

**COMMUNITY-BASED MEDIATION IN ADDRESSING  
DOMESTIC VIOLENCE: ITS ROLE AND RELEVANCE IN  
BHUTAN**

**CHOKI DOLMA**

**A THESIS SUBMITTED IN PARTIAL FULFILLMENT  
OF THE REQUIREMENTS FOR THE DEGREE OF  
MASTER OF ARTS (HUMAN RIGHTS)  
FACULTY OF GRADUATE STUDIES  
MAHIDOL UNIVERSITY  
2016**

**COPYRIGHT OF MAHIDOL UNIVERSITY**

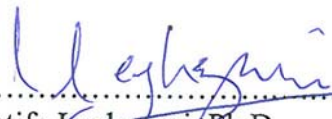
Thesis  
entitled  
**COMMUNITY-BASED MEDIATION IN ADDRESSING  
DOMESTIC VIOLENCE: ITS ROLE AND RELEVANCE IN  
BHUTAN**



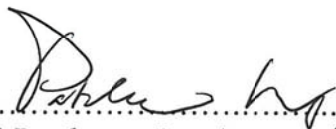
.....  
Mrs. Choki Dolma  
Candidate



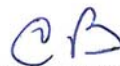
.....  
Michael George Hayes, Ph.D.  
(Communication and Cultural Studies)  
Major advisor



.....  
Latifa Laghzaoui, Ph.D.  
(Social Anthropology)  
Co-advisor



.....  
Prof. Patcharee Lertrit,  
M.D., Ph.D. (Biochemistry)  
Dean  
Faculty of Graduate Studies  
Mahidol University




.....  
Ms. Coeli Barry, Ph.D.  
(Comparative Government)  
Program Director  
Master of Arts Program in Human Rights  
Institute of Human Rights and Peace Studies  
(IHRP)  
Mahidol University

Thesis  
entitled  
**COMMUNITY-BASED MEDIATION IN ADDRESSING  
DOMESTIC VIOLENCE: ITS ROLE AND RELEVANCE IN  
BHUTAN**

was submitted to the Faculty of Graduate Studies, Mahidol University  
for the degree of Master of Arts (Human Rights)

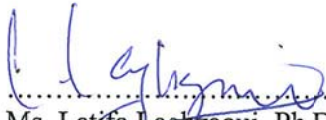
on  
December 2, 2016



.....  
Mrs. Choki Dolma  
Candidate



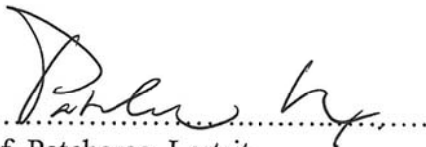
.....  
Mr. Shekh Mohammad Altafur Rahman Ph.D.  
(Human Rights and Peace Studies)  
Chair



.....  
Ms. Latifa Laghzaoui, Ph.D.  
(Social Anthropology)  
Member



.....  
Mr. Michael George Hayes, Ph.D.  
(Communication and Cultural Studies)  
Member



.....  
Prof. Patcharee Lertrit,  
M.D., Ph.D. (Biochemistry)  
Dean  
Faculty of Graduate Studies  
Mahidol University



.....  
Mr. Eakpant Pidavanija, Ph.D.  
(Philosophy of Peace, Conflict, and  
Democracy)  
Director  
Institute of Human Rights and Peace Studies  
(IHRP)  
Mahidol University

## **ACKNOWLEDGEMENTS**

There are many people who made this thesis project possible. First I would like to express my sincere thanks to Dr. Michael George Hayes, my thesis supervisor for his help, guidance, encouragement and patience throughout the entire time spent in supervising this dissertation. Second I would like to thank the all the lecturers and staff of the Institute of Human Rights and Peace Studies of the Mahidol University, for their kind guidance, support and cooperation without which I would not have been able to complete my Master's course on time and be able to undertake this dissertation. Third, I am thankful to all the respondents – victims in particular for trusting me and opening to me, sharing your deepest concerns. I hope that this thesis can contribute in a modest way to understanding and addressing the scourge of domestic violence in our country. Fourth, I would also like to thank all key staff of institutions and organizations who answered my questions readily and shared your ideas and suggestions freely. Finally, I would like to thank my family (Doley, Dorji and Sonam) for bearing with me on days when I am away attending classes and on other days when I am working on this thesis.

Choki Dolm

**COMMUNITY-BASED MEDIATION IN ADDRESSING DOMESTIC VIOLENCE: ITS  
ROLE AND RELEVANCE IN BHUTAN**

CHOKI DOLMA 5438149 HPHR/M

M.A. (HUMAN RIGHTS)

THESIS ADVISORY COMMITTEE: MICHAEL GEORGE HAYES, Ph.D. LATIFA  
LAGHZAoui, Ph.D.**ABSTRACT**

There are different schools of thought, in considering the role and appropriateness of mediation in cases of domestic violence. Mediation critics argue that ‘women’s lack of power relative to men makes mediation a poor option’. Mediation supporters however maintain that mediation can be beneficial by providing a sense of empowerment to victims, when mediators are trained to balance the power between conflicting parties and provide an opportunity for parties to jointly explore mutually agreeable solutions. This study aimed to ascertain the strengths or weaknesses of community-based mediation for addressing domestic violence issues in Bhutan. To do so the research answered the following questions: (a) what is the current experience with the use of community-based mediation mechanism for domestic violence?; and (b) how do women, men, mediators and justice service personnel perceive the value, appropriateness and effectiveness of community-based mediation mechanisms in addressing domestic violence? The findings of the research demonstrated that domestic violence was widely prevalent in the country and it enjoyed a high level of tolerance. Importantly, it revealed that irrespective of the debate on appropriateness of mediation in domestic violence cases, community-based mediation was the most predominant means of resolving domestic cases in Bhutan, preferred by victims and encouraged by the wider society and the formal institutions including the Judiciary. Recognizing this, efforts to improve the mediation process is important to ensure that mediation of domestic violence is safe and effective. This could include training of mediators to deal appropriately with domestic violence cases, promoting and training more women as mediators to increase the pool of women mediators, improving legal advice and support services including counselling. Beyond that, appropriate policy responses such as enhancing awareness of women on their legal rights, campaigns to improve gender equality, removing barriers to accessing formal justice system and to make sure that victims have access to timely, reliable legal and financial support and shelter, to break away from the abusing relationship are equally important.

**KEY WORDS: DOMESTIC VIOLENCE / MEDIATION / ACCESS TO JUSTICE,  
GENDER EQUALITY / HUMAN RIGHTS**

81 pages

## CONTENTS

	<b>Page</b>
<b>ACKNOWLEDGEMENTS</b>	<b>iii</b>
<b>ABSTRACT</b>	<b>iv</b>
<b>LIST OF TABLES</b>	<b>vii</b>
<b>LIST OF FIGURES</b>	<b>viii</b>
<b>ACRONYMS</b>	<b>ix</b>
<b>GLOSSARY OF TERMS</b>	<b>xi</b>
<b>CHAPTER I INTRODUCTION</b>	<b>1</b>
1.1 Background	1
1.2 Problem statement	3
1.3 Research objectives	8
1.4 Research questions	9
1.5 Structure of thesis	10
<b>CHAPTER II LITERATURE REVIEW</b>	<b>11</b>
2.1 Definition of key concepts	11
2.2 Causes of domestic violence	15
2.3 Linkage between domestic violence and human rights	17
2.4 Perspectives on community-based mediation	19
<b>CHAPTER III METHODOLOGY</b>	<b>23</b>
3.1 Theoretical framework	23
3.2 Data collection methods	24
3.3 Study procedure	26
3.4 Ethical issues and challenges	28
<b>CHAPTER IV FINDINGS AND DISCUSSION</b>	<b>32</b>
4.1 Incidence of domestic violence in Bhutan	32
4.2 Direct and underlying causes of domestic violence in Bhutan	36
4.3 Process and perceptions on mediating domestic violence	40

**CONTENTS (cont.)**

	<b>Page</b>
4.4 Assessment of mediation in domestic violence	43
4.5 Challenges to accessing legal support and recourse options	51
4.6 Role of support services and potential to integrate mediation	54
<b>CHAPTER V CONCLUSIONS AND RECOMMENDATIONS</b>	<b>58</b>
5.1 Conclusions	58
5.2 Recommendations	59
<b>REFERENCES</b>	<b>65</b>
<b>APPENDICES</b>	<b>72</b>
<b>BIOGRAPHY</b>	<b>81</b>

## LIST OF TABLES

<b>Table</b>		<b>Page</b>
3.1	Detailed profile of respondents	27
4.1	Experience with mediation among different categories of women	45

## LIST OF FIGURES

<b>Table</b>		<b>Page</b>
3.1	Conceptual framework	24
3.2	Map showing Dzongkhags (Districts) with study districts	26
4.1	Reasons for domestic violence cited by victims	37
4.2	Outcome of village level mediation	44

## ACRONYMS

ADB	Asian Development Bank
ADR	Alternative dispute resolution
BNLI	Bhutan National Legal Institute
CCPA	Child Care Protection Act
CEDAW	Convention on the Elimination of Discrimination Against Women
DV	Domestic Violence
DVPA	Domestic Violence Prevention Act of Bhutan
FGD	Focus Group Discussion
FYP	Five Year Plan
GGSP	Good Governance Support Programme
GNHC	Gross National Happiness Commission
HIV	human immunodeficiency virus
IRIN	Integrated Regional Information Networks
IPV	Intimate Partner Violence
MICS	Multiple Indicator cluster survey
MIS	Multiple Indicator Survey
MP	Member of Parliament
NC	National Council
NCWC	National Commission for Women and Children
NGO	Non Governmental Organisation
NSB	National Statistics Bureau
RBP	Royal Bhutan Police
RENEW	Respect, Educate, Nurture, Empower Women
RGOB	Royal Government of Bhutan
SPSS	Statistical Package for Social Services
SR	Special Rapporteur
STD	Sexually Transmitted Disease

**ACRONYMS (cont.)**

UNICEF	United Nations Children's Fund
UNFPA	United Nations Population Fund
UNiTE	United Nations Initiative to end violence against Women
VAW	Violence Against Women
WCPU	Women and Child Protection Unit
WHO	World Health Organisation

## GLOSSARY OF TERMS

<b>Barmi</b>	A village facilitator. In Bhutan Barmis traditionally appear to have implemented a range of processes including mediation, conciliation and adjudication.
<b>Chimi</b>	An elected representative to the previous National Assembly before it was dissolved in 2007.
<b>Chipon</b>	Village coordinator and representative
<b>Chiwog</b>	A unit under a gewog
<b>Dzongkhag</b>	District
<b>Gewog</b>	Village
<b>Gup</b>	elected head of a Gewog
<b>Mangmi</b>	an elected representative of the gewog who is also a deputy gup
<b>Negotiation:</b>	where two or more people together attempt to reach agreement on some matter
<b>Tsogpas</b>	an elected representative of a village who forms part of the local government
<b>Thrimthue</b>	monetary payment in lieu of prison sentence
<b>Thrimzhung Chhenmo</b>	The Supreme Law of Bhutan
<b>Thromde</b>	administrative district within a gewog

## CHAPTER 1

### INTRODUCTION

#### 1.1 Background

Bhutan, officially the Kingdom of Bhutan, has a total geographical area of 38,394 square kilometers and total population of around 700,000, comprised of three main ethnic groups – *Ngalops*<sup>1</sup>, *Sharchops*<sup>2</sup> and *Lhotsampas*<sup>3</sup>. According to a survey carried out by the National Statistics Bureau, women constitute 48 percent of the country's total population (NSB, 2005). Women generally have the same legal rights as men in Bhutan. They face no overt discrimination and have equal access to health, education and public services. Indeed in some cases, women are in stronger positions than men.

The legal age for marriage is 18 years for both women and men while Bhutanese inheritance law provides equal rights for all adults and children regardless of sex or age (CEDAW, 2009). However the family system is matrilineal in many parts of the country whereby land and property is inherited through the mother and to the daughter. Bhutan also signed the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) on 17 July 1980 and ratified it on 31 August 1981. The Bhutanese Constitution adopted in 2008 and specifically Articles 7 and 9 guaranteed and protected women's rights. The government has enacted the Domestic Violence Prevention Act in 2013, which criminalises domestic violence while at least three Women and Child Protection Units have been set up under the Royal Bhutan Police (CEDAW, 2013).

The bedrock of development in the country are the Five-Year Plans (FYP)<sup>4</sup> that provide overall vision and direction for development in the country. Ever since the

---

<sup>1</sup> The Ngalops are people of Tibetan origin who migrated to Bhutan as early as the ninth century. They are concentrated in western and northern districts. They introduced Tibetan culture and Buddhism to Bhutan.

<sup>2</sup> The Sharchops (the word means easterner) are thought to have migrated from Assam or possibly Burma during the past millennium, comprise most of the population of eastern Bhutan. Although long the biggest ethnic group in Bhutan, the Sharchop have been largely assimilated into the Ngalop culture.

<sup>3</sup> Lhotsampas (the word means Southerner) are mostly settled in the southern foothills and are sometimes referred to as southern Bhutanese. They are said to have emigrated primarily from eastern Nepal in the late nineteenth and early twentieth centuries.

<sup>4</sup> The current plan (2013-2018) is the 11<sup>th</sup> Five Year Plan. The first FYP covered the period 1961-65.

implementation of the first FYP in 1960s, the country has seen rapid development with significant improvement in the lives and livelihoods of its people. These successive plans have paid increasing attention to promoting people's participation in the development programmes of the country and by the 10<sup>th</sup> FYP (2008-2013), gender was integrated as a cross-cutting issue to improve gender equality (GNHC, 2009) and also covered a range of areas to promote gender equality including a special topic on 'women in development' that among others enlisted all national and international frameworks that guide gender equality and women empowerment in the country. Such focus on gender equality has paid dividends. A study carried out by the Asian Development Bank (ADB) in 2014 indicated that Bhutan fares well on many gender equality indicators such as maternal mortality, adolescent fertility rate, adult literacy when compared to many countries in the region (ADB, 2014).

Despite this relatively high gender equality status, Bhutanese women are still some way from achieving full equality and face many indirect forms of gender bias. This is reinforced by traditional beliefs that women's comparative lack of physical strength and their sexual vulnerability makes them less capable than men – a view that can be strengthened by religious beliefs (Black and Stalker, 2006) and cultural norms. This was confirmed by the first Gender Pilot Study in Bhutan, conducted jointly by the Royal Government and the UN agencies in Bhutan in 2001 which noted that despite the absence of any overt gender discrimination in Bhutanese society, there are still fairly well ingrained traditional perceptions and stereotypes that accentuate male superiority. A study on gender stereotypes revealed that Bhutanese culture put women at a much inferior position than men, as evidenced by several well-known proverbs<sup>5</sup> that reflect ideas of men being superior (NCWC, 2008).

In parallel to this persistent gender bias, women are further disadvantaged by being primary victims of domestic violence<sup>6</sup>. Domestic violence is a major violation of women's human rights and the fact that this is perpetrated by those that the victim should be protected by, namely her partner or husband makes it worse.

---

<sup>5</sup> One such proverb describes how it takes at least nine lives as a woman before one can be reborn as a man. A much more derogatory one is prevalent in Bangladesh (in Akhtar, 2011) 'A drum, a vessel, a donkey, and a woman are all worthy of being beaten', reflecting the poor status of women in South Asia.

<sup>6</sup> Domestic violence was highlighted among issues of concern even during the most recent consideration of the country's report to CEDAW in October 2016 to the office of the UN Human Rights High Commissioner

Many women consciously or otherwise find themselves in highly violent relationships where they are abused, battered and often also unable to get out of such relationships.

A primary cause of domestic violence is the traditional and cultural beliefs and norms and the various perceptions that emanate from such traditions and cultures. This explains the findings of a recent study<sup>7</sup> carried out by the UNICEF, UNFPA and the RGOB that revealed that an alarmingly high proportion of women<sup>8</sup> felt that it was okay for the man to beat his wife, if she did something to deserve it. It was found that around 25 percent of the women surveyed believe that their partner has a right to hit or beat them if they refuse to have sex with him or even for simple reasons such as if they burn the food. This indicates on the one hand the high incidence of domestic violence while on the other hand the challenges faced in changing attitudes in the long term while tackling serious abuses in the short term.

## **1.2 Problem statement**

### **1.2.1 Prevalence of the Domestic Violence**

The biggest problem with domestic violence is that it takes place in the sanctity of the home and involves intimate partners or other family members. It usually follows an emotional, verbal or physical confrontation between those involved. According to Palermo:

on the surface the reasons may be economic, social and affective, but at a deeper level it reflects a clash between autonomy and control. The desire for self-realization, self-acceptance and respect are generally frustrated by the drive for dominance, and the violent impulsiveness of the stronger person, who tries to enforce a submissive or subordinate role on the other, brings about feelings of humiliation and despair in the weaker person. (Palermo, 2008)

---

<sup>7</sup> The official name of the study was Multiple Indicator Cluster Survey (MICS). It is a household survey programme developed by UNICEF to assist countries to fill gaps in data for monitoring the situation of children and women.

<sup>8</sup> This study also interestingly noted that the perception that men are justified to beat women for very simple reasons such as spoiling the food were shared both by educated urban women and rural uneducated women alike.

A cursory review of prevalence of domestic (intimate partner) violence around the world indicates that when it comes to this, countries do not differ so much irrespective of how developed or advanced their societies are. Domestic violence is rampant across all countries and cultures. In the United States, a survey of intimate partner violence by the National Institute of Justice and the Centers of Disease Control and Prevention in the United States revealed that 1 in every 4 women have experienced some form of domestic violence in her lifetime and that 1 out of 5 women battered by their partners have been victimized over and over again by the same person. Consider also this: 1 woman is beaten by her husband or partner every 15 seconds in the United States (FBI, 1992).

A growing body of research studies confirms the prevalence of domestic violence in all parts of the globe and estimates range between 20 to 50 per cent of women who experience violence (UNICEF, 2000). Closer home in the region, a study by Babu and Kar in 2010 revealed that, estimates of the prevalence of domestic violence within India varied widely from 18% to 70%, with differences in study methodology. The study also stated that a closer scrutiny of these rates reveals that domestic violence is a country-wide phenomenon and that widespread prevalence of domestic violence is a reflection of deep-rooted gender inequalities that persist across India. Likewise, a nation-wide primary prevalence study in Malaysia in 2013 carried out by the WHO, showed that domestic violence is a real issue among women with husbands or with long term partners or ever married or ever had partners in Malaysia with a prevalence of 8%. The highest is emotional abuse, a form of violence which is not clearly defined in the Domestic Violence Act in Malaysia, and may not be identified by women as violence (Rashidah *et al.*, 2013; Akhter, 2011). Much larger prevalence figures have been reported from Bangladesh which had a prevalence of 19% (WHO 2005).

Domestic violence is believed to be widespread in Bhutan but statistics documenting it are currently not available. There is an acute lack of quantitative data related to domestic violence. The view that domestic violence is a private issue between a husband and wife or within the family means that victims (and families) usually tend not to report abuses. An indirect source to determine prevalence is the MICS exercise described earlier. This survey indicated that women believed that it

was acceptable for men to beat their wives if she made him angry and for any number of reasons. While this survey did not directly reveal prevalence of domestic violence, it can be assumed that women who agree with the statements indicating that husbands/partners are justified to beat their wives/partners under the situation described, in reality tend to be abused by their partners. Although acceptance is more among those living in rural areas with less education, urban educated women are also not spared the malaise. This study also revealed that Paro Dzongkhag<sup>9</sup> has 90.4 % of women who believe a husband is justified in beating his wife/partner in various circumstances (NSB 2010). The current research will therefore choose to focus in a representative village in Paro.

Another source of prevalence data is the hospital records where battered women come to seek treatment. For instance the General Hospital in the capital city recorded 249 battery cases in 2012 while at least 296 cases were documented in 2011. Likewise, in 2011, the Women and Child Protection Unit<sup>10</sup> (WCPU) of the Royal Bhutan Police (RBP) recorded 197 battery cases while in 2010, 296 cases were recorded. The decrease in the number of cases, Police officials explain is due to the reluctance from the victims or their families to report. Victims of domestic violence were from all categories, employed or unemployed, educated or uneducated, from the urban or rural area and also across all ages (Kuensel 2014). In this regard, the national newspaper *Kuensel* reported that the hospital had its oldest victim of domestic violence in a 75-year old woman. These records are just a tiny fraction of the actual prevalence of domestic violence. Only victims who are seriously injured or battered get referred to or report to the hospital or the police. Many other women face less serious but equally damaging abuses and violence. Further many serious cases also go unreported by both the victims and families.

It was only recently that a formal rigorous study on prevalence of domestic violence was carried out. This revealed that domestic violence cases ranged from 20-50 percent. It also revealed that among regions in the country, the eastern region had the highest percentage of domestic violence with 30.7% followed by central Bhutan with 24.5% while western Bhutan had the least cases of domestic violence (19.1%).

---

<sup>9</sup> Dzongkhags are equivalent to districts are key sub-national levels of administrative divisions, that are further divided into gewogs (blocks) and chiwogs (villages)

<sup>10</sup> As part of the efforts to engender the services of the Police and to address increasing demand from victims seeking protection, the WCPU a special division to deal with women and children was set up by the Royal Bhutan Police in 2004.

The highest case of domestic violence was found in *Trashiyangtse Dzongkhag* with 50% followed by *Pemagatshel Dzongkhag* with 43% and *Dagana Dzongkhag* with 42%. The lowest case was reported in Tsirang with 7% followed by Thimphu with 10.2% (NSB, 2010). The study also showed that there was relatively higher prevalence of domestic violence in rural areas (25.6%) when compared to urban areas (19.4%). It was encouraging to note that education and improvement in socio-economic status did make a difference in the likelihood that women face domestic violence. The NSB study states that women with no education suffer the most violence, with 25.3% of them against 16.2% women with secondary education. On the other hand, 29.4% of women with poor socio-economic status suffer the highest domestic violence when compared to the middle class women with 23.3% while rich women suffer the least violence with 15.9%.

### **1.2.2 Limited Formal Protection Mechanism and Services**

Bhutan now has in place a domestic violence law, since 2013. The law entitled Domestic Violence Prevention Act, 2013, according to OHCHR:

mandates requirements and responsibilities for the National Women's Machinery, stakeholder partners, civil society organizations, law enforcement agencies, local governments, communities and individuals. Further, it mandates provision of protection for victims. Recognizing alcohol and intoxication as a recurrent factor in triggering domestic violence, the DVPA responds to any act to domestic violence under intoxication as an aggravating factor for penalty (OHCHR, 2016).

Such legislation provides the primary protection to the wife or female live-in partner from domestic violence at the hands of the husband or male live-in partner or his relatives. It defines such abuse as being criminal in nature as it is meant to be and also describe legal recourse that victims can undertake and punishment for the abuser. However the rules and regulations are expected to follow later. In the absence of rules and regulations, that operationalize the Act, addressing domestic violence continues to be a difficult issue. Besides, only when a grave abuse takes place that results in grievous bodily harm, then a victim registers a case with the police and further seeks redressal in the court of law. In addition, given wide perceptions that

families as far as possible should be kept together even where violence occurs, the police and the courts often advise and rule in favour of reconciliation – quite often leading to perpetuation of violence. The Police however have set up a special dedicated unit called the Women and Child Protection Unit<sup>11</sup>, which currently receives and handles complaints of domestic violence. This unit however is present only in four cities (Thimphu, Phuntsholing, Gelephu and Paro) and yet to be replicated in the other districts and towns. In addition even in these three cities, the focus is on child abuse cases rather than victims of domestic violence.

### **1.2.3 Community based mediation structures – best alternative**

In the absence of a fully enabling legal framework in the form of domestic violence rules and regulations, domestic violence although now considered a criminal case, there are difficulties and un-clarity in terms of how to treat such cases. In many instances only in very serious cases of bodily injury and repeat offences, they are referred to courts for adjudication. Besides, similar to other countries in the region, women also face a number of barriers in pursuing a domestic violence case through the formal justice system such as social, cultural and economic barriers. Thus, victims usually either suffer in silence or when the violence exceeds their tolerance levels, victims rely on family and friends for support and to intervene. When such intervention by family and friends fails, victims then turn to community based mechanisms such as mediation by a neutral, respected third party.

In the case of mediation the chosen mediator normally acts as the middle person to work with the two parties to find a mutually agreeable solution or deterrent to prevent the incidence of domestic violence from repeating in the future. The value and appropriateness of such mechanisms are however disputed widely both internationally and also at the national level. There has been however no formal assessment of such community based mediation mechanisms and no study undertaken has been undertaken to understand their effectiveness or their impact on safeguarding women. This research will aim to contribute towards filling this gap and ascertain if there is a case for community-based mediation in domestic violence and also assess how effective such mechanisms are.

---

<sup>11</sup> At least three such units called in short WCPU have been established (CEDAW, 2013)

### **1.3 Research Objectives**

Despite the relatively high gender equality status in the country as compared to other countries in the region, women in Bhutan still face many forms of gender bias and discrimination. Among many such issues, one important gender bias is that of domestic violence. Domestic violence (DV) is a major violation of women's human rights and the fact that this is perpetrated by those that the victim should be protected by, namely her partner or husband makes it worse.

Community-based mediation has emerged as important forum and a critical alternative to resolving domestic violence cases in Bhutan, preferred by both domestic violence victims and the larger society. Judicial courts and Judges in the country recommend (in some cases require) conflicting couples to exhaust all other means outside the court including and most importantly through community-based mediation forums. There are different schools of thought, both for and against supporting the role for and the appropriateness of mediation in cases of domestic violence.

Many mediation critics argue that women's lack of power relative to men in our society in general makes mediation a poor option. Other concerns relate to the fact that mediation (in particular community based mediators) are not well equipped to deal with domestic violence and may sometimes make it worse by returning the women back to the abusive relation without fully addressing the issue thereby putting victims at increased risk for future violence.

Despite the above opposition to mediation, there are many who maintain that mediation can be beneficial. Mediation supporters argue that it actually provides a sense of empowerment to victims, that mediators can be trained to be neutral and be able to balance the power between conflicting parties and provides an opportunity for parties to jointly explore mutually agreeable solutions. Further, safety measures can be put in place to ensure that serious issues such as potential for violence during mediation and ensure a mediated outcome is respected. In addition, majority of women victims in Bhutan like elsewhere prefer not to or are unable to pursue formal judicial interventions as these are considered adversarial process, mediation can be an effective and appropriate forum to address issues amicably and 'within the family' preserving all chances of making peace in the relationship.

### **1.3.1 Research Objectives**

The primary objective of the research is to ascertain the strengths or weaknesses of community-based mediation mechanisms for addressing domestic violence issues in Bhutan. The overall objective will be addressed through four specific objectives:

- 1) To briefly explore the prevalence and causes (including culture) of domestic violence in the Bhutanese context.
- 2) To explore perceptions of various groups (women, men, mediators and formal justice service sectors) on community-based mediation in domestic violence.
- 3) To examine the relevance of community-based mediation mechanisms to deliver just and appropriate solutions in mediating domestic violence cases.

## **1.4 Research Questions**

The primary question is: Is community-based mediation mechanisms an appropriate and effective way to address domestic violence problem? The following sub-questions will support answering the primary question:

- a) What are the direct and indirect causes of domestic violence in Bhutan and prevalence of domestic violence cases in Bhutan?
- b) What are the key reasons for resorting to the use of community-based mediation for addressing domestic violence?
- c) How do different actors (women, men, mediators, judges and law enforcers) perceive the value, appropriateness and effectiveness of community-based mediation mechanisms in addressing domestic violence?
- d) Based on the findings of the research, what suggestions and recommendations can be made with regard to the role of community-based mediation in addressing domestic violence?

## **1.5 Structure of thesis**

The thesis is organized in five chapters. Chapter 1 provides the background to domestic violence in Bhutan, the potential strengths and weaknesses of community based mediation in addressing domestic violence the problem statement of

the study. The research objectives and research questions are stated next. Chapter 2 is essentially the literature review. The definition of domestic violence, its prevalence and tolerance is followed by the discussion of the various perspectives on the (community-based) mediation in addressing domestic violence. Chapter 3 deals with the methodology of the study. The research approach is mainly qualitative in-depth interview as the main data gathering method and triangulation techniques such as Focus Group Discussions to improve the quality and reliability of the results produced. Chapter 4 presents the findings and discussions of the study. Results are presented under six broad headings: incidence of domestic violence in Bhutan; causes of domestic violence; process and perceptions on mediating domestic violence; challenges to accessing formal justice; and role of support services. The conclusions and recommendations are presented in Chapter 5.

## **CHAPTER II**

### **LITERATURE REVIEW**

#### **2.1 Definition of key concepts**

##### **2.1.1 Domestic violence**

‘Domestic violence’, ‘battering’ and ‘spousal abuse’ are all terms referring to the victimization of a person by an intimate partner. DV, also known as intimate partner violence, is defined as actual or threatened physical, sexual, or psychological harm by current or former partner or spouse (Alsafy et.al., 2011). So, domestic violence usually occurs in relationships that are beset with violence and one that involve an abuser who controls and intimidates his or her victim (Zylstra, 2001). This is usually a long drawn out process of ‘establishment of control and fear’ through intimidation and physical, as well as verbal abuse (Krieger, 2002). Thus, domestic violence is any act of physical, sexual, or psychological abuse, or the threat of such abuse, inflicted against a person by another person intimately connected to her through marriage, family relation, or acquaintanceship. It is universal and has its root in the socio-cultural set up of the society. The perpetrators of domestic violence have often been found to be the males and the victims, their sexual partners.

Defining domestic violence would need to concentrate on identifying and describing crucial elements such as the boundaries of the relationship between the perpetrator and the abused, the norms of acceptable behavior and specific acts constituting violence (Srinivasan and Bedi, 2007) before determining the seriousness of the case. DV can take many forms and can include physical violence ranging from slaps, punches, and kicks to assaults with a weapon and homicide. Another category is sexual violence and this can take many forms such as forced sex, or forced participation in degrading sexual acts. Domestic violence acts are also usually accompanied by emotionally abusive behaviours such as prohibiting a woman from seeing her family and friends, ongoing belittlement or humiliation, or intimidation,

economic restrictions such as preventing a woman from working, or confiscating her earnings and other controlling behaviours (Watts and Zimmerman, 2002 ).

The Domestic Violence Prevention Act (DVPA) of Bhutan passed in 2013 has comprehensive definitions of what is domestic violence. It defines domestic violence as ‘violence against a person by another person with whom that person is, or has been in a domestic relationship’. Further the DVPA, 2013 defines violence as ‘any act, omission or behavior towards a person which results in physical, sexual, emotional or economic abuse’. The Act defined domestic relationship as ‘(i) spousal relationship; (ii) family relationship; (iii) intimate personal relationship; (iv) ordinarily shares a household with a defendant’. Beyond this, the Act also explains what is meant by physical abuse, sexual abuse, emotional abuse and economic abuse.

### **2.1.2 Prevalence of Domestic Violence**

In study on ‘Violence Against Women’ (Heise, 1998) found that at least one in every three women, or up to one billion women, had been beaten, coerced into sex, or otherwise abused in their lifetimes. Likewise a report commissioned by the World Bank (Duvvury et. al., 1993) stated that women aged 15-44 were more at risk of experiencing rape and domestic violence than cancer, motor vehicle accidents, war and malaria. The results of a multi-country study on women’s health and domestic violence carried out by WHO<sup>1</sup> in 2005, indicated that incidence of domestic violence is widespread in all of the countries covered. Additionally the reported stated:

proportion of women who had ever experienced physical or sexual violence, or both, by an intimate partner in their lifetime, ranged from 15% to 71%, with most sites falling between 29% and 62%. Women in Japan were the least likely to have ever experienced physical or sexual violence, or both, by an intimate partner, while the greatest amount of violence was reported by women living in provincial (for the most part rural) settings in Bangladesh, Ethiopia, Peru, and the United Republic of Tanzania” (WHO, 2005).

---

<sup>1</sup> The study collected data from over 24,000 women from 15 sites in 10 countries representing diverse cultural settings: Bangladesh, Brazil, Ethiopia, Japan, Namibia, Peru, Samoa, Serbia and Montenegro, Thailand, and the United Republic of Tanzania

The study reported that there was a great deal of variation from country to country, and from setting to setting within the same country but demographic variation such as age, marital status and educational status did not account for significant differences. Even in developed countries like the United States statistics indicate that on average, 20 people per minute are victims of physical violence by an intimate partner in the United States (Black et al, 2011).

Closer home, a regional analysis in South Asia on the incidence of violence against women (UNFPA, 2003) covering the countries of Bangladesh, India, Nepal, Pakistan and Sri Lanka, reports the prevalence of domestic and specifically spousal violence as the predominant type of violence against women (more than half of all reported VAW cases). Moreover, marital sexual abuse was also found to be prevalent and rooted in the practice of early marriage of girls.

Within Bhutan, the first study of its type carried out by RENEW (Respect, Educate, Nurture, Empower Women<sup>2</sup>) in 2007<sup>3</sup> reported a high rate (77%) of physical abuse and emotional torment at 54% while forced sex at 23%. A 2010 nationwide Bhutan Multiple Indicator Survey Report (NSB, 2010) showed that 68%<sup>4</sup> of women aged 15-49 years had an accepting attitude towards violence. This indicated that Bhutanese women in this age group were at risk of violence. The Gender Statistics in 2010 for the first time compiled sex-disaggregated data. This showed that the reported number of cases of assault and battery of wives by husbands have increased in the years 2007 to 2009 with much higher number of battery cases reported than assault cases.

### **2.1.3 (Community-based) mediation**

Mediation is a form of alternative dispute resolution (ADR) whereby two adverse parties sit together and assisted by a neutral facilitator come to an agreeable way to resolve their dispute. The central aspect of mediation is the emphasis on active roles played by the disputing parties and each party negotiates based on the issues that he or she feels are important and both are open to compromise (Chance and Gerencser (1995) in Vestal, 2007). Such parties set the stage for their own settlements (Davis,

---

<sup>2</sup> RENEW (Respect, Educate, Nurture and Empower Women) is the first and the only Civil Society Organisation in Bhutan providing comprehensive, integrated and emergency relief services to survivors of Domestic and Gender Based Violence (DV/GBV)

<sup>3</sup> This study was, however, confined to the rural and urban areas of Thimphu only ( the capital city)

<sup>4</sup> The prevalence data of the two studies are different because the RENEW study focused only on one Dzongkhag (rural and urban areas of Thimphu) while the MICS study was nationwide.

2007). Thus in mediation an 'impartial third party attempts to keep communication lines open, point out areas of agreement, encourage and assist disputants to resolve their differences using compromise and negotiation' (Garrity, 1998). For any mediation process to be successful it is very important that this third person mediator(s) remain neutral and impartial and treat all parties on an equal footing. In such a case, mediation offers a space to resolve interpersonal and collective disputes and has the potential to transform adversarial tensions into cordial relationships based on mutual respect.

Mediation is an age-old tradition in many societies utilized to resolve different kinds of disputes especially where the formal justice system was less developed or where traditional forms of dispute resolution are prominent. Even where disputants have normally relied on litigation (the courts) to resolve disputes, increasing discontent with this adversarial approach (Acland, 1995) means disputing parties often looked for other solutions. Consequently, alternatives to litigation, such as negotiation, mediation and arbitration, have received increasing attention (Van Veen, Kreutzwiser and Loe, 2003). This is further compounded by the fact that in many countries, in which public, professional, and scientific concern with the problem of family violence in general and violence against women in particular has only begun to develop over the past two decades. This is particularly true of collectivist societies in South Asia and Southeast Asia. In those societies, there is a tendency to relate to violence against women more as a personal and family problem than as a social and criminal problem. Violence against women is not viewed as a violation of human rights and the wellbeing of the family unit is usually considered more important than the well-being of individual family members (Haj-Yahia and Sadan, 2008).

Thus, people in such societies prefer that wife abuse be handled within the family and are usually not handled formally and systematically by criminal justice system. As a result, in many countries in the region, development of specific laws covering domestic violence if at all initiated are only a recent phenomenon and the process of passing specific legislations and implementing them are still in infancy. This is a big hindrance to reducing domestic violence cases. For instance in Nepal, IRIN<sup>5</sup> (2009) reports that the lack of laws against domestic violence means

---

<sup>5</sup>Integrated Regional Information Networks (IRIN) an initiative of UNOCHA providing humanitarian news and analysis

perpetrators often get away with it, especially in Kathmandu, which has one of the worst records of violence against women in the country, according to unofficial police records. Similarly law enforcers such as the Police also shy away from acting in cases of domestic violence. Even where they may act, this action is likely to consist of simply asking about the nature of the conflict and taking reports rather than arresting the abuser such as in China (Ivan et. al., 2011). The police in many countries in Asia regard domestic violence as private matters and as such people rely on other institutions such as community based mediators, elders, family etc. to settle the conflicts. Thus community-based mediation services are often the only proven ways of tackling the problem.

In Bhutan, Dubgyur (2005) describe how the Bhutanese have historically preferred to resolve their disagreements through compromise. He discusses that the Supreme Law of the country known as '*Thrimzhung Chhenmo*' confers legal status to out of court settlement. Mediation is usually sought in two ways in Bhutan: (i) mediation prior to registration of the case whereby community with the help of a mediator (called the *barmi*) tries to solve the problem at its origin; (ii) mediation after the case has been registered in a court of law wherein under the law any civil cases or compoundable offences could be settled at any time of proceeding but before the written judgement is handed down by the court. When there is resolution through mediation the court passes a consent judgement. In cases where the litigants are not aware of this, the judges inform them of the right to settle out of court. Dubgyur (2005) cautioned 'however care should be taken not to settle out of court through coercion, undue influence and false promise'.

## **2.2 Causes of domestic violence**

There are many factors responsible for domestic violence. The primary one among them is that of prevailing cultural and social views and norms in a place that see a woman's place in society as one lower to that of a man's. Socio-cultural views in many societies condone the use of violence against transgression (of male authority, acceptable gender roles, and women's behavior) and as a way of ensuring obedience (Srinivasan and Bedi, 2007) explaining that violence is accepted as a

punishment where the woman does not perform her roles as a wife. Violence by intimate partners is in fact, often used to demonstrate and enforce a man's position as head of the household or relationship (Watts and Zimmerman, 2002). In such cases, contrary to the assumption that economic dependence is a major impediment to women leaving abusive relationships, it is quite possible that an increase in women's income is accompanied by additional control-induced violence. Likewise, Jewkes (2002) argues that women's improved education and awareness may also be a source of social stress for the man as it may challenge the traditional male image. In order to assert his authority, he may resort to violence.

Similarly Heath (2013) describe how job opportunities for women may have unintended negative consequences for women if work changes relations within the household and their husbands respond with increased domestic violence. While theoretically woman's access to economic opportunities can increase her level of bargaining power in the household, this need not necessarily reduce risk of domestic violence. This is because husbands often 'seek to offset the increased bargaining power that her income would otherwise bring her through more violence'.

Jewkes (2002) ascribe importance of two factors as being necessary for domestic violence namely the unequal position of women in a particular relationship (and in society) and the normative use of violence in conflict. She opines that violence against women is a demonstration of male power juxtaposed against the lesser power of women and thus where women have low status they often lack the necessary perceptions of self-efficacy.

They are therefore less able to leave such relationships and usually believe that this is something they have to cope with. With regard to the second factor, she states that 'intimate partner violence is increased in settings where the use of violence is normal, and in these settings, sanctions against abusers are often also low'. In addition, violence accelerant such as alcohol contributes to intimate partner violence by reducing inhibitions and providing social space for punishment. Other authors (e.g. Soler, Vinayak and Quadagno, 2000) highlight additional factors such as age, race and social integration that cause domestic violence. Social factors are of prime interest here such as the fear that many women have in disclosing or reporting abuse because of perceptions of shame, fear of blame or reluctance to be 'disloyal' to their partner.

Domestic violence is also simply a symptom of large systemic discrimination that women faces. For instance, describing the case of women in India, Menski (1998) describe how gender inequality, abuse, and violence in India typically start with feticide and infanticide and then goes on to multiply the misery of those born through patriarchal institutions and practices like child marriage and dowry. A typical girl in India is socialized to suppress scandalous' incidences like molestation, sexual harassment, torture, and even rape. The consequences of such suppression are many: a) this results in under-reporting of the volume of violence, b) it allows the criminal a free hand, c) more importantly, it contributes to subordination and under-valuation of the role of women within and outside family, and d) it forces the women to sacrifice their human rights. Violence against the 'weaker sex' remains largely unexposed and under-reported because it occurs within the family or a close circle. For many of the victims, leaving matrimonial homes or marriage is simply not an option given the prevailing norms, family/culture traditions and expectations.

### **2.3 Linkage between domestic violence and women's human rights**

Violence against women is without a doubt the broadest violations of human rights in the contemporary world and a substantial barrier to women's equality. Domestic violence can have many impacts on the women victims themselves and also on others around them especially children for whom they are the primary care-givers (Garcia-Moreno et al., 2005). The experience and fear of violence is a consistent thread in women's lives intertwined with their most basic security needs. It limits women's choices directly by destroying women's health, disrupting their lives and constricting the scope of their activity, and indirectly by eroding their self-confidence and self-esteem and the ability to imagine mobility and having control over their lives. Violence against women is therefore a steep barrier to the realization of women's human rights and to the realization of sustainable human development (Carrillo, 2002).

Many studies (e.g. Sivakumar, 2008)) have linked partner violence to negative impacts on women's mental and physical health such as depression, chronic heart diseases and high risk of infection by HIV and other sexually transmitted

diseases (STDs). In children, a major impact is the direct relationship between exposure to violence during childhood and its influence on violence in the child's own future partnerships. There are also other indirect social and economic costs to victims. Violence or even the threat of violence constrains the choices women make and restricts their participation in development, thus, preventing them from realizing their full potential (ICRW, 2002). It also undermines their confidence and self-esteem (Srinivasan and Bedi, 2007) completely exposing women's vulnerabilities and making it difficult if not impossible to leave an abusive relationship.

To situate domestic violence into local context as a human rights issue, there are international and regional human rights instruments that obligate states to consider them and set minimum standards and recommendations. These include gender specific instruments and mechanisms developed both at international as well as regional levels. CEDAW is an international treaty that describes responsibilities of the states in promoting and protecting the human rights of women. Violence against women is given special focus and explained as a form of discrimination with the issuance of General Recommendation 19. Declaration on the Elimination of Violence against Women explains VAW as a human rights violation and also provides with recommended measures to fight against it. Special Rapporteur (SR) on Violence against Women (its causes and consequences), was appointed in 1994 by the Commission on Human Rights to create a knowledge base on VAW and its causes and consequences. Besides the gender-specific instruments, violence against women is also a significant aspect of many of the violations covered by mainstream human rights conventions such as: Convention against Torture and International Covenant on Economic, Cultural and Social Rights.

Notwithstanding these human rights instruments and mechanisms that provide wide protection to women against domestic violence, the United Nations has been actively working to address violence against women in a number of ways such as through research and normative and policy development. They support Member States and other stakeholders in their efforts and provide services and other assistance to victims of violence, undertake advocacy and awareness-raising activities, implement innovative projects, as well as provide funding to various stakeholders for their activities. A comprehensive account of this is available for instance through an

inventory of United Nations System's activities to prevent and eliminate violence against women prepared by UN Women (with a baseline from July 2007 and updated till February 2010). In addition, the UN Secretary General, Mr. Ban Ki-Moon in February 2008, launched his campaign UNiTE to End Violence against Women, with the overall objective to raise public awareness and increase political will and resources for preventing and responding to all forms of violence against women and girls in all parts of the world (UN, 2008). This indicates the importance that the global institutions and community have accorded to addressing violence against women. However, 'domestic violence' has yet to receive the priority attention and resources needed at all levels to tackle it with the seriousness and visibility that it deserves. This is indicated by the fact that in many countries including Bhutan, despite promulgation of specific laws concerning violence against women and domestic violence, there are still serious gaps in the implementation of these laws.

## **2.4 Perspectives on (community-based) mediation**

Mediation is a collaborative process by which two or more parties attempt to resolve their dispute through the assistance of a neutral third party facilitator who has no decision making power. Mediation is a popular alternative to the formal justice system. Melamed (2000) defines mediation as 'assisted negotiation' central to which is the concept of 'informed consent'. So long as participants understand the nature of a contemplated mediation process and effectively consent to participate in the described process, virtually any mediation process is possible and appropriate. The key qualities of the mediation process are that it is: voluntary - You can leave at any time for any reason, or no reason; collaborative - As no participant in mediation can impose anything on anyone, everyone is motivated to work together to solve the issues and reach best agreements. However, critics (for example, Abel, (1982) in Herrman, 2006) have pointed out weaknesses in mediation process focusing on issues of power and raising concerns about mediation's potential for maintaining social inequalities and enabling greater social control. When it comes to domestic violence, many believe that mediation is never an appropriate alternative dispute resolution approach (Krieger, 2002). She argues that mandatory mediation in family law cases involving domestic

violence has an overall negative impact on gender relations in general, and in specific on the progress of securing legislative rights and protection for battered women.

#### **2.4.1 Advantages and Disadvantages of mediation in domestic violence**

As is evident in the definition of above, the general advantages of mediation are, it encourages participation; allows a high degree of participant control; helps create alternative options (Vanveen, Kreutzwiser and Loe, 2003). From a national perspective, mediation process will also reduce the case burden on the justice courts leading to higher rates of resolution of other cases and greater efficiency of the national justice system. Community mediation is also a way of life and a deeply cultural solution to many misunderstandings and conflicts in the communities. Given the under-resourced and under-staffed judicial systems in many countries, mediation is as such seen as a viable and appropriate alternative. Despite misgivings about mediation, many argue that mediation is an appropriate means to resolve domestic violence cases especially if done in accordance with notions of even handedness and fairness to both parties, particularly the victim (Davis, 2007). For the mediation to work, both the victim and abuser must receive equal opportunity to contribute towards resolving their dispute.

Several authors (e.g. Long, 2006) argue that ‘mediation can appropriately be used in domestic violence cases if the type of domestic violence involved is taken into account and mechanisms to ensure a safe and fair settlement for the victim are provided’. The reality of litigating such cases which requires battered women retain an attorney and fight her cases in court, which many women cannot afford also means that mediation remains the only accessible solution. The effectiveness of mediation however depends upon the extent of the violence. If the violence has reached a stage where the abuser then completely denies the worth of his or her partner, then the potential for negotiation, reaching a mutually acceptable agreement are compromised and hence not suitable for mediation and should be screened as such (e.g. Vestal, 2007). Mediation may be an appropriate forum for the stages preceding such a devastating roadblock. So an important aspect in deciding whether mediation is appropriate or not would depend a lot on identifying this threshold and training mediators to apply such safeguards.

Others (eg. Davis 2007) object because they see mediation as not treating domestic violence as a crime and as removing the issue of violence to a private forum where there is no accountability and no sanction for the abuser. They also feel that it removes a woman's right to use the legal process to protect her rights. There is also an objection to the use of mediation on the grounds that instead of being part of the public record, mediation settlements are private and don't impact on social policy. There are also those who feel that mediation is completely not appropriate because of the power imbalances in an abusive relationship. They state that if the abuser perpetuates control of the victim in the proceeding, then there is a high risk that the mediation process is likely to deny those victims a fair forum. Davis (2007) also opine that victims remain powerless in the face of this abuse so much so that they may not be able 'to bargain in their own self-interest' and in such a case mediation would unfairly disadvantage the victim. Further, (Garrity, 1998) explains that a person who has been terrorized by an abuser is not free to participate in a mediation process with him, and the fact that the victim has to be truthful about her needs or experiences in the abuser's presence practically ensures that she is in more danger later. Garrity also argue that to use mediation is to subscribe to the mistaken idea that abuse is related to 'misunderstandings' or lack of communication and argues further that if discussion and compromise, the mainstay of mediation, could help in any way most domestic violence situations would be long ago resolved because victims of abuse 'discuss and compromise' constantly.

It is clear from the above that there are two equally powerful and opposing schools of thought when it comes to considering the appropriateness of mediation in addressing cases of domestic violence. However many argue that blanket ban on the role of mediation can be disempowering (e.g. *Rimelspach, 2001*) and deprive conflicting couples of an alternative. Other concerns relate to the fact that mediators (in particular community based mediators) are not well equipped to deal with domestic violence and may sometimes make it worse by returning the women back to the abusive relation without fully addressing the issue. Mediation supporters however argue that mediation provides a sense of empowerment to victims, that mediators can be trained to be neutral and be able to balance the power between conflicting parties and provides an opportunity for parties to jointly explore mutually agreeable solutions.

Further, safety measures can be put in place to ensure that serious issues such as potential for violence during mediation and ensure a mediated outcome is respected.

#### **2.4.2 Feminist Perspective on mediation in domestic violence**

Abel (1982) in her seminal publication *The Politics of Informal Justice* argue that with the growth of informal institutions (such as mediation) when coopted by the formal institution may eventually lead to 'covert expansion'. Abel adds that 'beneath the rhetoric of consensus, informal, settlement directed approaches to the management of disputes simply massaged, neutralized and suppressed conflict. As a result, the disadvantaged are left worse off, getting less than they would under adversarial, adjudicatory process'. In this way, the stronger members of the society end up benefitting as safeguards favour them. Thus when state-sponsored informal structures are substituted for formal structures, disadvantaged members of the society end up in a position often worsened than what they began with.

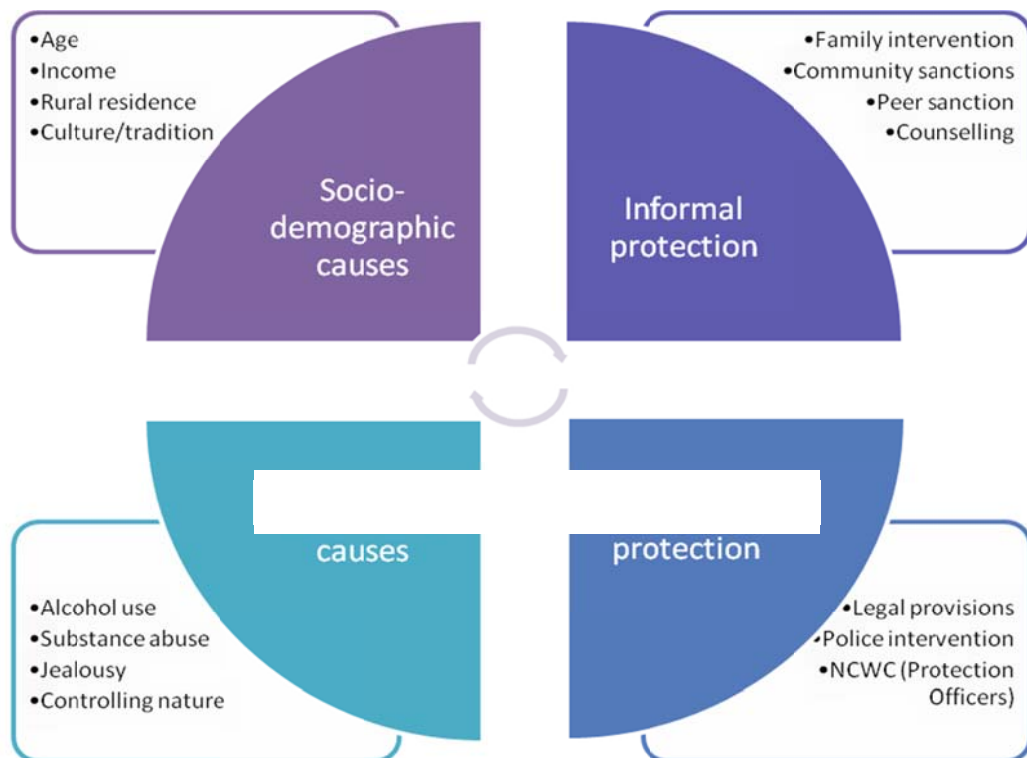
With as mediation and various community based conflict resolution, some feminist analysts see them as compatible with feminist values while many others regard it inappropriate when partner violence is present. The mediation or conciliation model (Lerman 1984) was criticized for defining battering (or other offences) as 'disputes', for 'pushing reconciliation'. Beyond this, Feminist critiques want to shift the issue of domestic violence from the private to the public realm. This is important because being the 'privacy plays a pernicious role in supporting, encouraging, and legitimizing' domestic violence (Scheinder, 2000). Feminist see domestic violence as both a cause and consequence of inequality between men and women and that women will be continued suffer domestic violence with the society condoning it until the state is held accountable for their actions on stopping it. In terms of feminist strategy for change, it is useful to reflect on how radical feminism has provided the predominant theoretical model for addressing domestic violence together with measures to change including education, awareness on women's rights, provision of services, supporting economic independence and legislative reform.

## **CHAPTER III**

### **RESEARCH METHODOLOGY**

#### **3.1 Theoretical framework**

In undertaking this research, I utilized a theoretical framework that is based on both an ecological and systems approach. A systems approach is a biological based perspective on practice, which emphasizes working at different levels in society; the individual, the system surrounding the individuals and the more extensive systems, which form a context for, lower level systems. Within this I looked to define the problem such as domestic violence and also solutions to it that need to be inherently generated from within the system and hence looked at the issue from individual, family, village, sub-national and national levels. In addition, I also employed an ecological approach (Heise, 1998) that look at the individual, the family, the community and society as a whole to focus on the relationships and the interactions. This approach premises that abuse results from interplay of personal, situational and socio-cultural factors at different levels in the social environment while response both formal and informal should act on these spheres and interact with community-based mediation. Figure 1 below provides this summary schematically.



**Figure 3.1:** Conceptual framework

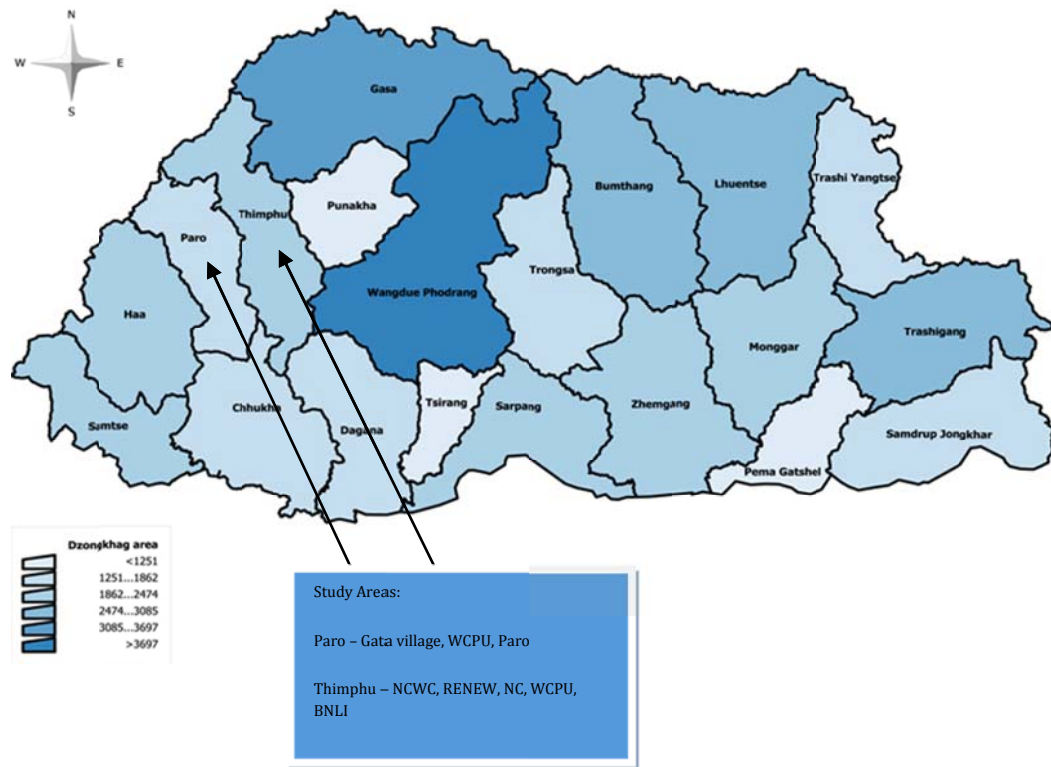
## 3.2 Data collection methods

### 3.2.1 Sampling method

To choose my participants, I used **purposive sampling** to select three case studies in two Districts – two villages in Paro and one village in Thimphu (the capital). The study locations selection were based on a number of factors: a) Thimphu Dzongkhag is the capital and is the representative urban site. It also has the only ‘shelter’ for victims of domestic violence. This allows gathering a urban perspective (especially in light on eroding social protection networks due to the prevalence of nuclear families) and access to victims in the shelter; b) Paro Dzongkhag doubles as the rural representative and was also chosen based on the very high proportion of women who are tolerant of intimate partner violence (as per the Multiple Indicator Cluster Survey (MICS)).

Purposive sampling is described by several authors as being suitable for and is primarily used in qualitative studies and may be defined as selecting units (e.g., individuals, groups of individuals, institutions) based on specific purposes associated with answering a research study's questions (Teddlie and Yu, 2007; Tongco, 2007). Teddlie and Yu (2007) describe three broad categories of purposive sampling techniques, each of which encompass several specific types of strategies: (i) sampling to achieve representativeness or comparability—these techniques are used when the researcher wants to select a purposive sample that represents a broader group of cases as closely as possible or set up comparisons among different types of cases; (ii) sampling special or unique cases—employed when the individual case itself, or a specific group of cases, is a major focus of the investigation (rather than an issue); (iii) and sequential sampling—uses the gradual selection principle of sampling when the goal of the research project is the generation of theory (or broadly defined themes) or the sample evolves of its own accord as data are being collected.

I employed the use of purpose sampling to select my key informants for focus group interviews. I ensured that different members of the society and different categories of women in particular are well represented. Snowball sampling is often used to study groups or individuals that are hard to identify or locate (Greenstein, 2001). The use of different methods of data gathering such as analysis of cases, semi-structured and un-structured interviews and focus group discussions generated different data and served as triangulation to ensure data robustness. In both the urban and rural study areas, a mix of study recruitment methods were employed for victims.



**Figure 3.2:** Map showing Dzongkhags (Districts) with study districts

First, I aimed to identify institutions and agencies working on domestic violence issues and especially those with activities geared towards supporting victims of domestic violence. With the help of personnel from such institutions, hotspot areas were identified. Secondly, those victims that are willing to talk were contacted and interviews scheduled either at their locations (e.g. shelter homes) or at a neutral location as desired by the respondent. The snow-ball approach was particularly handy in identifying victims of domestic violence to be recruited. Some of the initial respondents were identified from focus group discussions or as advised by community elders and others knowledgeable of such aspects in the village. In-depth interviews and discussions with willing respondents helped to identify more who were then requested to participate in the study.

Majority of the community based mediators were village elders and/or leaders of community institutions such as the elected *Tsogpas*. They were contacted well ahead and permission sought for the study. For national and locally based service

providers such as the police and judiciary, as government procedures deem fit, official permission were sought from the Head Offices and this used to enable meetings at the local levels.

### 3.3 Study Procedure

#### 3.3.1 Interview

The research was carried out from June – August 2012<sup>1</sup>. Table 1 presents the profile of the respondents. A total of 170 respondents (108 from Paro Dzongkhag and 62 from Thimphu Dzongkhag) were interviewed.

**Table 3.1:** Detailed profile of respondents

Dzongkhag	Village	Age Bracket*				Marital status**					Head of household <sup>+</sup>		Income earner <sup>++</sup>			Total
		1	2	3	4	S	M	Se	D	W	M	F	M	F	E	
Paro	Gata	5	24	33	11	8	47	9	6	3	43	30	8	9	56	73
Paro	Bondey	2	12	12	9	6	18	4	6	1	25	10	11	8	16	35
Thimphu	Thimthrom <sup>§</sup>	18	18	16	10	10	40	3	9	0	47	15	33	15	14	62
<b>Total</b>		<b>25</b>	<b>54</b>	<b>61</b>	<b>30</b>	<b>24</b>	<b>105</b>	<b>16</b>	<b>21</b>	<b>4</b>	<b>115</b>	<b>55</b>	<b>52</b>	<b>32</b>	<b>86</b>	<b>170</b>

Legend: \* (1 = <25 yrs; 2 = 25-35 yrs; 3 = 35-45 yrs; 4 = >45 yrs); \*\* (S = single and living together; M = married; Se = separated; D = divorced; W = widowed); + (M= male; F= female); ++ (M= male; F= female; E= equally; \$ = currently residing in Thimphu)

A large majority of respondents (around 68%) were within the two age brackets ‘between 25-35’ and ‘between 35-45’ years followed by ‘less than 25’ and ‘more than 45 years’ with 15% and 17% respectively. After excluding those who are ‘separated’, ‘divorced’ and ‘widowed’, a total of 129 or 76% of the women interviewed are currently living with an intimate partner. In order to gauge the financial and decision making autonomy of women, questions asked with regards who headed the household and who contributed to household income resulted in at least 32% of household heads being women while around 69% of women reported being

<sup>1</sup> For various personal reasons, thesis writing and completion was only possible in 2016.

either sole income earners of the household income or contributing equally to the household income with the man.

In-depth interviews using semi-structured questions (Annex 1) with victims, while in interviewing identified members of community based mediation mechanisms and other key people such as village elders were guided by some pre-prepared questions and also based on organically evolving interview approach. In-depth interviews was found to be particularly optimal for collecting data on individuals' personal histories, perspectives, and experiences, particularly when sensitive topics are being explored. This was triangulated with and supported by Focus Group Interviews (FGI). Focus groups were effective in eliciting data on the cultural norms of a group and in generating broad overviews of issues of concern to the cultural groups or subgroups represented. A total of 5 Focus Group Discussions (FGD) were conducted: women who reported domestic violence and participated in a mediation process (one each in Paro and Thimphu); staff and volunteers of RENEW; Judges and staff of National Commission for Women and Children (NCWC); Police personnel involved with the Women and Children Protection Unit (WCPU).

### **3.3.2 Secondary Sources**

I relied also on secondary sources such as publication by government or non-government organizations, earlier research, and also reports in the national mass media. Where available and appropriate (as described later in the ethical considerations section), any case documentation (or written agreements) were reviewed, but no copies were made or shared.

### **3.3.3 Delphi expert consultation**

Delphi technique may be characterized as a 'method for structuring a group communication process so that the process is effective in allowing a group of individuals, as a whole, to deal with a complex problem' (Linstone and Turoff, 2002). The Delphi method facilitates group consultation, with the aim of finding common agreement between experts, on topics of uncertainty. A modified form of the Delphi technique was used to carry out consultations with a range of experts (including participants from the Judiciary, Legislators, Police, and National Women's

Organizations). Participants were invited to participate on the basis of their expertise and on the assumption that they held specialised and informed knowledge. This will involve application of the four phases of consensus building (Linstone and Turoff, 2002): The first phase is characterized by exploration of the subject under discussion, wherein each individual contributes additional information he feels is pertinent to the issue. The second phase involves the process of reaching an understanding of how the group views the issue (i.e., where the members agree or disagree and what they mean by relative terms such as importance, desirability, or feasibility). If there is significant disagreement, then that disagreement is explored in the third phase to bring out the underlying reasons for the differences and possibly to evaluate them. The last phase, a final evaluation, occurs when all previously gathered information has been initially analyzed and the evaluations have been fed back for consideration.

#### **3.3.4 Data Analysis**

To the extent possible to quantify, the data generated from the interviews were coded following a simple coding scheme for each answers using a simple numbers. This data was used to generate simple statistics such as percentages and total numbers of responses. Focus Group interviews were transcribed verbatim. The majority of the data would only yield to qualitative analysis such as through content analysis as the analytical tool. Content analysis is a technique for compressing many words of text into fewer content categories based on some rules of coding. Holsti (1969) offers a broad definition of content analysis as, 'any technique for making inferences by objectively and systematically identifying specified characteristics of messages'. Thus content analysis allows review and analysis of various text, notes from the field, observations and any other qualitative data and information generated during the study. In order to ensure replication, these were described in as much detail as possible. This method also allowed inferences to be made from the view point of individual, groups and other collectives on various social mores and cultural meanings that people attach to everyday life.

## **3.4 Ethical Issues and Challenges**

### **3.4.1 Ethical Issues**

The most important ethical considerations were around the issue of confidentiality. When carrying out my interviews I made sure to protect the names, identity and locations of individuals at all times. If I chose to record interviews, I sought prior consent before and refrained from employing the technique at any time if the respondent raised an objection. In asking questions, I tried to minimize my own biases by not asking leading questions and not forcing respondents to respond to questions that they do not feel comfortable in responding to. Any observations that I carried out as part of the research was maintained to the extent possible as unobtrusive and non-interfering as possible. Finally where I was granted permission to view copies of agreements or other documentation related to past mediated cases, I only took notes of critical themes and information. I only made one copy of an agreement as the person specifically allowed me to make a copy. The abridged version is presented in this thesis with no names and will only be used for the purpose of the study. Overall, where relevant I made sure to be directed by the guidelines that World Health Organization (WHO) published for Ethical and Safety Recommendations for Research on Domestic Violence against Women (WHO, 1999).

### **3.4.2 Challenges**

The primary challenge for this research was time. Given the sensitive and highly complex nature of domestic violence as a field of study including important ethical considerations<sup>2</sup> and difficulty in gathering data, the limited time available for the research did pose a big challenge. Having worked in the related field, I made use of my networks and past experiences to overcome this shortcoming. The time constraint also determined to a large extent the detail that was possible in the current research. I would hope that I can come back to the study at another time for a more intensive and detailed assessment (or recommend others to undertake them – these have been documented in the recommendations for future research). As I alluded to

---

<sup>2</sup> Ethical considerations would include beside no harm done (e.g. protecting privacy), to also where possible being able to connect victims to help when so requested.

earlier, Bhutan currently does not maintain good data on domestic violence although recent efforts are underway to address this gap. The availability and robustness of data and other data limitations was as such another challenge. I attempted to focus primarily on the qualitative aspects of domestic violence especially because of this constraint. The very limited quantitative data wherever available through secondary sources were collected and reported in the research such as on the prevalence and trend of domestic violence cases in the country.

## **CHAPTER IV**

### **FINDINGS AND DISCUSSION**

#### **4.1 Incidence of domestic violence in Bhutan**

A total of 120 respondents out of 170 interviewed in different locations and settings in the country reported experiencing some form of domestic violence results in prevalence of around 70.6% in this study. This is in line with findings reported by various studies and surveys in the country. For instance, the national health survey in 2012 revealed that 74 percent of women in the country had been victims of physical violence (MOH, 2012). Yet another survey from Bhutan's National Statistics Bureau revealed that 68 percent of Bhutanese women believe a man is justified in beating his wife if she neglects the children, argues with her husband, refuses sex or burns the dinner. Likewise, the Bhutan Multiple Indicator Survey, or known simply as the MIS Survey carried out in 2010 found that, among women aged 15-49 years, who were currently or previously married, 24% had experienced some kind of emotional, physical or sexual violence by their husbands or partners (UNICEF Bhutan, 2010).

Violence against women is an important barrier against realization of women's human rights (Carrillo, 2002). Several women report enduring violence at the hands of their husband before finally walking out. Many women endure violence for as long as 20 years, hoping their violent partner would change their ways (please see box 1). RENEW has since its establishment in 2004 and till 2015, registered more than 4,000 cases of gender-based violence. The NGO says it receives half a dozen complaints of violence against women every day, due to growing awareness of the problem. It deals with cases of assault, sexual harassment, child labour, sexual exploitation, physical abuse and rape. In 2014 alone, RENEW referred more than 50 cases to the high court, and currently houses 132 domestic violence victims in shelters.

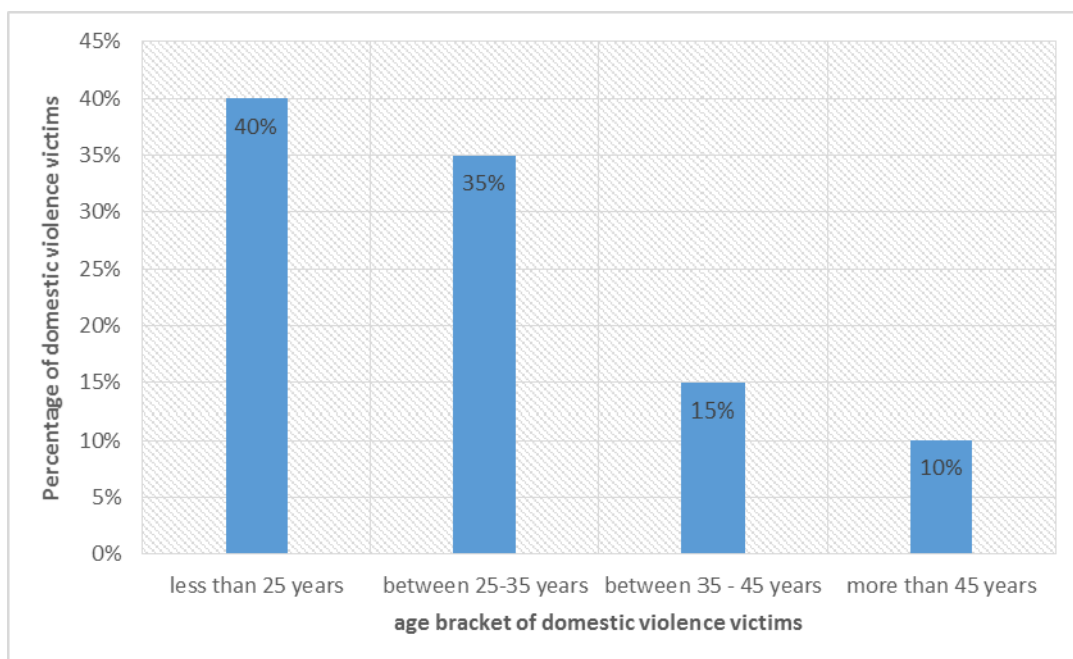
**Box 1: Case story - Victims are reluctant to report domestic violence**

Karma Om, aged 43. She married very age at the age of 18 and became pregnant. With a baby, she was severely beaten by the husband for reasons like, talking to other men, even cousins. The husband was also just 20 years old. She would try to hide the bruises and lie to her family that she had fallen in the toilet and bruised herself. She knew of the services available to battered women, but she didn't want to bring shame upon herself. (Source: Interview, July 2012; female, aged 43, Thimphu)

The incidence of domestic violence is higher in Paro Dzongkhag representing the rural areas with (76% of interviewed respondents mentioning some form of domestic violence) than Thimphu, where majority of respondents were urban residents who were not necessarily from Thimphu (61% reported experiencing some form of domestic violence). The National Study on Domestic Violence (NSB, 2010) also reported that there was relatively higher prevalence of domestic violence in rural areas when compared to urban areas. In terms of age of respondents, a large majority who mentioned experiencing domestic violence were those that were 35 years or younger with 40% of those 'under 25 years' and 35% of respondents 'between 25-35 years' citing domestic violence experience (see Fig 3). This may be explained by the fact that, on the one hand, husbands and partners who have younger women partners generally tend to be more suspicious and jealous<sup>1</sup> in while on the other hand younger women are less mature, tend to weaker in terms of arguing their position in the family and often more financially dependent on her partner.

---

<sup>1</sup> This research revealed that jealousy is the primary cause of domestic violence. See section 4.2



**Figure 4.1:** Incidence of violence among different age categories

The above finding confirms indication from the 2010 Bhutan Multiple Indicator Survey Report (NSB, 2010) that Bhutanese women in this age group of 15-49 years were at risk of violence as evident from an accepting attitude among at least 68%<sup>2</sup> of women surveyed. This is worrying and points to the need to target government interventions including awareness raising at this age group.

Further, the research revealed that women who earned an income (sole income earner of household and contributing equally to household income) suffered relative less (68% or 80 out of 118 respondents) domestic violence than those that did not and relied on their partner for income (77% or 40 out of 52 respondents). This difference may be attributable both to the greater equality in the household due to financial autonomy of women and also to the fact that double income can result in significant reduction in stress emanating from financial security. This finding is similar to the one the NSB (2010) study which reported that richer women suffer the least violence with 15.9% compared to 29.4% among women with poor socio-economic status.

<sup>2</sup> The prevalence data of the two studies are different because the RENEW study focused only on one Dzongkhag (rural and urban areas of Thimphu) while the MICS study was nationwide.

Despite this high prevalence, reporting of domestic violence cases to authorities was however pretty low and roughly similar in rural and urban areas. Only around 15 percent of respondents interviewed stated that they reported or would report domestic violence to someone outside the village. According to a study of Violence Against Women (VAW) undertaken by NCWC, majority of women in Bhutan tend not to tell anyone about their experience of intimate partner violence. Those women that do share their partner's violent behavior tend to do so with family and friends while most women suffering from violence are likely not to go to formal institutions for help, mainly because they think it is not a serious problem. Moreover, among those abused women that do seek help from formal institutes they are likely to do so from a health centre due to the seriousness of their injury from physical abuse. This high level of incidence of domestic violence in the country is not matched by increased reporting to authorities outside the village indicative of a general high level of tolerance associated with domestic violence. This is evidence that the issue is not sufficiently addressed currently and is also apparent from the general view that domestic violence is not common.

Most common complaints for domestic violence are physical abuse, including battery, followed by emotional abuse, neglect and abandonment. Almost all the victims who experienced domestic violence (110 out of 120) reported that the domestic violence type was physical abuse. Victims reported facing physical violence in different forms (in order of severity) from being pushed around, being slapped, kicked, and beaten up. Victims described how such violence began with less severe forms and progressed to more severe forms and also increased in frequency. Psychological abuse occurs either alone or more often in combination with physical abuse. However current understanding among public and among victims about domestic violence is rather limited. For example, domestic violence abuse can be in the form of emotional, psychological, verbal or sexual one (see box 2). Often emotional abuse can be far worse than physical violence, as the lack of physical evidence means that the onus to prove abuse falls on the victim. In addition emotional abuse leaves victims feeling guilty and constrained to discuss or seek help as the victim suffers serious psychological damage. Moreover, most non-physical abuse eventually escalate to include physical abuse too.

**Box 2: Case story – example of emotional abuse**

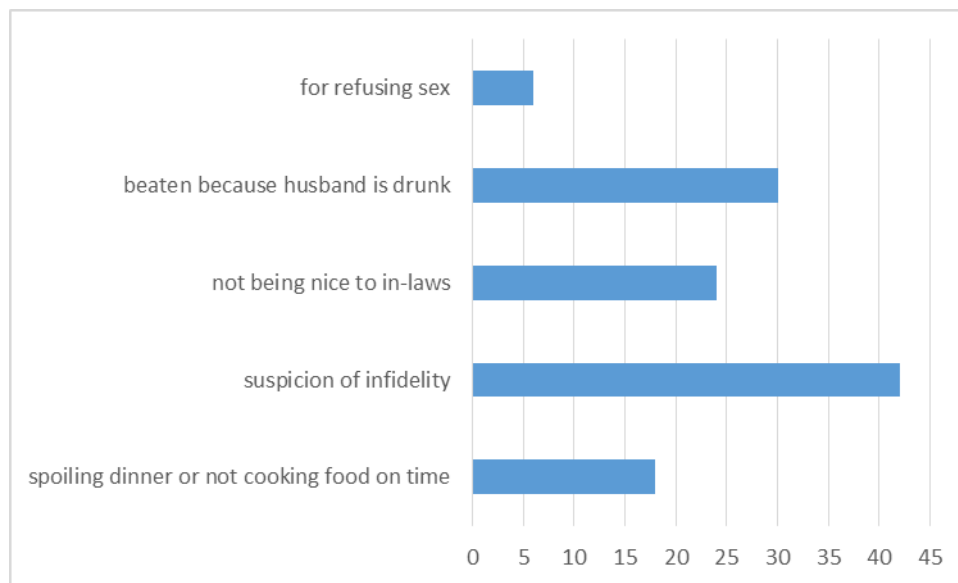
Pema a 39 years old. She is a teacher and a mother of 3 children; 16, 13, 10 years old. Pema met Singye in college. They fell in love and married. They were very different: Pema was gregarious, fun loving and loved to talk. Singye who is two years older was very quiet, an introvert, conservative and matured. When they finished college, they got married and soon had their first child. It was then, what she thought were his most pleasing personality became her nightmare. He didn't want to socialize with the neighbors. He did not want to celebrate his children's birthdays. He would rather visit temples and give to charity. She stopped visiting and planning picnics and hikes with friends because he was jealous of their husbands giving her attention. He prevented her going to official dinners that ended late. He forbade her from using social media as he believes it leads to infidelity. She is now just a mom and a wife. She has no contact with friends and family and is cut off at his husband's insistence. (Source: Interview, July 2012, Female, 39 years, Thimphu)

Given the large incidence of domestic violence several implications arise: in addition to public awareness about the types of domestic violence including recognition of emotional abuse, and focus on role of society as a whole to address domestic violence; steps to address them and provide protection to victims such as by increased time and effort from enforcement agencies to domestic violence is important; similarly the judiciary must commit sufficient attention to ensure that domestic violence cases are handled efficiently and effectively. In addition, when domestic violence is reported to authorities a detailed investigation may indicate additional, even more serious incidents of domestic violence than the one which was reported.

## **4.2 Direct and underlying causes of domestic violence Bhutan**

The majority of participants in a targeted FGD cited that the primary factor responsible for violence is jealousy from suspicion of partner infidelity. This reason accounted for at least 35% of the reasons cited by domestic violence victims for being beaten up (see figure 4). Despite being high, this is not a surprise. This finding is also supported by several studies (e.g. Barnish, 2004) which reported that levels of self-reported jealousy are significantly associated with domestic violence. A study conducted in Chicago, United States, found that extreme jealousy was the precipitating

factor in 40% of the partner femicides where there was no previous history of violence (Block 2003). Whatever the initial cause domestic violence is always exacerbated or triggered by intoxication habits such as alcohol consumption. In fact ‘husband being drunk’ was the next frequent reason provided for domestic violence (25%). Other common reasons cited by the victims for being beaten up by husbands varied from ‘not being nice to in-laws’, ‘spoiling dinner or not cooking food on time’.



**Figure 4.2:** Reasons for domestic violence cited by victims (n=120)

In interviews with RENEW officials and legislators, the main reason for domestic violence was cited as extra marital affairs, alcohol and other reasons.

“Most often domestic violence perpetrators and victims do not understand the social responsibility for each other and lose faith and trust in each other, so jealousies arise; further consumption of alcohol is high and many of them are unemployed. Other vices that are co-associated with domestic violence such as gambling are also increasing in incidence among this population”.  
(Interview, July 2012, Member of Parliament, Thimphu)

Further, RENEW officials and MPs also highlighted that unequal power relations in the household between men and women and often as a major cause the break-down in communication between intimate partners were the cause of most serious forms of domestic violence, including abandonment of the victims by their partners. In this regard, efforts to educate women on their rights makes a huge difference.

Women are frequently the victims because they are usually economically dependent on their partner. A woman's socio-economic status has a strong determination of whether she will be subject to domestic abuse or not. Higher socio-economic status has generally been found to offer some protection against the risk of domestic violence. Internationally, studies indicate that whilst violence to partners cuts across all groups, women living in poverty are disproportionately affected (WHO, 2005). This study also discusses that whilst economic and educational resources may not protect women from abuse, they make it easier for them to leave violent relationships and cut short the abuse. However, other authors such as Watts and Zimmerman (2002) argue that often it is 'quite possible that an increase in women's income is accompanied by additional control-induced violence' as some men try to compensate loss of power over a better earning partner by more violence.

In separate discussions with victims and a women only focus group, similar causes of domestic violence such as suspicion of infidelity (jealousy) and alcohol consumption were given, they also highlighted the primary underlying cause as the fact that women received much lesser respect and regard than men in the society. They added that often women who were victims of DV did not have a strong man (brother or father) to protect her. This is supported by ABD (2014) which notes that because Bhutanese culture considers women inferior to men, 'the unequal status of women and their lack of equal opportunities are often taken for granted and are considered normal. The gender inequalities deeply rooted in families, communities, and individual minds remain largely invisible and underestimated'. So, addressing domestic violence will have to start by addressing the broader cultural norms and beliefs as gender-related social norms and practices influence the expectations and behavior of both women and men. Interventions that draw on cultural context and address related problems such as gender roles condoning abuse are important.

In some cases, women victims reported being battered for such a small reason as *spoiling dinner*. These were confirmed by analysis of case reports of domestic violence at the Police. Some women victims when asked for their opinion even accepted the violence justifying that ‘these things happen in a relationship, he is angry sometimes at work, so he takes it out on me’. The MICs survey<sup>3</sup> described earlier also revealed that among all women aged 15–49 years, 68% believe that a man is justified in beating his wife or partner for reasons ranging from neglect of children, going out without telling him, arguing, refusing sex or even burning food (UNICEF Bhutan 2010). Interestingly similar results were reported from the UK. A 2005 study from the National Society for the Prevention of Cruelty to Children (NSPCC) found ‘43% of teenage girls questioned believed that it was acceptable for a boyfriend to be aggressive towards his partner’ (NSPCC, 2009), for no particular reason.

This is a cause for concern and reveals that, despite campaigns and measures to enhance women’s knowledge about their rights, many women are sometimes not able to recognize that they are being abused or accept it. This level of tolerance also suggest a lack of exposure to contrary views from other women, men and political leaders. It is also suggestive of society’s general lack of understanding of the women’s human rights and her well-being. Campaigns and measures to enhance women’s knowledge about their rights continue to be important.

In separate interviews with police officials who handled domestic violence (mostly males), participants mentioned that victims usually gave the same factors as causes of domestic violence. They also cautioned that with the increased attention and awareness among women and the positive discrimination of the law in support of women in domestic violence cases

“women sometimes took advantage of this and there were already cases where women battered men but did not suffer similar consequences as men” (Interview, August 2012, Police Official, Thimphu).

---

<sup>3</sup> The survey entitled Bhutan Multi Indicator Survey (MICS), 2010, with the objective is to provide up-to-date information on the situation of children and women in Bhutan

This statement is significant because we have to remember that just because men are sometimes abused does not negate the fact that women suffer most from domestic violence while often ‘physical aggression by women may actually act as a strong risk factor for violence against women’ (Swan and Snow, 2006). These authors argue that while such action on the part of the women can express her ‘desire to defend herself and their children from physical harm’ it can increase the likelihood of increased violence from the male partner.

### **4.3 Process and perceptions on mediating Domestic Violence**

Mediation has always been an important means for dispute settlement in Bhutan. It has traditionally been the dispute resolution process of first choice, with adversarial litigation being introduced much later. In line with this, in rural Bhutan community based mediation continues to be an important forum for resolving disputes and conflicts over a range of issues – for example disputes over access to land and other natural resources, property disputes between and among family members, occasional brawls and frequently domestic violence. The local headman or the *gup*<sup>4</sup> or other elderly and respected persons often serve as de facto mediators. In fact the judicial courts recommend that the conflicting parties firstly explore mediation at village level or solve cases ‘internally’ before proceeding with the formal courtroom resolution.

Domestic violence is one of the conflicts mediated in the communities. The incidences of domestic violence are often first mediated at the village level. In several focus group interviews in villages in Paro (see for example box 3) and Thimphu, women reported that domestic disputes including domestic violence are often automatically mediated at the village level, by a village elder or the *Tsogpa*<sup>5</sup>. In terms of process, initiation of mediation in domestic violence is usually by the victim. In other cases, mediation may be recommended by the court or a third party social service providers. Community-based mediators can follow a spectrum of options,

---

4 Gup is an elected head of a Gewog

5 Tsogpa is an elected representative of a village who forms part of the local government

ranging from a close family friend to the village *Tsogpa* – depending on the seriousness of the issue or frequency.

**Box 3: Case story – Most victims report mediation as preferred option**

Dema is 32 years old and living with her 3 children and husband. She works with her husband on the farm. She says that the causes of violence were jealousy and food etc. (This is customary dominance of women in the society). When the violence became unbearable she reported to the *tshogpa*. Even after she reported to the *tshogpa*, the beatings still continued and she reported to the *gup*. The violence did not stop there too. She then reported to the court. The court recommended mediation also, in the interest of the family. The court advised to have the mediation at home. Mediator was an elderly man, very valued in the village. But the violence went on. (Source: Interview, June 2012, female aged 32 years, Paro)

Many describe a rather straight forward simple process from trying to solve it within the village before asking someone from outside to intervene.

“we first approach a neutral third party in the village usually a respected elder to intervene, if that fails, it is escalated to the level of the *Tsogpa*; only when that fails, we approach the *Gup*; we think about formal judicial recourse as the last option and usually only when things have become so bad that there are no chances for reconciliation between the two” (Interview, June 2012, Women Focus Group Participant, Paro).

This process is also confirmed by those with mediation experience.

“when husband and wife comes to me (it is usually the wife), I always try and mediate by first making them understand each other, discuss the value of family harmony and almost always discourage them from escalating it to the formal court process. I explain how expensive<sup>6</sup>, difficult and time consuming it is to go to court” (Interview, June 2012, *Tshogpa*, Paro).

<sup>6</sup> A female victim from Paro indicated that it cost her more than Nu 7,000 (or US\$ 120) to make a few court appearances in connection to a family case. Given that average monthly household incomes are less than that, court based solutions can indeed be perceived as expensive.

According to several community mediators<sup>7</sup>, most women will defer involving the formal protection structures such as the Police till the very last. This, they believe is because, people feel that ‘reporting to the Police’ means being forced to try the case in a court of law. Besides, villagers usually associate Police with intimidation, extortion, and generally fear dealing with the Police. The Police officials believe that many conflicting couples do not have a good relationship after the Police gets involved and as such prefers that community representatives play intervene first before the case is reported to the Police.

People generally agree that community based mediation is usually carried out in an impartial manner, and that no discrimination is apparent. Mediation is usually seen by women as a way to ‘silently’ address it at home without many people finding out about it. Bhutanese culture like other Asian cultures put a lot of value on face saving and protecting the reputation of the family. So if the violence only happened once or in the initial stage, victims usually prefer to request mediators to come home and try to resolve it without the conflict becoming the knowledge of others.

“Why would I report abuse to the police; what will do? They will lock him up. And all the people in the village will hear about it. Will that not bring shame to the family? Besides, I hear that these days in prison they are even offered tooth brush and tooth paste (these are luxury items in the village). It is like a holiday for them, not having to work on the farm. Who will take care of the farm work? I would solve it here and make it work” (Interview, June, Female, 45 years, Paro)

Several women victims reported having tried mediation by an elder at home before even going to the village *Tshogpa*. In addition, civil cases (most domestic violence cases unless it involves serious bodily injury<sup>8</sup> until recently were viewed as civil cases), even when cases reach the court, the court in turn recommends that the

---

<sup>7</sup> Community mediators is a term used loosely to describe any village elder or Tsogpa who has experienced or has in past acted as a mediator. Usually called the ‘*barmi*’ or literally the middle man, they are expected to hear both sides of the conflicting parties and help reach a mutually acceptable solution.

<sup>8</sup> This points to the challenges of how to define ‘domestic violence’ when determining whether cases are appropriate for mediation. For example how to define ‘serious bodily injury’ (Lerman, 1984)

first contact should be with the elected officials, namely *Tsogpa*, *Mangmi* and *Gup* and mediated before bringing the matter to a court of law. Further Police Officials confirmed that even when victims report domestic violence to them, victims often do so as a deterrent and are not willing to pursue further resolution by trying the case in the court.

“Most wives just want to teach their husbands’ some lessons. They are hesitant to charge sheet<sup>9</sup>. So it is very rare that cases go to the court. We understand this, and depending on the gravity, severity and frequency, we often apply our discretion to recommend mediation” (Interview, August 2012, WCPU Official, Thimphu).

Thus, it is clear that community-based mediation has a significant role to play in resolving domestic violence cases by serving as an important alternative. A good approach to determine whether a particular case is suitable for mediation or not would be to evaluate each case on a case-by-case basis to determine whether the following criteria are fulfilled: the victim is willing to (and importantly) capable of mediating; an assessment of whether mediation would help the couple reconcile and the likelihood for a guarantee of cessation of violence through a mediated agreement; ascertainment of the effect of the abuse on the adult victim and children, including the harm done and the risk of physical and other forms of violence. In order to make sure of this, mediators must be trained to be aware that if one party poses a threat of physical injury to the other or if there is an opportunity for abuse in the future, the parties cannot be together and mediation may not work.

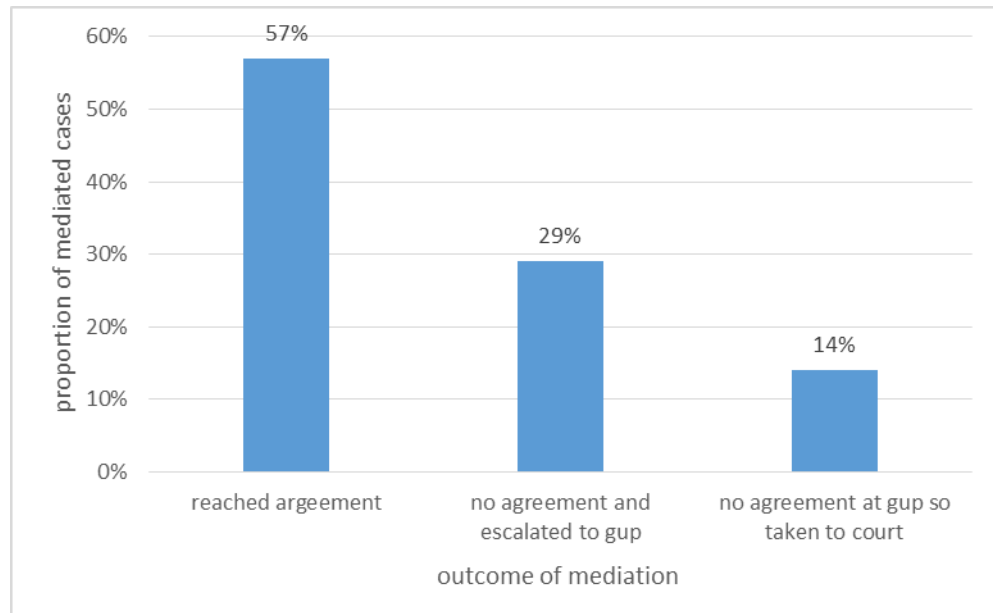
#### **4.4 Assessment of mediation in Domestic Violence**

A majority (57%) of the total of 21 cases that were mediated reached some sort of mediated agreement at the village level. Moreover, even when cases could not be mediated at the village level, these were mostly escalated to the level of the *Gup*

---

<sup>9</sup> The official cited that out of 150 cases of domestic violence reported, only 30 were eventually forwarded to the court.

accounting for 29% of all mediated cases. Only 14% of the cases reached the formal judicial process through district courts (figure 5).



**Figure 4.4:** Outcome of village level mediation

Mediation of cases at the Gup level is considered semi-formal. While the mediated outcome can be enforced in a court of law, the process involves the Gup visiting conflicting parties in the village and making efforts to resolve the case.

Of the total who agreed that mediation was successful, all 12 were within the age-range brackets of 'less than 25 years' and 'between 25-35 years' while 9 are married and 3 currently separated (see table 2). 75% of them were married and rest previously married but currently separated or temporarily separated.

**Table 4.1:** Experience with mediation among different categories of women

Socio demographic Characteristics	Experience with Mediation (%)		
	Used mediation (n= 21)	Successful outcome (n=12)	Satisfied with process (n=14)
<b>Age of woman</b>			
< 25 years	38	50	<b>43</b>
25 – 35 years	43	50	<b>43</b>
35 – 45 years	14	0	<b>14</b>
> 45 years	5	0	<b>0</b>
<b>Marital status</b>			
Single with live-in partner	19	0	<b>14</b>
Married	43	75	<b>64</b>
Separated	33	25	<b>21</b>
Divorced	5	0	<b>0</b>
Widowed	<b>0</b>	<b>0</b>	<b>0</b>

#### 4.4.1 Incidence of post-mediation violence

Participants could not agree fully on whether mediation prevented future incidents of domestic violence. Many opined that actual success as evidenced by cessation of violence may be at best around 50 percent of all the case.

One of the alleged victims (see box 3) described how several rounds of mediation by village elders and even the *Tsogpa* could not stop the violence from continuing. She finally took the matter to the court. Unfortunately, as was confirmed by latter interviews with several Justices as a usual procedure, the Paro district court, recommended that the matter be resolved first through mediation internally. She never returned back to the court after that and may possibly be still enduring violence at home. The group however agreed that violence did not necessarily increase after the mediation.

The reason why in the majority of cases, violence ceases post-mediation is due to the fact that, domestic violence in Bhutan are more often than not induced by circumstances. On the other hand, as women victims discussed in focus group, violence may be present when there is no strong deterrent in the form of a ‘strong male

protector' such as a father or brother. An able mediator may sometimes be able to fill this void. This finding underscores the importance of a well mediated outcome in addressing domestic violence. In addition, Fuchs (2011) in a needs analysis carried out for domestic violence victims in mediation described how some mediation supporters argue that mediation might lessen future incidents of abuse. Explaining how 'litigation requires the victim to approach the abuser in an adversarial system', and in addition 'offers no incentives for an abuser to admit to past abusive acts, but encourages further denial', Fuchs further explains that litigation inherently increases hostility, and blaming. Mediation on the other hand improves communication and in tandem with the opportunity to empower victims, it can help reduce post mediation conflicts between parties.

#### **4.4.2 Satisfaction with the mediator and/or process**

Among those victims who reported going through a mediation process, a large proportion reported being satisfied with the mediated outcome (67% or 14 out of 21 cases) even when the outcome was not positive – i.e. it didn't end with the resolution of the conflict. In addition to the women under 35 years old who responded experienced going through a mediation, 2 (14%) women who are between the age bracket 35-45 years also responded that they were knowledgeable about mediation and were happy with the process (see table 2). Mediators are usually elderly, respected individuals and perceived to be neutral, supporting the interest of both the parties. On asked who should be a mediator, most respondents cited some common qualities, in addition to being respected elderly members in the community. Among others, mediators should not be an alcoholic, should be dependable by both parties and should be perceived to be neutral (mostly based on past reputation). Interestingly majority of mediators were men despite some victims preferring women, especially elder women heads of household to take the role. This calls for some interventions by training women mediators.

This is however also due to the fact that despite good mediators trying their best, some men default on the mediated agreement and men are culturally looked upon as protectors and therefore seen as better able to enforce decisions. In addition, many women report that mediators at the village level who have had exposure,

trainings on mediation<sup>10</sup> are better equipped to mediate including being able to move past their prior bias such as men are right in demanding respect and services from women.

Participants who went through mediation reported that the mediation process was impartial. In a typical mediation process, the mediator makes a point to first meet participants separately (to hear the story from each side) and then bring together both parties to explore a joint solution. Women generally felt more comfortable and were able to explain their side of the story better when such caucusing strategy was used. Many alleged victims also expressed satisfaction with the mediation process and indicated that they would continue using mediation to resolve such conflict in the future too. This supports the argument by many mediation advocates that the ‘mediation process has the potential to empower victims of domestic violence, giving them the tools that they need to create agreements that support their interests and enhance their safety, rather than further victimizing them’ (Aiwasian, 2008). To improve mediation outcomes, many authors who advocate for mediation (e.g. Lerman, 1984) argue that ‘mediators need both the skills of a legal advocate and those of a therapist’. Training in domestic violence issues for mediators is important also because mediators come from different backgrounds; they rarely have any legal training, and in many cases may have not gone through any formal training as a mediator. Community based mediation in Bhutan includes community members, in particular village elders and other respected local level officials to act as a neutral party in the mediation process. However they may not have the required knowledge on safe mediation and gender equality. The Bhutan National Legal Institute (BNLI)<sup>11</sup> in collaboration supported by the UNICEF has organized several trainings for village heads and community mediators on *Nangkha nagdrik*<sup>12</sup> procedures including on being able to determine which cases should be forward to the courts such as cases of serious domestic violence and other violence against women. Such trainings also focused on changing dominant perceptions that domestic violence did not constitute a criminal offense.

---

<sup>10</sup> The Bhutan National Legal Institute (BNLI) for last few years has imparted several such trainings on mediation and other alternative dispute resolution models.

<sup>11</sup> The Bhutan National Legal Institute was established under the Judicial Service Act of 2007. It is the centre devoted to providing continuing judicial and legal education through training, professional development, research, publication and dissemination.

<sup>12</sup> Literally meaning resolving internally, *Nangkha Nangdrik* is an alternative dispute resolution such as through mediation that is provided for and encouraged in some civil cases especially in the case of family disputes

The Ap Rinzin Dorji<sup>13</sup>, a mediator from Gata village Paro described a typical mediation process: it begins with a fact gathering session – through a highly consultative process, the mediator gather facts such as which of the parties had carried out the violence, what were perceived reasons for the conflict, who initiated mediation and so on. This is followed with at least two or three sessions where the mediator works with the two parties (individually and together usually in presence of witnesses or other family members) to explore options and means to resolve the conflict. Once both parties agree to a mediated outcome, a formal agreement is drawn up (by the mediator or another party). When a mediated outcome breaks down and couples pursue formal legal recourse this agreement is usually presented as evidence of having tried to settle outside the court<sup>14</sup>. Taking matters to the court of law is seen as the last option.

Insofar as the process is conducted well with adequate safeguards in place, many mediation advocates explain that mediation can empower the powerless by enabling them to speak in their own voice and assert their own interests. In addition to the fact that alleged victims and perpetrators were indeed satisfied with the mediation process as an alternative dispute resolution platform, another reason to attribute this finding is the prevailing socio-cultural norms and expectations that view trying conflict cases in the court of law as highly adversarial. So, taking one's spouse to a court of law is considered a taboo. The fact that many couples in remote parts of the country do not formalize their marriage through a 'marriage certificate' may also be a barrier to courtroom settlement. To pursue the domestic violence case in the court of law, women are required to produce marriage certificate and two witness that confirm the marriage. This is indeed a major reason why mediation despite legal reservations, is popular in not just Bhutan but several countries in the region.

#### **4.4.3 Satisfaction with the mediated outcome**

Among those victims who reported going through a mediation process, a large proportion reported being satisfied with the mediated outcome (67% or 14 out of 21 cases) even when the outcome was not positive – i.e. it didn't end with the

---

<sup>13</sup> Aged 69 years, he is a respected elder in the village who has mediated more than 10 cases of domestic conflict.

<sup>14</sup> In cases perceived by the court as civil (including domestic violence where there are no evidence of serious bodily injuries), conflicting parties are provided opportunities to settle differences outside the court.

resolution of the conflict. When probed if both the parties were satisfied with that agreement, majority of women indicated that though a compromise, the solution was something that was reached jointly and cleared by both parties so, it was indeed acceptable. However a compromised agreement is never fully satisfactory to both. Participants also reported that where mediators ensured that the mediation process was explored as a joint solution finding process, the outcome was more likely to be acceptable. Once a ‘negotiated settlement’ is reached with the aid of a mediator, this is documented in an agreement and the signature of the parties with witnesses are affixed to the agreement. This agreement is enforceable in a court of law. The *Civil and Criminal Procedure Code of Bhutan 2001* defines this as a process, whether referred to by the expression ‘conciliation’, ‘mediation’ or an expression of similar import, whereby parties request a negotiator to assist the parties to settle a dispute arising out of or relating to a contractual or other legal relationship, amicably. Further the *Civil and Criminal Procedure Code of Bhutan 2001*, provides ‘that a party shall raise objection to the validity of a settlement agreement within ten days of the agreement, failing which the agreement becomes legally binding’.

In some cases, some mediators speak to the conflicting parties separately, and then suggest a solution. Such externally offered solution, no matter however well-intentioned are less likely to be satisfactory. This often becomes a problem, because mediators are usually focused on the issues that are easiest to negotiate, and thus mediation agreements tended to address these subsidiary issues rather than addressing the larger issue underlying domestic violence (Lerman, 1984). In addition, Lerman states that mediators may also:

view the victims as partially to blame for the violence targeted towards them, [... ....] and encourage women to accept partial responsibility for the violence. When this is also the perception among important agencies such as the Police this is a cause for concern (Lerman, 1984).

Yet Police officials routinely express use opinion as below to justify why mediation is the best option:

“mediation is the best possible means to achieving a win-win situation for both parties, this is the best option! Formal law process is never a good

negotiator because all parties will use all means and apply various tactics to win and not consider to come to a compromise". (Interview, August 2012, Police official, Paro)

Despite concerns on how mediation programs can be designed to ensure safety and lead to fair, enforceable, and positive outcomes in Bhutan, there are currently no studies undertaken to provide inquiry into a range of issues related to the efficacy of mediated outcomes: for instance these could include relationship between mediator training and proper mediation process; role of effective, safe, and fair mediation screening; development of a standard mediation model/protocol; how the mediation process and mediated outcome relate. A case study commissioned by the Danish-Bhutan Good Governance Support Programme<sup>15</sup> (GGSP) exemplifies the need for this. The case study reported a matrimonial dispute which started with *Tshogpa*<sup>16</sup> but became a criminal matter after wife battery occurred. The matter was referred to court and the presiding Judge permitted mediation at the time of closing argument. Agreement was reached on the issues of property/ child support and terms upon which the husband's mistress could become a second wife to enable ongoing supportive relationship and inheritance for first wife's children. That agreement was signed in court, following which the court dealt with the criminal charge of battery and sentenced the husband to imprisonment – but permitted payment of *thrimthue*<sup>17</sup> to enable normal family life to resume. This raises important questions such as: (a) does the mere existence of domestic violence create a power imbalance rendering the process inappropriate for mediation; or (b) where domestic violence is occurring, is it appropriate for local mediators to make this assessment given there are no females in the local mediator role.

---

<sup>15</sup> The GGSP is a 5 year Danish support to the Royal Government of Bhutan's (RGOB) development of good governance including decentralisation. The programme has three components: first it supports democratic governance institutions; second is the local government support; third supports non-state actors ([link to programme document](#)).

<sup>16</sup> Tshogpa is an elected representative of the village in the lowest level of the decentralised local government at the Geog level. The others include the head of Geog (Gup) and the mangmi (elected deputy gup).

<sup>17</sup> Fine paid to the Courts in lieu of sentence of jail term allowed in minor civil cases. The fine is usually computed at the rate of the minimum daily wage rate per day.

## 4.5 Challenges to accessing legal support and recourse options

Several legal provisions are in place to protect women's rights, but not many Bhutanese women are aware of it. When it comes to domestic violence, there are clear national legal policies and Acts<sup>18</sup> such as the Domestic Violence Prevention Act (DVPA) 2013 that specifically don't permit it. The DVPA aims to 'ensure a prompt and just legal remedy for the victims of domestic violence; facilitate access to remedies for immediate and effective assistance, shelter homes and protection to the victims of domestic violence and to introduce measures which seek to ensure that the relevant organs of the State give full effect to the provisions of this Act'. The Act grades offences of domestic violence on several criteria including: (a) the nature and circumstance of the offence; (b) the frequency and severity of the abuse; (c) the age, maturity and state of mind of the victims; (d) the reparation of the injury and compensation to the victim; (e) the safety of the family; or/and; (f) the best interest of the victim. Most offences are graded as 'misdemeanor' and below, and the courts allow mediation to 'settle the case mutually if the victim so desires'.

A primary challenge in judicial intervention to address domestic violence however is on how to define 'domestic violence'. While the law<sup>19</sup> has specific legal definitions of 'domestic violence', these are not necessarily how the wider society or agencies providing protection and shelter services define 'domestic violence.' This difference is most acute when considering different types of domestic violence – physical abuse, sexual abuse, emotional or verbal abuse. While the legal definition addresses these types comprehensively, society may only consider physical abuse or threats of physical abuse as clear case of domestic violence. Additionally many Judges interpret only 'serious' cases of physical abuse as triggering a criminal investigation, but it is not clear 'how serious' is 'serious'. Some have jokingly provided definitions of seriousness as when there is a murder or when there is serious bodily harm. But of course that would be too late. This is why while laws are important, in many countries, simply passing the laws does not guarantee any reduction in the number of violence against women. In many cases, 'they do not provide assurance for improvement in

---

<sup>18</sup> Other relevant Acts include the Constitution of Bhutan, the Penal Code of Bhutan, the Marriage Act, the Evidence Act and the CCPC (Civil and Criminal)

<sup>19</sup> For example the Domestic Violence Prevention Act, 2013

justice delivery system and much remains to be done to ensure gender justice and equality in a patriarchal society' (Ghosh 2013). He argues how efforts to make effective the more than 50 laws and acts in India that with direct or indirect bearing on the life of women and female children through campaigns may have resulted in legislative changes but implementation of these laws has remained partial and has not always produced strong results. Subramaniam also discuss how 'creation and enactment of laws do not guarantee the enforcement or interpretation as intended by law makers. Interpreting laws and delivering rulings by the judiciary, a state institution distinct from the law making institution, often incorporates cultural meanings and gender norms' (Subramaniam *et al* 2016)

The lower grading and the inconsistencies of the offences of domestic violence by the different legislations in the country is an issue to address. While the Domestic Violence Prevention Act, 2013 provides liabilities for up to 'misdemeanor' the Penal Code of Bhutan grades a grave offence such as marital rape as a 'petty misdemeanor'. This is worrisome and discourages many victims from reporting domestic violence. The legal provisions as such do not help gain women's confidence with the judiciary and police force. In a focus group interview with rural women in Paro, most respondents stated that they would not report domestic violence because the punishment provided by the law is not adequate and they would rather address them in the village. Thus many cases of domestic violence still go unreported as a result. The cultural norms and social perceptions, where people believe that domestic violence should not be publicly exposed also further deters victims on reporting. (Kuensel, 2014). Ailwood, Eastal and Kennedy in a review of law's indifference to women's experience of violence state that 'Domestic violence has been and continues to be hidden due to the silence or the muted voices of its victims, and the inability or unwillingness of institutions of law and justice to listen. In fact even when women do in fact speak out, they are not heard' (Ailwood, Eastal and Kennedy 2012).

The invisibility of domestic violence leaves with few legal remedies. It is in this context, that mediation gains primary prominence. Chapter 23 of the Civil and Criminal Procedure Code of Bhutan provides for civil cases to be settled through Alternative Dispute Resolution (ADR). This can happen in two ways, either at the community level with the assistance of Mediator (*Chimi, Gup, Chipon, Mangmi or*

*Barmi*)<sup>20</sup> prior to filing court proceedings, or after a case has been registered in the court (court-connected). Mediation is entirely voluntary and can be preferred at any stage of the proceedings. Such informal method of resolving disputes that seeks to preserve relationships, forgo the adversarial processes of the traditional court system and primarily seek to solve the present dispute and address underlying issues is an important legal remedy.

According to Kinley Namgay, Chief Judge of Thimphu Dzongkhag, ‘mediation is encouraged as a way of solving domestic violence to preserve the family relationship and it can only be allowed when the case can still proceed as a civil case’. While there are advantages to repair relationships and preserve the integrity of the family especially when children are also involved, the ‘disadvantages of a mediation processes in settling domestic violence is that first, it can sometimes become illegal under law and second victims can often go through the trauma of domestic violence twice especially if the mediation process is not set up to guarantee such safety and due diligence’. Community based mediation in Bhutan includes community members, in particular village elders and other respected local level officials to act as a neutral party in the mediation process. However they may not have the required knowledge on safe mediation and gender equality. Recognizing this, the Bhutan National Legal Institute (BNLI)<sup>21</sup> in collaboration with various partners including the UNICEF has organized trainings for village heads and community mediators on *Nangkha nagdrik*<sup>22</sup> procedures including on which cases should be forward to the courts such as cases of serious domestic violence and other violence against women. Such trainings also focused on changing dominant perceptions that domestic violence did not constitute a criminal offense. Thus many observers (e.g. Sonnenberg, 2006) while agreeing to the value and benefit of relying on the country’s local dispute resolution traditions, for cases such as inheritance and other civil cases, recommend that it would be important for Bhutanese lawmakers ‘to reconsider the full list of matters that traditional dispute resolvers should not accept pursuant to the 2013 ADR Act’.

---

<sup>20</sup> A *chimi* was an elected representative to the previous National Assembly before it was dissolved in 2007. A *gup* is an elected head of a *gewog*, a *mangmi* is a village elder often acting as the deputy head of a *gewog* and a *chipon* is a village coordinator and representative.

<sup>21</sup> The Bhutan National Legal Institute was established under the Judicial Service Act of 2007. It is the centre devoted to providing continuing judicial and legal education through training, professional development, research, publication and dissemination.

<sup>22</sup> Literally meaning resolving internally, *Nangkha Nangdrik* is an alternative dispute resolution such as through mediation that is provided for and encouraged in some civil cases especially in the case of family disputes

#### **4.6 Role of support services and potential to integrate mediation**

Sullivan (2012) argue how in addition to the immediate problems caused by domestic violence ‘victims often have to face many obstacles to report and to end the abuse. Lack of access to and utilization of support services [both formal and informal at the community level] can influence whether the victims stays in the abusive relation’ or not and often determines whether they decide to report domestic violence in the first place. Likewise in addition to cultural and social barriers, ‘women who attempt to abandon their domestic violence situations are faced with numerous obstacles and crises. Some of these are related to service-delivery systems’ (Kulwicki *et. al.*, 2010). Insofar the legal provisions are concerned, such support services are required under several national legislations. For example the Domestic Violence Prevention Act, 2013 states that community services consisting of ‘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’ should be provided by either the ‘competent authority’ or the ‘government shall endeavor to provide assistance to the community to establish facilities’.

Providers of support services such as NGOs and other community based structures play an important role in addressing the issue of domestic violence. In addition to raising awareness on the women’s rights and the consequences of violence on the victim, family and society, they can also provide critical services including shelter to battered women. It is very important to ensure that domestic violence victims are aware of and can easily access such support services. The Government set up the National Commission for Women and Children (NCWC) and the Women and Child Protection Unit of the Bhutan police, in 2007. Together they have also introduced an emergency number for reporting violence.

RENEW provides refuge and support to victims to deal with cases of assault, sexual harassment, child labour, sexual exploitation, physical abuse and rape. The NGO says it receives half a dozen complaints of violence against women every day, due to growing awareness of the problem. Its network of community volunteers<sup>23</sup> identify victims, create awareness, try to mediate and also convince the women to go to police and hospital. A RENEW Volunteer Ms. Doma report that:

---

<sup>23</sup> RENEW has more than 2,400 volunteers

“Bhutanese women are aware that domestic violence is a crime and some are coming to report to authorities while majority simply seek support of the community volunteers”. The RENEW volunteers<sup>24</sup> also “act as a support person to attend mediation with the victim and often help the victim to articulate her concerns within the mediation and provide advice about whether a proposed agreement is actually in the victim’s interest” (Interview, August 2012, RENEW Volunteer, Thimphu).

When approached the volunteers look at the case, determine how serious it is, whether it is life threatening. And gives options to the victims. The volunteers also provide conferencing and refer for professional counseling, which is a critical part of solution. According to Ms. Tshering Dolkar, the Director of the Counseling Department at RENEW:

“physical injuries are not the only serious consequences of domestic violence; victims often suffer from serious emotional stress that can manifest as low self-esteem, severe fears, depression, increased substance abuse and with some taking the final fatal step of attempting suicide” (Interview, August 2012, Ms Dolkar, RENEW Counsellor, Thimphu).

Being in a violent relationship can feel incredibly isolating; it is important for victims to feel that there are people and institutions that can help. Sometimes talking to someone can also release a lot of pent up trauma and stress. Moreover counselling is a healing process for both victims and alleged perpetrators.

In addition, in small societies and rural settings, for socio-economic reasons, no woman wants to be a ‘divorcee’ to avoid being the subject of unwanted gossip and stigma. Owen and Owen and Carrington (2015) describe how informal social networks in small rural communities produce effective internalizing mechanisms that deter women from seeking assistance, while keeping instances DV that occur within the sanctity of the rural family private. Such worries prevent women

---

<sup>24</sup> RENEW volunteers are educated, economically independent women with jobs or running businesses of their own. They are well versed with the legal protections and provisions against violence against women and better placed than many victims

visiting critical services such as health fearing the likelihood that health, medical professionals and police officers may either know the alleged offender or possibly gossip about the women. This speaks for the need to establish professional counselling support services for dealing with domestic violence cases – that employ the highest standards of confidence that women victims feel comfortable with. Dedicated sessions of counselling also provide important benefits before mediation.

“domestic violence victims go through a few sessions of counselling and would slowly recover their self-confidence, open up and become capable of discussing and exploring options to resolve their case, thereby becoming a competent participant for mediation” (Interview, August 2012, Ms Dolkar, Counsellor RENEW, Thimphu).

In addition, counselling for alleged perpetrators conducted properly with due attention to privacy and involvement of the expert neutral counsellor can actually encourage the abuser to admit his actions and seek help (please see box 5).

**Box 5: Benefits of Counselling Perpetrators of Domestic Violence**

Penjor (male) is a 45 years old resident of Thimphu. He is married with 2 children and he recently bought a pretty ring for his wife. Penjor is a renewed man today with help from RENEW. He was introduced to RENEW as a perpetrator of Domestic Violence. When RENEW first met him, he was aggressive, unwilling to cooperate and very hostile. His wife had approached RENEW because she just could not go on living in an abusive relationship. It started off with Penjor getting very angry because his wife invited the neighbor in for a cup of tea. He was jealous. This jealousy led him into physically abusing his wife. The wife sought help from RENEW not just for herself but also for her husband. The RENEW volunteer reached out to help. She could slowly convince him that he needed help. The RENEW counselor said that over time with the counseling services offered by RENEW, he became receptive and displayed a positive attitude towards change. He is being monitored closely for any show of violence or aggression by the RENEW through their community volunteer network. *“He is a hope that positive change can happen through counseling even to the most hopeless”*, says the Director of counseling at RENEW. (Source: Interview, August, Ms Dolkar, RENEW Counsellor, Thimphu)

Such services, however, are concentrated in the urban areas. Domestic violence is under reported from the rural areas, partly because outreach services are not available. In order to make such services truly accessible, each *gewog* should nominate an officer to assist identified victims of domestic violence to locate accessible support and counselling network. Likewise, women officers should be recruited and developed to assume this role over time while the number of trained counsellors in the country should be increased. Additionally, knowledgeable mediators and community leaders may also introduce both victims and abusers to other community and professional resources (e.g. counselling) available to them.

While mediation is the preferred means by victims and community for resolving domestic violence cases, when victims opt for formal court resolution, or when it becomes necessary (e.g. when mediation process cannot deliver a satisfactory outcome), RENEW also provides legal aid to victims. The organisation reports that majority of the victims require legal aid in some form at some point. Such aid involves supporting representation in the court, helping prepare court submission documents, advice on legal aspects etc. This is in line with best practices from around the world. For example many domestic violence experts argue that ‘victims need legal representation’(e.g. Bottoms and Roberts, 2011) and that a core ‘problem in approaching the role of lawyers in protecting victims of domestic violence is that the vast majority of such victims cannot obtain counsel.’

## **CHAPTER V**

### **CONCLUSION AND RECOMMENDATIONS**

#### **5.1 Conclusions**

Domestic violence is a pertinent issue. It limits women's choices directly by destroying women's health, disrupting their lives and constricting the scope of their activity, and indirectly by eroding their self-confidence and self-esteem. In virtually every nation, violence against women is a steep barrier to the realization of women's human rights and to the realization of sustainable human development. Additionally domestic violence cuts across all strata of the society and is deeply embedded into the Bhutanese culture. There is universal agreement that abuse, physical or otherwise, has no place in intimate relationships and that abusers must be held accountable for their actions – through whatever means with a view to end such abuse.

The research demonstrated that domestic violence at present enjoys a high level of tolerance in the society and especially among women in particular. A number of formal protection mechanisms through the laws and institutional structures have been provided. The research showed that the female victims are likely to initiate mediation, than follow the formal judicial process to address domestic violence. While these mechanisms are paramount, community-based mediation will continue to be an important alternative and in many cases the only one that is available for couples who experience violence in their relationship. As such the issue of improving both the process and capacity of actors involved in domestic violence mediation is critical.

Notwithstanding the popularity of mediation with victims and service providers, the issue of fear of violence should not be forgotten in domestic violence cases. Victims who participated in mediation process are generally satisfied with the mediation process, with majority of domestic violence cases being resolved outside the formal court process. The research also revealed that the current formal support protection services are inadequate. There are only two Women and Child Protection Units (WCPUs) with the Royal Bhutan Police (out of the planned 20 in 20

Dzongkhags). There are no Protection Officers with the role being performed by staff of the national competent authority i.e. the National Commission on Women and Children. There is an urgent need to beef up such protection mechanism. A step in the right direction in this regard is the establishment of the Community Based Support System (CBSS)<sup>1</sup> by RENEW ‘to ensure the safety and security of survivors of domestic violence through partnerships with community members’. In addition it is clear that measures to reduce barriers to accessing formal justice system is a priority. Some recommendations to this effect are suggested later. In line with the overwhelming confidence in community-based mediations, government efforts should focus on strengthening safety measures and other safeguard provisions to ensure mediation proceeds in the interest of and protects victims that seek redressal through it.

## **5.2 Recommendations**

### **Public awareness and education**

Current awareness programs such as campaigns and targeted outreach to victims have led to enhanced knowledge on the prevalence and effects of domestic violence. Likewise the legal provisions and support services available to victims is encouraging, this had limited impact in terms of closing the gap between overall reporting and tolerance of domestic violence. Thus to further improve, there are opportunities to sensitize Bhutanese media (television, radio, print) to gender equality and issues of domestic violence to help address and challenge some of the broader gender discrimination issues. In particular there should be specific focus on masculinity, gender based violence and gender roles with opportunities to promote

---

<sup>1</sup> The CBSS is a long-term approach towards sustainability and community ownership of RENEW’s services, particularly counselling services. The community approach calls on people to respect the need for women’s safety and self-determination and to take responsibility for change where they live and work. In this way, a seamless service is created that is more proactive and preventive rather than reactive and curative.

positive, equitable relationships between men and women and to address the role of young men and masculinity in sexual violence against women and adolescent females.

Further, the awareness education on Domestic Violence and its impact in terms of power imbalance in negotiation should be included in the training of all service providers. The Bhutan National Legal Institute (BNLI) which already provides training to community mediators, the Judiciary etc. is well placed to provide support to the revision of awareness education materials – this can be used by a broad array of partners including the NCWC and development partners such as UNICEF in the awareness campaigns. In order to make these topical and compelling, the BNLI support can be utilized towards preparing up to date information on the prevalence and impacts of domestic violence, various legal and policy provisions and availability of support structures and mechanisms.

Further in line with the urgency of the issue, current public education campaigns should be redesigned to transmit the idea of collective social responsibility of all. The aim should be to garner greater social response from everyone to break the climate of social tolerance, thus increasing the costs for perpetrators, and acting as a deterrent on the one hand while making it easier, safer and acceptable for victims to come forward to report domestic violence cases.

### **Link to GNH**

Gross National Happiness (GNH), which argues that for Bhutan the happiness of its people is more important than economic development as measured by Gross Domestic Product (GDP) is the guiding development philosophy of the country. GNH is guided by four pillars namely good governance, sustainable economic development, preservation and promotion of culture and environmental conservation. The four pillars are further elaborated into nine domains, which are: living standards; education; health; environment; community vitality; time-use; psychological well-being; good governance; and cultural resilience and promotion (adapted from GNH Centre<sup>2</sup>). It is clear that domestic violence that impacts women's human rights has a strong negative bearing on all the domains of GNH. In addition, any form of violence

---

<sup>2</sup> Gross National Happiness Centre is an institution dedicated to demonstrate in a concrete and practical manner that GNH – namely, responsible sustainable development – really works. <http://www.gnhcentrebhutan.org/>

and in particular those directed at people most intimate to you is totally contradictory to the principles of GNH while programs to enhance awareness on domestic violence would do well to consider how to link and rethink preservation of culture (one of the GNH pillars) to reduce entrenched norms and traditions that place women at the position lower to men in the society. This is consistent with the finding of a study that applied gender analysis to GNH (Ura and Verma, 2015). Further, Verma and Ura (2015) describe how in response to several questions such as ‘how safe one feel’s from human harm’, women consistently report feeling less safe and further opine that a larger proportion of women generally ‘self-reported stress’ more than men indicating that women’s disadvantaged position in the society and issues such as domestic must be causing this.

### **Policy and institutions response**

Domestic violence policies should target the reduction of the gap between prevalence estimates and reported cases. These policies would benefit from a greater research focus on societal attitudes towards intimate partner violence issues (reporting, victim blaming, tolerance, inhibition, silence). As described above, BNLI and other relevant institutions will be well placed to undertake such research. Institutional response should also consider developing and putting in place early warning and response mechanisms for dealing with domestic violence. These systems could be designed to assess risk or predicting potential for serious violence. Such a mechanism can be linked to other services such as community health care services.

In addition, policy efforts to immediately boost capacity of protection support mechanisms at the Dzongkhag and Geog levels should be implemented. This will involve but not limited to setting up protection units in geogs that may be integrated with the RENEW led community-based support groups in all Dzongkhags, emplacing Protection Officers as required by the DVPA, 2013 and increasing the number of Women and Child Protection Units (WCPUs) with the Police – at least one in each district. These support structures / mechanisms should include the health services too. A lot of women are reported to attend health care facilities who experienced domestic violence; an appropriate implemented supportive environment where health service providers are able to provide safety, trust and understanding, can

go a long way towards better reporting and earlier accessing of services before violence at home becomes unbearable or too late in some cases. Health care service providers should be supported with training to adequately understand the gravity of the situation, aware of domestic violence and legal procedures, and offer interventions including referral to other service providers. In this regard, the policy guidance should be geared towards the integrated development, implementation, and evaluation of the domestic violence intervention.

### **Make Justice more accessible**

A primary means to reduce domestic violence cases is to enhance the legal protection of victims from such abuse. This is not possible however if barriers constrain women from accessing formal legal intervention. Some of the ways to remove the barriers include supporting the idea of one-stop shops and specialized services to reduce attrition in the justice chain while also making it less costly and time consuming for victims. The Judiciary together with other service providers should invest in such one-stop shops, which bring together vital services under one roof to collect forensic evidence, provide legal advice, health care and other support. This fully supports the feminist strategy for change that underscores the importance of holistic support to addressing domestic violence including community education, women's rights to access women-only services, economic independence and legislative reform.

Enhancing women's political empowerment and participation in national and local politics is fundamental to improving gender equality – to address the primary cause of domestic violence which is the unequal position women hold in the society. Women's representation in parliament has to increase gradually which is currently low. Greater number of women in the Parliament has been demonstrated to lead to improved or new laws that advance women's rights. Given this importance the Beijing Platform for Action called for gender balance in governmental bodies, while CEDAW mandates the use of temporary special measures, including quotas, to increase the voice of women in decision-making at all levels.

Finally efforts to remove practical obstacles will go a long way in reducing barriers to justice. These measures may include financial assistance, childcare,

counselling and other long-term support including shelter help enable women to testify about sexual violence.

### **Mediator training**

Many domestic violence advocates underscore that mediators should be trained more extensively to recognize and deal with domestic violence issues. Mediator training should at a minimum include understanding the dynamics of domestic violence, and being able to accommodate the needs of domestic violence victims in mediation and assisting victims with any safety measures. Training in domestic violence issues should also cover legal aspects because mediators come from different backgrounds and they rarely have any legal training.

A typical training can consist of improving skills to ensure that mediation remains voluntary, is appropriately applied and all safety measures are assessed. Such a training should also include: (i) an awareness on what is domestic violence (this should also discuss problems with the socio-cultural related interpretations of domestic violence), including recognizing signs of violence when not voluntarily offered, the power dynamics between parties, and the effect on the victim; (ii) a full understanding of the legal provisions and requirements including on the ADR Act and provisions, for dealing with domestic violence cases including being able to direct victims to legal and other professional resources (e.g. counselling) if required; (iii) and on how to manage the mediation process in a safe and fair manner. It is important that mediators are knowledgeable and able to educate participants about a variety of options that may be available. In addition as most mediators are males, training on gender sensitivity including avoiding personal biases is important while support towards including more female mediators should be provided.

Besides, women especially, household heads, village elders and educated women in the village should be trained to serve as mediators or to sit in as additional neutral third party observers during mediation. This will indeed become a critical ingredient of making mediation a key strategy to preventing further violence whereby women mediators / observers who completed such training can act as peer counsellor, and also volunteer to prevent, detect and respond to any form of violence.

### **Training for Justices and Legal Professionals**

Legal and justice professionals also need better training in order to more effectively advise on domestic violence victims in mediation and for adjudication. Judiciary and legal personnel will need training to provide better advice including to victims (and mediators) on full interpretation of the Domestic Violence Prevention Act (2013) as well as increasing their capacity to apply appropriate screening processes to ensure that particularly risky cases are not sent for mediation. Training of legal professionals should also cover measures to ascertain the complex issues of when it is a crime in the case of domestic violence and when mediation can be encouraged. As most Judges automatically direct conflicting couples to seek mediation ‘in the interest of the family’ before hearing the case in court, such training is urgent. An effective and sustainable way to impart such training would be to integrate domestic violence issues into the national legal service training that all future and serving Justices undergo. Finally the planned BNLI initiative to encourage and support more females in mediation should be supported with targets to reach at least 30-40 percent of the total mediators trained within a relatively short period of time. Such training and plans should be budgeted under the 12<sup>th</sup> Five Year Plan so that they are adequately financed and sustainable.

## REFERENCES

- Abel, R.L. (1982). *The Politics of Informal Justice*. Vol 1, Academic Press, London. In Herrman, M.S. (2006) (eds). *The Blackwell Handbook of Mediation: Bridging Theory, Research, and Practice*. Blackwell Publishing: Oxford, UK
- Abel, R. L. (1982). The contradictions of informal justice, in R L Abel (eds) (1982) *The Politics of Informal justice, Volume 1: The American Experience*. Academic press, New York
- Acland, A. F. (1995). *Resolving disputes without going to court*. Random House: Sydney
- Alsafy, N.N., S.A. Entisar, H. A. Shurooq, Alhawaj, M.K. El-Shazly and M. I. Kamel (2011). Knowledge of primary care nurses regarding domestic violence, *Alexandria Journal of Medicine*. Vol. 47: 173-180
- ADB, 2014. *Bhutan: Gender Equality Diagnostic of Selected Sectors*. Manila, Philippines.
- Ailwood, S, P. Eastal and J. Kennedy (2012). Law's indifference to women's experience of violence: colonial and contemporary Australia. *Women's studies International forum*. Vol 35: 86-96. Elsevier, Science direct.
- Aiwazian, A. (2008), *Transformative Mediation: Empowering the Oppressed Voices of a Multicultural City to Foster Strong Democracy*, 11 Scholar 31: 39-40 (2008).
- Akhter, R. (2011). Attitude Toward Physical Abuse Among Women and Men of Bangladesh: An Empirical Investigation of Demographic Health Survey Data 2007. *Journal of US-China Public Administration*. Vol 8: No 10
- Babu B.V. and S.K. Kar (2010). Domestic violence in Eastern India: Factors associated with victimization and perpetration. *Public health 124* (2010):136 - 148
- Barnish, M. (2004). *Domestic Violence: A Literature Review*. HM Inspectorate of Probation: London, UK
- Block, C.R. (2003). How Can Practitioners Help an Abused Woman Lower Her Risk of Death? *NIJ Journal*. National Institute of Justice: Washington DC, USA. Accessed online on 8 February 2014 at: <http://www.nij.gov/>
- Bottoms, A. and J Roberts (2011). *Hearing the Victim: Adversarial Justice, Crime Victims and the State*. Routledge: New York, USA
- Black, M and P. Stalker (2006). *A Situation analysis of children and women in Bhutan*. UNICEF Bhutan: Thimphu

- Black, M.C., K.C. Basile, M.J. Breiding, S.G. Smith, M.L. Walters, M.T. Merrick, J. Chen, and M.R. Stevens (2011). *The National Intimate Partner and Sexual Violence Survey (NISVS): 2010 Summary Report*. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention
- Carrillo, R, 2002, *Overview of international human rights standards and other agreements and responses of the judicial system to violence against women*, International Journal of Gynecology and Obstetrics 78 Suppl. 1 S15–S20
- Cobb, S. (1997). The domestication of violence in mediation. *Law & Society Review*. Vol 31 (3): 397-440.
- Davis, A. (2007). Mediating Cases Involving Domestic Violence: Solution or Setback? *Cardozo Journal of Conflict Resolution*. 8(1): 253-281
- Dubgyur, L. (2005). *The parasol of silken knot*. Royal Court of Justice, Thimphu Bhutan
- Duvvury N, A. Callan, P. Carney and S. Raghavendra (2000). *Intimate Partner Violence Economic Costs and Implications for Growth and Development*. Gender Equality and Development Paper. World Bank: Washington D.C.
- FBI (1992). *Crime in the United States 1991: Uniform Crime Reports*, Federal Bureau of Investigations, US. Department of Justice: Washington DC. Accessed online on 1 December 2013 at: <https://www.ncjrs.gov/>
- Fuchs, A. (2011). *Considering the Needs of Domestic Violence Victims: the Exceptions to Minnesota's Alternative Dispute Resolution Rule 114*. Accessed online on 9 May 2012 at: <http://www.bwjp.org/>
- Garcia-Moreno C, AF Jansen, M Ellsberg, L Heise and C Watts (2005). *WHO multi-country study on women's health and domestic violence against women: initial results on prevalence, health outcomes and women's responses*. WHO Press: Geneva.
- Garrity, R. (1998). *Mediation and Domestic Violence*. Accessed online on 5 April 2012 from: <http://www.biscmi.org/>
- Gerencser, A. E. (1995). Family Mediation: Screening for Domestic Abuse. *Florida State University Law Review*: Accessed online on 7 April 2012 at: <http://www.law.fsu.edu/>
- Greemstein, T. N. (2001). *Methods of Family Research*. Thousand Oaks, CA: Sage
- Ghosh, B. (2013). How does legal frameworks protect victims of dowry and domestic violence in India? A critical review. *Aggression and Violent Behaviour: A review journal*. Vol 18 pp 409-416. Elsevier, ScienceDirect.

- GNHC (2009). *Tenth Five Year Plan (2008 – 2013): Volume I Main Document*. Gross National Happiness Commission, Royal Government of Bhutan. Thimphu, Bhutan
- Haj-Yahia and Sadan (2008) in Haj-Yahia, M.M. (2011). Contextualizing interventions with battered women in collectivist societies: Issues and controversies. *Aggression and Violent Behavior*. Vol 16 (4): 331-339
- Heath, R. (2013). Women's Access to Labor Market Opportunities, Control of Household Resources, and Domestic Violence: Evidence from Bangladesh. *World Development Vol. 57*, pp. 32–46
- Heise, L. (1998). Violence against women: an integrated, ecological framework. *Violence Against Women*, (4): 262– 290.
- Holsti, O.R. (1969). *Content Analysis for the Social Sciences and Humanities*. Addison-Wesley: Reading.
- ICRW (2002). *Men, masculinity and domestic violence in India. Summary report of four studies*. International Center for Research on Women: Washington, DC.
- IRIN (2009). Tackling domestic violence not for the faint-hearted. IRIN News. Accessed online on 21 September 2014 at: <http://www.irinnews.org/>
- Ivan, Y., S. Mingyue and W. Yuning (2011). Attitudes Toward Police Response to Domestic Violence – A Comparison of Chinese and American College Students. *Journal of Interpersonal Violence*, November 2011, 26: 3289-3315. Sage Journals. Accessed online on 7 October 2013 at: <http://jiv.sagepub.com/>
- Jewkes, R., (2002). Intimate partner violence: causes and prevention, *The Lancet* 359: 1423–29
- Kelly, J.B. (1996) 'A Decade of Divorce Mediation Research: Some Questions and Answers'. *Family and Conciliation Courts Review*, 34 (3): 373-385. Sage Publications Inc.
- Krieger, S. (2002). The Dangers of Mediation in Domestic Violence Cases. *Cardozo Women's Law Journal*. 8: 235.
- Krathwohl, DR 1998, 'Chapter 12: Fieldwork and Observation', *Methods of Educational & Social Science Research 2nd Edition: an Integrated Approach*, Syracuse University, Longman, New York.
- Kuensel (2014). *Domestic Violence is Still Home*. Issue 26/11/2014. Accessed online on 20 May 2015 at: <http://kuenselonline.com/archive/>
- Lerman, L.G. (1984). Mediation of Wife Abuse Cases: The Adverse Impact of Informal Dispute Resolution on Women. *7 HARV. WOMEN'S L. J.* 57 (1984)
- Long, M. (2006). *Mediation and Domestic Violence: An Exploration Of How The Family Mediation Service of Ireland Facilitates People Who Have Experienced Domestic*

- Violence Negotiate Separation Agreements*, Unpublished MSc Thesis, University College Belfield: Dublin. Accessed 10 April 2012 online at: <http://www.amen.ie/theses/>
- Jennifer P. Maxwell, *Mandatory Mediation of Custody in the Face of Domestic Violence: Suggestions for Courts and Mediators*, 37 Fam. & Conciliation Cts. Rev. 335, 335 (1999)
- Kuensel (2004). *Domestic Violence is still at Home*. Kuensel News. Accessed online on 25 December 2005 at: <http://kuenselonline.com/archive/>
- Kulwicki, A., B. Aswad, and T. Carmona (2010). Barriers in the Utilization of Domestic Violence Services Among Arab Immigrant Women: Perceptions of Professionals, Service Providers & Community Leaders. *Journal of Family Violence* (2010). Issue 8, pp 727–735, Springer: New York
- Linstone, H.A and M. Turoff eds. (2002). *The Delphi Method Techniques and Applications*. Addison Wesley Publications: Boston, USA
- MOH (2012). *National Health Survey, 2012*. World Health Organization and Ministry of Health: Thimphu, Bhutan
- Menon-Sen, K. and A. K. Shiva Kumar (2001). *Women in India: How free? How equal?* Office of the United Nations Resident Coordinator in India: New Delhi
- Melamed, J. (2000). *What is Mediation?* Accessed on 25 October 2014 online at: [mediate.com](http://mediate.com)
- Menski, M. (1999). South Asians and the Dowry Problem by Werner Review by: Sarah Jewitt, *Bulletin of the School of Oriental and African Studies, University of London*. Vol. 62, No. 3 (1999): 579-581
- NCWC (2008). *Study of Gender Stereotypes and Women's Political Participation (Women in Governance)*. National Commission for Women and Children, Royal Government of Bhutan: Thimphu. Accessed online on 11 November 2013 at: <http://www.ncwc.gov.bt>
- NCWC (2012). *A Human Trafficking Situation in Bhutan*. National Commission for Women and Children (NCWC), Thimphu, Bhutan
- NPSCC, 2009. *Partner exploitation and violence in teenage intimate relationships Incidence and impact of partner abuse in young people*. Accessed online on 15 Sept. 2015 at: <https://www.nspcc.org.uk/>
- NSB (2005). *Results of Population & Housing Census of Bhutan 2005*. National Statistical Bureau, Royal Government of Bhutan. Accessed online on 10 August 2002: <http://www.nsb.gov.bt/>

- NSB (2010). *Monitoring the Situation of Children and Women, Bhutan Multiple Indicator Survey 2010*. National Statistical Bureau, Royal Government of Bhutan. Accessed 19 December 2013 at: <http://www.nsb.gov.bt/>.
- Owen, S. and K. Carrington (2015). Domestic violence (DV) service provision and the architecture of rural life: An Australian case study. *Journal of rural studies*: v39 pp229-238. Elsevier
- Özçakar, N., G. Yeşiltepe, G. Karaman and A.T. Ergönen (2016). Domestic violence survivors and their experiences during legal process. *Journal of Forensic Legal Med.* 2016 Abstract accessed on 15 Sept 2016 at: <http://www.jfilmjournal.org/>=
- Palermo, P.G. (2008). Domestic Violence, Autonomy v. Control. In G.P. Palermo (2008). *Autonomy and Human Rights in Health Care: An International Perspective*. Springer, Netherlands.
- Rashidah S, E. Noraida, H.A. Siti, O. Intan, A. Sarimah, O.W. Siti, A. G. Puzziawati, P. Gaayathri, H.S. Nur and S.H.S. Siti (2013). Domestic violence and women's well-being in Malaysia: Issues and challenges conducting a national study using the WHO multi-country questionnaire on women's health and domestic violence against women. *Procedia - Social and Behavioral Sciences* 91, pp. 475 – 488
- RENEW (2007). *Violence Against Women. Respect, Educate, Nurture and Empower Women (RENEW)*, Thimphu: Bhutan. Accessed online on 27 September 2015 at: <http://www.ncwc.org.bt/>
- RGOB and UN system (2001). *Gender Pilot Study Report*. Royal Government of Bhutan and the United Nations System in Bhutan: Thimphu
- Rimelspach, R (2001). *Mediating Family Disputes in a World with Domestic Violence: How to Devise a Safe and Effective Court-Connected Mediation Program*. Accessed online on 11 April 2015 at: <http://www.mediate.com/>
- Sarah Krieger (2003). The Dangers of Mediation in Domestic Violence Cases, 8 *Cardozo Women's L. Journal*. 235, 236-37
- Schneider, C. L. (2000). Violence, Identity and Spaces of Contention in Chile, Argentina, and Colombia, *Social Research: An International Quarterly*, Volume 67, No. 3
- Sivakumar, M. (2008): *Gender Discrimination and Women's Development in India*. Accessed online on 19 October 2013 at: [www.eric.ed.gov](http://www.eric.ed.gov)
- Srinivasan S and A.S. Bedi (2007). Domestic Violence and Dowry: Evidence from a South Indian Village. *World Development*, Vol 35 (5): 857-880,.
- Soler, H., P. Vinayak and D. Quadagno (2000). Biosocial aspects of domestic violence, *Psychoneuroendocrinology* (25): 721–739

- Sonnenberg, S. (2006). Building Capacity Without Losing Capacity: Legal Change and Dispute Resolution in Bhutan. *The Druk Journal*. Vol 2, Issue 1. Bhutan Centre for Media and Democracy.
- Sun, I.Y, Y. Wu, D. Button, J.C.M. Li and M. Su (2011). Appropriate police response to domestic violence: Comparing perceptions of Chinese and American college students. *International Journal of Law, Crime and Justice*. Vol 39 (2): 81-136
- Subramaniam, M and P. Krishnan (2016). Stranded between the law, family, and society: Women in domestic violence and rulings of India's Supreme Court. *Current Sociology 1-17*, Sage Publications [csi.sagepub.com](http://csi.sagepub.com). Accessed 22 May 2016
- Sullivan, C.M. (2012). *Domestic Violence Shelter Services: A Review of the Empirical Evidence*. Harrisburg, PA: National Resource Center on Domestic Violence. Retrieved month/day year, from: <http://www.dvevidenceproject.org>.
- Swan S.C. and D.L. Snow (2006). The development of a theory of women's use of violence in intimate relationships. *Violence Against Women*.2006; 12(11):1026-45.
- Teddle, C. and F. Yu (2007). Mixed methods sampling: A typology with examples. *Journal of Mixed Methods Research* 1: 77 – 100. Sage Publications Inc. Available at Accessed online on 25 June 2012 at: <http://mmr.sagepub.com>.
- Tongco, M.D.C. (2007). Purposive Sampling as a Tool for Informant Selection. *Ethnobotany Research & Applications* 5:147-158. Accessed online on 26 June 2012 at: <http://hdl.handle.net/10125/227>.
- UN (2008). *Unite to End Violence Against Women: Framework for Action*. United Nations: New York
- OHCHR (2016). *Committee on the Elimination of Discrimination against Women reviews the situation of women in Bhutan*. United Nations Human Rights: Office of the High Commissioner. Accessed online on 29 October 2016 at: <http://www.ohchr.org/>
- UNFPA (2003). *Addressing Violence Against Women and Girls In Sexual And Reproductive Health Services: A Review of Knowledge Assets*. United Nations Population Fund: New York. Accessed online on 4 August 2014 at: <http://www.unfpa.org/>
- UNICEF (2000). Domestic violence against women and girls. *Innocenti Digest* (6). UNICEF Innocenti Research Centre: Florence.
- UNICEF (2000). Domestic Violence Against Women and Girls. *Innocenti Digest, No 6, June 2000*. Innocenti Research Centre: Florence, Italy
- UNICEF Bhutan, 2010. *Bhutan Multiple Indicator Survey 2010: Initial findings*. Thimphu, Bhutan

- UN Women (2012). *Inventory of United Nations system activities to prevent and eliminate violence against women*. United Nations Entity for Women: New York
- Van Veen, D.H., R.D. Kreutzwiser and R.C. de Loe (2003). Selecting appropriate dispute resolution techniques: a rural water management example. *Applied Geography*. Vol 23 (2-3): 89-113. Elsevier.
- Verma, R and K. Ura (2015). *Gender Differences in Gross National Happiness in Bhutan*. A paper presented at the 2015 International GNH Conference: From Philosophy to Praxis and Policy, Conference Proceedings. Centre for Bhutan Studies. Thimphu: Bhutan
- Vestal, A. (2007). *Domestic Violence and Mediation: Concerns and Recommendations*. Accessed online on 3 April 2012 at: <http://www.mediate.com/>
- Watts, C. and C. Zimmerman (2002), Violence against women: global scope and magnitude. *The Lancet*, Vol 359: 1232-1237.
- WHO (1999). *Putting women's safety first. Ethical and safety recommendations for research on domestic violence against women*. World Health Organization: Geneva
- WHO (2005). *WHO multi-country study on women's health and domestic violence against women: summary report of initial results on prevalence, health outcomes and women's responses*. World Health Organization, Geneva.
- Zylstra, A. (2001). Mediation and Domestic Violence: A Practical Screening Method for Mediators and Mediation Program Administrators. *Journal of Dispute Resolution*: 253-255 Accessed online on 15 January 2015 at: <http://scholarship.law.missouri.edu/>

## **APPENDICES**

## APPENDIX A

### INTERVIEW QUESTIONNAIRE FORM

**A: RESPONDENT CHARACTERISTICS**

Name of respondent  Date

Name of village  District

**A: Socio-economic information**

Q1. Name of household head  Q2. Sex

1. M  
2. F

Q2. Age 

1. EW	2. EM	3. W	4. M
-------	-------	------	------

Note: EW – Elderly woman; EM – Elderly man; W – Woman; M – Man.

Q3. Marital status 

1. Single	2. Married	3. Separated	4. Divorced	5. Widowed
-----------	------------	--------------	-------------	------------

Q4. Social status 

1. Common man	2. Gup	3. Mangi-ap	4. GYT member	5. Chimi
---------------	--------	-------------	---------------	----------

**Q5. Composition of this household?**

Category	1. EW	2. EM	W	M	Boy	Girl
Resident						

Q6. Who makes majority of the decisions in the household? 

Man	Woman	Equally
-----	-------	---------

Q7. Who earns income for the household? 

Man	Woman	Equally
-----	-------	---------

**B: INFORMATION ON INCIDENCE OF DOMESTIC VIOLENCE**

Q8. How long have you been married / living together?

1. Less than 1 year	2. 1-5 years	3. 5-10 years	4. 10-15 years	5. > 15 years	
---------------------	--------------	---------------	----------------	---------------	--

Q9 Have you ever been bit / battered / beaten / abused including emotional abuse	1. Yes
	2. No

Q10. If you were hit or abused by your husband or partner, please discuss what in your view were the reasons for this?	1.
	2.
	3.
	4.
	5.

Q11. In your view what were the underlying causes of violence between couples?	1.
	2.
	3.
	4.
	5.

Q12. How long has it been since the violence started in your relationship?	1. less than 1 year
	2. 3-5 years
	3. 5-10 years
	4. more than 10 years

Q13. What kind of abuse did you face? Examples: physical abuse, including battery, emotional abuse, neglect and abandonment

---



---

Q14. What did you do to cope with or stop the violence in your relationship
---

**C: PERSPECTIVES ON MEDIATION**

*[to be asked if victim reports having approached a mediator in response to Q14]*

Q15. Would you like to tell anything else about the how you made use of mediation to address your issue?

Q16. Were you happy with the mediation process?

1 Yes
2 No

Q17. If yes, can you give some details on the process and your own views on this?

Q18. Who was the mediator?  
What are your views on the qualities of a good mediator?

Q19. Why did you pursue mediation instead of formal Judicial process?

**D: EFFECTIVENESS OF MEDIATION**

Q20. Please tell us if you were satisfied with the outcome of the mediation?

1. Yes	2. No
--------	-------

Q21. If yes what made the outcome satisfactory?

--

Q22. Did the violence stop after mediation and following the mediated outcome?

1. Yes
2. No

Q23. If yes, what in your views contributed to stopping the violence?

--

Q24. Were you satisfied with the mediation process?

1. Yes	2. No
--------	-------

Q25. What factors in your view contributed to making the mediation process satisfactory?

--

Q26. Any recommendations that you can give to improve mediation?

Improving the mediator capacity	Improving the mediation process
---------------------------------	---------------------------------

Q27. Anything else that you would like to mention?

--

*To be used for interview with Mediators only*

**E: COMMUNITY BASED MEDIATION**

Q28. Are you a community based mediator?

1. Yes	2. No
--------	-------

Q29. If yes, please give some details on when you started, any cases your mediated etc.?

Q30. Which parties and agencies are usually involved?

Q31. Are you happy with the process?

1. Yes
2. No

Why?

Q32. Are you happy with the how victims approach you for mediation?

1. Yes
2. No

Why?

Q33. If No why? Do you plan to do things differently in future?

Q34. How is the mediation agreement documented and enforced?

Q35. Can you please describe the mediation process for a specific case – steps, process, enforcing outcomes?

Q36. How would you rate your knowledge related to domestic

violence, DVPA and support services?  
Please give details.

Q37. What is your personal opinion  
about why women cannot take  
domestic violence cases to the courts?

Q38. What is your opinion on the helpfulness and  
effectiveness of Judicial or Police intervention?

**F: RESPONSE AND SERVICE PROVIDERS**

(to be asked to response and service providers only)

Q39. Please elaborate on the various services you provide to domestic violence victims.

Q40. What are your views on the current efforts made for preventing domestic violence?

Q41. In your view why the domestic violence prevalence is on the rise?

Q42. What are the major causes of domestic violence? What are the underlying causes?

Q43. What in your views are the barriers to accessing formal justice for women victims of domestic violence?

Q44. What are your thoughts on the role of mediation in addressing domestic violence?

Q45. Any thoughts on how to improve domestic violence mediation?

**APPENDIX B**  
**LETTER SENT TO THE CHIEF OF POLICE REQUESTING**  
**PERMISSION FOR RESEARCH**

Date: 10 August 2012

The Chief of Police  
Royal Bhutan Police  
Thimphu

**Sub: Permission to speak with Police Officials in regard to research related to domestic violence as part of my Post Graduate studies**

Dear Dasho,

I am currently pursuing a Masters Study with the Mahidol University in Thailand. In partial fulfillment of this research degree and based on my own personal interest, I am assessing the role of and importance of community based mediation and other support institutions to address the problem of domestic violence.

To fully understand the issue and to gather valuable multiple perspectives from different sectors and responsible parties both within the government, the Judiciary, the enforcement agencies (such as the RBP), the civil society and the local communities, I have been approaching key focal persons. The purpose is briefly discuss: a) views on domestic violence; b) what strategies are employed currently and planned in future to deal with the issue; c) views on the role of community based mediation; d) gender equality views; and e) special provisions or services for prevention and protection.

In this regard, I would like to seek your permission to speak to the officials responsible from the Women and Child Protection Units (Thimphu and Paro), officials responsible for legal advice within the RBP, and any other relevant person tasked to deal with the issue of gender in general and domestic violence in particular.

The findings will only be used for the purpose and completion of my research study and a copy of the published research will be shared with Dasho's office in due course. I will be very grateful for your kind consideration of this request.

Yours sincerely



Choki Dolma  
MA Student  
Mahidol University, Thailand

*WCPU, Thimphu & Paro & legal officer to extend assistance to the applicant as it is meant for study. Dasho's info may be used for publication or media use. No other paper reqd.*



10/8/12

## **BIOGRAPHY**

<b>NAME</b>	Ms. Choki Dolma
<b>DATE OF BIRTH</b>	September, 5, 1976
<b>INSTITUTIONS ATTENDED</b>	Royal University of Bhutan, Sherubtse College (2006 – 2008) <i>Post-Graduate Diploma (English)</i> Royal University of Bhutan, Samtse College of Education (1996 – 1999) <i>Bachelor in Education (Secondary subjects)</i> Mahidol University, Institute of Human Rights and Peace Studies (2012 – 2016) <i>Master of Arts (Human Rights)</i>
<b>HOME ADDRESS</b>	Blue Pine Apartments (Apartment 10) Post Box 731, Jungshina