a counsellor or a legal person depending on the issue. Each of the officials have a defined professional role to play and a corresponding legal mandate to fulfill, which is outlined under the SOP for WIDC, CIDC and GBV. The case managers within the individual agencies record the facts of the case and determine the best course of action based on their professional training and within the provisions of the DVPA, and other pertinent national laws. The victims play a crucial and powerful role in these processes. Depending on the case, the help will involve counselling, legal advice, settlement of the case through a mediated process or through a court of law. For physical and sexual violence, medical help and injury report are necessary part of the services. In addition, a Helpline Response Team has been established at the local level to respond to cases requiring immediate and urgent support. It is coordinated by the protection officers and comprise of representative from the RBP, Health, Education and a community. However, the team has not be operational and there are challenges for protection officers in dzongkhags to work 24/7 given their primary role as the dzongkhag/thromde legal officer.

Establishment/improvement of specialized services

188. A number of specialized services are established/ strengthened in the recent years. The rehabilitation services for alcohol and drug abuses have been established in recent years and are operated by both government (Ministry of Health) and CSOs. In addition, RENEW manages a shelter house to provide emergency shelter as well as longer term accommodation and recovery services for the victims. It also provides basic livelihood skills for the victims, both in the RENEW secretariat and as part of the services in its shelter facilities. Nazhoen Lamtoen also provides shelters for child victims of domestic violence. The One Stop Crisis Centre has been strengthened to provide effective services to the victims. Likewise, additional WCPU and Desk have been established to cater to victims of domestic violence requiring protection and police services.

Institutional development within the key stakeholders

189. The Act has stimulated significant reforms in the two key law enforcement agencies- the Police and the Courts of Justice. Within RBP, the Act provided legal basis for the establishment of additional WCPU and Desks in selected police stations across the country. Apart from improved facilities to respond to the special needs of women and children, these units and desks are staffed with women officers and personnel who are trained to deal with domestic violence and child protection cases. RBP has made visible progress in integrating the spirit and intent of DVPA and CCPA in their functions. Towards this, it has developed 3 manuals for managing cases on women and children based on DVPA and CCPA and best international practices. These Acts and manuals are now part of the curriculum for pre-service training for officers and the police personnel. The Police also works closely with relevant agencies to conduct women and child protection awareness programs for the general public as well as specific target groups, including their own personnel and their families. It is also making efforts to improve the quality of information related to domestic violence which would be used to improve the strategies and programs to address domestic violence in the country. Towards this the Police continues to be an important stakeholder and member of various task forces/ committees constituted by NCWC to help with such tasks. Further, Khesar Gyelpo University of Medical Sciences have commenced training of clinical counsellors and National College of Education in Samtse offers graduate courses in Social Work respectively. These will enhance the quality of services for victims in the long run.

190. The RJC provides the ultimate recourse for the victims of domestic violence through its proceedings. Going by the available statistics a high percentage of domestic violence cases registered with the courts are able to secure successful conviction¹³. While this is partly due to the quality of documentation and supporting evidence provided by the Police, it is also reflective of the gravity with which the Courts view domestic violence. An important reform that has been initiated under the CCPA and has benefitted domestic violence case court proceedings is the establishment of a Family and Child Bench under Thimphu Dzongkhag Court. With a compact team of a judge and a registrar (both females) and supported by 5 clerks, this bench is providing pioneering work in making the justice system in their courts more accessible and friendlier to children and families. Starting with child friendly facilities and adopting a friendlier demeanor towards the members of the litigants, the judge seeks to balance the strict protocols and culture of the courts with what she believes will make the experience less intimidating for all.
191. Health services plays a critical role in terms of treating the injury and providing evidence to the court of law. In fact, the relatively high rate of prosecution for physical violence compared to other types of domestic violence is largely due to the injury reports and medical certificates issued by the One stop Crisis centre in Thimphu and by medical officers of dzongkhag/regional hospitals in the other dzongkhags. With some additional investments for training and physical infrastructure, these health centers have now become integral part of the national framework for combatting domestic violence.

Towards a coordinated Response System

192. Streamlining the responsibilities of each of the stakeholders to affect an efficient, seamless justice system is massive challenge. One of the significant inputs into affecting this is the Standard Operation Procedures for WIDC and CIDC, and GBV Prevention and Response.
193. The process of drafting the SOPs as well as its dissemination amongst the stakeholders were highly collaborative and has helped reduce issues relating to duplications and gaps experienced by the officials on the ground. While the Act provides the overall mandate for the agencies, SOPs details out an agencies' role in a situation, within a schematic map detailing the roles of all relevant actors. These are frameworks which guide the current operations but are also being used as basis for continual improvement for role clarification and coordination.

¹³ For Thimphu Family and Child Bench the conviction rate is over 90%.

194. There have been other attempts, of lesser impact but nonetheless important for improving the processes. Designating the Legal Officers of the dzongkhags and thromdes assume the responsibility of Protection Officers along with the institution of DWCC and TWCC, while not fully fulfilling the objectives of the Act, have nonetheless helped create a foothold in these administration for furthering the scope of developing effective response system for domestic violence in the local communities.

Human Resource Development

Counsellors

195. One of the services now widely associated with DVPA is that of counselling. The MoE has trained and appointed a batch of counsellors to address emerging youth issues as well as career counselling in the early 2000s. Over the years, the need for this service has been picked up by the social workers. RENEW has been the forerunner in responding to this and encouraging the development of a professional cadre of counsellors in the country. This led to the establishment of Bhutan Board for Certified Counselors (BBCC) to enable the professionalizing of the counseling profession in Bhutan with support from National Board for Certified Counselors, Inc. and Affiliates (NBCC) USA. The Royal University of Bhutan has also introduced counselling as an undergraduate program in one of its affiliate colleges. These initiatives provide the necessary structures and system to help respond to the dire needs for psychologists, counseling professionals (both in the schools and communities), mental health workers, and other frontline helpers to mitigate societal issues, including those related to domestic violence. While there are many agencies providing counseling services, the NCWC and RENEW only provides GBV counseling services.

Mediators

196. The concept of Nangkha Nangdrik (settlement within) has been an integral part of dispute resolution within and amongst households in the communities. Such mediation were conducted by local elected leaders or by a senior citizen who enjoyed respect of the community members. With the introduction of new laws and evolving socio-political systems some of these traditional roles have been made redundant, although, it continues to remain an important part of the legal system. For instance, the Civil and Criminal Procedure Code requires courts of laws to provide space for mediation for every step in the proceedings related to civil cases. While mediation is no longer allowed for criminal offences, DVPA provides an exception for domestic violence cases and provides discretion to the RBP to allow mediation or release the defendants on surety under upon fulfilling

certain conditions. As such, many actors provide mediation services besides the community leaders as part of their response to domestic violence. These include counsellors, legal advisors and RENEW's CBSS volunteers. Recognizing the continued relevance of mediation within the modern laws, both Bhutan National Legal Institute (BNLI) and Jigme Singye Wangchuck School of Law (JSWSL) have come on board to design and conduct trainings for these groups. These have helped in establishing some standards and uniformity. However, they lack capacity in providing mediation services for domestic violence cases and there is limited awareness on the principles and procedures for mediation outlined in the GBV SOP.

Legal Service

197. In addition to the legal services provided by the NCWC and RENEW, there is a growing body of private legal service providers, who help negotiate through the systems and, and provide specific services from drafting petition to representing the victims and the perpetrators in a court of law. Some of them also provide pro-bono services as part of their corporate social responsibilities. The growing number of legal professionals including private practitioners engaging in providing services to the victims of domestic violence are valuable assets in helping implement the provisions of domestic violence.

Strengthening role of media

198. Towards responsible media and ethics of reporting on domestic violence cases, NCWC has formulated Media Guidelines for Reporting on Children and Women. Furthermore, a workshop for the journalists was also organized by the NCWC on the subject in 2016. A cursory glance at the reporting of domestic violence cases, indicate that the media has generally followed these guidelines, protecting the identity of the perpetrators and the victims while reporting, and not overtly sensationalizing the stories.

Quality of Services

199. Bhutan's response to domestic violence is still very much in its early stage of development. There are no established norms and standards that the public or the institutions apply to rate a particular service related to domestic violence. It's left up to individuals to provide what they can, based on their education and training and their belief systems. The accreditation process will address basic standards that every service provider has to fulfill including the qualifications of its personnel providing these services. Likewise, while the Act requires the key

officials such as the Protection Officers and the Social Welfare Officers to have certain minimum qualifications in related field, these can only be implemented when these positions are approved.

200. It's also important to recognize quality of domestic violence-related service has to be seen as a function or subset of the overall system in which it operates. Bhutan enjoys a relatively good governance structure, has a functional health system, and a vibrant and progressive police force that is largely trusted. It has a judiciary system that is well respected, and sometimes feared. Therefore, within these overall institutional framework, certain level of quality assurance is expected. Of course, this works both ways. The weakness of the system such as weak enforcement, coordination, lack of information system associated with the overall framework in which the public sector operates is also true of the eco-system implementing DVPA.

Enhanced National consciousness and Domestic Violence

201. For the first time, the 2015 GNH Survey included questions on domestic violence. Since the 10th Five Year plan, the chapter on Women has a feature devoted to domestic violence and since then, its redressal continues to be an important objective of the 12th FYP. The studies on VAW and VAC have brought greater clarity on the type and extent of these forms of violence, filling in critical knowledge gap amongst the national policy makers and planners. While the general public response by and large on domestic violence is still largely of acceptance rather than condemnation, there are indications that this is changing. More importantly there is a consensus amongst the mid-level and senior leadership within the bureaucracy and the political circles that domestic violence is debilitating not only to the victims but at odds with GNH.

Drawing on dedication to the cause

202. With the emergence of domestic violence from the shadows of cultural and social constructs, are also coming into form a group of professionals who have found a renewed sense of professional satisfaction by helping the domestic violence victims. Those responding to the call of the victims are faced with raw emotions, hurt and sense of great vulnerability. These draws the workers towards the victim at a level of empathy that is probably unmatched in any other vocation. Such phenomenon are palpable whether it be amongst the law enforcement officials, court of law or service providers. These are difficult to be measured or accounted for, but these are nevertheless important resources the system and good managers of domestic violence programs can draw on.

Overall Impact of DVPA

203. In the final analysis, the real question is how much impact has this made to individual lives, and to the reduction of domestic violence in general? The Act has provided the victims a greater choice in responding to violence. It has streamlined the reporting procedures and given a choice of first responders, including the law enforcement officials and social workers. Although the case is designated as a crime, it still gives a lot of room and options for the victims from a menu of possible actions permissible under the law, starting from withdrawal, within certain boundaries to prosecution in a court of law. This fact alone, is some measure a recourse for the victims.
204. The impact in terms of discouraging and abating the domestic violence is hard to ascertain, as the statistics are only beginning to be collected, and there are no time series data to rely on. According to law enforcement officials and the social workers, more cases are being reported. However, this does not necessarily mean a rise, but have to do with more people becoming aware of the law and their rights, and more people trusting the system to support them. Therefore, while the impact is hard to ascertain, the development appears to be in the right direction.

Gaps in the System

Competent Authority

205. While the Act is quite clear and even detailed on the requirement of the institutions such as the service providers, it is silent with respect to the CA's needs. Over the years, NCWC has invested quite heavily in enhancing its staff strength, doubling its numbers from 14 in 2012 to 30 in 2018¹⁴. However, this apparently has not been commensurate with the work load bestowed on the Commission, including the tasks associated to being a competent authority for DVPA, CCPA and Child Adoption Act. In addition, there has been frequent turnover of professionals in and out of the Agency, impacting the professionalization of the services therein. The authority provided by a legal mandate can only go so far and the real authority must arise from an authoritative knowledge of the relevant subjects which comes with institutional memory and experiences. Without this it's hard to exercise influence over other agencies providing services to the victims. This approximates where the CA's position is today.

¹⁴ Civil Service Statistics, 2012, 2018.

Protection Officer not appointed as envisaged by the CA

206. Protection Officers play a pivotal role in implementing the Act. They are the bridge between the CA and the community. They are the case managers and manage cases related to domestic violence and facilitate access to various support services. They also ensure protection of victims from risk of revictimization and further harm by supporting them to apply for Interim Protection and Protection Orders. While appointment of protection officers as per the Act will ensure that protection measures are put in place to mitigate the risk of domestic violence, the provision has been not implemented fully. The appointment of 3 Protection Officers in NCWC and designating the dzongkhag and thromde Legal Officers as protection officers with an added mandate to fill in this role is far from adequate.

Delays and slow pace of development

207. The implementation has been slow due to staff constrains. The various SOPs and guidelines are only at the initial stages of implementation although the Act has been in place for the last 7 years. Likewise, the accreditation process for the service providers has just began. It was also observed that all the important guidelines and SOPs has been developed through recruitment of consultants. While this is pragmatic and a necessary approach, the employees lose out on very important element of institutional learning and institutional building that such tasks would have provided.

Very low reporting

208. Domestic violence does not always happen behind closed doors. It is perpetrated in front of other family members and sometimes presence of the neighbors. All citizens and institutions have a duty to report this¹⁵. But according to the records of the Police and the social workers, very few exercises this civic duty. Most of the reports that come to the Police and the service providers are made by the victims themselves, that too by just a small fraction.

209. According to study on prevalence of VAW/G, 2017 5.1% of the women, aged 15-64 experienced physical violence from their intimate partners in the last 12 months which is estimated a total of 11,800 cases¹⁶. For the same year, RENEW received 98 cases involving physical violence against women, while the Police received 319 cases of intimate partner physical violence. Most of the cases reported to

¹⁵ Section 430 of the Penal Code of Bhutan requires witnesses of a crime to report to the lawful authority and section 431 grades the failure to report a crime a violation.

¹⁶ Using the 2017 age wise population published by NSB, Table A2.11 Population by Singulate Age, Sex and Area, Bhutan 2017.

RENEW are emotional and economic violence while the cases reported to police are mostly physical violence. The number of cases reported to RENEW has remained steady at around 350-400 annually for the last 5 years. This indicates that the reporting rate is minimal and the system is addressing only the tip of the iceberg.

210. Some of the higher level and specialized services associated with addressing domestic violence is Thimphu-centric. Three of the key services for domestic violence located in Thimphu are the shelter and livelihood skills development programs for the victims, the Family and Child bench of the RJC and the one-stop crisis centre that provide medical forensic and toxicology services. While the populations in other parts of the country are in no way excluded from benefitting from these services¹⁷, the distance makes the accessibility to these particular services difficult. However, the reach of the other elements of domestic violence services are quite evenly spread as reflected by the records of services provided by RENEW, CBSS volunteers and the protection officers.

High Donor Dependency

211. Most of the development activities including those crucial to the implementation of the Act have been financed from the development partners. While this indicates the partnership between NCWC and the development partners and the NCWC's ability to secure financing from the development partners, this can however offset ownership of the programs by the government. It will also affect the ability of the program to sustain itself in the future within the context of an evolving and uncertain environment of development assistance.

Main Capital Activities from 2014-2019

Activities	Financier	Year
<i>Advocacy and sensitization programs</i>		
Sensitization Program of DVPA and Regulations for 8 dzongkhags and 8 selected communities	UNDP	2015
Sensitization of School Guidance Counselors on "SOP on Referral and Management of Cases related to CIDC and WIDC"		2015
1 day orientation program for each of the 20 DWCC and 4 TWCC.	SCF	2018-19

¹⁷ Apart from the Family and Child Bench which entertains cases as per its defined geographical jurisdiction, the other services are set up to cater to cases from all over the country.

2 day workshop on standardization of Case Management Forms for Protection Officers and other stakeholders	ADB	2019
2 day workshop on operation of CMIS for Protection Officers and stakeholders	SCF	2019
4 Day Workshop for NCWC staff and stakeholders to sensitize about draft SOP for GV	UNDP	2019
<i>Development of Management Tools and rules</i>		
Drafting of DVPA Rules and Regulations	UNFPA	2015
SOP for Case Management of CIDC and WIDC	UNDP/ UNICEF	2016
Media Guidelines for Reporting on Women and Children	UNDP	2016
Guidelines for Operation of Shelter Homes	UNCIEF	2016
Guidelines for the Accreditation of Services	RGoB	2017
SOP for Management of GBV	UNDP/ UNICEF	2019
<i>Research and Studies</i>		
Violence Against Children	UNICEF	2015- 2018
National Survey on Women's Health and Life Experiences 2017- A Study on Violence against Women in Bhutan	UNDP	2017
Accounting for Unpaid Work	ADB	2019

(The table indicates that most of the core developmental tasks are being supported by UN organizations and Save the Children Fund (SCF), and there is very little financial support from the government).

Lack of awareness of the DVPA amongst some of the key officials in the government

212. Of all the stakeholders identified in the Act, the dzongdags are the most important, not in actual delivery of the services but in helping take the program to the communities. The dzongdags play a crucial role in bridging the central government initiative with that of local government imperatives. As such they are seen as ambassadors for most of the initiatives undertaken by the central government. This is also true of DVPA. But despite the numerous advocacy and sensitization programs, there is a lack of a common understanding about the provisions of the act amongst these key officials. While all are supportive of the general intent and objectives of the DVPA, there is varying understandings on the principles and the specific provisions, further confounding the effort of NCWC to

get everyone to take a united front in addressing these issues. In particular there appears to be much confusion with respect to the role expected from local elected representatives and CBSS as well as their own officers, the newly designated Protection Officers. There are also divergent views on the scope of mediation and its processes among the stakeholders involved.

213. This combined with a lack of adequate directions from NCWC has resulted in a vacuum at the community level for responding to domestic violence. None of the systems envisaged or alluded to by the Act has been created at the community level. Instead a dzongkhag and thromde welfare committee for women and children have been created based on the provisions of the CCPA. However, the effectiveness of this body is dependent on the leadership provided by the chairperson, which is the thrompon/executive secretary and dzongdags. This further reinforces the need for these officials to have clarity of vision and a deeper understanding of domestic violence rather than a basic knowledge of the provisions of the Act.

Limited access to services

214. While there are considerable progress made in strengthening the services for victims of domestic violence, there is still a huge gap in the services particularly at the local government level. There are very few agencies providing specialized services GBV and these service providers also have limited capacity and specialization.
215. The rehabilitation and services managed by both the government and CSOs has lengthy process limiting the access to service seekers who require immediate services. Furthermore, the mental health and psychiatric services have limited capacity leaving most of those who require such services being discharged immediately after one consultation.

PART III- ISSUES AND RECOMMENDATIONS

There are a number of issues that affect the programs related to domestic violence in the country. Some have persisted over the years, while others have emerged in recent years. These can broadly fall under two categories (i) Policies and (ii) Systems.

Policies

Review the provision on mediation

216. One of the most important provisions and exceptions made in the DVPA viz. a viz. the CCPC is the discretion provided by the DVPA to allow mediation by the RBP. Case workers and law enforcement officers find this the most pragmatic given the cultural and socio-economic context under which the law operates. But this provision has created certain contradictions, which needs to be addressed.
217. Mediation is of course not a new thing. In the past, the local leaders played a big role in it an continue to do for civil cases. According to Section 150 of CCPC “At any stage of the proceedings, it shall be open to the parties to take the help of a Chimi, Gup, Chipon, Mangmi or Barmi as mediators for mutual settlement of a civil case in accordance with the requirements of this Code.” This has been further confirmed by the Local Government Act.
218. However, mediation is not permitted in domestic violence cases which is a criminal offence. Section 46 of the Alternative Dispute Resolution states that negotiated settlement shall not be permitted for “Disputes relating to rights and liabilities which give rise to or arise out of criminal offences and matrimonial disputes relating to divorce, judicial separation, restitution of conjugal rights, child custody.” Furthermore, the CCPC 161.2 states that if a complaint is lodged with a public authority other than the police, such public authority, upon receipt of the criminal complaint, shall submit it to the police expediently and without delay. The Alternative Dispute Resolution Act and the CCPC not only makes it illegal for local leaders but for all others to mediate domestic violence cases. The DVPA makes exceptions only to the Police and therefore they can only allow the cases to be mutually settled upon fulfilling certain conditions.
219. One of the principal stakeholders, RENEW in partnership with RBP has initiated the concept of consensus building through a Memoranda of Understanding which details the relationship and referral pathways, and redefining their role as “Consensus Building” between the parties. The process allows CBSS volunteers help domestic violence victims maneuver a dispute resolution process run by someone else.

220. The local government officials are not permitted by law to provide such services as the CBSS volunteers although as elected officials they should have a greater legal standing and role on matters that affect the wellbeing of their constituents. One of the powers of local government as provided for by the Local Government Act is to “provide protection for women, children and the physically challenged and eliminate physical, mental and emotional abuse and violence against women and children”. There are issues relating to the local government officials not being allowed to offer mediation services while the CBSS volunteers some of who may possess even lesser experience and professional competencies than these officials to play a defining role in its resolution. This call for a relook at this provision and the initiatives on census building implemented jointly by the RBP and CBSS volunteers.
221. The expectations amongst the general population and indeed some of the senior administrators of the dzongkhags is that the gup and the other officials in the gewog have the authority to mediate domestic violence cases. This notion has further been solidified by the fact that these officials have been trained in ADR recently. All these need to be sorted out by the CA which is mandated to ensure the smooth implementation of the Act. The focus of this is to get clarity on the responsibilities and build professionalism in this important aspect of the task.
222. Mediation of GBV cases including domestic violence is not recommended by the SOP on GBV Prevention and Response given the high risk of further harm of violence. Furthermore, mediation process generally involves setting conditions which often lead to justification of violence. The SOP also outlines standard processes and principle for mediating which in itself requires a specialized skill. As such, it is not recommended to be provided by the case managers (protection officers and CBSS volunteers) but by a separate specialized service provider who have adequate knowledge on mediation as well as the principle and approaches to GBV service provision. The SOP also requires the providers of mediation services to be neutral and free of stereotypical social and cultural perception on gender. As such, the section 22 of the Act needs to be reviewed considering the principles of responding to GBV cases.

Establish Balance between Confidentiality and Information

223. There are multiple provisions that seek to keep the case confidential as required by sections 17, 18 and 46. Further under the Regulations of DVPA, the Protection Officer, the Police, the Social Welfare Officer, the Shelter Services, the Counsellors and Court of Law are all required to maintain confidentiality of the cases. Indeed, the accreditation of the service provider can be revoked if there is a breach in this provision alone.

224. While the intent is clear and undisputed, the practice being promoted for managing the cases is counter to this. First, depending on the nature of the case, there are multiple people and agencies that need to be taken on board to process the case. In addition, there are numerous agencies which need to be informed of the case. For instance, if a case gets reported to RENEW as most cases are, the RENEW front desk will ask a few basic questions and forward the case to one of its Counselors. The Counselor upon receiving the report will need to inform the Protection Officer and if it's a serious offence the Police as well. The Protection Officer within 24 hours will need to inform the D/TWCC which is chaired by the dzongdag. The following are the other members of the committee.

1. Kidu Officer;
2. Representative from Women and Child Protection Unit/Desk, Royal Bhutan Police;
3. Representative from Dzongkhag Hospital (Psychiatric Department);
4. Representative from Ministry of Education (Counselling Division);
5. Representative from Community; and
6. Representative from NCWC (Protection Officer - Member Secretary).

225. The Chairperson of the D/TWCC in turn has to report the case to the NCWC. Therefore, the current process of case management particularly at the local level involves multiples agencies and individuals which is in contradiction with the confidentiality principles. However, some Protection Officers are not implementing this aspect of the SOP. This apparent tension between the need for confidentiality and the need to be informed require some balancing act. From the numerous leaked stories including intimate details and identity of the victims and the perpetrators of cases, it is clear where the balance is currently tilted. This requires a greater review of the protocols associated with the reporting processes within and between these agencies as well as the SOP and the provisions of the Act itself.

226. The SOP on GBV Prevention and Response requires all the actors involved to share only that information necessary for the provision of a specific services and engage minimum actors in the case management. The SOP recommends the protection officers at local level to involve only those members of D/TWCC who are directly related to provision of services. Furthermore, it does not recommend case conferencing and discussion within the committee unless absolutely necessary and in case of child survivor. This contradicts with the terms of reference of the committees and existing case management and referral protocols. Therefore, the these needs to be aligned with the GBV SOP and principles of GBV case management.

Strengthen the role of CA

227. The role of the CA is for providing direction, coordination and monitoring, and not for providing services or even managing cases. But over the years, because of the prevailing gaps in the required services, it has resorted to also providing services. The first shelter was actually established by NCWC before RENEW came up with its services. Similarly, NCWC continues to provide counselling and legal services to its clients. It also operates a helpline 1098. All such services should be handed accredited service provider or a government implementing agency, and the CA needs to carry out its oversight and coordinating responsibilities.

Strengthen the Role of Communities

228. The role of communities as moral censors and propriety is well recognized. But since domestic violence is a criminal offence, all domestic violence cases are expected to be reported to the police. Despite the law being clear, there are those who continue to seek the recourse of the community leaders towards a mediated settlement. Second, on the longer term the communities are responsible for the moral standards, not an external law enforcement agency and its hosts of stakeholders. Towards this, NCWC has to engage the local leaders and communities brought on board as one of its key stakeholders

229. As observed in an earlier section, the DVPA does provide the community responsibilities for instituting measures to provide support to victims including shelter services, livelihood and other programs. None of these have been implemented. These services need to be established as part of a broader framework for the communities to provide services to survivors. Community lhakhangs and other community resources including the representatives of Dratshang Lhentshog could be roped in so as to enable the age-old institutions to continue serving the evolving needs of the communities. Besides the communities, NCWC should be also encouraging the local CSOs to augment the work of the communities and the other service providers.

230. A GBV pilot project- the Gakey Lamtoen, which focuses on primary prevention, is being implemented by the NCWC and UNDP. The project engages adolescents and caregivers in Babesa community to address the root causes of problematic social norms that lead to Violence Against Women and Children (VAWC). Similar projects that engages the community in addressing GBV must be replicated in other parts of the country.

Strengthen support and services for the perpetrators

231. Studies on VAW indicate that violence many caused by harmful cultural practices and norms, unequal gender power relation and controlling behavior. Further, factors alcoholism, poverty and extramarital affairs increases the risk of violence. Therefore, it is important for the interventions addressing domestic violence to include specific programmes targeting perpetrators and, men and boys. The interventions should include programmes to change their behavior and perception about the gender roles, values and the benefits of reframing from engaging in violent act within the family.
232. The Act provides very little attention to the needs of the perpetrators. Apart from counselling and rehabilitation that can be directed by the court, there are no programs mandated or suggested for the perpetrators. Instead more attention is given on ensuring probation of effective services to the victims and holding perpetrator accountable through strengthening the justice system. However, behavioral change of the perpetrators is found to be an essential element for preventing domestic violence and improving the wellbeing of victims. Therefore, the Act and/or its rules and regulations warrant a review to ensure more prevention intervention and a focus on perpetrator’s behavioral change.
233. To eliminate domestic violence, the strategy has to go beyond the punishments and severance of relationship between the victims and perpetrators. It has to provide opportunities and programs where the perpetrators can reform and change their attitudes and behavior (controlling behavior and unequal gender power).

Give more Attention for offences not reported

234. The DVPA is focused on responding to offences of domestic violence that are reported to various institutions and strives to provide effective services to the victims. However, many cases go unreported and given little attention by the Act. For instance, as per VAW study, only 14.6 percent of women and girls who experienced intimate partner violence reported to the agencies (RBP, Local Leaders, RENEW and NCWC). The only program targeted towards primary prevention of GBV is the Bhutan Pilot-Gaked Lamtoen: Addressing Violence against Women and Children implemented by NCWC and UNDP in Babesa community. NCWC need to look more closely at some of the communities that are known to have high incidences of domestic violence and try out different ways to address them. It could implement programs that have been successful in other countries, with necessary adaption to the unique cultural or social contexts. Models that work could be then replicated across other communities with similar characteristics.

Encourage reporting of Domestic Violence

235. Most of the domestic violence cases that come to the police or the social workers are reported by the victims themselves. NCWC need to examine why other people including family members and neighbors fail to report these crimes. Such an effort must necessarily examine the onus put on the one that is reporting, and see whether the system is facilitative or discouraging. If it is the latter, this is one area where a system reform is required.
236. There are other causes attributed to the low reporting rate such as further risk of violence from the perpetrator, fear of the court processes, shame and guilt, and fear of losing one's source of livelihood. Each of these need to be ascertained, and if affirmed, appropriate strategic measures, reforms introduced to address them.

Establish social benefits for the victims of domestic violence

237. Most victims depend on the perpetrator for their livelihood and because of this, the victims either refrain from reporting or when they do, choose to drop the case quickly as any severance of a relationship can mean deprivation of livelihood for the victim and her loved ones. Therefore, considerations should be made for some social relief for domestic violence victims such as unemployment benefits or other relief measures. This should be a necessary service if the government wants to move more towards criminal prosecution of the cases as provided for by Section 75. The social benefit should also include the effective livelihood programs and reintegrating them back to the society.

Give more focus to domestic violence issues in the gender equality framework and FYP

238. Outside of the framework provided by the Act, domestic violence is recognized in the 12th FYP as one of the gender issues in the country. However, the actions to address the issues are taken within border framework of gender equality and its scope is unfortunately, quite limited. The activities incorporated in the Plan include advocacy programs and getting more women to enroll in literacy programs and enhance their representations in user groups, local committees, farmers groups and cooperatives. None of the targeted interventions to address domestic violence domestic violence has been explicitly captured or addressed by the Plan. While violence against women including domestic violence is included as one of the Plan's Key Performance Indicator as was done for the 11th FYP, the lack of specificity in its definition does have little contribution in informing the agency programmes and activities. The total capital budget allocated for NCWC

for all its programs is Nu 70 million, a fraction of what is being allocated to build a school. As such, it is clear that there is limited focus given on the implementation of the Act. Furthermore, relevant sectors like health and education need to have specific interventions to address domestic violence in their annual and five-year plans which is not the case right now.

Review the DVPA and its Rules and Regulations in line with the GBV SOP

239. The assessment found that certain provisions of the Act and its rules and regulation are contradicting with the principles and roles outlined in the GBV SOP. Therefore, there is a need to review the Act and its rules and regulations in line with the evolving nature of issue as well as the principles and survivor centered approach outlined in the GBV SOP.

ii) Systems

Strengthen Advocacy

240. Advocacy against domestic violence is conducted by every agency implementing the DVPA. However, there is still considerable knowledge gaps about the domestic violence and the provisions of the Act amongst the population (including the communities) as well as the senior public servants. Therefore, there is a need to review the effectiveness of the current approaches and come up with an overall strategy that is clear in terms of its target groups and messages, and one that adopts a holistic but cost-effective approach.

241. There are already valuable lessons from the current experiences which need to be factored into future advocacy programs. It is common knowledge that most public gatherings are attended by either the very young or the very old, who can be spared for the occasions, and not necessarily who can benefit from the programs. This needs to be addressed for all future advocacy programs in the communities. The assessment also found that integrating awareness program into the existing programs implemented by other sectors can be cost effective and have less burden on the communities to attend such programs by different sectors. This reinforces the need for greater networking by NCWC and related agencies across a broad spectrum of agencies within the government.

242. A standalone advocacy campaign on domestic violence is found to have lesser impact in terms of garnering support especially men at the community level than those programs which were integrated into another sector's program. Furthermore, it is also important to carry out these programmes on a regular basis targeting key stakeholders and the local government officials. Recognizing the constant

turnover of these officials as a result of elections, new appointments or transfers, a systematic approach to awareness programmes is required to ensure there is similar understanding on domestic violence and the Act amongst the officials. The advocacy should also target geographical areas where there are more prevalence of violence and population groups which are already known as being vulnerable. This will need the involvement of the local authorities (dzongdag, thrompons, gups and mangmis) as well as heads of business communities, the armed forces and education institutions.

243. Given that domestic violence reflects deep-seated cultural traits, there is a need to work with educators and religious leaders for reforming attitudes and believe systems. NCWC also need to partner with those working on poverty alleviation and alcoholism as these conditions, along with migration are recognized as the aggravating factors.

Improve use of available human resources and skills.

244. A variety of professions including the police, school counsellors, teachers, lawyers and RENEW volunteers (who are either working in different sectors or run their own business) engaged in handling domestic violence cases. While the Act defines the responsibilities for each of the actors, their roles have become somewhat fudged with each agency dipping into each other's field of work and each providing bits of all services including case management counselling and legal. They are also engaged in carrying out preventive measures including awareness and advocacy programs. This does not appear to be the best way of using resources that are already stretched, and therefore should be streamlined. This should be based on the Act and the principle of a complementary system and specialization whereby each agency steps in to fill a professional space associated with it. This requires reviewing the Act, rules and regulations and the SOP on WIDC and CIDC case management as well as workflow within the agencies in line with the SOP on GBV Prevention and Response.

Develop a training plan and a learning system

245. While NCWC is responsible for developing a consolidated capacity development program for all partner stakeholders mandated by the Act (Regulation 15a ii), its activities so far have been confined to sensitization of the Act and providing skills related to procedures and systems, such as the case management forms and CMIS. As such, a training plan is needed to ensure that service providers have the necessary certifications and requisite knowledge to perform their roles. In addition, they need to be fully aware of the DVPA and have some knowledge of the service being provided other stakeholders. This can be illustrated as follows:

Service Providers	Level of competency required for each domain (only for illustrative purpose)			
	DVPA and Penal Code	Investigation and evidence gathering	Counselling	Mediation
Protection Officers	Comprehensive	Basic	Basic	Basic
Police Officers	Comprehensive	Comprehensive	Basic	General Awareness
Counsellors	Comprehensive	General Awareness	Professional Degree / specializatGBV/ family counselling	General Awareness
Legal Officers	Comprehensive	General Awareness	Basic	Basic
Health workers (BHU)	Basic	Basic	Basic	
Health workers (Medical Officers)	Basic	Professional Degree	Basic	
Judges and Registrars	Comprehensive	General Awareness	Basic	Basic
Mediator	Comprehensive	General Awareness	Basic	Comprehensive
Volunteers	Comprehensive	General Awareness	Basic	Basic

246. Therefore, there is a need to determine the current skill sets of personnel providing services to the victims and perpetrators of domestic violence, assess the gaps if any in the core skills as well as other associated skills which will be addressed by the training plan. The trainings on core skills will involve formal or mix mode academic programs leading to certification. Basic knowledge of the subject can be provided in workshop settings. General awareness can be provided through written literature or workshops/ sensitization programs. Efforts should be made to integrate these trainings in the regular program of BNLI, and JSWL for legal matters and RUB and the Bhutan Board of Counselors for counselling.

247. It was found that most of the officials responding to domestic violence issues acquire their skills on the job. However, there are no systems to assess these skills and ensure these are as per the required standards and specialization. Therefore, these needs to be integrated within the management practices through proper documentation, peer review systems and feedbacks.
248. In addition, NCWC should work towards bringing together all the case workers periodically to share their experiences. This should be structured and facilitated by experts to focus on distilling core lessons learnt by the field workers during the year. Apart from the learning that takes place during the event, the material will be invaluable for designing future training programs and policy development. The capacity of case managers and service providers should be provided on a regular basis in line with the capacity requirements outlined in the GBV SOP.

Make access to justice friendlier

249. The Royal Court of Justice has seen a major reform under the command and guidance of His Majesty in the past decade. Through a sustained HRD program, it has upgraded all the positions within Judiciary services with qualified Judges. By investing in and deployment of Information Technology systems, the courts made its system efficient and more secure. Further, the use of data storage and retrieval system has facilitated statistical and quantitative methodology for knowledge creation and retrieval. And yet, the experience of a victim who has to go to court is not always positive. The assessment found that the general notion the public have of our courts is still of a very intimidating experience contributed by layout of the court and its protocols which have are not friendly to the victims. This is seen as one of the factors for very people seeking justice services. Therefore, the NCWC as the competent authority need to work with Court systems to see how these can be made less intimidating and friendlier for the domestic violence victims.

Standardize medical terms

250. One of the several recommendations received from those engaged in implementing the provisions of DVPA was to standardize the terminology for medical certificates of the domestic violence victims. The medical certificate is used as an evidence of the injury sustained by the victim for physical or sexual violence. And sometimes this may be the only evidence that is available. Apart from a description and location of the injury, the Medical Doctor has to provide a grading to the injury as grievous or non-grievous. Depending on this the case can either be settled by the police, charge sheeted as petty misdemeanor or go to OAG for more serious grading of offence. While such grading is crucial, apparently there is no clear understanding

established between the police and medical officers on how the terminologies are used. For example- the medical profession would normally grade a knife wound which has not harmed a vital organ as a non-grievous injury, while the police will look at the extent of the damage of the tissue and say it should be certified as grievous. There has been disputes on this and there are no agreed standards or protocols for grading such injuries even amongst the medical professional. It tends to differ from one medical school to another, and Bhutan's medical doctors come from a rich mix of institutions spread around several countries. Therefore, there is a need to establish a uniform understanding among the medical doctors and health workers incorporated in the SOP on management of cases related to domestic and sexual assault by health workers.

251. The assessment also found that most crime related injuries occur at night and odd hours when there are no medical doctors in the health centres. The injuries are attended by the staff nurses, who are not authorized to issue injury or medical certificates. While in theory, a doctor is always available on call, services are not provided as per the standards and in a victim friendly manner. This appears to be an administrative issue, but nevertheless requiring attention since it affects provision of health services to the victims.

Establish a standard for collection of evidences including medical certificates and injury report

252. The assessment found that the different agencies involved the investigation and collection of evidences have their own protocols which are guided by their organizational policies. Because of the importance of such materials and the increasing vulnerability of them being tampered due to evolving values and possibilities being offered by technologies, there is a need to pay greater attention to ensuring the integrity of such materials during collection, management and sharing. Therefore, NCWC needs to spearhead and develop a more secure protocol/guidelines and system.

Develop and implement a National Strategy and Action Plan to prevent Violence Against Women and Children

253. The CCPA and the DVPA offers comprehensive legislative frameworks that provides legal mandate for all relevant organizations to work collaboratively towards addressing domestic violence and violence against children. Furthermore, there are initiatives being implemented by the by various agencies to prevent such violence by by raising awareness and through punitive measures. However, such measures are far from adequate given the scale and nature of the such violence. The measures have not addressed (i) the fundamental causes that lead to such

violence and (ii) the issue in a coordinated and holistic way. Therefore, a National Strategy and Action Plan on addressing violence against women and children can bring in all the stakeholders together and help frame a comprehensive approach and actions. The activities will need to focus on changing the mindset, and alleviating the conditions that contribute to domestic violence such as alcoholism, unemployment of women, migration (regional inequity), and poverty. Furthermore, a core element of such a strategy should be to get the community and its leadership to view violence as a social issue which could only be addressed through their active engagement in the prevention activities. Towards this NCWC will need to strengthen its relationships with other stakeholders and deepen its engagement with policy makers and planners of these agencies, through its Gender Focal Persons as well as other contact points.

Appoint full time Protection officers in the Dzongkhags and Thromdes

254. The protection of the victim is crucial, if not the most important part of the Act. However, this is not achieved as envisaged mainly because of the lack of dedicated officials to pursue with the court for these orders and follow-up on their enforcement. The protection officers are the most important actor who is responsible ensuring case management and that the victims receive support services as per the Act. The current system of legal officers assuming this responsibility is not found to be effective. Besides being legal advisors to the dzongkhag administration and representing the dzongkhag in civil and criminal cases, these officers also serve as focal points for other sectors such as Kidu Officer, Environmental Officer, General Secretary for the Dzongkhag Sports Association, Secretary for MSTF and CBSS, Secretary of DWCC, ACC investigation team coordinator. Because of these, they cannot devote the required time and dedication required by this job.
255. A dedicated Protection Officer is a must for the provision of the Act to be implemented. In addition to the role of Protection Officer, there is a need to frame and develop systems and services in the communities to prevent and respond effectively to domestic violence as suggested by (section 37-40), which have not been implemented because of lack of designated officials at the community levels. This should become the added function of the Protection Officers. Therefore, the positions of Protection Officers should be filled not by fresh graduates but by mid-level civil servants who have the required experience to negotiate through the bureaucracy and can develop a coherent plan in the dzongkhags and the thromdes to address DVPA, work towards getting the local communities and its leaders to be more engaged in addressing domestic violence in its various manifestations and ensuring that new services are established and maintained to complement what is provided by the service provider. Towards this, the role DWCC and TWCC should also be realigned to the GBV SOP to oversee and guide these important activities.

256. The protection officers are the government case managers for cases related to GBV and their terms of references need to be realigned with the SOPs for uniformity. There is also scope to review the provision of Act in keeping with principles and best interest of children and GBV victims.
257. It is important to mention here that the Protection Officer are also the Child Welfare Officer and the Probation Officer under the CCPA. Given the many common issues underlining domestic violence and wellbeing of children, this is perhaps the best arrangement. It's also pragmatic given the constraints on human resources. However, it is recommended the officer be given a single designation to avoid confusion.

Enhance Coordination

258. While coordination can be difficult in any circumstances, this is particularly challenging for implementation of DVPA where multiple stakeholders are involved at the same time with a high level of institutional independence. While there is considerable improvement in strengthening coordination mechanism after the enactment of the Act, this continues to be an issue board.
259. The RBP has made rapid strides in integrating the provisions of the DVPA in its training programs and institutionalizing the women and children protection units and desks across the country. On the other hand, the judiciary has not moved much. There is only one Family and Child bench in the whole country. None of the stakeholders including RENEW which is a service provider have adopted the CMIS and there are no reports being provided to CA by any agency to enable it to provide an annual status report of domestic violence as envisaged in the Regulation.
260. A mechanism should be instituted whereby the CA is given control over certain common resources for implementing DVPA. Advocacy, HRD, and even infrastructure development such as shelters can come within this ambit. The CA should facilitate collection and sharing of information. It should ensure that the resources including donor financing are distributed based on a fair and transparent system. It should seek for project ideas that are collaborative in approach, innovative and with multiple benefits. These projects and activities should be used as platforms for integration and achieving holistic development in the areas defined by the Act. It should also be used to identify and help fill the gaps of agency specific programs, including the service providers. It is suggested that a ball park annual figure (perhaps Nu 30 million) be set for this program.

261. One of the gaps as observed in Part I of this report, has to do with the lack of services at the community level. This relates to the following sections:

10(2) Through concerned agencies or institutions provide community-based services responding to special needs, problems, interests and protection of victims of domestic violence.

37. The community may provide or strengthen a wide range of community-based support measures for the victim, including community centre and services to respond to the problems of victim who is at risk

38. The community may with assistance from Competent Authority provide such services and measures to the victim to facilitate livelihood and to re-integrate into the society.

39. The government shall endeavor to provide assistance to the community to establish facilities to provide adequate shelter for victim who has no home to live in or is not able to live at home.

262. None of these sections have been addressed. No community-based services have been created during the period under review. Therefore, part of the funds could be used to (i) activate discussions on this very important aspect of infrastructure building and community level services, and (ii) finance some of the promising projects that emerge from such discussions.

Work with CSOs to strengthen their financial positions

263. RENEW is a key partner for addressing domestic violence in the country. Out of its 19 staff members, the government finances the costs of 2 counsellors, two Health Assistants (1 at RENEW secretariat and one at the shelter) deputed from MoE and MoH respectively. In addition, NCWC supports the running costs of its shelter services in Wangsina. Other activities are mostly supported through donations received based on proposals submitted by RENEW, fund raising activities, rentals and grant from its parent organization, the Gyalyum Charitable Trust. RENEW is facing some difficulties in meeting its operation costs. This should be of concern to the CA, as it could potentially impact the scope and quality of its future activities especially related to the services in counselling, legal, life-skills training and advocacy, all integral to DVPA. Therefore, this needs some attention.

Expand and deepen partnerships with Government Agencies

264. NCWC needs to deepen its working relationships with other government agencies. There is so much more these agencies can do to help address domestic violence. For example, the Health Ministry can help provide more information on domestic violence cases using its administrative reporting system from the health centres. NSB and GNH centre can provide greater enrichment on domestic violence related information through its surveys. Royal Education Council and the Ministry of Education can help address the underlying mindsets- the acceptance of violence as a norm of life, and of gender subordination within the family. Schools are also well placed to identify domestic violence amongst the children since they have contact with children on a regular basis. Although the Act expects “educational institutes” to report on domestic violence, this opportunity has not been utilized¹⁸.
265. Furthermore, NCWC need to continue working with the elected leaders for helping them deliver key messages to the communities. It needs to work with the dzongdags and gups as well representatives of corporate sectors to help them extend the reach of its programs to different communities. It needs to support the CSOs working with communities to include domestic violence as one of their focus areas.

Review and strengthen the DVPA Rules and Regulations

266. While the Act provides the broad principles of the law, the regulation is expected to fill in the details required for implementing the Act. The DVPA Regulation 2015 appears to do this, but only selectively. For example, the Chapter on the Service Provider is very elaborate. It stipulates the requirement, processes for accreditation of service provider, lists and provides the terms and conditions for the services. To that extent it brings this aspect of the provision closer to the stage of implementation. The Regulation also expands on some of the listed responsibilities and functions for the officials, including the Police personnel, the Protection Officer and the Social Welfare Officers bringing greater clarity on their roles.
267. The Regulation 2015, is by no means comprehensive or complete. NCWC should examine other provisions of the Act or elements emerging from the implementation of the Act that require greater guidance, enunciation and regulation. Some of the possible areas that have emerged during the review are as follows:

¹⁸ During this review, there was no reported case that originated from any educational institutions.

The role of the volunteers

268. Volunteers have played a significant role in expanding the reach of services for domestic victims across the country. Section 40 also recognizes the work of volunteers to “address the issues related to domestic violence in the community.” While such volunteering work should be encouraged, their services need to be regulated to ensure that they are accountable, their service is in line with established legal framework and they meet the minimum standards for providing the services. The prospective volunteers should be provided a list of activities within each broad group of services which are open for volunteers. This could range from professional tasks requiring specialized skills to tasks that are supportive in nature, on a regular basis and during an emergent situation. The regulation should detail out the Terms and Conditions of the services detailing out the kind of commitment expected from the volunteers as well as benefits including training opportunities and protection from liability for services rendered in good faith.

Domestic Violence Information System

269. As mentioned under Part I, NCWC has not been able to fulfill the requirement of section 8(7) for providing an up to date information on domestic violence cases in the country. While NCWC continues its efforts to get everyone to integrate into its CMIS system, this should not delay the establishment of a national domestic violence reporting system. Such a reporting can be on an annual basis, and cover statistical information of domestic violence cases with enough depth and disaggregation to be useful for informing policies and programs. NCWC must determine what these are, devise a format and set up a system for collection from the stakeholders by the power vested to the CA (section 10(i)) for the following:

- RBP- Statistics of Reports received directly and through reference by dzongkhag which also includes statistics on cases resolved through mediation, dropped, and prosecuted by dzongkhag.
- RENEW, Dzongkhags (POs), Thromdes (POs) and Gewogs- Statistics of cases received, dropped, mediated and referred to Police.
- RCJ- Domestic Violence Statistics of petitions, hearings, and conviction by different courts.

Regulation for Emergency Relief fund for Women and Children

270. This is a new facility not included in the Act, but initiated by NCWC. The budget head was created during the implementation of Child Adoption Act. The Act allowed NCWC to retain 50 percent of the fees for its use. However, the fund collected are deposited in the government revenue account. Therefore, discussion should be carried out with Ministry of Finance to retain the money to be used as relief fund for women and children. Although the monetary value of these support are small, it has a high impact as it meets the costs of basic needs of the victim including food, accommodation and transport.
271. The relief fund should be increased and made accessible to officials on the ground, particularly to the Protection Officers for easy access and with least hassle. However, the operation of this would have to be governed by rules to ensure accountability, compliance to existing fiduciary requirements, etc.

ANNEXURE I

List of Officials consulted

National Commission for Women and Children

Ms. Kunzang Lhamu, Director

Ms. Ugyen Tshomo, Chief Programme Officer, Women Division

Ms. Tshewang Lhamo, Sr. Programme Officer, Women Division

Sonam Gyeltshen, Dy. Chief Program Officer, Women Division

Deki Yangzom, Program Officer, Women Division

Ms. Ugyen Tshomo, Legal Head, Legal Services

Ms. Yeshey Lham, Sr. Counsellor, Protection Services

Ms. Kinley Dorji, Sr. Program Officer, Children Division

Ms. Namgay Tshering, ICT Officer

Royal Bhutan Police, Women and Child Protection Division, Thimphu

Major Karma Rigzin

Royal Bhutan Police, Women and Child Protection Unit, Phuntsholing

Lt. Kezang Choden

Office of the Attorney General

Ms. Gaki Yangzom, Senior Attorney

Ms. Yangchen Lhamo, Attorney

Thimphu District Court, Family and Child Bench

Pemba Tashi Paldon, Registrar

RENEW

Ms. Lhaden Wangmo, Counsellor

Ms. Dechen Choki, Legal Officer

RENEW Community Based Support System

Ms Dechen, Volunteer

Mr. Kuegna Tshewang, Volunteer

Ministry of Health, Forensic Department

Mr. Chencho Dorjee, Brother

Ms. Kencho Palden, Nurse

Paro District Hospital

Dr.Ugyen Wangdi, Chief Medical Officer
Ms. Sonam Choden, Forensic Department
Ms.Dechen Wangmo, Intensive Care
Ms.Tashi Yangki, Mental Health
Ms.Dechen Wangmo, Mental Health

Dasho Dzongdags

Ms. Phintsho Choden, Dagana Dzongkhag
Mr. Tenzin Thinley, Paro Dzongkhag
Mr. Sonam Wangyel, Samtse Dzongkhag

Dzongkhag Protection Officers

Mr. Pema Choda, Protection Officer, Dagana
Mr. Ugyen Cheki, Protection Officer, Paro
Mr. Kezang Phuntsho, Protection Officer, Samtse
Ms. Damchoe Wangmo, Protection Officer Wangdi Phodrang

Phuntsholing Thromde

Mr. Sonam Dungtu, Protection Officer

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