



**Review Report
Legal Provisions on Mental Health
(2024)**

The PEMA Secretariat

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Review Report

Legal provisions on Mental Health

1. Background

The burden of mental health in our country is significant, with anxiety and depression accounting for around 50% of the total mental health-related cases and increasing suicide incidents¹. There were 3,774 cases of anxiety disorders and 2,687 reported cases of depression in 2023 according to the Annual Health Bulletin. Similarly, mental disorders related to alcohol and substance abuse are also on the rise.

Currently, basic mental health services in Bhutan are integrated into general health care services. This arrangement enables people to access mental health services at all health facilities, close to where people live, and monitor their recovery. Similarly, Clinical Counsellors, School Counsellors, and Civil Society Organisations are providing psychosocial support services and preventive interventions in Dzongkhags. However, specialised psychiatric services are provided in the Psychiatric department, Jigme Dorji Wangchuck National Referral Hospital (JDWNRH).

Further, there are several ongoing efforts, with different stakeholders promoting mental health and wellbeing, based on their mandates. These initiatives provide opportunities to build on and reorient efforts towards achieving the goal of delivering timely, reliable, and effective interventions.

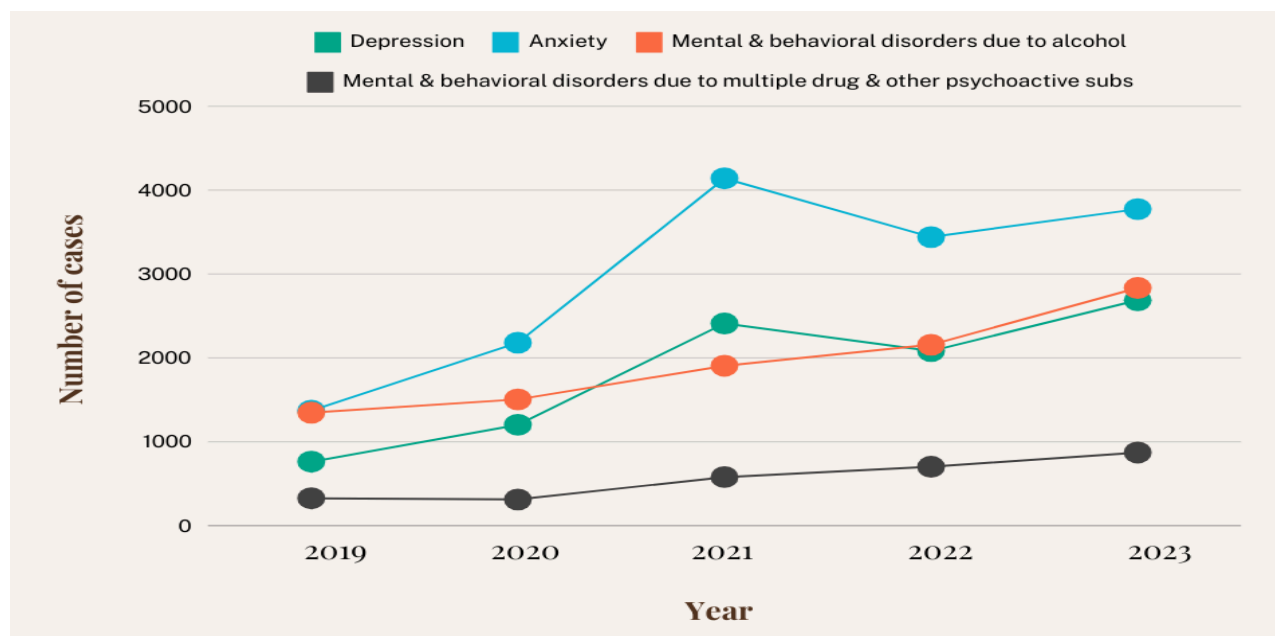


Figure 1. Graph showing mental health conditions in Bhutan in the past five years

¹ Ministry of Health, 2023



2. The Institution of The PEMA and its Mandates

The institution of "The PEMA" as a nodal agency for mental health in Bhutan stemmed from the visionary aspiration of Her Majesty The Gyaltsuen. It manifests Her Majesty's noblest intentions for the well-being and happiness of all Bhutanese.

The PEMA has a Secretariat that spearheads mental health planning, standardisation, consolidation, and reorientation of strategies to ensure effective mental health services in the country. The Secretariat has prevention, response, rehabilitation and reintegration programmes and services. It also oversees the implementation, monitoring, and evaluation of mental health-related plans and activities. The PEMA Centre will be a 60-bedded hospital for mental health care leading as the apex centre for mental health services in the country.

The overall functioning of The PEMA is guided by its four core mandates: Proactive and responsive mental health service delivery network; Enabling mental health system; Multisectoral collaboration; and Active advocacy and prevention. These four mandates will ensure the achievement of the overarching goal of good mental health for all individuals.

3. Mental Health Legislation

Mental health and wellbeing is an important component of human health. There is no standalone law on Mental Health in Bhutan. However, there are provisions outlined in numerous legislations. It is imperative to have an enabling legal framework focusing on the promotion and protection of the rights of people with mental health conditions besides setting standards for the mental health system.

4. Objective of the Report

The objectives of the report are to:

- i. Conduct a holistic assessment of the existing legal provisions about mental health aspects;
- ii. Identify the gaps and determine the adequacy of legal frameworks protecting and promoting the rights of people with mental health conditions; and
- iii. Chart out the way forward through recommendations.

5. Approaches:

- a. Desk review and stock-taking of the existing legal frameworks.
- b. Identification of the issues, gaps, and challenges through consultative processes.
- c. Assessing rights-based legislation on mental health in Bhutan through the application of the checklist provided in the publication, "Mental Health, Human Rights and Legislation: Guidance and Practice," jointly developed by the World Health Organization and the Office of the High Commissioner for Human Rights.

6. Review and Findings

6.1. Existing Legal Provisions on Mental Health

6.1.1. Definition

Key findings:

No law defines mental health conditions. However, the Gyalsung Act defines only who may be considered medically unfit.

The provision is:

a. Gyalsung Act of The Kingdom of Bhutan 2022

Section 93(13) of the Gyalsung Act provides that:

“In this Act, unless the context otherwise requires: “Medically unfit” means a medical condition resulting in temporary or permanent disability of a person, which may be physical or mental or both as deemed by the Medical Board.”

6.1.2. Protection

Key findings:

While there are no laws specific to Mental Health, some existing legal provisions provide protection and rights to all individuals without any discrimination. Further, the Penal Code recognizes mental health conditions and provides protection. In addition, the duty bearers have been assigned with responsibilities focusing on prevention of mental health issues and ensuring protection.

Some of the provisions on protection are:

a. Constitution of the Kingdom of Bhutan 2008

Article 9(16) of the Constitution of the Kingdom of Bhutan provides that:

“The State shall provide free access to basic public health services in both modern and traditional medicines.”

b. Penal Code of Bhutan 2024

Section 118 of the Penal Code provides that:

“A defendant is not responsible for the criminal conduct if the defendant is of permanent mental disability, who lacks substantial capacity either to appreciate the criminality of the defendant’s conduct or to conform the conduct to the requirement of the law.”

Section 119 of the Penal Code provides that:

“A defendant shall have the defense of mental disability if, at the time of the conduct, on account of a mental disability, the defendant lacked substantial capacity either to appreciate the criminality of the defendant’s conduct or to conform the conduct to the requirement of the law.”

c. The Labour and Employment Act 2007

Section 9(e)(i) of the Labour and Employment Act provides that:

“No person shall subject a child to work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of a child including work which exposes a child to physical, psychological or sexual abuse.”

d. The Local Government Act of Bhutan 2009

Sections 48(j) of the Local Government Act provides that:

“With the overall policy and legal framework, Local Government shall protect: women, children and the physically challenged and eliminate physical, mental and emotional abuse and violence against women and children.”

e. The Child Care and Protection Act of Bhutan 2011

Section 6 of the Child Care and Protection Act provides that:

“The child justice system is essential to uphold the rights of children, keeping them safe and promoting their physical and mental well-being.”

Section 69(b & e) of the Child Care and Protection Act provides that:

“The child welfare officer shall take into consideration before providing protection and assistance to the child in difficult circumstances under this Act: Physical and mental health of the child; Specific assistance needed based on physical or mental condition of the child.”

Section 103 of Child Care and Protection Act provides that:

“While in custody, a child shall receive care, protection and all necessary basic assistance-social, educational, training, psychological, medical and physical that the child may require in view of age, sex, and personality.”

Section 112(f) of the Child Care and Protection Act provides that:

“Any police official or law enforcement officer while taking a child into custody shall: Refer a child immediately to an authorized medical officer for a physical and mental examination.”

Section 118(d) of the Child Care and Protection Act provides that:

“In making the determination to allow a child to go home after advice, admonition or release on bail, the concerned authority shall consider the following circumstances: Child’s age and physical or mental health condition.”

Section 135(i) of the Child Care and Protection Act provides that:

“Release of child post preliminary inquiry The judge may release a child into the care of parents, member of the family or guardian after preliminary inquiry upon the recommendation of the probation officer or any relevant authority considering relevant factors including: The physical health, mental and psychology of the child.”

Section 157 of the Child Care and Protection Act provides that:

“The Court shall take into account any information that is available about the child’s age, emotional, mental and intellectual maturity, antecedents and circumstances before awarding the judgment.

Section 213 of the Child Care and Protection Act provides that:

“A person shall be guilty of the offense of cruelty to a child, if a person having the actual charge or control over the child, willfully treats the child or causes or procures the child to be treated in any manner likely to cause such child unnecessary mental or physical suffering. The offense of cruelty to a child shall be a petty misdemeanor.”

Section 229 of the Child Care and Protection Act provides that:

“The convicted child in conflict with law shall not be given any work beyond their physical and mental capabilities. Further, no child who is under adjudication shall be engaged for daily labor.”

f. Child Adoption Act 2012

Section 4 of the Child Adoption Act provides that:

“During the course of adoption, the child shall be protected from physical or psychological harm caused, or that may be caused, by being subjected or exposed to abuse, ill-treatment, violence or other behaviors.”

g. Office of the Attorney General Act 2015

Section 41(4 and 5) of the Office of the Attorney General Act provides that:

“The public interest considerations against prosecution shall include: That a prosecution is likely to have an adverse effect on the victim’s physical or mental health, bearing in mind the seriousness of the offence; That the defendant is elderly or is or was at the time of commission of the offence, suffering from significant mental or physical ill health, unless the offence is serious or there is real possibility that it may be repeated.”

6.1.3. Criminal Justice System

Key findings:

Some provisions recognize the need to protect and promote both the physical and mental conditions of individuals. Some provisions provide additional protection if an individual is with mental health conditions.

Some of the provisions on criminal justice system are:

a. The Penal Code of Bhutan

Section 223 of the Penal Code provides that:

“A defendant shall be guilty of the offence of endangerment of a child, if the defendant engages in a conduct that would injure the physical or mental condition of a child.”

Section 229 of the Penal Code provides that:

“A defendant shall be guilty of the offence of endangerment of a mentally disabled or an incompetent person, if the defendant intentionally engages in a conduct that injures the physical or mental condition of a mentally disabled or an incompetent person.”

b. Narcotic Drug Psychotropic Substance and Substance Act 2015

Section 102(a and c) of the Narcotic Drug Psychotropic Substance and Substance Act 2015 provides that:

“The Act considers aggravating circumstances if: An offender took an advantage of a mentally handicapped person in committing an offense; Drugs was supplied or offered to a mentally handicapped person.”

6.1.4. Rights and Employment

Key findings:

The law limits the right of individuals to be employed if the person is mentally incapable of providing services and making decisions.

Some of the provisions on rights and employment are:

a. Bhutan Postal Corporation Act of Bhutan 1999

Section 24(5) of the Bhutan Postal Corporation Act provides that:

“The following shall not be eligible for appointment as a Director: persons who are of unsound mind”

b. The Anti-corruption Act of Bhutan 2006

Section 20(a) of the provides that:

“His Majesty may remove the members of the Commission on grounds of: Physical, mental, or other incapacity of a permanent nature.”

c. Bhutan Information, Communications and Media Act 2006

Section 7(b) of the Bhutan Information, Communications and Media Act provides that:

“A member of the Authority shall be removed from the office only by the Minister with the prior approval of the Royal Civil Service Commission, if he has: become physically or mentally incapable of acting as a member.”

d. Civil Society Organizations Act of Bhutan 2007

Section 114 of the Civil Society Organizations Act of Bhutan 2007 provides that:

“A member of the Board or an employee of a CSO may be removed, if he: Becomes incapable by reason of mental disorder, illness or injury of managing and administering his own affairs.”

e. The Judicial Service Act of Bhutan 2007

Section 152(a) of the Judicial Service Act of Bhutan provides that:

“The removal may be effected only after: Conducting any inquiry into Judicial Service Personnel’s incapability of properly performing the duties of office by reason of physical or mental incapacity.”

f. Civil Service Act of Bhutan 2010

Section 25(a) of the Civil Service Act provides that:

“The Chairperson of the Commission may recommend to the Druk Gyalpo for removal of a member of the Commission, but only upon conducting a formal inquiry into the allegations or adverse findings thereon by a Disciplinary Committee constituted by the Chairperson on the following grounds: physical, mental, or other incapacity of a permanent nature;”

g. Bhutan Civil Service Rules and Regulations 2023

Rule 5.5.1.4 of Bhutan Civil Service Rules and Regulations 2023 provides that:

“Been adjudged by a competent medical authority as mentally unsound”

h. Alternative Dispute Resolution Act of Bhutan 2013

Section 9(1) of the Alternative Dispute Resolution Act provides that:

“The National Judicial Commission shall not appoint a person as Chief Administrator if he or she is: Physically or mentally incompetent.”

i. Contract Act of Bhutan 2013

Section 199 of the Contract Act provides that:

“An agency shall stand terminated forthwith if the agent dies or becomes of unsound mind. If the principal dies or becomes of unsound mind, the agency shall terminate when knowledge or notice of such death or unsoundness of mind is received by the agent.”

Section 200 of the Contract Act provides that:

“When an agency is terminated by the death or unsoundness of mind of the principal, the agent shall take all reasonable steps as may be necessary to protect and preserve the interests of the principal.”

j. Civil Aviation Act of Bhutan 2016

Section 20(4) of the Civil Aviation Act provides that:

A Member of the Board may be removed, replaced or disqualified to continue as a Member of the Board by the Cabinet before the completion of his or her tenure, if he or she: Is incapacitated by prolonged physical and mental illness as prescribed in the Bhutan Civil Service Rules and Regulations.”

Section 100(2) of the Civil Aviation Act provides that:

“The Head of Authority shall direct the operator or airman of a civil aircraft not to operate the aircraft if: The airman is not qualified or physically or mentally not capable for the flight.”

k. The Companies Act of Bhutan 2016

Section 5(xxxv)(ii) of the Companies Act provides that:

“Shareholder” or “member” in relation to a company, means -provided that a person cannot hold shares, who is - of unsound mind and has been declared so by a court in Bhutan”

Section 51 of the Companies Act provides that:

“A company may not register a share in the name of a person who is less than 18 years of age, or is of unsound mind as declared by a Court of law, or for whom a guardian or trustee is acting in accordance with provisions of law, but may register the share in the name of the guardian or trustee, who may exercise any rights attaching to the share, including the right to transfer shares, provided that this is done in the interests of the beneficiary and in accordance with applicable law.”

Section 79(c) of the Companies Act provides that:

“No company shall appoint or continue the appointment of any person as Chief Executive Officers or director who -is of unsound mind declared by a court”

Section 141(c) of the Companies Act provides that:

“No company shall appoint or continue the appointment of any person as a director who: is of unsound mind declared by a Court of competent jurisdiction.”

Section 211(c) of the Companies Act provides that:

“No company shall appoint or continue the appointment of any person as a Chief Executive Officer who: is of unsound mind declared by a Court.”

I. National Digital Identity Act of Bhutan 2023

Section 7 (2) of the National Digital Identity Act provides that:

“A person shall be disqualified from being appointed as a member of the Governing Body if such person: is declared to be of unsound mind.”

6.1.5. Safety

Key findings:

Provision restricts individuals with mental health conditions from enrolling in training and possessing Arms to prevent from harming oneself and others.

Some of the provisions on safety are:

a. FireArms And Ammunition Act of Bhutan, 1990

Section 6(b)(ii) of the FireArms And Ammunition Act provides that:

“A licence for firearms and ammunition shall not be issued to the following: A person mentally unsound.”

b. Gyalsung Act of The Kingdom of Bhutan 2022

Section 18 of the Gyalsung Act provides that:

“A person deemed medically unfit by the Medical Board shall be exempted from Gyalsung Training.”

6.1.6. Legal Capacity and Decision-Making

Key findings:

Provisions provide for individuals to make informed decisions. However, certain provisions nullify the decision making of individuals with mental health conditions and provide substitution by a third party to make decisions on their behalf. In addition, parents with mental health conditions may be denied custody of their children when seeking divorce.

Some of the provisions on legal capacity and decision making are:

a. Constitution of the Kingdom of Bhutan 2008

Article 9(6) of the Constitution of the Kingdom of Bhutan provides that:

“The State shall endeavour to provide legal aid to secure justice, which shall not be denied to any person by reason of economic or other disabilities.”

b. Evidence Act of Bhutan 2005

Section 36(e) of the Evidence Act provides that:

“A written agreement shall not be valid, if it: Is entered into while a party was mentally unsound.”

Section 51 of the Evidence Act provides that:

“If a witness has difficulty communicating because of a physical or mental disability, the Court may order that the witness give oral evidence by any means that enables the evidence to be intelligible.”

c. Civil and Criminal Procedure Code of Bhutan 2001

Section 76 of the Civil and Criminal Procedure Code provides that:

“A Court shall not consider a motion for adjournment or stay of proceedings sine die”

Section 76(1)(g) of the Civil and Criminal Procedure Code provides that:

“The Court may grant a motion for adjournment or stay of proceedings: for a maximum of sixty days, if a party is sick or mentally unsound and furnishes a medical certificate.”

Section 117 of the Civil and Criminal Procedure Code provides that:

“When a person entitled to sue or be sued is minor or of unsound mind or otherwise unable to present his/her case, the suit may be brought in his/ her name by a member of a joint family through a legal guardian/Jabmi.”

Section 118 of the Civil and Criminal Procedure Code provides that:

“If a party to a civil case dies during the suit, or becomes physically or mentally incapacitated, the Court shall order: substitution of such party by legal representative; the successor of that party representing his/her estate; and to receive, if damages are awarded from the other party.”

Section 148 of the Civil and Criminal Procedure Code provides that:

“A person lacking in capacity to sue or be sued has a direct stake in the outcome of the litigation but is unable to prosecute or defend an action due to mental or physical incapacity, being a minor or absent.”

Section 148(2) of the Civil and Criminal Procedure Code provides that:

“Such person shall, in the case of a person with a mental or physical incapacity, or otherwise physically absent who is not a minor, be represented by an individual with power of attorney over his/her business affairs or by a Jabmi.”

Section 148 of the Civil and Criminal Procedure Code provides that:

“The burden of proof is on the asserting party or his/her parents/family member/legal representative/guardian/Jabmi to prove lack of physical or mental capacity or minor.”

Section 179(2) of the Civil and Criminal Procedure Code provides that:

“When the suspect is a minor or mentally incompetent and living with his/her parent/guardian, the parent/guardian may consent to a search of the minor suspect's room.”

Section 195 of the Civil and Criminal Procedure Code provides that:

“Before confirming a plea of guilty or Nolo Contendere, the Court must address the defendant and determine that the defendant appears mentally competent and understands: the nature of the charge to which the plea is offered; the mandatory minimum and maximum penalties provided by law, if any; that the Court may also order the defendant to make restitution to any victim of the offence; and that if the defendant accepts a plea of guilty or Nolo Contendere he/she waives his/her right to a trial.”

d. The Penal Code of Bhutan 2004

Section 23(b & h) of the Penal Code provides that:

“Mitigating circumstances for sentencing shall include: The crime is committed while the defendant was under the affliction of extreme mental or emotional distress; At the time of the crime, the capacity of the defendant to appreciate the wrongfulness of the conduct or to conform the conduct to the requirements of law was impaired on account of mental disability or intoxication.”

Section 25 of the Penal Code provides that:

“If a defendant is found to be clinically insane or suffering from a mental abnormality or chronic condition that significantly impairs the defendant's capacity to make sagacious judgments, a Court shall, in lieu of imprisonment, order the civil commitment of the defendant to a hospital or other institution for psychiatric or other rehabilitative treatment.”

Section 73(d) of the Penal Code provides that:

“In making the determination of whether to compound or pay Thrimthue for the offence or not, the Court shall consider: Defendant’s age and physical or mental health condition.”

e. Contract Act of Bhutan 2013

Section 20(5) of the Contract Act provides that:

“A person shall be competent to enter into a contract if: He or she is of sound mind.”

Section 22 of the Contract Act provides that:

“A person who is usually of unsound mind, but occasionally of sound mind shall be capable of entering into a contract when he or she is of sound mind. A person who is usually of sound mind, but occasionally of unsound mind, whether because of illness, drugs, intoxication or any other cause, shall not be capable of entering into a contract when he or she is of unsound mind. The burden of proving that a person was of unsound mind at the time when he or she entered into the contract shall be on the party alleging that he or she was of unsound mind at such time.”

f. Marriage (Amendment) Act of Bhutan 2009

Section Kha 7.2 of the Marriage (Amendment) Act provides that:

“In the case of married couple getting a divorce, children under the age of 9 years shall remain under the custody of the mother unless the court finds compelling reasons to order otherwise. Compelling reasons by which a mother can be deprived of custody include: neglect, abandonment, unemployment and immorality, habitual drunkenness, drug addiction, maltreatment of the child, insanity, affliction with communicable illness, and any other ground that the court determines. In such a case, the custody of a child may be given to the other parent or to a third person or recognized organization established under Civil Society Organization Act in the best interest of the child. The court shall determine the frequency and conditions under which the other parent(s) may meet with the child/children.”

General Findings of the Checklist:

Bhutan does not have a specific mental health law or legislation in place. However, provisions about Mental health are strewn across various Acts, Rules, and Policies that were reviewed using the WHO toolkit and checklists. As a result, the provisions do not adequately protect and promote the rights of persons with mental health conditions. Hence, there is a need to develop either a policy or an act to comprehensively address the needs of the recipients and providers of mental health services.



Most of the provisions in the Constitution of the Kingdom of Bhutan, National Health Policy 2011, Bhutan Medical and Health Regulations, and the National Policy for Persons with Disabilities are generic and do not adequately address the mental health aspects. All the provisions revolve around the protection of service recipients while provisions to protect the service providers are almost non-existent.

7. Gaps and Key Challenges

7.1. Definition

There is no specific definition of Mental Health in the laws of our country. Different terminologies have been used in the legal provisions pertaining to mental health, such as 'unsound mind' or 'mentally incapacitated'. The Penal Code oversimplifies mental health distinctions with "sane" and "insane" labels, necessitating an update to include more precise and clear terminologies to include a spectrum of mental health conditions for a fair and accurate legal representation.

7.2. Understanding on Mental Health

There is limited understanding on mental health by key stakeholders who play a crucial role in promoting mental health and wellbeing and preventing mental health issues.

7.3. Prevention

Support is not provided in terms of preventing an individual from developing mental health issues. For instance, children who are left behind by the parents go abroad in search of better opportunities are at risk of developing mental health issues in absence of proper care and support from parents. Lack of stakeholders focusing on prevention further adds on the mental health issues.

7.4. Protection

With regard to protection aspects, there is no written guidance on how to ensure protection of individuals with mental health conditions such as protection against violation of human rights including discrimination. There are no standards outlined to create a conducive environment for conducting sessions. Lack of effective referral mechanism further adds onto the present issues. At present, the safety of the service providers is also not taken into consideration while dealing with individuals with certain violent behaviors.

7.5. Clear segregation of mental health conditions

The Justice sector lacks procedural clarity about various types of mental health conditions. For evoking provisions outlined in various legislations, there is a required in-depth information on different types of mental health conditions. This understanding is essential in



ensuring that people with different mental health conditions receive appropriate legal protections and considerations.

7.6. Coordination and clear service pathway amongst stakeholders

There is no standard mechanism amongst the key stakeholders in identifying and referring individuals thereby creating confusion on referral mechanism. There is a need for a robust referral mechanism between key stakeholders especially between the Justice sector, Psychiatry and Forensic department to determine when and how referral can be made and when police support can be sought. The need was felt to institute certain mechanisms with RBP for sharing of information on mental health cases. There is a need to establish a common understanding among stakeholders during emergency situations and to have a standard procedure and be informed about the procedures.

It is crucial to ensure that we prevent people who may potentially misuse mental health provisions to obtain immunity from legal consequences.

7.7. Admission and treatment standards

There is no explicit policies or legislation regarding the involuntary admission of patients with certain mental health concerns, such as one with suicidal ideations and it is based on professional judgment in current practices. Establishing clear guidelines or legal frameworks could enhance the consistency and ethical considerations surrounding the admission of individuals at risk of suicide. As such, patients needing involuntary admission and treatment are not supported by any of the existing legislation.

7.8. Limited legal basis

Absence of legislation pertaining to mental health is a significant concern for the criminal and civil justice system in delivering their mandates. Aligning the criminal liability of individuals with mental health issues with the judiciary is a crucial aspect that needs attention to protect the interest of people with mental health issues.

Moreover, the RBP faces challenges in dealing with individuals with mental health issues when it comes to locating and providing protection to individuals at risk of committing self harm. For example, when someone goes live on social media platforms and attempts self harm, the RBP faces difficulty in tracking or locating the person using existing technology such as tracing individuals through mobile numbers with the help of telecom service providers. Currently, a court order is a prerequisite to obtain such crucial information, causing difficulties in emergency situations and impeding the investigative process. Further, the RBP lacks expert advice on mental health matters.

7.9. Human resources and specialisation

To ensure individuals with mental health conditions access wholesome services, it is imperative to have all essential services such as forensic, geriatric, addiction specialisation. While initiating services, it is also important to ensure that human resources are planned in such a manner for effective and sustainable services. Further, limited psychiatric services is a concern outside Thimphu.

The human resources for mental health services is still low and it has been a constant challenge to reach out to all the peoples in different parts of Bhutan. Community-level mental health care has not been possible due to inadequate trained manpower at the primary health centres. The primary health centres are inadequately equipped in comparison to the good practices in other countries. Currently, most of the primary health centres in Bhutan have only one health assistant and no medical doctor.

7.10. Budget

The budget for mental health interventions, the capital budget, is about 3-4% of the total budget allocated for the Healthy Drukyl Programme in 13th FYP.

7.11. Infrastructure

The absence of well-equipped infrastructure and facilities poses a challenge to the effective delivery of mental health services. One such concern is especially when there are no shelter services for people with mental health conditions, who do not require admission but constant follow-up.

7.12. Support Mechanisms

There are limited platforms for people with lived experiences to share their experiences and be a part in policy decisions that concern them. Another is lack of support for decision making regarding treatment, as at times parents with limited knowledge refuse to provide consent for treatment. When there is an individual with mental health conditions in the family, the home environment tends to become unconducive and violent. There is no provision of social support for people living with mental health issues.

7.13. Safety of service provider

Safety for mental health workers not assured. The safety of service providers is a concern especially while attending to individuals with severe mental health conditions. Also, there are no procedures in place for law enforcement agencies to intervene and provide support.

Hence, it is imperative to also ensure the safety and well-being of mental health service providers (all categories), emphasising the need for supportive measures within legal and



professional frameworks. Eg. Lack of adequate security at the hospitals where mental health care is provided.

8. Recommendations

- 8.1. Although provisions on mental health are strewn across various Acts, it does not adequately protect and promote the rights of persons with mental health conditions. Therefore, to ensure that it is covered comprehensively, there is a need to specify the minimum requirements either in a form of policy or an act or if possible integrate and incorporate into applicable laws and policies, particularly those concerning healthcare.
- 8.2. There is an immediate need for detailed procedures outlining roles and responsibilities of key stakeholders with clear service pathways. This will ensure that legal provisions outlined in the laws to protect individuals with severe mental health conditions are implemented and provided opportunities to avail treatment services. Therefore, the government may ensure integration of provisions on mental health aspects into health policies and laws that can specifically plug the gaps in mental health delivery aspects. The provisions should be right-based and aligned with international human rights instruments.
- 8.3. Clear standards must be instituted to protect the rights of the patients and provide information about their rights. There is also a need to clearly outline safeguarding mechanisms including SOP in consultation with the service providers. It must include right to highest attainable health services and includes community inclusion, person centred, and recovery-oriented care and services.
- 8.4. Human resources must be strengthened at the primary health centres levels before cascading the services to the community level along with task shifting to enhance and compensate the limited human resources at all levels.
- 8.5. The communities and representatives must be involved in the research and decision-making process.
- 8.6. The capacity of the key stakeholders including service providers must be capacitated to provide effective Psychological First Aid.
- 8.7. Mental health must be clearly defined with classification of mental disorders and consistent use of the terminologies throughout the legislation which are culturally appropriate.



- 8.8. Reintegration programs and intervention strategies must be devised to integrate people with mental health disorders back into the society.
- 8.9. Promotion on mental health must be strengthened to enhance mental health literacy and behaviour change. Strategies to prevent mental health conditions to be considered based on cultural aspects. The benefits of extended family systems, pet therapy, forest therapy and spirituality therapy. Also, educational materials to be included in prevention aspects.
- 8.10. Use of consistent terminology on mental health related provisions instead of conflicting and confusing ones as described in various Acts.
- 8.11. Streamlining the information provided to the public around mental health in social media, ensuring that the information provided is factual and is provided by mental health professionals through official pages and sites.



Annexure 1

Checklist for assessing rights-based legislation on mental health (*Mental Health, Human Rights and Legislation: guidance and practice*)

Disclaimer:

There is no standalone law on Mental Health nor Health law in Bhutan. However, there are provisions outlined in numerous legislations which provide responses to the questionnaires of the Checklist. While, mental health may not be explicitly outlined but application of certain existing provisions in laws and policies partially covers the need.

1. Legislative Approach		
Questions	Rating	Comments
1. Does the legislation enable a cross-sectoral approach to mental health?	1	<p>Legislations: Constitution of Kingdom of Bhutan 2008 Article 9 (6): “The State shall endeavour to provide legal aid to secure justice, which shall not be denied to any person by reason of economic or other disabilities.”</p> <p>Penal Code of Bhutan 2004 Section 118: “A defendant is not responsible for the criminal conduct, if the defendant is of permanent mental disability, who lacks substantial capacity either to appreciate the criminality of the defendant’s conduct or to conform the conduct to the requirement of the law.”</p> <p>Section 119: “A defendant shall have the defence of mental disability if, at the time of the conduct, on account of a mental disability, the defendant lacked substantial capacity either to appreciate the criminality of the defendant’s conduct or to conform the conduct to the requirement of the law.”</p>



		<p>Child Care and Protection Act of Bhutan 2011 Section 112(f): Any police official or law enforcement officer while taking a child into custody shall: Refer a child immediately to an authorized medical officer for a physical and mental examination.”</p> <p>Domestic Violence Prevention Act of Bhutan 2013 Section 4: “For the purpose of this Act, violence means any act, omission or behavior towards a person which results in physical, sexual, emotional or economic abuse.”</p> <p>Policies: National Health Policy 2011 Part IV: Partnership in Health Community Participation, Multisectoral Collaboration and Public-private Partnership.</p>
2. Does the legislation challenge stigma and discrimination associated with mental health?	2	<p>Legislations: Constitution of Kingdom of Bhutan 2008 Article 7(15): “All persons are equal before the law and are entitled to equal and effective protection of the law and shall not be discriminated against on the grounds of race, sex, language, religion, politics or other status.” Article 9(3): “The State shall endeavor to create a civil society free of oppression, discrimination and violence, based on the rule of law, protection of human rights and dignity, and to ensure the fundamental rights and freedoms of the people.” Article 9 (6): “The State shall endeavour to provide legal aid to secure justice, which shall not be denied to any person by reason of economic or other disabilities.”</p> <p>Penal Code of Bhutan 2004 Section 23(h): “Mitigating circumstances for sentencing shall include: At the time of the crime, the capacity of the defendant to appreciate the wrongfulness of the conduct or to conform the conduct to the requirements of law was impaired on account of mental disability or intoxication.”</p> <p>Bhutan Medical and Health Council Regulation 2005 Section 4.3.11: “Every medical or health professional shall: attend to all patients</p>

		<p>without discrimination on the basis of social, economic, religious or caste status.”</p> <p>Policies: National Policy for Persons with Disability 2019 Section 3.1 (Non-Discrimination): “The policy emphasizes a rights based approach by pursuing to minimize stigmatization and discrimination which act as a barrier to persons with disabilities and their families in accessing services. The rights of persons with disabilities should be promoted, respected, and protected at all times by all service providers.”</p>
3. Does the legislation enable access to quality care and support that is person-centered and rights-based?	2	<p>Legislations: Constitution of Kingdom of Bhutan 2008 Article 9(21): “The State shall provide free access to basic public health services in both modern and traditional medicines.”</p> <p>Article 9(22): “The State shall endeavor to provide security in the event of sickness and disability or lack of adequate means of livelihood for reasons beyond one’s control.”</p> <p>Child Care and Protection Act of Bhutan 2011 Section 135(i): “The judge may release a child into the care of parents, member of the family or guardian after preliminary inquiry upon the recommendation of the probation officer or any relevant authority considering relevant factors including: The physical health, mental and psychology of the child.”</p> <p>Bhutan Medical and Health Council Regulation 2005 Section 4.3.11: “Every medical or health professional shall attend to all patients without discrimination on the basis of social, economic, religious or caste status.”</p> <p>Policies: National Health Policy 2011 Section 12: Medical Care, includes both traditional and modern (Diagnostic and emergency health services)</p>



<p>4. Does the legislation enable the transition towards community-based mental health care and support?</p>	<p>2</p>	<p>Legislations: Domestic Violence Prevention Act of Bhutan 2013 Section 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.”</p> <p>Section 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.”</p> <p>Policies: National Health Policy 2011 PART IV: PARTNERSHIP IN HEALTH Community Participation, Multisectoral Collaboration and Public-private Partnership. Part 2 Health Section 5: Service Delivery (includes from primary till the national hospitals at tertiary level)</p> <p>National Policy on Persons with Disabilities 2019 Section.8.2: Prevention, Early Identification, Intervention and Rehabilitation</p>
<p>5. Does the legislation ensure the respect for legal capacity and informed consent and the elimination of coercion?</p>	<p>4</p>	<p>Legislations: Bhutan Penal Code 2004 Section 110(a & b): “A defendant shall have the defense of justification, if the defendant uses force on a patient and the defendant is a doctor, medical personnel, or person assisting a doctor or medical personnel and: The force used is for the purpose of administering a recognized form of treatment which the defendant believes is being used to promote the physical or mental health of the patient; and The treatment is administered with the consent of the patient or, if the patient is a child or an incompetent person, with the consent of the parent, guardian, or other legally competent person, or the treatment is administered in an emergency, when the defendant believes that no competent person can be consulted and a reasonable person wishing to safeguard the welfare of the patient would have consented.”</p>



	<p>Civil and Criminal Procedure Code of Bhutan`2001</p> <p>Section 34: “Only an indigent Accused shall have Legal Aid provided for one's defence where the interest of justice so requires.”</p> <p>Section 117: “When a person entitled to sue or be sued is a minor or of unsound mind or otherwise unable to present his/her case, the suit may be brought in his/ her name by member of joint family through a legal guardian/Jabmi.”</p> <p>Section 118: “If a party to a civil case dies during the suit, or becomes physically or mentally incapacitated, the Court shall order:substitution of such party by legal representative; successor of that party representing his/her estate; and to receive, if damages are awarded from the other party.”</p> <p>Bhutan Medical and Health Council Regulation 2005</p> <p>Section 4.2: Code of Ethics</p> <p>Section 4.3.2: “Every medical or health professional shall:obtain from patient the consent for examination and treatment. All research projects must have ethical clearance from the research ethical committee.”</p> <p>Section 37(Validity of Consent): “consent is valid if freely given, without any compulsion, and where necessary in writing,consent should be informed. All hazards must be disclosed. it is the patient who decides whether to accept or reject the advice of the practitioner.”</p> <p>Section 38 (Types of Consent): “Implied – when a patient enters hospital OPD seeking treatment. Expressed – given in gesture, verbally or in writing. Informed – wherein the patient is explained with reasonable thoroughness about his medical problem, procedures to undergo, advantages and disadvantages and alternatives.”</p> <p>Section 39 (Procedure for Compulsory Consent): “It is compulsory to obtain consent from patients on request by a third party, e.g. Judiciary, Employer, Police, Prison, Insurance purposes, from spouse for sterilization, or abortions etc.</p> <p>In special cases- victims of rape, invasive examinations such as blood tests, lumber puncture etc.</p>
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		<p>Oral or written consent should be obtained, such as for rectal, genital (external or internal), examination of breasts, and procedures such as Endoscopies and ultrasonography using special probes.</p> <p>Consent should be also compulsorily obtained for research projects. It is compulsory to obtain consent in writing for treatment such as all surgical procedures, hazardous treatment, where mutilation or permanent disability is likely.”</p> <p>Section 40 (Invalidity of consent): “The consent obtained from mentally ill, minor and under fear fraud and force, is invalid. In cases of minor consent should obtained from parents or guardian and in case of mentally ill patient, the consent should obtained from the legal guardian.”</p> <p>Section 41(Exceptions to consent): “Emergencies to save life, where patient or guardian refuses treatment when it is essential to save life. An appropriate record should be made, and if possible should be attested by the guardian or parents. It is not necessary to obtain consent in court order, quarantine or in mandatory mass vaccination.”</p> <p>Policies: National Health Policy 2011 Section 3 (Aspiration): This policy is gender-sensitive, respects the rights of the people, seeks informed consent and maintains confidentiality in relation to medical decision-making and information sharing.</p>
6. Does the legislation enable community inclusion of persons using mental health services?	0	<p>Legislations: Narcotic Drugs, Psychotropic Substances and Substance Abuse (Amendment) Act of Bhutan 2018</p> <p>Section 35: “The Board shall ensure the provision for treatment, rehabilitation, after-care services and social reintegration of drug dependent persons. Such provisions shall include psychosocial interventions, counselling and detoxification.”</p> <p>Section 36: “Any institution, government or private or non-governmental organization</p>



		may establish treatment, rehabilitation and after-care-services or social reintegration programmes for drug dependent persons, with prior approval from the Authority.”
7. Does the legislation ensure the meaningful participation of service users in public decision making related to mental health?	0	N/A
8. Does the legislation ensure the accountability of mental health services?	4	<p>Legislations: Civil Liability Act of Bhutan 2023 Proactive and reactive duty of health professional to warn of risk Section 31: “The health professional owes a duty of care to the patient or client at all stages to prevent injury, damage, or death while rendering professional service.” Section 32: “A health professional does not breach a duty owed to a patient to warn of risk, before the patient undergoes any medical treatment, that will involve a risk of personal injury to the patient, unless the health professional at that time fails to give or arrange to be given to the patient the following information about the risk: information that a reasonable person in the patient’s position would, in the circumstances, require to enable the person to make a reasonably informed decision about whether to undergo the treatment or follow the medical advice; and information that the health professional knows or ought reasonably to know the patient wants to be given before making the decision about whether to undergo the treatment or follow the medical advice.”</p> <p>Bhutan Medical and Health Council Regulation 2005 Section 7(1): Negligence of duty: “The alleged professional shall be held guilty of negligence of duty if it is established that:the concerned practitioner owes a duty of care to the patient; there is a breach of this duty by an act of commission or omission; a causal relationship exists between the breach of commission or omission and alleged damage or harm and a finally;damage or harm is in fact done to the patient;the gravity of offence and the appropriate punishment will be decided by professional ethic sub-committee appointed by the Council. The penalty will range from the dismissal of complaint, reprimand, suspension of registration and permanent erasure of name from</p>

		register;in case of damage or loss of life due to lack of appropriate standard facilities, the professional is not held liable;The management under which defendant is operative shall provide all types of assistance to it's employees including in the event of damage awarded on an individual who has been absolved by the council of all professional misconduct or negligence charges.”
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2. Legislative Content 2.1 Provisions to Ensure Equality and Non-Discrimination		
1. Does the legislation prohibit all forms of discrimination in mental health care, including mental health services?	4	<p>Legislations</p> <p>Constitution of Kingdom of Bhutan 2008</p> <p>Article 7(1): “All persons shall have the right to life, liberty and security of person and shall not be deprived of such rights except in accordance with the due process of law.”</p> <p>Article 7(15): “All persons are equal before the law and are entitled to equal and effective protection of the law and shall not be discriminated against on the grounds of race, sex, language, religion, politics or other status.”</p> <p>The constitution ensures that all persons including people living with Mental Health issues are guaranteed the fundamental rights of life, liberty and security.</p> <p>Article 9 (1): “The State shall endeavour to apply the Principles of State Policy set out in this Article to ensure a good quality of life for the people of Bhutan in a progressive and prosperous country that is committed to peace and amity in the world.”</p> <p>Article 9 (3): “The State shall endeavour to create a civil society free of oppression, discrimination and violence, based on the rule of law, protection of human rights and dignity, and to ensure the fundamental rights and freedoms of the people.”</p> <p>Article 9 (6): “The State shall endeavour to provide legal aid to secure justice, which shall not be denied to any person by reason of economic or other disabilities.”</p>

		<p>Article 9 (9): “The State shall endeavour to create a civil society free of oppression, discrimination and violence, based on the rule of law, protection of human rights and dignity, and to ensure the fundamental rights and freedoms of the people.”</p> <p>Article 9 (12): “The State shall endeavour to ensure the right to work, vocational guidance and training and just and favourable conditions of work.”</p> <p>Article 9 (13): “The State shall endeavour to ensure the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.”</p> <p>Article 9 (21): “The State shall provide free access to basic public health services in both modern and traditional medicines.”</p> <p>Article 9 (22): “The State shall endeavor to provide security in the event of sickness and disability or lack of adequate means of livelihood for reasons beyond one’s control.”</p> <p>Labour and Employment Act of Bhutan 2007</p> <p>Section 14(c): “Sections 11 to 13 do not apply where: special assistance or protection is provided to a person having special requirements relating to sex, age, disablement or family responsibilities.”</p> <p>Bhutan Medical and Health Council Regulation 2005</p> <p>Section 4.3.11: “Every medical or health professional shall: attend to all patients without discrimination on the basis of social, economic, religious or caste status.”</p> <p>Policies:</p> <p>National Health Policy 2011</p> <p>Part III: Disease Control and Medical Care, 12 Medical Care</p> <p>Section 12.4(a): Services for Special Needs Group</p> <p>“Ministry of Health shall address the health services for special needs, vulnerable /at risk groups (such as elderly, physically and mentally disabled, alcoholic, drug addicts, adolescents, out of school population groups etc) and hard-to- reach populations (such</p>
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		as nomadic population groups).”
2. Does the legislation ensure the provision of reasonable accommodation in mental health services?	2	<p>Legislations:</p> <p>Constitution of Kingdom of Bhutan 2008 Article 9(12): “The State shall endeavor to ensure the right to work, vocational guidance and training and just and favorable conditions of work.”</p> <p>Article 9(21): “The State shall provide free access to basic public health services in both modern and traditional medicines.”</p> <p>Article 9(22): “The State shall endeavor to provide security in the event of sickness and disability or lack of adequate means of livelihood for reasons beyond one’s control.”</p> <p>Domestic Violence Prevention Act of Bhutan 2013 Section 27(4,5,6,7): “The Protection Officer shall: Assist the victim to avail free legal aid and relief provided under the relevant law; 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; Accommodate the victim in shelter home, if the victim so requires and inform the police station and the Court of competent jurisdiction; 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.”</p> <p>Section 35(1): “ The Ministry of Health shall: Establish appropriate facilities with trained medical and health personnel to cater to victims of domestic violence;</p> <p>Policies/SoPs:</p> <p>National Policy for Persons with Disabilities 2019</p> <p>Under the Policy it covers different areas such as Education (Article 7), Health (Article 8) and many more.</p> <p>Standard Operating Procedure For Gender Based Violence Prevention And Response 2020</p>



		Section 6.8 (Mental Health and Psychosocial Support): “Support that aims to protect or promote psychosocial wellbeing and/or prevent or treat mental distress. The MHPSS pyramid outlines different levels of care with each meeting distinct needs through a range of MHPSS services”.
3. Does the legislation prevent discrimination in obtaining adequate health insurance from public and private health insurance providers?	3	<p>Legislations:</p> <p>Constitution of Kingdom of Bhutan 2008</p> <p>Article 7(15): “All persons are equal before the law and are entitled to equal and effective protection of the law and shall not be discriminated against on the grounds of race, sex, language, religion, politics or other status.”</p> <p>Article 9(21) “The State shall provide free access to basic public health services in both modern and traditional medicines.”</p> <p>There are general provisions, however, no specific provisions or law which prohibits all (which includes insurance companies) from discrimination.</p> <p>The Health Insurance scheme under the RICBL which provides certain benefits for persons with disability.</p>
4. Does the legislation prohibit health insurance companies from discriminating on the basis of pre-existing mental health conditions?	3	<p>Legislations:</p> <p>Constitution of Kingdom of Bhutan 2008</p> <p>Article 7(15): “All persons are equal before the law and are entitled to equal and effective protection of the law and shall not be discriminated against on the grounds of race, sex, language, religion, politics or other status.”</p> <p>Article 9(21) “The State shall provide free access to basic public health services in both</p>

		<p>modern and traditional medicines.”</p> <p>The Constitution prohibits all (which includes insurance companies) from discrimination.</p> <p>Policies:</p> <p>N/A</p> <p>Practice:</p> <p>The Health Insurance scheme under the Royal Insurance Corporation of Bhutan Limited provides certain benefits for persons with disability;</p> <ol style="list-style-type: none"> 1. Quendue Ngensung life policy 2. Drongseb Kuendrul Tshesog Ngensung1
5. Does the legislation repeal inappropriate, stigmatizing and outdated terminology related to mental health and marginalized groups?	1	<p>Legislations:</p> <p>N/A</p> <p>Policies:</p> <p>National Policy for Persons with Disability 2019</p> <p>Section 11.1.5: “The RGoB shall undertake appropriate legislative, administrative, social, educational, and other measures including review and revision of existing laws, regulations, customs and practices to protect persons with disabilities from all forms of exploitation, discrimination, violence and abuse.”</p>
6. Does the legislation mandate awareness raising activities to combat stigma and discrimination associated with mental health?	1	<p>Legislations:</p> <p>Domestic Violence Protection Act of Bhutan 2013</p> <p>Section 8(4,5,6,7): “The competent authority shall: Develop programs and activities to advocate against domestic violence; 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; Conduct periodic sensitization and awareness</p>



		<p>training on the issues addressed by this Act; and Establish a central database management system in order to maintain an up to date record of all domestic violence cases in the country.”</p> <p>Policies:</p> <p>National Health Policy 2011</p> <p>Section 11(2)(d) (Non-Communicable Diseases and Health Promotion): “Prevention, support and care services for alcoholism and associated mental disorders shall be promoted in collaboration with relevant stakeholders.”</p> <p>National Policy for Persons with Disabilities 2019</p> <p>Section 9(3)(1) Awareness and Advocacy: “The RGoB shall create awareness and advocacy on employment and business opportunities for persons with disabilities.”</p> <p>Section 10(4)(1)(Community): “The RGoB including Local Governments shall create greater awareness and enhance acceptance of persons with disabilities in their community through targeted programs and initiatives.”</p> <p>Section 11(2)(1)(Protection) : “The NCWC and other relevant agencies including CSOs shall provide training and awareness to families/caregivers on the protection of persons with disabilities including children and women, and on the rights of the persons with disabilities, appropriate behaviour towards persons with disabilities, and understanding how to recognize, respond to and report abuse and neglect.”</p>
7. Does the legislation afford persons using mental health services the same rights as persons using general health services?	3	<p>Legislations:</p> <p>Constitution of Kingdom of Bhutan 2008</p> <p>Article 9(21): “The State shall provide free access to basic public health services in both modern and traditional medicines.”</p>

		<p>Policies:</p> <p>National Health Policy</p> <p>Section 12.4(a,b,c) (Services for Special Needs Group): “The Ministry of Health shall address the health services for special needs, vulnerable /at risk groups (such as elderly, physically and mentally disabled, alcoholic, drug addicts, adolescents, out of school population groups etc) and hard-to- reach populations (such as nomadic population groups). The Royal Government of Bhutan shall promote facilities and services which are disability friendly. Ministry of Health shall institute Bhutan specific strategies and mechanisms to address Geriatric problems by strengthening social values and encouraging community participation.”</p>
8. Does the legislation guarantee persons using mental health services the right to access information about their diagnosis and treatment?	4	<p>Legislations:</p> <p>Constitution of Kingdom of Bhutan 2008</p> <p>Article 7(3): “A Bhutanese citizen shall have the right to information.”</p> <p>Civil Liability Act of Bhutan 2023</p> <p>Section 32(1 & 2): “A health professional does not breach a duty owed to a patient to warn of risk, before the patient undergoes any medical treatment, that will involve a risk of personal injury to the patient, unless the health professional at that time fails to give or arrange to be given to the patient the following information about the risk: information that a reasonable person in the patient’s position would, in the circumstances, require to enable the person to make a reasonably informed decision about whether to undergo the treatment or follow the medical advice; and information that the health professional knows or ought reasonably to know the patient wants to be given before making the decision about whether to undergo the treatment or follow the medical advice.”</p> <p>Bhutan Medical and Health Council Regulation 2005</p> <p>Section 4.2(code of ethics)</p> <p>Section 4.2.5: “Every medical or health professional shall:give information to patients</p>



		<p>in a way that they can understand.”</p> <p>Section 4.2.6: “Every medical or health professional shall:respect the rights of patients to be fully involved in decisions about their care.”</p> <p>Section 4.3(code of conduct)</p> <p>Section 4.3.16: “Every medical or health professional shall:explain the side effects and risks of potential hazardous drugs when it is being used.”</p> <p>Section 4.3.19: “Every medical or health professional shall:explain to the patient regarding the techniques used, pathological investigations required and also document the same clearly, precisely and accurately.”</p> <p>Section 4.3.26: “Every medical or health professional shall: keep proper clinical notes reflecting diagnosis, investigations, treatment and prognosis. Important points such as deterioration or improvement of the patient should be discussed with the patient party.”</p>
9. Does the legislation guarantee persons using mental health services the right of confidentiality of information about themselves and their diagnosis and treatment?	4	<p>Legislations:</p> <p>Bhutan Medical and Health Council Regulation 2005</p> <p>Section 4.2(code of ethics)</p> <p>Section 4.2.10: “Every medical or health professional shall:respect and protect confidential information.”</p> <p>Section 4.2.3: “Every medical or health professional shall:Respect patients’ dignity and privacy.”</p> <p>Section 4.2.15: “Every medical or health professional shall:Shall respect and follow the hospital charter of patients right as approved by the medical and health council.”</p> <p>Section 4.3(code of conduct)</p> <p>Section 4.3.7 “Every medical or health professional shall:maintain professional secrecy.”</p>



10. Does the legislation guarantee persons using mental health services the right to privacy within those services?	3	<p>Legislations:</p> <p>Bhutan Medical and Health Council Regulation Section 4.2(code of ethics)</p> <p>Section 4.2.10: “Every medical or health professional shall:respect and protect confidential information.”</p> <p>Section 4.2.3: “Every medical or health professional shall:Respect patients’ dignity and privacy.</p> <p>Section 4.2.15: “Every medical or health professional shall:Shall respect and follow the hospital charter of patients right as approved by the medical and health council.”</p> <p>Section 4.3(code of conduct)</p> <p>Section 4.3.7 “Every medical or health professional shall:maintain professional secrecy.”</p> <p>Policies:</p> <p>National Health Policy 2011</p> <p>Section 3 (Aspirations): This policy is gender-sensitive, respects the rights of the people, seeks informed consent and maintains confidentiality in relation to medical decision-making and information sharing.</p>
11. Does the legislation guarantee persons using mental health services the right to communicate with any person they choose?	4	<p>Legislations:</p> <p>Constitution of Kingdom of Bhutan 2008 Article 7 (2): “A Bhutanese citizen shall have the right to freedom of speech, opinion and expression.”</p>
12. Does the legislation guarantee that persons using mental health services are given	4	<p>Legislations:</p> <p>Constitution of Kingdom of Bhutan 2008 Article 7(3): “A Bhutanese citizen shall have the right to information.”</p>



<p>information about their rights in mental health services in an accessible manners?</p>	<p>Civil Liability Act of Bhutan 2023</p> <p>Section 32 (1 & 2): “A health professional does not breach a duty owed to a patient to warn of risk, before the patient undergoes any medical treatment, that will involve a risk of personal injury to the patient, unless the health professional at that time fails to give or arrange to be given to the patient the following information about the risk: information that a reasonable person in the patient’s position would, in the circumstances, require to enable the person to make a reasonably informed decision about whether to undergo the treatment or follow the medical advice; and information that the health professional knows or ought reasonably to know the patient wants to be given before making the decision about whether to undergo the treatment or follow the medical advice.”</p> <p>Bhutan Medical and Health Council Regulation 2005</p> <p>Section 4.2(code of ethics)</p> <p>Section 4.2.5: “Every medical or health professional shall:give information to patients in a way that they can understand.”</p> <p>Section 4.2.6: “Every medical or health professional shall:respect the rights of patients to be fully involved in decisions about their care.”</p> <p>Section 4.3(code of conduct)</p> <p>Section 4.3.16: “Every medical or health professional shall:explain the side effects and risks of potential hazardous drugs when it is being used.”</p> <p>Section 4.3.19: “Every medical or health professional shall:explain to the patient regarding the techniques used, pathological investigations required and also document the same clearly, precisely and accurately.”</p> <p>Section 4.3.26: “Every medical or health professional shall: keep proper clinical notes reflecting diagnosis, investigations, treatment and prognosis. Important points such as deterioration or improvement of the patient should be discussed with the patient party.”</p>
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<p>13. Does the legislation guarantee the provision of safe, hygienic and comfortable mental health services?</p>	<p>3</p>	<p>Legislations:</p> <p>Bhutan Medical and Health Council Regulation 2005</p> <p>Section 4.1: Code of etiquette</p> <p>Section 4.1.3: “The medical or health professionals being the natural role models of healthy habits are expected to refrain from smoking, chewing doma and imbibing alcoholic drinks in excessive quantities that may affect his normal behavior. Further, a registered professional shall totally abstain from use of psychotropic or habit-forming drugs.”</p> <p>Section 4.2(code of ethics)</p> <p>Section 4.2.12: “act appropriately to protect patients from risk, if there is good reason to believe that a colleague or groups of colleagues are not fit to practice.”</p> <p>Section 4.2.14: “work with colleagues in ways that are in the best interest of the patient.”</p> <p>Section 4.3(code of conduct)</p> <p>Section 4.3.25: “take necessary care with regards to dose and volume of drugs with potential damaging side effects.”</p> <p>Section 4.3.30: “use judgment regarding individual competence when accepting and delegating responsibility.”</p> <p>Section 4.3.31: “maintain standard of personal conduct, which reflect value on the profession and enhance public confidence.”</p> <p>Code of Conduct, Ethics And Etiquette For Medical and Health Professionals</p> <p>Section 11.11: Practice in a safe, competent, accountable and responsible manner during the provision of services.</p>
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14. Does the legislation guarantee the accessibility of facilities, services and information for persons with disabilities?	3	<p>Legislations:</p> <p>Constitution of Kingdom of Bhutan 2008</p> <p>Article 9(21): “The State shall provide free access to basic public health services in both modern and traditional medicines.”</p> <p>Policies:</p> <p>National Health Policy 2011</p> <p>Section 12.4(a,b,c) (Services for Special Needs Group): “The Ministry of Health shall address the health services for special needs, vulnerable /at risk groups (such as elderly, physically and mentally disabled, alcoholic, drug addicts, adolescents, out of school population groups etc) and hard-to- reach populations (such as nomadic population groups). The Royal Government of Bhutan shall promote facilities and services which are disability friendly. Ministry of Health shall institute Bhutan specific strategies and mechanisms to address Geriatric problems by strengthening social values and encouraging community participation.”</p>
2.2 Respecting Personhood and Legal Capacity in Mental Health		
1. Does the legislation mandate the respect and protection of the right to legal capacity of all persons using mental health services, including those with psychosocial, intellectual and developmental disabilities?	4	<p>Legislations:</p> <p>Constitution of Kingdom of Bhutan 2008</p> <p>Article 9(6): “The State shall endeavour to provide legal aid to secure justice, which shall not be denied to any person by reason of economic or other disabilities.”</p> <p>Civil and Criminal Procedure Code of Bhutan 2001</p> <p>Section 118(Substitution by Legal Representative and Successor): “If a party to a civil case dies during the suit, or becomes physically or mentally incapacitated, the Court shall order:substitution of such party by legal representative;successor of that party representing his/her estate; and to receive, if damages are awarded from the other party.”</p>

		<p>Code of Conduct, Ethics And Etiquette For Medical and Health Professionals</p> <p>Section 5.14: Respect the patient's right to accept or reject advice.</p> <p>"To enunciate a frame-work legal environment for the welfare of both the patients and professionals."</p> <p>Policies:</p> <p>National Policy for Persons with Disabilities 2019</p> <p>Section 11.1. "The RGoB shall make reasonable accommodations to make laws available in formats accessible to persons with disabilities"</p> <p>Practice:</p> <p>Those persons who may not have the mental capacity to make a legally informed decision shall be represented / accompanied by a family member / legal guardian to ensure the protection of their rights.(Family and Social support) there is no legislation but in practice.</p>
2. Does the legislation repeal legal provisions which authorize restrictions to legal capacity and substituted decision-making in mental health services?	0	<p>Legislations:</p> <p>N/A</p> <p>Policies:</p> <p>National Policy for Persons with Disabilities 2019</p> <p>Section 11.1.5: "The RGoB shall undertake appropriate legislative, administrative, social, educational, and other measures including review and revision of existing laws, regulations, customs and practices to protect persons with disabilities from all forms of exploitation, discrimination, violence and abuse."</p>
3. Does the legislation make supported decision making	3	<p>Legislations:</p> <p>Code of Conduct, Ethics And Etiquette For Medical and Health Professionals</p>



available for persons using mental health services?		<p>Section 5.19: Respect the rights of patients in decisions about their care and involve them and their families in planning care, where appropriate.</p> <p>Policies:</p> <p>National Health Policy 2011 Section 3 (Aspirations): This policy is gender-sensitive, respects the rights of the people, seeks informed consent and maintains confidentiality in relation to medical decision-making and information sharing.</p> <p>Practice:</p> <p>Since the health workers/ service providers have the duty to inform the patients about the diagnosis and treatment, the person using mental health services will be able to make supported/ informed decisions.</p>
4. Does the legislation include safeguards to ensure respect for the rights, will and preferences of the individual being supported in the exercise of their legal capacity, as well as to prevent abuse in the provision of supported decision-making?	2	<p>Legislations:</p> <p>Constitution of Kingdom of Bhutan 2008 Article 9(6): “The State shall endeavour to provide legal aid to secure justice, which shall not be denied to any person by reason of economic or other disabilities.”</p> <p>Civil and Criminal Procedure Code of Bhutan 2001 Section 118(Substitution by Legal Representative and Successor): “If a party to a civil case dies during the suit, or becomes physically or mentally incapacitated, the Court shall order:substitution of such party by legal representative;successor of that party representing his/her estate; and to receive, if damages are awarded from the other party.”</p> <p>Section 148.2: “A person lacking in capacity to sue or be sued is one who has a direct stake in the outcome of the litigation but is unable to prosecute or defend an action due to mental or physical incapacity, being a minor or absent: Such person shall, in the case of person with a mental or physical incapacity, or otherwise physically absent who is not a minor, be represented by an individual with power of attorney over his/her business affairs or by a Jabmi.”</p>



		Practice: Those persons who may not have the mental capacity to make a legally informed decision shall be represented / accompanied by a family member / legal guardian to ensure the protection of their rights in terms of clinical.(Family and Social support) No legislation but in practice.
5. Does the legislation provide for children's evolving capacities to be taken into consideration in mental health-related decision-making?	1	Legislations: Code of Conduct, Ethics And Etiquette For Medical and Health Professionals Section 5.19: "Respect the rights of patients in decisions about their care and involve them and their families in planning care, where appropriate." Child Care and Protection Act of Bhutan 2011 Section 157: "The Court shall take into account any information that is available about the child's age, emotional, mental and intellectual maturity, antecedents and circumstances before awarding the judgment."
2.3 Informed Consent and Eliminating Coercive Practices in Mental Health Care		
1. Does the legislation uphold the right to free and informed consent within mental health services so that all support and treatment is provided voluntarily?	3	Legislations: Medical and Health Council Regulation 2005 Section 37 (Validity of Consent): "consent is valid if freely given, without any compulsion, and where necessary in writing. consent should be informed. All hazards must be disclosed. it is the patient who decides whether to accept or reject the advice of the practitioner." Section 38 (Types of Consent): "Implied – when a patient enters hospital OPD seeking treatment. Expressed – given in gesture, verbally or in writing. Informed – wherein the patient is explained with reasonable thoroughness about his medical problem, procedures to undergo, advantages and disadvantages and alternatives." Section 39 (Procedure for Compulsory Consent): "It is compulsory to obtain consent from patients on request by a third party, e.g. Judiciary, Employer, Police, Prison,"

		<p>Insurance purposes, from spouse for sterilization, or abortions etc. In special cases- victims of rape, invasive examinations such as blood tests, lumbar puncture etc. Oral or written consent should be obtained, such as for rectal, genital (external or internal), examination of breasts, and procedures such as Endoscopies and ultrasonography using special probes. Consent should be also compulsorily obtained for research projects. It is compulsory to obtain consent in writing for treatment such as all surgical procedures, hazardous treatment, where mutilation or permanent disability is likely.”</p> <p>Section 40 (Invalidity of consent): “The consent obtained from mentally ill, minor and under fear fraud and force, is invalid. In cases of minor consent should be obtained from parents or guardian and in case of mentally ill patient, the consent should be obtained from the legal guardian.”</p> <p>Section 41(Exceptions to consent): “Emergencies to save life, where patient or guardian refuses treatment when it is essential to save life. An appropriate record should be made, and if possible should be attested by the guardian or parents. It is not necessary to obtain consent in court order, quarantine or in mandatory mass vaccination.”</p> <p>Code of Conduct, Ethics And Etiquette For Medical and Health Professionals Section 5.21: “Obtain informed consent to give treatment.”</p>
2. Does the legislation grant children and adolescents a right to consent to, or refuse, treatment in accordance with their age and maturity?	2	<p>Legislations:</p> <p>Medical and Health Council Regulation 2005</p> <p>Section 40 (Invalidity of consent): “The consent obtained from mentally ill, minor and under fear, fraud and force, is invalid. In cases of minor consent should be obtained from parents or guardians and in case of mentally ill patients, the consent should be obtained from the legal guardian.”</p> <p>There is common understanding in practise but no legislative provision proving the</p>

		children to decide
3. Does the legislation provide for safeguards to ensure full free and informed consent, and prevent coercion and potential abuses in the use of specific interventions, such as the prescription of psychotropic drugs and electroconvulsive therapy?	3	<p>Legislations:</p> <p>Medical and Health Council Regulation 2005</p> <p>Part VII Supplementary to the regulations governing etiquette, ethic and conduct</p> <p>Section 37 (Validity of Consent):</p> <p>Section 37.1: “consent is valid if freely given, without any compulsion, and where necessary in writing.”</p> <p>Section 37.2: “consent should be informed. All hazards must be disclosed.</p> <p>Section 37.3: “it is the patient who decides whether to accept or reject the advice of the practitioner.”</p> <p>Section 4.3.28: “be very careful while applying heat therapy or electric stimulation to avoid electric shock or burns.”</p> <p>Section 5.13: Psychiatry</p> <p>Section 5.13.1: “take reasonable care not to subject the patient to preventable fractures or dislocation of bones while administering the electro-convulsive therapy (CET).”</p> <p>Section 5.15: Physiotherapy</p> <p>Section 5.15.1: “take particular care to prevent electric shock while using any modality of heat waves to the patient with metal implants such as in fractures.”</p> <p>Section 5.15.2: “avoid fracture in weak bones especially in elderly, children or very debilitated patients during physiotherapy.”</p> <p>Code of Conduct, Ethics And Etiquette For Medical And Health Professionals</p> <p>Section 5.21: “Obtain informed consent to give treatment.”</p>



		<p>Practice:</p> <p>In general practice, health professionals seek consent from the patients and family members, however, there are times where interventions are needed involuntarily in the best interest of the patient.(lack of insight).</p> <p>To ensure prevention of coercion and potential abuses in the use of specific interventions, the following provision imposes a duty of care on the health professionals.</p> <p>ECT is only for adult.</p>
4. Does the legislation prohibit all forms of coercive practices within mental health services, including seclusion and physical and chemical restraints?	0	<p>Legislations: N/A.</p> <p>The SOP of the Psychiatric Department allows certain forms of coercive practices depending on cases.</p> <p>Practice: In practice, the doctors exercise their due diligence in deciding seclusion and physical and chemical restraint for the safety of patients and carers.</p>
5. Does the legislation prohibit medical or scientific research or experimentation on a person with mental health conditions and psychosocial disabilities, without their informed consent?	4	<p>Legislations:</p> <p>Medical and Health Council Regulation 2005</p> <p>Section 39: Procedure for Compulsory Consent:</p> <p>Section 39.4: “Consent should be also compulsorily obtained for research projects.”</p>
6. Does the legislation provide for advanced planning options, and ensure their accessibility within all relevant mental health	0	<p>Policies:</p> <p>National Policy for persons with Disabilities 2019</p> <p>It is inclusive in the Policy.</p> <p>No provision on the options to provide advance planning related to accessibility within</p>



services?		all relevant mental health services.
7. Does the legislation mandate advanced planning documents to be binding?	0	No No specific legislation, however if it is made in accordance with the laws (Contract Act and Inheritance Act) then it will be enforced legally.
8. Does the legislation establish a framework for supporting people experiencing crises?	3	Legislations: Child Care Protection Act of Bhutan 2011 Chapter 5: The Child in Difficult Circumstances Section 238: “In order to facilitate expeditious processing of offences against and to safeguard the best interest of the child, the government shall establish a one stop crisis center in every major government hospital staffed by a police official, psychiatrist, social worker and a legal counsel.” Domestic Violence Prevention Act Bhutan 2013 Section 35(2): “Establish a One Stop Crisis Centre which shall facilitate the victims in receiving the medical treatment and maintain records of treatment of victim.” Standard Operating Procedure for Gender Based Violence Prevention and Response 2020 35.2 Establish a One stop crisis center which shall facilitate the victims in receiving the medical treatment and maintain records of treatment
9. Does the legislation mandate the availability of community-based crisis support services?	1	Policies: National Health Policy Section 9 (Health Financing): Section 9.2. “The Royal Government of Bhutan shall continue to secure adequate budget for health care services to continue providing universal coverage to the Bhutanese citizens and ensure protection against catastrophic expenditure and



		<p>impoverishment.”</p> <p>Section 12.3 (Emergency Health Services)</p> <p>Section 12.3(a). “All health facilities shall institute appropriate system of care to deal with emergencies, disasters, epidemics and outbreaks.”</p> <p>Section 12.3(b). “All health facilities shall provide a system of emergency for (a) disasters (b) epidemic outbreaks (c) Mass casualty (d) routine emergencies. The services shall be supported by appropriate transport facilities, safe health infrastructures and competent emergency medical teams.”</p> <p>Section 12.3(c). “National emergency preparedness plans shall be maintained and appropriate resources provided at all levels to respond rapidly and effectively to all health related emergencies of national and international concerns.”</p>
10. Does the legislation mandate the financing of non-medical crisis support services (e.g. peer support services, crisis houses)?	1	<p>Legislations:</p> <p>Domestic Violence Prevention Act Bhutan 2013</p> <p>Section 9 (Finance): The government shall provide adequate budget for the effective implementation of this Act.</p>
11. Does the legislation ban all forms of coercion within the community, including community treatment orders and shackling?	3	<p>Legislations:</p> <p>Constitution of Kingdom of Bhutan</p> <p>Article 7(17): A person shall not be subjected to torture or to cruel, inhuman or degrading treatment or punishment.</p> <p>Article 9(3): The State shall endeavor to create a civil society free of oppression, discrimination and violence, based on the rule of law, protection of human rights and dignity, and to ensure the fundamental rights and freedoms of the people.</p>
12. Does the legislation decriminalize suicide attempts?	0	NA as suicide is not an offence in Bhutan



2.4 Access to High Quality Mental Health Services		
1. Does the legislation provide for an enforceable right to mental health?	2	<p>Legislations:</p> <p>Penal Code of Bhutan 2004 Section 25: If a defendant is found to be clinically insane or suffering from a mental abnormality or chronic condition that significantly impairs the defendant's capacity to make sagacious judgments, a Court shall, in lieu of imprisonment, order the civil commitment of the defendant to a hospital or other institution for psychiatric or other rehabilitative treatment.</p> <p>Medical and Health Council Regulation 2005</p>
2. Does the legislation consider mental health as being equal to physical health in terms of coverage and quality of services?		<p>Legislations:</p> <p>Constitution of Kingdom of Bhutan Article 9 (21): "The State shall provide free access to basic public health services in both modern and traditional medicines."</p> <p>Policies:</p> <p>National Health Policy 2011</p> <p>Part II Health Systems</p> <p>"Bhutan shall continue to pursue the comprehensive approach of Primary Health Care, provide universal access with emphasis on disease prevention, health promotion, community participation and intersectoral collaboration. Quality health care services shall be provided through an integrated modern and traditional health care system that responds equitably, appropriately and efficiently to the needs of all Bhutanese citizens."</p> <p>Section 9 (Health Financing)</p> <p>Section 9.3. "The Royal Government of Bhutan shall continue to pursue and sustain</p>



		the universal health coverage achieved; by providing all Bhutanese citizens with access to equitable and quality basic health services including prevention, promotion, treatment and rehabilitation through the three-tiered health system with exclusion of non-essential health services in the context of maximizing population benefit of public expenditure on health.”
3. Does the legislation include or expand mental health coverage as part of national efforts towards universal health coverage?	1	<p>Policies:</p> <p>National Health Policy 2011</p> <p>Part II Health Systems</p> <p>“Bhutan shall continue to pursue the comprehensive approach of Primary Health Care, provide universal access with emphasis on disease prevention, health promotion, community participation and intersectoral collaboration. Quality health care services shall be provided through an integrated modern and traditional health care system that responds equitably, appropriately and efficiently to the needs of all Bhutanese citizens.”</p> <p>Section 9 (Health Financing)</p> <p>Section 9.3. “The Royal Government of Bhutan shall continue to pursue and sustain the universal health coverage achieved; by providing all Bhutanese citizens with access to equitable and quality basic health services including prevention, promotion, treatment and rehabilitation through the three-tiered health system with exclusion of non-essential health services in the context of maximizing population benefit of public expenditure on health.”</p>
4. Does the legislation establish criteria for a needs-based allocation of services?	1	<p>Policies:</p> <p>National Health Policy 2011</p> <p>Section 6. Health Human Resource</p> <p>Section 6.1. “The Royal Government of Bhutan shall continue to accord priority for the development of appropriate health human resources.”</p>



		<p>Section 9 (Health Financing)</p> <p>Section 9.6: “Bhutan Health Trust Fund shall continue to be one of the sources of health financing to provide sustainable universal access to essential drugs and vaccines.”</p> <p>HR allocation (Service Standard)</p>
5. Does the legislation institute earmarked funds for mental health, or progressive targets in their health budget, aimed at increasing mental health investment?	1	<p>Policies:</p> <p>National Health Policy 2011</p> <p>Section 9 (Health Financing)</p> <p>Paro Declaration</p>
6. Does the legislation contribute to ensuring that mental health services are gender-responsive?	1	<p>Policies/SoPs:</p> <p>National Gender Equality Policy 2020</p> <p>5. Gender Equality In The Social Domain</p> <p>Section 8: “Expand specific health services for women and girls across the country, including maternal, adolescent, sexual and reproductive health.”</p> <p>National Health Policy 2011</p> <p>Section 14 (Multi Sectoral collaboration)</p> <p>Section 14.9. Inter and intra sectoral collaboration and coordination shall be emphasized to support gender responsive plans and programs.</p> <p>Standard Operating Procedure for Gender Based Violence Prevention and Response 2020</p>
7. Does the legislation	0	No



contribute to ensuring that mental health services are age-appropriate?		
8. Does the legislation contribute to ensuring that mental health services are culturally-appropriate?	1	<p>Legislations:</p> <p>Constitution of Kingdom of Bhutan 2008</p> <p>Article 7(15): “All persons are equal before the law and are entitled to equal and effective protection of the law and shall not be discriminated against on the grounds of race, sex, language, religion, politics or other status.”</p> <p>Policies:</p> <p>National Health Policy 2011</p> <p>Section 3 (Aspirations) : The National Health Policy aspires to be congruent with the philosophy of Gross National Happiness and reflects various inputs ranging from social, spiritual, cultural and environmental aspects.</p>
9. Does the legislation address the rights and needs of marginalized groups, including those experiencing systemic discrimination?	1	<p>Legislations:</p> <p>Constitution of Kingdom of Bhutan</p> <p>Article 7(15): “All persons are equal before the law and are entitled to equal and effective protection of the law and shall not be discriminated against on the grounds of race, sex, language, religion, politics or other status.”</p> <p>Policies:</p> <p>National Policy for Persons with Disabilities 2019</p> <p>Rationale : Its development policies and plans are geared towards meeting the needs of all sections of the society including those that are marginalized or vulnerable.</p>
10. Does the legislation provide for the training of health care and social care providers	3	<p>Legislations:</p> <p>Medical and Health Council Regulation 2005</p> <p>Section 4.5.1(Duties to profession): “Every medical or health professional shall: try</p>

		<p>and attain the highest standard of knowledge.”</p> <p>Section 21: Uniformity in Standards</p> <p>Section 21.2: “For re-certification all medical and health professionals must have at least 30 hours of Continuing Medical Education (CME) to be eligible for re-certification, in five years time.”</p> <p>Section 21.3: “The Council shall encourage continuing medical education, the council shall support the Human resource Division (HRD) to promote various forums such as clinical meetings, seminars, symposia, conferences, workshops, short-course trainings within Bhutan and in countries outside Bhutan for every category of professionals.”</p> <p>Section 21.4: “The Ministry of Health shall recognise the need of professionals to undertake or take part in research as part of CME.”</p> <p>Section 21.5: “The council may encourage the medical and health professional to take sabbatical leave after completion of five years to enhance their professional competence.”</p> <p>Policies:</p> <p>National Health Policy 2011</p> <p>Section 6.4: “The Royal Government of Bhutan shall upgrade the existing health institutes, establish new health training institutes, nursing colleges; thereby making Bhutan the center of excellence in producing quality and competent medical and health professionals to address the health human resource issues within the country and beyond.”</p> <p>Section 6.9: “Village health workers shall be trained in order to sustain achievement of universal health coverage and to encourage community participation in the health care delivery system.”</p>
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2.5 Implementing Mental Health Services in the Community		
1. Does the legislation provide for the integration of mental health in primary health care and general hospitals?	3	<p>Legislations:</p> <p>The Local Government Act of Bhutan, 2009</p> <p>Section 48 (General Powers of Local Government)</p> <p>Section 48(j & k):“Within the overall policy and legal framework, Local Government shall:Provide protection for women, children and the physically challenged and eliminate physical, mental and emotional abuse and violence against women and children; Protect public health.”</p> <p>Policies:</p> <p>National Health Policy 2011</p> <p>Part II:Health System</p> <p>“Quality health care services shall be provided through an integrated modern and traditional health care system that responds equitably, appropriately and efficiently to the needs of all Bhutanese citizens.”</p> <p>Section 5.1: “The health care service delivery shall continue to be structured into a three-tiered health system with hierarchy ascending from OutReach Clinic to Basic Health Units at the primary level and District Hospitals at secondary level and the Regional Referral Hospitals to National Referral Hospitals at tertiary level.”</p> <p>Paro Declaration</p>
2. Does the legislation improve the availability of mental health goods and services at the primary care level?	2	<p>Policies:</p> <p>National Health Policy 2011</p> <p>Section 5. Service Delivery</p> <p>Section 5.1. “The health care service delivery shall continue to be structured into a</p>

		<p>three-tiered health system with hierarchy ascending from OutReach Clinic to Basic Health Units at the primary level and District Hospitals at secondary level and the Regional Referral Hospitals to National Referral Hospitals at tertiary level.”</p> <p>Section 5.2: “The health care coverage shall be sustained with at least 90% of the population living within a 3 hour walking distance from a health facility (Outreach Clinic, Basic Health Unit and District Hospital).”</p> <p>Section 5.3: “The primary health care shall also reach out to the communities through OutReach Clinics, Village Health Workers, and other available modes of communication.”</p> <p>Paro Declaration</p>
3. Does the legislation provide for the transformation of mental health service provision towards community based, person-centered responses?	2	<p>Legislation:</p> <p>The Local Government Act of Bhutan, 2009</p> <p>Section 48 (General Powers of Local Government) Section 48(k): Within the overall policy and legal framework, Local Government shall: Protect public health.</p> <p>Domestic Violence Prevention Act of Bhutan 2013</p> <p>Section 10.2: “Through concerned agencies or institutions provide community based services responding to special needs, problems, interests and protection of victims of domestic violence.”</p> <p>Paro Declaration</p>
4. Does the legislation provide for the development of rights-based services in the community, including community mental health	0	It’s not there as it's a gap

centres, crisis response services, community outreach services, among others?		
5. Does the legislation provide for the development of peer support services?	0	No
6. Does the legislation allow for the creation of peer-led and peer-run services and for their operations to run alongside mental health services?	0	No
7. Does the legislation provide for a deinstitutionalization policy with a clear action plan?	0	N/A
8. Does the legislation provide for the redistribution of financial and human resources from institutions to community services?	0	N/A
9. Does the legislation ensure that community-based mental health services and	0	N/A



support are available in emergency situations and humanitarian contexts?		
10. Does the legislation stipulate that refugees, asylum-seekers and migrants are entitled to the same mental health care as citizens of the host country?	0	N/A
2.6 Ensuring Full and Effective Participation in Public Decisions		
1. Does the legislation ensure the full and equal involvement of persons with mental health conditions and psychosocial disabilities, as well as their representative organizations, in the development, implementation and monitoring of legislation and policies concerning mental health?	1	Policies: National Policy for Persons with Disabilities 2019
2. Does the legislation grant seats on mental health standing committees, temporary task forces, or monitoring bodies	0	N/A



to organizations of persons with mental health conditions and psychosocial disabilities?		
3. Does the legislation regulate proper and transparent mechanisms and procedures for persons with mental health conditions and psychosocial disabilities to be consulted in decision making processes related to mental health at the different branches and levels of government?	0	Policies: National Policy for Persons with Disabilities 2019
2.7 Ensuring Accountability		
1. Does the legislation recognize the right to request information or to consult or obtain a copy of documents concerning public mental health authorities, bodies or services?	1	Legislation: The Evidence Act of Bhutan 2005 Section 4 (Types of evidence): Evidence shall be categorized into the following types: Testimonial; Documentary including electronic records; Physical; and Expert opinion. Section 22 (Expert reports): An expert report shall be admissible as evidence in a legal proceeding, if the expert, who wrote the report, gives oral evidence in the proceeding. Section 48 (Expert witnesses): If scientific, technical or other specialized knowledge will assist the Court to assess the evidence or a fact in issue, a witness, who is qualified

		as an expert in skill, knowledge, experience, training or education may testify as an expert witness when required by the Court.
2. Does the legislation establish an independent monitoring framework to monitor the situation of the rights of persons using mental health services?	0	No
3. Does the legislation grant persons using mental health services the right to report complaints and initiate legal proceedings concerning any aspect of mental health care?	3	<p>Legislation:</p> <p>Constitution of Kingdom of Bhutan Article 7(23): “All persons in Bhutan shall have the right to initiate appropriate proceedings in the Supreme Court or High Court for the enforcement of the rights conferred by this Article.”</p> <p>Medical and Health Council Regulations 2005</p> <p>Regulations governing offences Section 6.1: “Any contravention of Medical and Health Council Regulations and/or any action by a medical and health professional that is in contravention to professionally approved practice are considered as offenses for the purposes of the Act.”</p> <p>Section 6.2.7: “It is the universal practice, that in hospitals wherein both practices of charging fees and free services exist, the consumers of free services are also given the right to sue against the damages just as in the case of patients who pay for the fee for services.”</p>
4. Does the legislation ensure that complaint	4	Legislations:



<p>adjudicators, such as national human rights institutions or courts, provide remedies that are tailored to the individual and include redress and reparation?</p>	<p>Penal Code of Bhutan 2004</p> <p>Section 36 (Damages in general): “A Court may order a defendant to pay appropriate damages or reparation for any loss, injury, or deterioration caused to a victim.”</p> <p>Section 37: “In ordering a convicted defendant to pay damages of any type in addition to serving a sentence of imprisonment or probation, the Court shall consider whether: The defendant has derived a pecuniary gain from the crime; The damage awarded will deter the commission of a subsequent crime of the same or similar nature; Compensation to the victim or the victim’s survivors is sanctioned by customs or laws or the severity of the offence warrants such recompense; or The defendant has the ability to pay the damages.”</p> <p>Section 38 (Compensatory damages): “A Court may order a defendant sentenced for a crime to pay appropriate compensatory damages in addition to the sentence. However, no such order shall be made if the victim is responsible for his own victimization or have contributed to such victimization in any manner.”</p> <p>Child Care and Protection Act of Bhutan 2011</p> <p>Section 59 (Child in difficult circumstances): “A child in difficult circumstances is a child who: Is found without having any home or settled place of abode and without any ostensible means of subsistence and is a destitute; Has a parent or guardian who is unfit or incapacitated to take care of or exercise control over the child; Is found to associate with any person who leads an immoral, drunken or depraved life; Is being or likely to be abused or exploited for immoral or illegal purposes; or Is a frequent victim at the hands of individuals, families or the community.”</p> <p>Section 60 (Production of a child in difficult circumstances): “If any person is of the opinion that a child is apparently a child in difficult circumstances as mentioned in Section 59, such person shall inform the police or child welfare officer.”</p> <p>Section 70: “The child welfare officer may: Provide counseling to the parents or legal</p>
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		<p>guardian on how to look after the child and direct the parents or legal guardian to look after the child in a proper manner including the provision of necessary assistances to the family as the child welfare officer deems fit; Monitor the way the parents or legal guardian look after the child to ensure the child's safety and welfare; Send the child to a place of safety until he ceases to require assistance and protection or till the child attains the age of 18 years; or Recommend the child for adoption in accordance with the relevant laws.”</p> <p>Civil Liability Act of Bhutan 2022</p> <p>Section 44: “The Court may, award damages despite the exclusionary principle if satisfied that: the circumstances of the particular case are exceptional; or in the circumstances of the particular case, a failure to award damages would be harsh and unjust.”</p> <p>Section 45 (Exclusion of liability for criminal conduct): “A defendant may be exempted from liability to pay damages if the Court: is satisfied beyond reasonable doubt that the accident occurred while the injured person was engaged in a conduct constituting a criminal offence; and is satisfied on the balance of probabilities that the injured person's conduct contributed materially to the risk of injury.”</p>
5. Does the legislation on professional liability provide for effective civil, administrative or criminal sanctions and reparations?	4	<p>Legislation:</p> <p>Civil Liability Act of Bhutan 2022</p> <p>Part I: Duty Of Care And Breach Of Duty</p> <p>Principles of general standard of care</p> <p>Section 11: “A general standard of care constitutes the level of care, caution, and judgment that a reasonable person would exercise in a particular circumstance.”</p> <p>Section 12: “A person does not breach a duty to take precautions against a risk of harm unless: the risk was foreseeable, that is, it is a risk of which the person knew or ought reasonably to have known; the risk was not insignificant or far-fetched; and in the</p>

		<p>circumstances, a reasonable person in the position of the person would have taken the precautions.”</p> <p>Section 13: “In determining whether a reasonable person would have taken precautions against a risk of harm, the Court is to consider, amongst other relevant things, the following: the probability that the harm would occur if care were not taken; the likely seriousness of the harm; the burden of taking precautions to avoid the risk of harm; and the social utility of the activity that creates the risk of harm.”</p> <p>Section 28: “In a case involving an allegation of negligence against a professional, the standard to be applied by a Court in determining whether the defendant acted with due care is to be determined by reference to what could reasonably be expected of a professional.”</p> <p>Bhutan Medical and Health Council Regulations 2005</p> <p>Section 6.1: “Any contravention of Medical and Health Council Regulations and/or any action by a medical and health professional that is in contravention to professionally approved practice are considered as offences for the purposes of the Act.</p> <p>Section 6.2: “The concerned professionals shall be held guilty of offences if they are proven to have: committed gross negligence of duty; committed professional misconduct; breach of professionally approved standard of practice; physical or mental incapacity; conviction for crimes; been practicing without valid registration or qualification.”</p> <p>Disciplinary Proceeding for Medical Malpractices and Negligence Regulations aims at fixing accountability on Medical and health officials.</p> <p>The Jabmi (Amendment) Act of Bhutan 2016</p> <p>Section 66: “bar the Jabmi from practice, if convicted of a criminal offence and sentenced to imprisonment.”</p>
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		The Penal Code of Bhutan 2004 Section 294(Official misconduct): “A defendant shall be guilty of the offence of official misconduct, if the defendant knowingly:Commits an act relating to the office constituting an unauthorized exercise of the official functions or unauthorised divulging of restricted official information or secrecy; or Refrains from performing a duty, which is imposed upon the defendant by law.”
6. Does the legislation mandate the adoption of indicators to measure, evaluate and review both the performance and impact of mental health systems, and the progress towards implementing human rights in the context of mental health?	1	Policies: National Health Policy 2011 Section 7:Health Research and Information Section 7.1: “Comprehensive quality health information shall be generated, regularly updated and maintained through the Centralised Health Management Information system (HMIS).” Section 7.2: “Digitized Health record and information system shall be instituted in all the health facilities for faster and effective health information generation to support decision making.” Section 7.3: “The national health research system shall be enhanced to provide an enabling structure to facilitate in conducting research that improves human health and supports evidence based decision making.”
2.8 Cross-sectoral reform for holistic service provision a) Promoting community inclusion		
1. Does the legislation recognize the right of persons with mental health conditions and psychosocial disabilities to live independently in the community?	3	Legislation: Constitution of Kingdom of Bhutan 2008 Article 7(7): “All persons shall have the right to life, liberty and security of person and shall not be deprived of such rights except in accordance with the due process of law.”

		Policies: National Policy for Persons with Disabilities 2019
2. Does the legislation provide for access of persons with mental health conditions and psychosocial disabilities to community-based services and support?	2	Legislation Child Care and Protection Act of Bhutan 2011 Participation of community <p>Section 31: “The community may provide or strengthen a wide range of community based support measures for children, including community development centre, recreational facilities and other services to respond to the needs of children.”</p> <p>Section 32: “The services and supportive measures may be provided by the community to deal with the difficulties experienced by children.”</p> <p>Section 33: “The community shall endeavor with assistance from the government, to establish special facilities to provide adequate shelter for children who have no home to live in or not able to live at home.”</p> <p>Section 34: “Volunteers, voluntary or civil society organizations, social institutions and other community resources may be called upon to contribute effectively to the rehabilitation of children in difficult circumstances and in conflict with law.”</p> Domestic Violence Prevention Act of Bhutan 2013 Community Services <p>Section 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.”</p> <p>Section 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</p>

		<p>the society.”</p> <p>Section 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.”</p> <p>Section 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.”</p> <p>Policies:</p> <p>National Policy for Persons with Disabilities 2019</p> <p>Section 17.1.1: “All agencies shall ensure that persons with disabilities and/or their representatives are consulted and encouraged to participate in making plans, policies, and decisions.”</p> <p>Section 17.1.2: “Local governments shall involve Disabled People’s Organisations, organizations associated with persons with disabilities and persons with disabilities and/or their representatives in planning and decision making.”</p> <p>Practice:</p> <p>No written legislation, however the common practice is most of the awareness or social awareness programs involve those persons in community based services and support for better understanding.</p>
3. Does the legislation ensure mental health services facilitate and support service users to live, work and actively participate in the community?	2	<p>Legislation</p> <p>Child Care and Protection Act of Bhutan 2011</p> <p>Participation of community</p> <p>Section 31: “The community may provide or strengthen a wide range of community based support measures for children, including community development centre,</p>

		<p>recreational facilities and other services to respond to the needs of children.”</p> <p>Section 32: “The services and supportive measures may be provided by the community to deal with the difficulties experienced by children.”</p> <p>Section 33: “The community shall endeavor with assistance from the government, to establish special facilities to provide adequate shelter for children who have no home to live in or not able to live at home.”</p> <p>Section 34: “Volunteers, voluntary or civil society organizations, social institutions and other community resources may be called upon to contribute effectively to the rehabilitation of children in difficult circumstances and in conflict with law.”</p> <p>Domestic Violence Prevention Act of Bhutan 2013</p> <p>Community Services</p> <p>Section 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.”</p> <p>Section 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.”</p> <p>Section 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.”</p> <p>Section 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.”</p>
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4. Does the legislation promote the integration of mental health into pertinent sectoral policies and programmes?	2	<p>Legislation:</p> <p>Bhutan Civil Service Rules and Regulations 2023</p> <p>Rule 18.2.6: Facilitate efforts to sustain and enhance well-being of civil servants including promotion of physical and mental health.</p> <p>Policies:</p> <p>National Health Policy 2011</p> <p>Section 11.2: Non-Communicable Diseases and Health Promotion.</p> <p>National Policy for Persons with Disabilities 2019</p> <p>Section 3: Guiding Principles and objectives</p> <p>Section 16.2: Participation</p>
5. Does the legislation create an enabling legal framework for the establishment and functioning of organizations of persons with mental	3	<p>Legislation:</p> <p>Bhutan Medical and Health Council Regulations 2005</p> <p>Part 2: Regulations governing the etiquette, ethics and conduct</p> <p>“To enunciate a frame-work legal environment for the welfare of both the patients and professionals.”</p>



health conditions and psychosocial disabilities?		The Civil Society Organizations Act of Bhutan 2007 Chapter 5: Registration and Establishment Broadly under the constitution certain agencies and CSOs are taking initiatives.
6. Does the legislation provide for access to information and services for families of persons with mental health conditions and psychosocial disabilities?	3	Legislation: Constitution of Kingdom of Bhutan 2008 Article 7(3): “A Bhutanese citizen shall have the right to information.” Civil Liability Act of Bhutan 2023 Proactive and reactive duty of health professional to warn of risk Section 31: “The health professional owes a duty of care to the patient or client at all stages to prevent injury, damage, or death while rendering professional service.” Section 32: “A health professional does not breach a duty owed to a patient to warn of risk, before the patient undergoes any medical treatment, that will involve a risk of personal injury to the patient, unless the health professional at that time fails to give or arrange to be given to the patient the following information about the risk: information that a reasonable person in the patient’s position would, in the circumstances, require to enable the person to make a reasonably informed decision about whether to undergo the treatment or follow the medical advice; and information that the health professional knows or ought reasonably to know the patient wants to be given before making the decision about whether to undergo the treatment or follow the medical advice.” Practice: Provides to all
2.8 Cross-sectoral reform for holistic service provision b) Access to Justice		



<p>1. Does the legislation recognize the full capacity of persons with mental health conditions and psychosocial disabilities to participate in all legal proceedings?</p>	<p>4</p>	<p>Legislations:</p> <p>Constitution of Kingdom of Bhutan 2008 Article 9(6): “The State shall endeavour to provide legal aid to secure justice, which shall not be denied to any person by reason of economic or other disabilities.”</p> <p>Penal Code of Bhutan 2004</p> <p>Section 118: “A defendant is not responsible for the criminal conduct, if the defendant is of permanent mental disability, who lacks substantial capacity either to appreciate the criminality of the defendant’s conduct or to conform the conduct to the requirement of the law.”</p> <p>Section 119: “A defendant shall have the defense of mental disability if, at the time of the conduct, on account of a mental disability, the defendant lacked substantial capacity either to appreciate the criminality of the defendant’s conduct or to conform the conduct to the requirement of the law.”</p> <p>Civil and Criminal Procedure Code of Bhutan 2001</p> <p>Section 3(Equal Justice under Law):“All persons are equal before the law and are entitled to equal and effective protection of the law without discrimination on the grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”</p> <p>Section 3.1:“A citizen shall have the right to be tried by the ordinary courts of law and shall not be tried before ad hoc tribunals.”</p> <p>Section 197.3:“Before confirming a plea bargain, the prosecution shall determine whether the defendant is mentally competent and is a juvenile, and if so is represented by parent/member of a family/legal guardian/ Jabmi, and understands: the nature of the charges emanating from the plea bargain; the mandatory minimum and maximum penalties provided by law, if any; that a plea bargain may be made as well during the course of the Criminal trial; and that if the prosecution accepts the plea bargain, the</p>
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		defendant waives his/her right to a trial.”
2. Does the legislation establish a right for persons with mental health conditions and psychosocial disabilities to receive individually determined procedural accommodations in all legal proceedings?	3	<p>Legislation:</p> <p>Civil and Criminal Procedure Code of Bhutan 200q</p> <p>Section 118: “If a party to a civil case dies during the suit, or becomes physically or mentally incapacitated, the Court shall order:substitution of such party by legal representative; successor of that party representing his/her estate; and to receive, if damages are awarded from the other party.”</p> <p>Section 179.2 (Consent by Parents/Guardian):“When the suspect is a minor or mentally incompetent and living with his/her parent/guardian, the parent/guardian may consent to a search of the minor suspect's room.”</p> <p>Practice:</p> <p>The RGoB shall ensure effective access to justice for persons with disabilities on an equal basis with others, by making reasonable accommodations to remove all attitudinal, environmental and other barriers.</p>
3. Does the legislation ensure that all substantive and procedural safeguards are afforded to persons with mental health conditions and psychosocial disabilities on an equal basis with others?	3	<p>Legislation:</p> <p>Civil and Criminal Procedure Code of Bhutan 2001</p> <p>Section 3: “All persons are equal before the law and are entitled to equal and effective protection of the law without discrimination on the grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”</p> <p>Section 3.1: “A citizen shall have the right to be tried by the ordinary courts of law and shall not be tried before ad hoc tribunals.”</p> <p>Section 118: “If a party to a civil case dies during the suit, or becomes physically or mentally incapacitated, the Court shall order:substitution of such party by legal</p>



		<p>representative; successor of that party representing his/her estate; and to receive, if damages are awarded from the other party.”</p> <p>Section 179.2 (Consent by Parents/Guardian): “When the suspect is a minor or mentally incompetent and living with his/her parent/guardian, the parent/guardian may consent to a search of the minor suspect’s room.”</p>
4. Does the legislation ensure cost-free or affordable legal assistance to persons with mental health conditions and psychosocial disabilities in all legal procedures related to their fundamental rights?	3	<p>Legislations:</p> <p>Constitution of Kingdom of Bhutan 2008 Article 9(6): “The State shall endeavour to provide legal aid to secure justice, which shall not be denied to any person by reason of economic or other disabilities.”</p> <p>The Jabmi (Amendment) Act of Bhutan 2016 Section 9(f): “The functions of the Jabmi Tshogdey shall be to: Provide Pro Bono legal aid to an indigent person in addition to funding support from the State.”</p> <p>Policies:</p> <p>National Policy for Persons with Disabilities 2019 Section 11(Access): The RGoB shall ensure effective access to justice for persons with disabilities on an equal basis with others, by making reasonable accommodations to remove all attitudinal, environmental and other barriers including courts, police stations, detention centers, jail and shelters.</p>
5. Does the legislation limit police intervention in crises and, when unavoidable, ensure it is free from discrimination and any use of force or coercion?	2	<p>Legislation:</p> <p>Civil and Criminal Procedure Code of Bhutan 2001 Section 159: “A person arrested shall not be subjected to more restraint than is reasonably necessary to prevent his/her escape.”</p>
6. Does the legislation recognize the obligation to provide appropriate	4	<p>Legislation:</p> <p>Child Care and Protection Act of Bhutan 2011 Section 48-51: Homes</p>

<p>accommodations and support for prisoners with mental health conditions and psychosocial disabilities?</p>	<p>Child Homes</p> <p>Section 47: “The Government shall endeavor to establish and maintain as many child homes as may be necessary for: Giving assistance and protection to children in difficult circumstances; Providing accommodation, maintenance and facilities to children in difficult circumstances for the development of the child’s character and abilities and give necessary education and training for protection against moral danger and exploitation; or Performing such other functions as may be prescribed in the rules and regulations made under this Act for the children in difficult circumstances to ensure all round growth and development of the child’s personality.”</p> <p>Section 48: “Children in difficult circumstances shall be placed in child homes only after exhausting all other possible alternate care options.”</p> <p>Section 49 (Remand Homes): “The Government shall endeavor to establish and maintain as many remand homes as may be necessary for: The temporary care of the child during the period of any inquiry or adjudication; Providing accommodation, maintenance and facilities for medical examination and treatment; or Performing such other functions as may be prescribed in the rules and regulations made under this Act.”</p> <p>Section 50 (Special Homes): “The Government shall endeavor to establish and maintain as many special homes as may be necessary for: The care of the child in conflict with law; Providing accommodation, maintenance and facilities for development of the child’s character, abilities, education, training, and provide rehabilitation for protection against moral danger and exploitation; or Performing such other functions as may be prescribed in the rules and regulations made under this Act.”</p> <p>Section 51 (Closed Facilities): “The Government shall endeavor to establish and maintain as many closed facilities as may be necessary for: The care of the child in conflict with law involving an offence of third degree and above; Providing accommodation, maintenance and facilities for development of the child’s character, abilities, education, training, and provide rehabilitation for protection against moral danger and exploitation; or Performing such other functions as may be prescribed in</p>
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		<p>the rules and regulations made under this Act.”</p> <p>Section 52 (Aftercare Homes): “The Government shall endeavor to establish and maintain as many Aftercare Homes as may be necessary to facilitate social reintegration by providing for: The temporary care of a child released from the home and who requires further care and assistance; Ensuring a smooth transition from detention to life outside the home; Assisting a child in finding suitable and gainful employment, foster homes or processing for adoption; and Monitoring the child and collection of feedback on their performance from the Organization where a rehabilitated young person works and maintaining a record of the child released from a home on a monthly basis for a period of one year from the date of release.”</p> <p>Section 230 (Medical care): “The police or any other institutions under which the child is detained or confined shall be responsible for providing routine medical check-up or medical treatment when required.”</p> <p>Section 232 (Counseling): “The authorities of the closed facilities or any authorities shall arrange for counseling on health, substance abuse, HIV/AIDS, life skills and behavioral education, and other related topics.”</p> <p>Prison Act of Bhutan 2009</p> <p>Section 43 (Special treatment): “No special treatment of any kind shall be allowed for any prisoner except for medical cases that are certified by recognized medical authority.”</p> <p>Youth Development and Rehabilitation Centre as a Special Division</p> <p>Section 140: “The Youth Development and Rehabilitation Centre shall be one of the Special Divisions placed under the Additional Chief of Police under the Royal Bhutan Police Act. However, ration, clothing and other entitlements of the juvenile delinquents shall remain same as that of the adult prisoners as per this Act.”</p> <p>Section 141 (Juvenile delinquents): “Juvenile delinquents shall mean all individuals convicted of any offence if they are under the age of 18 years at the time of conviction.”</p>
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7. Does the legislation provide for the training of all judiciary on a human rights-based approach to mental health?	3	<p>Legislation</p> <p>Judicial Service Act of Bhutan 2007</p> <p>Section 85: “The Council shall make every effort to provide training opportunities to the Judicial Service Personnel both within and outside the country to: Provide opportunity for career advancement; Ensure that the personnel acquire the necessary skill and knowledge required to perform a higher responsibility in the respective profession; Provide planned training programme in order to maximize professionalism and productivity; Facilitate appropriate training and development of human resource so that service personnel become optimally useful; Enhance the efficiency, capability and quality of personnel; Minimize demand on human resource through acquisition of</p>

		<p>appropriate technology, skill and knowledge; and Fulfill the requirement for trained human resource in the legal fields towards the establishment of a professional judicial service.”</p> <p>Section 86 (Establishment of Bhutan National Legal Institute): Bhutan National Legal Institute (hereinafter referred to as the “Institute”) shall be established for pre and in-service training of the Judicial Service Personnel.</p> <p>Policies:</p> <p>National Policy for Persons with Disabilities 2019</p> <p>Section 20 Human Resource and Capacity Development</p> <p>Section 20.1.1: “The GNHCS shall coordinate, cooperate and collaborate for development of human resources and capacity towards providing quality and effective services to persons with disabilities.”</p>
3. Drafting and Legislative Processes		
<p>1. Do the drafting and legislative processes involve active representation from all principal stakeholder groups, including persons with mental health conditions and psychosocial disabilities and their representative organizations?</p>	3	<p>Legislations:</p> <p>Constitution of Kingdom of Bhutan 2008</p> <p>Article 10 (2): “Parliament shall ensure that the Government safeguards the interests of the nation and fulfils the aspirations of the people through public review of policies and issues, Bills and other legislations, and scrutiny of State functions.”</p> <p>Rules of procedure for Legislative Impact Assessment 2020</p> <p>Rule 6: “The LIA report shall include: Description and analysis of any stakeholder consultations conducted and record of the consultations.”</p> <p>Policies:</p>

		<p>GNH Policy Screening Tool</p> <p>National Policy for Persons with Disabilities 2019</p> <p>Section 17.1.1: “All agencies shall ensure that persons with disabilities and/or their representatives are consulted and encouraged to participate in making plans, policies, and decisions.”</p> <p>Section 17.1.2: “Local governments shall involve Disabled People’s Organisations, organisations associated with persons with disabilities and persons with disabilities and/or their representatives in planning and decision making.”</p> <p><i>No, the bills are drafted by the concerned Agencies in consultation with OAG and relevant stakeholders(agencies) but not persons with disabilities.</i></p>
2. Are people involved in the drafting process informed and trained to understand human rights obligations under international law, including the CRPD obligations?	2	<p>Legislations:</p> <p>Rules of Procedure for Legislative Impact Assessment 2020</p> <p>Practice:</p> <p>For example: while developing the PWD Policy, the stakeholders including CSOs representing the PWD community were trained and involved in the drafting process.</p>
3. Are people involved in the drafting process reliably informed of their country’s situation, and of barriers to implementing rights-based mental health responses?	2	<p>People involved in the preliminary drafting process are expected to conduct research, data collection and situation analysis of the subject matter. In the later stages of drafting, various stakeholders and experts are consulted in light of the research findings.</p> <p>Yes, the challenges and current scenario of the country are discussed and deliberated during the drafting process. The result of such discussions is the PWD policy which addresses such issues.</p>
4. Has a rigorous and	4	Legislations

<p>comprehensive review of national legislation been carried out in light of international human rights obligations?</p>		<p>Constitution of Kingdom of Bhutan 2008 Article 10 (2): “Parliament shall ensure that the Government safeguards the interests of the nation and fulfils the aspirations of the people through public review of policies and issues, Bills and other legislations, and scrutiny of State functions.”</p> <p>Article 10(25): “Except for existing International Conventions, Covenants, Treaties, Protocols and Agreements entered into by Bhutan, which shall continue in force subject to section 10 of Article 1, all International Conventions, Covenants, Treaties, Protocols and Agreements duly acceded to by the Government hereafter, shall be deemed to be the law of the Kingdom only upon ratification by Parliament unless it is inconsistent with this Constitution.”</p> <p>Article 9(24): “The State shall endeavour to promote goodwill and co- operation with nations, foster respect for international law and treaty obligations, and encourage settlement of international disputes by peaceful means in order to promote international peace and security.”</p> <p>Civil and Criminal Procedure Code of Bhutan 2001</p> <p>Section 29: “The Royal Courts of Justice shall apply International Convention, Covenant, Treaty and Protocol that are duly acceded by the Royal Government of Bhutan and ratified by the National Assembly of Bhutan.”</p> <p>Periodic review reports submitted to the UN committees.</p>
<p>5. Has there been work in building consensus to pass a law that incorporates different perspectives, including those of persons with mental health conditions and</p>	<p>4</p>	<p>Legislations: Constitution of Kingdom of Bhutan 2008 Article 10 (2): “Parliament shall ensure that the Government safeguards the interests of the nation and fulfils the aspirations of the people through public review of policies and issues, Bills and other legislations, and scrutiny of State functions.”</p> <p>Article 10(25): “Except for existing International Conventions, Covenants, Treaties, Protocols and Agreements entered into by Bhutan, which shall continue in force</p>

psychosocial disabilities?		<p>subject to section 10 of Article 1, all International Conventions, Covenants, Treaties, Protocols and Agreements duly acceded to by the Government hereafter, shall be deemed to be the law of the Kingdom only upon ratification by Parliament unless it is inconsistent with this Constitution.”</p> <p>Paro Declaration: recommends multisectoral mental health response by guiding and harmonizing the social, education, development and economic sectors to address determinants of mental health including poverty, lack of education, social isolation, emergencies and impact of climate change, in order to mainstream mental health in policy planning, implementation and evaluation;</p> <p>The relevant stakeholder agencies including the CSOs were part of the drafting committee for drafting policy, for example PWD policy.</p>
6. Have broad, inclusive and accessible consultations been held to ensure that different stakeholders, particularly persons with mental health conditions and psychosocial disabilities, present comments and suggestions?	4	<p>The relevant stakeholder agencies including the CSOs were part of the drafting committee for drafting policy, for example PWD policy.</p>
7. Have awareness-raising actions been carried out to ensure public support?	3	<p>Yes done by relevant agencies and organizations.</p>
4. Implementation and Evaluation		



1. Has an agency been appointed to oversee the implementation of legislation?	2	Cabinet GNHC was the agency to oversee the implementation of the policies. however, we are not sure as to whether they have carried out their functions. no specific agency to monitor the implementation of the legislation.
2. Has regulation or other guidance been adopted to guide the implementation of legislation?	2	Legislations: Rules of procedure for Legislative Impact Assessment 2020 Rules of Procedure for Drafting and Reviewing of Bills and Delegated Legislation 2018 Policies: GNH Policy Screening Tool
3. Have awareness-raising actions been carried out to ensure that stakeholders have knowledge of, and understand, the legislation?	2	Competent Authority of the specified legislation carries out with support from key stakeholders.
4. Has training been provided to all stakeholders involved in the implementation of legislation?	2	Provided by relevant agencies such as BNLI, JSW Law (Clinics), OAG , RBP, Ministries and CSOs. but to what extent is not known. Yes, BNLI, NCWC
5. Have the maximum possible financial resources been allocated for the implementation of	2	Agencies can propose but it is subject to approval from MoF. For CCPA



legislation?		
6. Have evaluations been conducted to assess the implementation of legislation?	1	Inconsistent



Annexure 2

List of key stakeholders

1. Ministry of Health
2. Department of Psychiatrist, JDWNRH
3. Department of Forensic, JDWNRH
4. Bhutan Qualifications and Professionals Certification Authority
5. Royal Court of Justice
6. Royal Bhutan Police
7. Office of Attorney General
8. Bhutan National Legal Institute
9. Jigme Singye Wangchuck School of Law
10. Respect Educate Nurture and Empower Women (RENEW)



Annexure 3

List of stakeholders

1. Office of Cabinet Affairs and Strategic Coordination
2. Ministry of Education and Skills Development
3. Ministry of Industry, Commerce and Employment
4. GovTech
5. Royal University of Bhutan
6. Khesar Gyalpo University of Medical Sciences of Bhutan (KGUMSB)
7. Royal Civil Service Commission
8. National Council of Bhutan
9. Druk Holding and Investments (DHI)
10. Disabled People's Organization of Bhutan
11. Draktsho Vocational Training Centre for Special Children
12. Chithuen Phendey Association
13. Nazhoen Lamtoen
14. Youth Development Fund
15. PHENSEM (Parents Support Group, Bhutan)

