

# LEGISLATIVE IMPACT ASSESSMENT (LIA) REPORT FOR COOPERATIVE (AMENDMENT) ACT OF BHUTAN, 2009

## 1. Title of the proposal

- (1) Title of the Legal Measure: The Co-operative and Farmer Groups Bill, 2021
- (2) Type of Regulatory Measure: Act
- (3) Lead Ministry/Commission/Agency: Ministry of Agriculture and Forests
- (4) Expected Year of Adoption: 2023

## 2. THE BACKGROUND OF THE PROPOSAL

### *(1) Details of how and why the proposed legislative change has arisen:*

The Co-operatives Act of Bhutan, 2001(CAB, 2001) was formulated by Ministry of Home and Culture Affairs (MoHCA), who was given all the powers and responsibilities to implement the Act as per Article 5 and 6. Thereafter, in 2009 the government decided to transfer the mandate to the Ministry of Agriculture and Forests (MoAF) through partial amendment of the Act, wherein the definition of Farmers group was inserted and the implementing agency was changed from MoHCA to MoAF. There was no review of law, rather it was on changing the name of the implementing agency and inclusion of farmer groups in the definition clause.

In addition, there is a lack of coordination amongst the agencies developing and strengthening the Farmer Groups and Co-operatives, wherein support is provided and received from different sectors and funding agencies. The Department of Agricultural Marketing and Cooperatives (DAMC) as the registrar of Co-operatives does not have proper communication channel as the law for records of the informal Farmer Groups and Co-operatives, nor is aware or is provided information on different initiatives taken. This resulted in excessive duplication of support to some Farmer Groups and Co-operatives from different agencies and lack of support to many. Furthermore, there is a lack of accountability resulting in misallocation and misuse of scarce resources.

Further, the existing Act requiring the involuntary dissolution of the Co-operatives or Farmer Groups through Court for violations of any laws, rules or provisions of the constitution and by- laws has caused huge implementation issues, considering the objective of private sector development through farmer Groups and Co-operatives formation. Therefore, putting in place administrative measures to resolve such issues without resorting to dissolution is felt pertinent.

Although, the criteria for formation of Farmer Groups and Co-operatives differ in certain aspect, there is no segregation in compliance mechanisms and standards for these two groups. The exiting Act does not provide for clear procedures to receive grants, donations and assistance from foreign and domestic sources.

*(2) Detail background information that provides a context for the objective of the proposal that is to be implemented:*

The Co-operatives Act of Bhutan, 2001 was under the custody of the MoHCA until 2009 and the implementation role was transferred to the MoAF through amendment of the Act in 2009.

The Act covers Renewable Natural Resources (RNR) and non-RNR Co-operatives and the 2009 amendment added Farmer Groups to under the scope of the Act. The Act is implemented by the DAMC under the Ministry and currently there are 621 Farmer Groups, 98 Co-operatives and 2 Federation of Co-operatives registered under the Co-operatives Act of Bhutan, 2009.

Following are the implementation issues associated with the current Act:

- 1) There is a lack of coordination among different agencies developing and strengthening the Farmer Groups and Co-operatives, which resulted in multiple support to some Farmer Groups and Co-operatives and lack of support to others.
- 2) There was misallocation and misuse of the scarce recourses.
- 3) The only corrective measures for involuntary dissolution of Co-operatives or Farmer Groups are through Court order and there could be other administrative corrective measures without dissolving the Farmer Group or Co-operatives.
- 4) There is no sanction either on penal or pecuniary for violations of the provisions of the Act and its Rules.
- 5) There is no separate criteria for formation of Farmer Groups and Co-operatives.
- 6) The provision concerning annual auditing of Farmer Groups and Co-operatives by certified auditor has remain redundant, since Farmer Groups and Co-operatives are not able to afford for auditing by certified auditor annually.

*(3) The detail description of the issue that the proposal is expected to address:*

- 1) The proposal to revise the Co-operatives (Amendment) Act of Bhutan, 2009 is expected to bring coordinated central approach in establishing of all Co-operatives and Farmer Groups in the country with DAMC functioning as a sole registry.

- 2) The revision is also expected to bring in transparency in allocation of resources and support to the Co-operatives and Farmer Groups.
- 3) The new bill will impose accountability to the Co-operatives and Farmer Groups.
- 4) The revision will prescribe clear procedure on the de-registration or dissolution of the Co-operatives or Farmer Groups that are non-performing.
- 5) The new bill will have provisions to impose sanction either penal or pecuniary for violations of the provisions of the Act and its Rules.
- 6) There will be separate criteria for formation of Farmer Groups and Co-operatives.
- 7) The new Act will have adequate provisions on monitoring and evaluation; and reporting mechanism.
- 8) There will be dispute settlement mechanisms instituted in the regional offices to resolve the disputes related to Farmer Groups and Co-operatives in the region.

*(4) The economic, social and environmental affects including unsustainable trends of the issue:*

The revision of the Act will synchronize the current disorganized set up of forming and strengthening Co-operatives and Farmer Groups; and would bring about clarity in the roles of respective institution. The revision is expected to reinvigorate a more coordinated approach in implementing the Act thereby enhancing transparency and accountability resulting in balanced resource allocation and utilization. The revision will also promote equitable distribution of resources and income. Therefore, considering benefits the Co-operatives and Farmer Groups member would accrue, the new bill will bring in economic benefit to the members and social cohesion among the people in the community.

*(5) The risk inherent in the initial situation:*

The lack of accountability on the Co-operatives and Farmer Groups leads to imbalanced distribution of resources from the government. In addition, having only an option of involuntary dissolution incase of violation of the existing Acts and Rules does not justify on the time and resources invested on that cooperative or group. The lack of proper sanctions on the Co-operatives and groups invites issues such as improper book keeping leading to misuse of the funds and ultimately resulting in unsustainable Co-operatives and groups.

The present level of non-compliance to the standard of the Act leading to involuntary dissolution of most Co-operatives, which can be detrimental to the development of Farmer

Groups and Co-operatives and to the objective of the Act. Further, there has to be a clarity in compliance measures for Farmer Groups and Co-operatives.

Some of the compliance standards for annual reporting and annual audit by an auditor certified by the Royal Audit Authority are beyond the practical and financial capacity of Bhutanese Co-operatives and Farmer Groups. Since the financial & technical capacities of Co-operatives are not at the level of being able to meet these requirements, most Co-operatives will face involuntary dissolution. Though the RAA maintains a list of empanelled local firms of accounts for conducting Audit for a price, the economic state of present Co-operatives and Farmer Groups cannot afford such services annually. Furthermore, not all Co-operatives have an audit and finance committee. Thus, for effective implementation, the audits of the Farmer Groups and Co-operatives could be carried out by the Internal Auditors in the Dzongkhags and the Federation and Union of Co-operatives could be audited by the empaneled auditors, thereby amending the requirement of certified auditors in the Act.

(6) *The underlying motive force:*

(a) *What would happen under a "non-action" scenario?*

In case of non action scenario, there will be many Co-operatives and groups created by various agencies and its compliance standards would differ depending on its registration with DAMC. Presently there are several Farmer Groups and Co-operatives formed by Departments, agencies and Civil Society Organizations without consulting DAMC and also without being registered with DAMC, hence there are no compliance requirements for those groups. The unclear mandate of DAMC and also less technical scrutiny during the formation of Co-operatives might only bring in the numbers of Co-operatives created rather than successful ones. There has to be a clear technical vetting to form the Co-operatives and group considering the economic viability, prioritization of the commodity and also taking into account of the support relevant Department or agency can offer.

Further, having dissolution as the only available sanction for non-compliance to the requirement of the Act could lead to dissolving many Co-operatives or groups, if they are monitored strictly since there are no corrective sanctions available in the Act.

*(b) Who is affected?*

The implementation authority which is the Ministry of Agriculture and Forests and the Department of Agricultural Marketing and Co-operatives will be affected because huge resources are invested in providing guidance, technical and financial support to develop and strengthen Farmer Groups and Co-operatives. Since there is lack of sanctions for compliance requirements, the people form Farmer Groups and Co-operatives to avail support and do not take the compliance requirements seriously resulting into non-performance.

On the other hand, with dissolution as only available sanction, 99% of the Farmer Groups and Co-operatives might have to be dissolved, if stringent monitoring and evaluation is carried out.

*(c) Previous initiatives and the existing legal measures that are deployed to solve the issue/problem?*

The following are the previous initiatives that the Government had deployed to solve the issue or problem:

- (i) Delegated the registration and monitoring of Co-operatives to Gewog Administrative Officers as Gewog Cooperative Registrars and Dzongkhag Planning Officers as Dzongkhag Cooperative Registrar;
- (ii) Requirement to submit annual report including duly audited financial statements to DAMC.

The Gewog Cooperative Registrar and Dzongkhag Cooperative Registrar are required to submit the report annually to Department as per the Cooperative Rules. However, in practice the reporting mechanisms are weak since there is no measures to fix accountability in the Act. Further, delegating the role and responsibilities of Gewog Co-operatives Registrar and Dzongkhag Co-operatives Registrar to the Gewog Administrative Officer and Planning Officer has added on to the coordination issues for the Department, since they are not administratively under the Ministry.

### **3. MAIN OBJECTIVES OF THE PROPOSAL**

- (1) The comprehensive objective intended to be achieved and the expected impacts, outputs and outcomes:*

The intended objective for revision of the CAB, 2009 is to;

- (a) Bring in a coordinated approach for all the Co-operatives and Farmer Groups formed and registered in the country with other line departments in the Ministry and relevant agencies or Civil Society Organizations and clearly specify the mandates of Department and the Ministry;
- (b) Harmonize or realign the standards and requirements as per the International Cooperative Alliance in due consideration to the national context;
- (c) Incorporate accountability provisions and sanctions for violation of the laws;
- (d) Propose for an administrative measure to resolve the issues without dissolving the Co-operatives or groups;
- (e) Insert clear monitoring and evaluation mechanism lined with accountability;
- (f) Strengthen the criteria for formation of Co-operatives and groups; and
- (g) Segregation in compliance requirements for Farmer Groups, Primary Co-operatives, Federation and Union.

The expected impacts and outcome of the revision are, to:

- (a) Ensure equitable distribution of resources and benefits to all Co-operatives and Farmer Groups;
- (b) Institute systematic mechanism of reporting;
- (c) Strengthened compliance monitoring and evaluation mechanism; and
- (d) Enhanced income of the farmers and unemployed population.

*(2) Account of previously established objectives:*

Initially the Department has proposed for amendment of the Act. However, upon the conduct of LIA exercise, the report pointed towards the need for complete revision of the Act taking cognizance of all the international Co-operatives principles and domestic cooperative values and the RNR- Marketing policy of 2017.

*(3) The rationale for the objective:*

The rationale for choosing complete revision of the Act is to look into holistically considering the issues and challenges faced by the implementers as well as the Co-operatives and Farmer Groups. The complete revision of the existing Act will establish a legal status of the Farmer Groups and bring in clear procedures in their operation and

regulations. There will be clarity on the sanctions depending on the degree of violations instead of having an absolute dissolution option for all types of violations by the Co-operatives. A clear segregation can be done in terms of violation by each cooperative or Farmer Groups and insert an administrative sanctions and measures, where ever possible to promote cooperative based enterprise. The revised bill will also streamline the coordination with the technical Departments, Agencies and Civil Society Organization in formation and development of Farmer Groups and Co-operatives.

#### **4. POLICY RATIONALE FOR THE PROPOSAL**

*(1) Clear statement of issues or problems the proposal is intended to address:*

The proposal is expected bring about a coordinated central approach in formation of all Co-operatives and Farmer Groups in the country with the Department of Agriculture Marketing and Co-operatives functioning as a sole registry.

The revision is also expected to bring in transparency in allocation of resources and support to the Co-operatives and Farmer Groups tagged with imposition of accountability to the Co-operatives and Farmer Groups.

Furthermore, the revision will prescribe clear procedure on the de-registration and dissolution of the Co-operatives or Farmer Groups that are non-performing besides prescribing clear monitoring and evaluation; and reporting mechanism.

The new bill will also prescribe separate criteria for formation of Farmer Groups and Co-operatives and will also prescribe sanction either penal or pecuniary for violations of the provisions of the Act and its Rules.

The revision will also prescribe separate criteria for formation of Farmer Groups and Co-operatives, along with adequate provisions on monitoring and evaluation and reporting mechanism.

*(2) Why legislation rather than administrative arrangement is required:*

Addressing the implementation issues and challenges through administrative arrangement would have no legal basis and such an arrangement would fail the test of legality, if contested in the Court of law.

*(3) Explanation on policy, context, intent and objectives:*

With formulation of RNR-Marketing Policy in 2017, there is a clear policy direction and guidance for the revision of the existing Act, which was then formulated without any guiding policy. In order to have a good implementable law, it is important to have

a policy in place. The new bill will incorporate all the emerging issues as well as the implementation gaps of the existing Act.

The revision will pertinently look into addressing all implementation issues and gaps in the existing Act as stated above in harmony with other relevant policies and laws to ensure that no conflicts arise between the institutions and implementers. The new bill will also strengthen the role of the regional offices under DAMC.

## **5. OPTIONS TO ACHIEVE THE OBJECTIVES**

### *(1) The basic approach to reach the objective:*

The basic approach to achieve the desired objective is through complete revision of the existing Act.

### *(2) Policy instrument that has been considered before and reasons for its failure:*

The Department has not considered any other policy instrument, since it is evident that trying to address the issue through formulation or development of other policy instrument will not be of any help to resolve the issues and problem inherent with the existing Act.

### *(3) The options available and the rationale for all the options:*

The Department during the LIA exercise has considered 4 options (Do nothing, Amendment of specific sections, partial amendment of the Act and repeal the existing and carry out complete revision). The Department after the compilation of LIA report came to a logical conclusion that repealing the existing Act and carrying out complete revision was the best options at the moment considering the issues and gaps in the existing Act.

### *(4) Design and stringency levels that have been considered:*

The new bill will look at the policy of the government in facilitating the development of Co-operatives as well as having effective legal provision for co-operative development. While doing so, it would require stringent provisions on the compliance standards for management and governance of the Co-operatives and Farmer Groups, which is lacking in the existing Act.

### *(5) The options that have been discarded at an early stage:*

The option for amendment of specific section and partial amendment has been discarded at the early stage and the option to carry out complete revision was chosen.



The specific section amendment was carried out in 2009 and having a partial amendment would also not serve the purpose of reviewing all the provision in line with the relevant policies and laws.

## **6. IMPACTS EXPECTED FROM DIFFERENT OPTIONS IDENTIFIED**

### *(1) Positive and negative impacts of the option selected:*

#### (a) The administrative compliance costs:

There will be no administrative budgetary impact on the government since the Act will not create a new institution. The implementation of the revised Act will be with the Department which is already well-established with regional offices.

#### (b) The impact on budget:

There will be no additional impact on the budget of the Royal Government, since it is the revision of the existing Act and does not require creation of new institution.

#### (c) Creation of new institution:

The revision of the Act will not create new institution.

### *(2) Potential conflict and inconsistencies between the economic, social and environmental impacts that may lead to trade-offs and related policy decision:*

In consideration of the objectives and rationale for revision of the Act as stated above, there will be no negative impact either economically, socially or environmentally. The very purpose for revision of the Act is to bring in economic benefits to the members of the Co-operatives and Farmer Groups and to enhance social integration and cohesion among the people in the community.

### *(3) Impacts on a particular social group, economic sector or region:*

The revision aims at enhancing economic benefits to the members of the Co-operatives and Farmer Groups and to enhance social integration and cohesion among the people in the community.

### *(4) Power and functions, decision makers, delegates and review of decisions:*

The revised Act will clearly specify the powers and function of the Department and Ministry and other dispute settlement committees established within the regional offices. The final decision-making power will vest with the Ministry but the decision of the Ministry can be reviewed by the Court through an appeal to the Court.

## **7. JUSTIFICATION OF THE PREFERRED OPTION:**

The policy option to repeal the existing Act and carry out complete revision of the Act is the final policy choice as it will achieve all the intended objectives. The other options were not chosen for the reason that it will not completely address the problems and issues associated with the implementation of the existing Act.

The following are some of the measures taken to maximize the positive impacts and minimize the negative impacts;

- (1) Defining clearer responsibilities and accountability for the involved actors in FG and Co-operatives development including levying of sanctions;
- (2) Strengthening information management and functional linkage across Registrar of Co-operatives, Gewog Co-operatives Registrar, Dzongkhag Co-operatives Registrars, regional offices and relevant stakeholders;
- (3) Revitalizing the Task Force for Co-operatives and enhance cross sectoral coordination;
- (4) Strengthening of Co-operatives Development Division; and
- (5) Enhancing service delivery.

## **8. POWERS AND FUNCTIONS, DECISION MAKERS, DELEGATES AND REVIEW OF DECISIONS:**

*Clarity of power and function:*

One of the key reasons for revision of the existing Act is due to lack of clarity on the powers and function. The existing Act does not provide the Department of Agriculture Marketing and Co-operatives as the implementing agency nor does the Act specify the powers and functions of the Ministry.

The new bill will clearly specify the powers and functions of the Department, Ministry, National Registrar and the Regional Registrar to provide clear directions in implementing the Act and to avoid centralization of power at the headquarter.

The new bill will also constitute a technical advisory committee to advice the Department and the Ministry in any matters concerning Co-operatives and Farmer Groups with representatives from private sectors and CSOs.

*Decision-makers and delegates:*

The new bill will provide for decentralization of powers and functions to the Regional Registrar, who is the decision-maker at the regional level concerning issues pertaining to Co-operatives and Farmer Groups. Only those issues which cannot be sorted out or resolved at the regional level shall be brought before the National Registrar, from where the issues go to the Ministry and then ultimately to the Court, if the party is not satisfied with the decision provided by the Ministry.

*Decision criteria:*

The decision taken at every stage highlighted above will be at the discretion of the decision maker. The decision-maker shall be guided by certain criteria or legal provisions in rendering the decision.

*Review of decisions:*

The new bill will provide for series of hierarchy to review the decision of the lower decision-maker. The new bill will provide for establishment of Dispute Settlement Body at the regional and national under the chairperson-ship of Regional Registrar and National Registrar respectively.

The bill will also provide for appeal from the decision of the Regional Dispute Settlement Body to the National Dispute Settlement Body and finally to the Court of competent jurisdiction within the 30 working days from the date of decision rendered.

**9. STAKEHOLDER CONSULTATION FOR CONDUCT OF LIA:**

(1) Which interested parties were consulted, when in the process, and for what purpose?

The Department distributed 300 copies of questionnaire to different offices under the Department, Dzongkhag Administration and RNR Sector, Geog Administration and Thromde. The response rate was recorded at 24.3% (73 respondents). Nonetheless, the responding participants to the survey has provided critical comments on the existing Act and the analysis of the response compiled shows that there are strong reasons to revise the existing Act, since there are many implementation issues and some provisions in the Act are either redundant or needs to be modified. The Act does not provide sanctions for the violations and more importantly, the existing Act is not exhaustive and lacks on various aspects of the Co-operatives.

The proposal for revision of the Act was presented to the RNR-GNH Committee and the Committee directed the Department to carry out Legislative Impact Assessment

(LIA) to identify the issues and challenges in the existing Act. The exercise covered the officials at Department headquarters, Regional Agricultural and Marketing Co-operatives, four Thromdes, Dzongkhag and Geog Registrar; and Dzongkhag RNR Officials.

(2) What are the results of the consultations?

The survey questionnaire contained eight broad questions and the response provided to each question was analyzed and presented below:

**1. Implementation issues with the existing Act**

The general implementation issues with the existing Act are viewed as a result of non-adherence to the principles of Co-operatives and decentralization policy enshrined in the Act. Another major hurdle for successful implementation of the existing Act can be directly linked to the non-existence of sanctions in the Act, in the times of default by the groups or cooperative to enforce liability and fix accountability on the group or cooperative members.

The specific implementation issues as pointed out by the respondents are lengthy procedures for registration, complicated procedures for renewal of cooperative certificate, unclear or ambiguous registration process for Farmers group formation and requirement for the dissolution of cooperative through Court. The response also highlights on the term of elected committee members being short, thereby hampering the smooth functioning and management. Therefore, the registration of cooperative should be vested with the agency or authority overseeing the Cooperative Act to enable proper scrutiny during the registration process.

It was also pointed out that designation of Dzongkhag Planning officers as Dzongkhag Cooperative Registrar is inappropriate, since the Planning Officers are non-technical and lacks expertise on the subject matter of the group or Co-operatives to be registered. Further, with limited or no administrative authority of the Department of Agriculture Marketing and Cooperative over the Dzongkhag and Geog Registrar, thereby resulting in ineffective coordination.

The other implementation issue is with the fact that the farmers group and Co-operatives registered already are not being audited either by the internal auditors or RAA certified auditor as mandated by the existing Act. Since the present mechanism in

not working, the Department is not in the position to assess the performance of the Co-operatives and farmers group resulting in being non-functional.

The respondents also raised concerns on the requirement of clear terms of reference for Chairman of the Farmer Groups and Co-operatives so that one person shall not be allowed to hold the post of chairmanship for farmers group as well as the cooperative, which the existing Act does not address adequately.

The existing Act also lacks clarity on the maintenance of books of accounts, concept of share capital, unavailability of the banking facility at grassroots level; unclear standard modality on the distribution of net surplus among the members are viewed as serious issues in successful implementation of the Act.

## **2. Redundant provisions**

The respondents have pointed out some of the provisions in the existing Act which are not completely redundant but has remained unenforced due to certain issues.

- 1) Article 27: Involuntary dissolution which warrant order from the Court to dissolve the Co-operatives;
- 2) Article 14: Issuance of code of conduct, including the sanctions for violations by directors, officials, committee members and mangers of Co-operatives;
- 3) Article 25: Allocation and attribution of net surplus - (a)reserve fund, (b) Cooperative education and training fund, (c) an optimal fund and (d) interest on capital and patronage refund. These attributes do not apply uniformly to all groups and Co-operatives;
- 4) Article 29: Cooperative Development Strategy – mentions about a cooperative development strategy which is also non- existent;
- 5) Article 5: Regulatory agency and its Roles – regulatory agency is MoAF; and
- 6) Article 6: Management and Decentralization – Delegate power to Dzongkhag

## **3. Conflicting provision**

The existing Co-operatives Act is not in direct conflict with any other domestic Act in the country.

**4. Does CAB adequately cover requirement for regulating Farmer Groups and Co-operatives in the country**

The existing Act provide only for formation of the farmer's groups and Co-operatives but lacks provisions to regulate the performance of such groups and co-operatives. The Ministry of Agriculture and Forests is mandated to carry out monitoring and evaluation functions under the Act. However, the Act does not have any provision of imposing sanctions or penalties in case default or non-performance.

**5. Are the criteria adequate for registration of farmers' groups and cooperative?**

The respondents have pointed out that the criteria required for registration of farmers' group and cooperative in the existing Act is inadequate and suggested for inclusion of new criteria or revision of the existing criteria as:

- 1) The minimum requirement for registration as Farmer Groups may be revised to 5 members from 3 members;
- 2) The minimum requirement for registration as Co-operatives may be reduced to less than 10 since some of the villages have few households; and
- 3) The age of the members should be specified, to ensure the members are in the productive age without any physical disabilities.

**6. Does CAB have sufficient penalties on violating the requirement of the Act**

The existing Act does not provide for the penalties in case of violation of the legislative provisions. In such scenario, the regulatory agency does not have legal stand to impose liability and fix accountability on the defaulter. Therefore, specific provisions on the offence and its co-related sanctions will be required to maintain check and balance while implementing the Act.

**7. Is there the need to have link with other sectoral policies such as PSL, URS etc?**

The respondents are of the view that the success and failure of the Farmer Groups and cooperative is directly dependent on fund and availability of land among other factors; and thus, synchronization and harmonization of cross sectoral policies is very much important to promote institutional coordination.

Additionally, it is also suggested to establish institutional link with the Community Forest Management Group and Non-Governmental Organization to encourage them to

form as group or Co-operatives under this Act thereby centralizing the all groups and Co-operatives under one Department with standard policies and legislation in place.

#### **8. New issues to be incorporated**

The respondents have expressed the need to have elaborate provisions on saving and credit Co-operatives in line with the policy of the Royal Monetary Authority in order to finance the functioning of the groups and Co-operatives. The new bill is also recommended to target formation of non-RNR Farmer Groups and Co-operatives through extension of its scope beyond the RNR related activities and product.

The new bill is recommended to come up with the separate chapter on the offence and penalty so as to aid the enforcement agency in implementation of the Act.

It is also pointed out that there is a need to clearly mention the roles and responsibilities of the Dzongkhag or Gewog Registrar beyond the facilitation role during the registration process.

The new bill is also recommended to have elaborate provisions on settlement of grievance or dispute to solve cooperative related issues which are administrative in nature. In the current setting, all issues in relation to Co-operatives have to go to Court of Law and it was viewed as hindrances in development of Co-operatives in the country.

The suggestions were also made to have strong monitoring and evaluation mechanism instituted to ensure smooth and effective functioning of the groups and Co-operatives as opposed to the current M&E setting, whereby the cooperative largely remains poorly monitored and evaluated. Thus, to have effective M&E mechanism in place, it is recommended that DAMC as an implementing agency should carry out annual auditing and performance evaluation.

The need to prescribe clearly the implementing agency for the Co-operatives Act with adequate powers and functions to oversee the functioning of groups and Co-operatives from its formation stage till dissolution is also suggested.

The new bill is also suggested to come up with the elaborate provisions on the procedure to form Farmer Groups and Co-operatives. In doing so, it is recommended that the new bill mandates DAMC, as an implementing agency to carry out detail assessment of the proposal submitted, both on desk and in the field including assessment on the feasibility of the forming a group or cooperative and its production capacity linked with the market facility to ensure sustainability of the such groups or Co-operatives.

## **10. DRAFTING OF THE BILL**

The drafting committee members comprising of officials from the Department, regional offices and Legal Services worked on the drafting of the bill. The drafting committee members upon conducting several rounds of discussion with the Department, has finalized the Co-operatives and Farmer Groups Bill of Bhutan for moving forward with the consultation process.

## **11. STAKEHOLDER CONSULTATION OF THE BILL:**

### **Regional Stakeholder Consultation**

The finalized Co-operatives and Farmer Groups Bill of Bhutan was consulted with the relevant stakeholders in the *Dzongkhag* and *Thromde*. The consultation was carried out in two phase, phase one for the officials from the *Dzongkhag* and *Thromde* which included *Dzongkhag* Planning Officers, officials from *Dzongkhag* RNR sector, *Gewog* Administrative Officers and *Thrompons*. The consultation was organized for two days each, clustered into 5 regions covering all 20 *dzongkhags* and 4 *thromdes*. The first meeting was conducted at Tashiling Hotel, Wangduephodrang on 10th and 11th June, 2019 covering officials from Thimphu, Punakha, Wangduephodrang and Gasa *Dzongkhag*; and Thimphu *Thromde*. For officials from Haa, Paro, Chukha and Samtse *Dzongkhag*; and Phuntsholing *Thromde*, the meeting was conducted in Alem Hotel, Phuntsholing on 13th and 14th June, 2019. The meeting conducted on 18th and 19th June, 2019 at Druk Dhoejung Resort, Trashigang covered Trashigang, Trashiyangtse, Samdrupjongkhar and Pemagatshel *Dzongkhag* and for Mongar, Bumthang, Trongsa and Lhuentse *Dzongkhag*, the consultation meeting was conducted on 21st and 22nd June, 2019 at Wangchuk Hotel, Mongar. For the remaining Sarpang, Tsirang, Zhemgang and Dagana *Dzongkhag*, the meeting was organized in T.T Hotel, Gelephu on 26<sup>th</sup> and 27<sup>th</sup> June, 2019.

In the second phase of consultation program, the member representatives of the Farmer Groups and Co-operatives were consulted, grouped into 3 cluster. For the western cluster, the meeting was organized in Thimphu at NRDCL conference hall on 15<sup>th</sup> and 16<sup>th</sup> August, 2021 covering Thimphu, Paro, Haa, Punakha, Wangduephodrang, Gasa, Chikha and Samtse *Dzongkhag*. For the eastern *dzongkhags*, the meeting was conducted in DYT hall, Mongar *Dzongkhag* on 21<sup>st</sup>



August, 2019 covering Mongar, Trashigang, Trashiyangtse, Lhuentse, Pemagatshel and Samdrupjongkhar *Dzongkhags*.

Finally, for the central dzongkhags covering Bumthang, Trongsa, Zhemgang, Sarpang, Dagana and Tsirang, the meeting was conducted at T.T Hotel, Gelephu on 26<sup>th</sup> August, 2019.



*Fig.1. Consultation with the officials from Dzongkhags and Thromde in Gelephu.*



*Fig. 2. Consultation with the members of Co-operatives and Farmer Groups of the western region at NRDCL Conference Hall.*

### **National Stakeholder Consultation**

The drafting committee members upon completion of regional consultation meeting and incorporation of the comments has presented the Bill to the National Stakeholders. The national

stakeholder meeting was convened at Hotel Ariya on 30<sup>th</sup> September, 2019. The participants included senior level officials from different Ministry, Department and Agency. The meeting was chaired by the Director General, Department of Agricultural Marketing and Cooperatives. The details of the discussion record are annexed hereinunder.



*Fig. 3. Consultation with the national stakeholders at Ariya Hotel, Thimphu*

### **Presentation to the RNR-GNH Committee of the Ministry**

Upon incorporation of the comments from the National Stakeholder meeting, the finalized draft bill was presented to the RNR-GNH Committee meeting of Ministry on 7<sup>th</sup> January, 2020 chaired by Hon'ble Secretary, MoAF. The draft bill was discussed at length and was endorsed in principle for submission to the Office of Attorney General for review.

### **Bilateral Meetings**

#### **1. With Department of Revenue and Customs**

The Department of Agriculture Marketing and Co-operatives and the Legal Services met with the officials from the Department of Revenue and Customs in the month of October, 2019 to discuss on the grant of fiscal incentives to the Farmer Groups and Co-operatives in order encourage the Farmer Groups and Co-operatives to come forward to produce, develop and market the product. The meeting also discussed on whether there is a requirement to have a separate trade license in addition to registration certificate issued by the DAMC.

## 2. With Royal Monetary Authority

The bilateral meeting with Royal Monetary Authority was convened in the month of October, 2019 to discuss on reservation from RMA in establishing saving and credit co-operatives under the Co-operatives and Farmer Groups Act. The meeting also discussed on inclusion of Farmer Groups and Co-operatives under the Priority Sector Lending category, to enable Farmer Groups and Co-operatives avail the loan from the Banks without collateral mortgages.

## 3. With Royal Audit Authority

The bilateral meeting with Royal Audit Authority convened in October, 2019 discussed on the issues concerning the requirement to conduct annual audit of the Farmer Groups and Co-operatives, and the possibility for conducting annual audit as per RAA norms and practice. The meeting agreed to come up with the joint guideline for auditing of Farmer Groups and Co-operatives.