

2008

**Study of Gender Stereotypes and
Women's Political Participation (Women in Governance)**



National Commission for Women and Children

Royal Government of Bhutan

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ACRONYMS AND ABBREVIATIONS

GLOSSARY

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ACRONYMS AND ABBREVIATIONS

BCCI - Bhutan Chamber of Commerce and Industry
CEDAW - Convention on the Elimination of All Forms of Discrimination against Women
FGD - Focus Group Discussion
GDP - Gross Domestic Product
GNH - Gross National Happiness
GFP – Gender Focal Point
HSS – Higher Secondary School
LSS – Lower Secondary School
MDGs - Millennium Development Goals
MOA - Ministry of Agriculture
MOH – Ministry of Health
MOEA - Ministry of Economic Affairs
MOE – Ministry of Education
MoLHR - Ministry of Labour and Human Resources
NCWC - National Commission for Women and Children
NFE - Non-Formal Education
NEC – Nation Environment Commission
NGO - Non-Governmental Organization
NWAB - National Women’s Association of Bhutan
NSB – National Statistic Bureau
RBP - Royal Bhutan Police
RENEW - Respect, Educate, Nurture and Empower Women
SDGs - SAARC Development Goals
UN - United Nations
UNDP - United Nations Development Program
UNICEF - United Nations Children’s Fund
WFP - World Food Program
WID - Women in Development
YDF - Youth Development Fund

GLOSSARY

amtsu morem nomed chen - stupid, ignorant woman
dowry - material things provided by the bride's family to the groom during marriage in traditional Hindu culture
dratshang - national religious institute
drib - culturally considered "impure"
driglam namzha - code of behavior or discipline
dzongda - district administrator
dzongrab - deputy district administrator
dzongkhag - district
geog - block
goenkhang - the inner sanctum of the temple
gup - village head
kerab gu – Buddhist cultural belief of difference of nine births between man and woman
kehencho sum -
lam/ lama - saints
le jundre - karmic action of "cause and effect"
lhotshampas - ethnic groups living in southern parts of the country
lopen - religious head teacher
lue - animal manure
mangmis - village representative
morem - commonly used to refer women with a demeaning and devaluing attitude
mup - bridegroom
nangi aum - lady of the house
ngalops - ethnic groups living in western parts of the country
num - bride
sati - the practice of widow having to jump into the funeral pyre of her dead husband in traditional Hindu culture
sharchops - ethnic groups living in eastern parts of the country
tha damtshig - code of loyalty
thab dang sherub - "*thab*" is strength symbolizing male and "*sherub*" is wisdom, symbolizing female
trulkus - reincarnated
tshogpas - village representative
zomdues - village meeting

EXECUTIVE SUMMARY

Background

The unequal status of women and their lack of 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. In case of Bhutan, Bhutanese women are in a relatively better position compared to many neighboring countries in the region mainly due to gender neutral public policies, legislation and Buddhist values, inherent in the fabric of Bhutanese society.

While there has been a notable progress in the area of reducing gender gaps in Bhutan, there are still significant disparities in many important areas of development such as:

- Low female representation in decision-making positions in governance (Judiciary, Executive, Legislative, and Local Governance).
- Higher female unemployment rate (urban overall: 6.8% with female at 9.5% against 5.3% male; and rural overall: 2.8% with female at 2.7% against 2.9% for male)¹.
- Low female participation in economic activities.
- Low female enrollment in tertiary education, implying higher dropout rate after completion of secondary education.
- Low female enrollment in technical and professional fields.

Therefore, the overall objective of the study was to identify barriers impeding the advancement of women through quantitative and qualitative data analysis related to the existing, reported and perceived gender inequality, affecting participation of women in governance, particularly at the decision making level. In line with the overall objective, the following specific objectives were identified:

- Document existing religious, traditional, societal and cultural perceptions toward women in various spheres of life.
- Identify obstacles to women's equal and meaningful participation in decision making process.
- Assess the adequacy of work environment, institutional and legal framework, affecting women's active participation and representation, especially in political and professional fields.

The study site was divided into three major regions namely: west, central and east, considering all predefined frames (gender, age, education level and profession) within each region. From each region, districts were randomly selected for overall coverage of 70% (14 districts out of 20 districts) with 75% (6 districts), 67% (4 districts) and 67% (4 districts) in west, central and east respectively.

The study adopted cross-sectional design with both qualitative (in-depth interviews and focus group discussions) and quantitative (survey questionnaires) data collection methodology with extensive review of the current legal and policy frameworks to validated and enhance the study findings.

A total of 541 survey questionnaires were administered with representation from 75% of the regions. The study had 45% male and 55% female respondents with the following age

¹ National Statistics Bureau, Bhutan Living Standard Survey, 2007, Thimphu, RGOB

distribution; 46% were between the ages of 26-35 years, followed by 34 % in the 18-25 category, 16% in the 36-45 category and only 4 % in the +45 category. A majority (93.5%) of the respondents identified themselves as having undergone a western education. In addition, study conducted a total of 99 FGD with 660 participants (36% male and 64% female) with an average time of 2 hours 30 minutes per discussion. Beside legal and policies reviews, the study conducted in-depth interviews with 53 key informants from various organizations to understand the current frameworks and policies. (List of key informants given in Appendix 2).

Key Findings

Belief and Awareness on Discrimination

Of the 541 survey respondents, 43% believed that there is no discrimination against women in Bhutan, with 10% stating otherwise. On the other hand, 38% believed that there is discrimination to some extent, of which 56% were females.

The study also explored the respondents' views on discrimination in government policies, laws and opportunities: 70% of the respondents stated that government policies and the legal system consider men and women equal, with only 14% stating otherwise. 16% of the respondents were not aware of the gender neutral laws and policies. With regard to opportunities, 73% of the respondents stated that there are equal opportunities for both men and women, with 17% disagreeing and 10% stating "Not Sure".

In case of the qualitative analysis, majority of the participants both in rural and urban areas expressed appreciation for the government's non-discriminatory approach to policies, legislation and implementation of programs. However, participants also expressed and acknowledged the gender disparities in many sectors of development and identified a "critical need" for empowering women to take up leadership positions.

Religion and Gender Relations

In order to gain insight into the current position of women in Bhutanese society, respondent's perception on religious beliefs in *kerab gu*; religious norms to enter *goenkhang*; and the desire to be born as a man, which is perceived as a better form of life, were explored. The results of the respondents are as indicated in the table below:

Beliefs	Yes (%)	No (%)	Not Sure (%)
Believe in <i>kerab gu</i>	39	38	28
Women should be allowed to enter <i>goenkhang</i>	27	47	26
Pray to be born as a man in the next life	65	24	11

Contrary to the survey findings, 75% of the participants during FGD indicated the "religious" saying "*kerab gu*" as one of the main bases for gender differential societal status, such as giving preference to men while serving food, sitting, cultural rites, etc. As for entering *goenkhang*, even during the FGD, majority of the participants did not view it as discrimination, rather respected and accepted it as a part of religious norm. When asked whether they would enter the *goenkhang* if given the opportunity, 97% of the participants said "NO".

Even with 94% of the study population having undergone modern education, 65% indicated a desire to be born as a man in their next life, compared to only 24% stating otherwise. The survey

findings were further confirmed during the FGD, where 95% of the female participants in the rural and 70% in the urban area expressed their desire to be born as a man in the next life, which they referred to as an “embodiment of lesser suffering body”.

“I am uneducated and ignorant, but one thing that I do every night before going to bed is pray to “kencho sum” that I be born as a man in the next life and have the opportunity to practice Dharma”

Although, the in-depth interviews with religious personnel from the *Dratshang* and individual practitioners indicated that the core doctrine of Buddhism attaches no sex differentiation and there are no references in any of the Buddhist texts or manuscripts of “biological inferiority”, culturally, women’s bodies have been exclusively associated with procreation and impurity commonly referred to as *drib*. *Drib* is originally associated with women’s menstrual and reproductive cycle, but to the layman it has become synonymous with being inferior. This is also one of the main reasons for not allowing women to enter the *goenkhang*.

Furthermore, majority of the female participants strongly expressed concerns with regard to the use of the word “*morem*”, because of its implication on emotional and psychological wellbeing. The use of the phrase, “*am-tsu morem no-med chen*” (stupid, ignorant woman) during the 85th session of the National Assembly, sadly illustrated the continuing mindset of many people and the prevailing practices based on age-old culture².

Cultural and Traditional Perception

The study indicated a strong presence of age-old cultural and traditional values embedded in the fabric of Bhutanese society, resulting in a varying degree of cultural biases. 44% of the study respondents indicated that Bhutanese culture considers women inferior to men, followed by 38% stating otherwise, with only 18% indicating “Not Sure” as the answer. In case of families considering women incapable, 57% said “No”, with 35% stating “Yes” and 8% stating “Not Sure”.

The FGD also highlighted the social proverbs that directly or indirectly reflected the superiority of men:

- *“Pho zshen ru bjinmi; mo drak ru lenmi”*
(No matter how incompetent a man, he will always be the provider, no matter how competent a woman, she will always be a receiver)
- *“Kep pho lue thob chu, dam pai choe dang je chu”*
(May I be born as a man, may I get the opportunity to practice Dharma)

Majority of the participants (both male and female) during the study agreed to the belief that women are biologically inferior, thus providing men with a higher platform in society, both culturally and religiously.

Gender Roles within the Society

Although the study found no gender defined roles, there were “societal expected” roles that are strongly practiced. In rural areas, within the household, there is an “expected” division of labour. Even though there are no gender specific taboos associated with work (inside or outside), women

² GNH Commission (Planning Commission) and NCWC. National Plan of Action for Gender 2007-2013. RGOB, Thimphu

were expected to do most of the household chores such as washing, child care, cooking, cleaning, and grocery shopping, hence making the household her domain. Men, on the other hand did most of the “outside work”, which in turn provided opportunities to build comprehensive social networks, thus making him the “face of the family”.

The study found that in urban areas, nuclear family structure was more prevalent, with both partners working and contributing economically to the household. In such a setting, the “expected” division of labour is more fluid and major decisions are also made jointly. Compared to other Asian countries, gender roles are more relaxed and changing. However, there are pockets of communities in Sarpang, Tsirang and Chhukha dzongkhags, which still follow stringent traditional gender roles: where a man will not enter the kitchen, let alone do any cooking and washing. Similarly, in Wangdue, Paro and Trongsa, handling and carrying of *lue* is exclusively done by women and it is considered unimaginable and unacceptable for a man to carry *lue*. Although such traditional practices are prevalent only in a few communities, they have enormous bearing on how society views women’s roles in all spheres of development.

Gender stereotyping was explicit during discussions, regardless of the geographical location. Nevertheless, a majority of the participants, during the FGD and in-depth interviews, agreed that with the attainment of education and exposure, women are now increasingly taking up unconventional roles and responsibilities.

Code of Conduct

Social conduct in Bhutan is guided by *driglam namzha*, *tha damtshig* and *le jundre*, shaped by Buddhist wisdom and found to be central to Bhutanese social interaction. The entire concept is outlined as the sacred commitment to one another – paring of duty and obligation between parent and children; teacher and pupil; husband and wife; employee and employer and state and people, thus encompassing all spheres of social interaction. Although these values are highly revered and considered gender neutral, there are different degrees of consequences and acceptance by society in case of violation of the code of conduct -

“kep ja thruel tong thruel; zamo chig thruel nyi thruel”

(Men are allowed to make mistakes in thousands, but for a women even one or two are unacceptable)

Majority of the participants, both male and female, agreed that society is less forgiving if violations are committed by women. Moreover, in case of a married couple, there is a higher degree of societal and family expectation for women to uphold the value of *tha damtshig*.

Decision-making Model

In case of decision making “power”, the study found no strong gender domination. Of the total survey respondents, 55% indicated that the major decisions in the family are made jointly. While 37% indicated men as the major decision makers, only 4% indicated women as the major decision makers.

In the rural areas, women are still regarded as the custodian and controller of the household, thus any decision pertaining to the daily activities of the household are generally made by the lady of the house (could be the mother, elder daughter or *num*). In case of major decisions, such as buying land, farm machineries, construction, farm animals, etc., men are given the responsibility due to their relatively high interaction with the “outside” world.

The analysis of the study found that the decision making to some degree was also influenced by asset ownership. For example, if a woman moves in with her husband's family as the *num*, her decision making "power" is limited compared to her husband moving in with her as the *mup*. In general, the arrangement of *num* and *mup* followed the inheritance patterns prevailing in the regions.

Despite the RGOB's unwavering attention to increase women's participation in development activities, women are still under-represented in the decision making process. As highlighted in the study and the National Plan of Action for Gender, balancing work with family life is still considered a woman's issue in Bhutan³. In addition, most of the women in the study indicated the following limiting factors: lack of confidence; lack of peer support; self-imposed cultural values and belief that men are better at understanding and participating in matters of governance.

Education and Gender Dynamics

The study found no discrimination in case of access to education as supported by 73% of the respondents stating that there are equal opportunities for both men and women. Furthermore, in the literature review, beside the "pyramid phenomenon" regarding enrollment, there were no visible gender discrimination in case of access to education: enrollment, prerequisite etc.

Most of the students in the study also agreed that there is no gender discrimination in schools. However, students in tertiary schools expressed concerns regarding safety during travel and having limited "freedom of movement" within the campus, which was common to all the schools interviewed.

As for social interaction, almost all the students interviewed (both boys and girls) said that girls in general are shy, have less confidence, and lack peer support. When asked for justification, majority of the students mentioned exposure and family upbringing as the key factors for cultivating confidence.

"Most girls are content with what they have.....they only aspire to marry and live a comfortable life"

Regardless of geographic regions, all the parents interviewed during the study agreed that education of both girls and boys are equally important. But, when presented with a scenario for higher education, almost 90% of the parents interviewed chose the son, which reflected the attitude of perceiving males as the bread earner of the family. The daughters, on the other hand, were better care givers and home makers.

There was a general consensus that with modern education, the traditional roles of women and men are changing, especially among the urban population.

Livelihood Activities

Agriculture was the primary economic activity in the rural areas with the other dominant activities being cattle rearing and weaving (women in eastern and central regions). In rural areas, there were very limited opportunities to generate extra income beside agriculture. In majority of the homes, men were the primary providers. Although the study found no well-defined gender roles in Bhutanese society, in rural areas there were culturally imposed roles and responsibilities between men and women. A woman, by virtue of their physique and their biological functions,

³ GNH Commission (Planning Commission) and NCWC. National Plan of Action for Gender 2007-2013. RGOB, Thimphu.

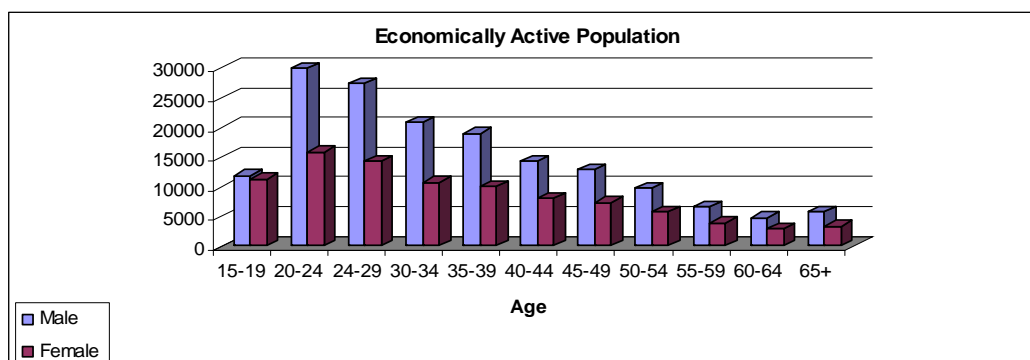
were considered weak and was subjected mainly to reproductive activities. These activities, being social responsibilities and with no direct income, largely remain invisible and unaccounted for, unlike the productive activities, which men are normally involved.

Although men are equally responsible in reproduction, in most cases, the brunt of the burden is borne by women. FDG with educated working women highlighted the impact of “dual burden”, having to do both the productive and reproductive activities. In general, men also agreed that women bear a relatively higher share of the burden.

Access and Opportunity to Market

In-depth interviews with officials of the Ministry of Economic Affairs indicated that both men and women have equal access and opportunity to participate in the free market. There are no gender biases regarding obtaining of trade licenses and business ownership.

However, literature review of the policies and the labour force survey indicated gender disparity in the number of economically active labour force at different age categories as shown in the figure below⁴. Furthermore, the male labour force participation is significantly higher than that of female, especially in the urban areas – 72% to 28%⁵. Although three-fourth of employed women are engaged in the agricultural and forestry sector, training programs do not appear to benefit women farmers due to lack of proactive initiation, as suggested by the participants from the rural areas.



During the FGD, participants highlighted the fact that women’s disadvantage in the area of economic activities was mainly due to Bhutan’s late introduction to modern education and women’s traditional ties to the family land (inheritance). In rural areas, lack of education and financial resources were also indicated as limiting access to markets and innovation. Participants in both rural and urban areas identified economic independence as a key to women’s empowerment. A majority of the participants also suggested economic dependency as one of the leading causes of domestic violence and abuse.

Property Inheritance

Although, the Inheritance Act (1980) is gender neutral and provides equal rights and entitlements, there are few geo-cultural variations. According to the law, regulations for inheritance, division and transaction of the inherited properties are equally applicable to both

⁴ Ministry of Labour and Human Resource. Labour Market Information Bulletin. RGOB, Thimphu

⁵ GHN Commission (Planning Commission) and NCWC. National Plan of Action for Gender 2007-2013. RGOB, Thimphu



female and male members of the family. The reviews of the law pertaining to inheritance indicate no gender biases, as long as the member fulfills the definition of “Joint family of the main house”, as defined by the Act. The Act also recognises and accepts the parents’ discretionary authority on the proportion of shares (major or minor) to be given to the individual family members.

Women’s Participation in Governance

As highlighted in the National Plan of Action for Gender, “good governance” and “gender” are central to the attainment of sustainable development for the promotion of Bhutan’s central development philosophy of GNH. The study evaluated both gender equality and equity to understand and identify barriers to women’s participation in governance. Despite the Government’s gender-neutral position in the formulation and implementation of its plans, policies and programs, women remain under-represented as indicated in the table below.

Position	Female Representation (December 2008)
Minister	None (0%)
Parliament Member	NC - 5 (20%); NA - 4 (8.5%)
Secretary level	2 (1%)
Local government: Dzongda	None (0%)
Judiciary (Lawyers)	5 (14%)

The survey result on “the need to have women at higher decision making level” showed a support of 69% with only 12% stating “No”. This was supported by the finding that 80% of the respondents agreed that women are better at understanding women’s issue. However, even with equal opportunity, 57% of the participant indicated a need for special privileges in terms of conducive work environment and employment for women.

Although women’s representation in the civil service is rising gradually, as high as 30% on the average, the number of women at the top decision making level is still significantly very low as shown below:

Position Level	Total	Female	Percent Rep.
Executive	186	10	5.4%
Specialist	46	6	13.0%
Prof. & Mgt	8926	2742	30.7%
Supervisory	7623	2422	31.8%
Operational	1962	392	20.0%
Total	18743	5572	29.7%

During the in-depth interview with the key informants, most participants claimed that the national policies and legislations are gender neutral and that discrimination is not an issue in Bhutan. This perception was also supported by the survey finding, where 70% of the respondents stated that policies and laws considered both men and women equal, while 73% of the respondents stated having equal opportunities. Most participants interviewed considered gender neutrality in our Bhutanese system as adequate measures to ensure advancement of women. But, paradoxically, 57% of the respondents in the survey indicated a need for special



privileges for women.

Similar observation was made in the FGDs, where majority of the participants said that the government provides equal opportunities, at the same time agreeing the existence of gender biases and disparities.

Bhutan is yet to understand and realize equality beyond gender neutrality. ***Equality is not about treating everyone in the same way, but recognizing that their needs are met in different ways.*** Thus, while the study has established the role of women in procreation as one of the causes of gender disparity, very little was understood about the protection of women's reproductive rights. Similarly, participants during the FGD also viewed gender neutral laws and policies as adequate measures. Thus, without realization, the gender disparities that exist in the system are unnoticed, such as enrollment in tertiary education, participation in decision making bodies, employment in economic activities, etc. that could be a precursor to low participation of women in all phases of development.

Conclusion

Bhutan has maintained gender neutral policies and legislation - equal opportunities given to both women and men. However, despite a favorable environment, one of the biggest challenges presented during the study was the presence gender disparity. Thus, it is not adequate to have gender neutral laws and policies on paper but they have to be translated to gender sensitive programs and action plans. Gender mainstreaming is crucial to attaining gender parity at all levels and in all fields of development. The key to addressing gender issues has been identified as capacity building to ensure that the importance of equality and rights are realised, understood and exercised so that women can participate equally and productively in the country's march towards the future.

In addition, there was also a strong presence of cultural beliefs in biological inferiority and vulnerability of women. These are subtly embedded in age-old traditional and cultural practices and values that establish men's higher status in society. On the very ground of biological vulnerability, families and societies provide more care and protection to a girl child, limiting her mobility and participation in the "outside" affairs. All these have perpetuated cultural discriminatory practices that are prevalent today.

Nevertheless, it cannot be denied that, compared to other neighboring countries, Bhutanese women enjoy more freedom and equality in all spheres of life with relatively high status in society.

Recommendations

Education and awareness are without doubt the most fundamental prerequisites in bringing the female half of humanity into the main focus of development. Education, together with conducive work environment, institutional and legal framework, are necessary to getting access to economic opportunities, participating in and being represented in the government and gaining political influence. Taking these into consideration, the following recommendations are made:

1. Increase awareness through advocacy and education at all levels on gender equality and equity, gender issues and concerns, national legal provisions and on the government's international commitments and legal obligations.



2. Dissemination of information by expanding the ongoing legal awareness program (Know Your Law to Protect Your Rights) carried out by the Judiciary in collaboration with NCWC to the community level.
3. Initiate policy changes to translate from gender neutral to gender responsive policies and plan of action to address the following gender specific issues:
 - a. Ensure awareness on the recognition of women’s reproductive role and maternity as a social function and the need and importance of equal participation in reproductive activities.
 - b. Enable implementation of provisions on flexible working hours for breastfeeding mothers and extended maternity and paternity leave to help promote the global agenda of ‘healthy mother and child’.
 - c. Enable operationalisation of the provisions of the sexual harassment protocol of the Labor and Employment Act. In addition, sensitization needs to be carried out to create awareness on the provision of sexual harassment as an offence in the Penal Code of Bhutan.
4. Sensitize the general population on existing cultural and traditional perceptions on gender roles and “invisible” discrimination through media (e.g programs on women role models) and awareness building seminars.
5. Incorporate “responsible sex” and societal value based educational programs in the curriculum in schools, NFE centers and vocational institutes to promote growth of socially responsible youths.
6. Develop support mechanisms to encourage and increase participation of women in decision making positions through:
 - a. Setting minimum requirement of women’s representation in governance
 - b. Gender specific special scholarship programs for higher education
 - c. Leadership programs to enhance and encourage women to take up decision making positions both in public and private sectors.
7. Carry out an in-depth study on the existing gender gaps and low participation of women at decision making positions.
8. Conduct in depth study to address the growing assumption and concern with regard to high rate of female school dropouts resulting in underground sex industries.
9. Study the causality of the finding resulting in higher percent of study population wanting to be born as man.
10. Strengthen sectoral gender focal persons to analyze existing data to identify gender disparities - source and/or causes for gender disparities within the organization, including tools to monitor and evaluate the programs.



11. Local government should proactively involve women at the gewog decision making level and trainings through mandatory requirement of certain number of female participation.
12. Initiate and promote organization in the village to encourage women to take up leadership positions such as *gups*, *mangmis* and *tsbogpas*, and also promote active participation in *zomdues*. The organisation must encourage and create special groups and discussion forums for women to share information and knowledge.
13. Both public and private sectors must initiate and enhance programs to build the capacity of women so that they are economically empowered through:
 - a. Provision of technical assistance at the grass root level for development of strategies to promote cottage industries, marketing and production of local commodities.
 - b. Provision of financial support by exploring avenues for obtaining low risk financial loans or grants to facilitate the establishment, growth and sustainability of economic activities.
 - c. Promotion of establishment of social and professional associations for networking and to provide forum for exchange of experiences and skills.
14. Both public and private sectors must initiate and improve the work environment for women through conducive policies and infrastructure development, in the following areas:
 - a. Incorporation of service facilities for maternity protection and child-care in all development sectors that will allow women to combine family responsibilities with work and participate in public life.
 - b. Analyse current infrastructures to create women friendly work environment such as separate restrooms, baby nursing rooms, etc.
 - c. Mandate minimum level of safety measures by all organizations including service providers such as hoteliers, guest houses and building owners to protect women from sexual harassment.



1. INTRODUCTION - GLOBAL PERSPECTIVE

Millions of women and adolescent girls globally are unable to exercise their basic rights due to gender inequality. Sadly, the unequal status of women and their lack of opportunities are often taken for granted and are considered normal. Thus, gender inequality, deeply rooted in families, communities, and individual minds, remain largely invisible and underestimated. Without a solid evidence-based demonstration of the centrality of women's empowerment to poverty reduction and development, gender equality will remain an unfinished global agenda.

1.1 Historical Perspective

It is undeniable that religions have influenced traditions and cultures from time immemorial. Most major religions have conceptualised men as the Supreme Power, relegating women a secondary place, deprived of religious, cultural, political and spiritual rights. Sharon Adams, echoing the ancient Indian text, Manusmriti rightly summed up: *"In childhood a female must be subject to her father, in youth to her husband, when her lord is dead to her sons; a woman must never be independent"*. However, the Buddha who fought the caste based *Brahmanical* system in Hinduism, on the contrary had an enlightened perspective on women. Freedom and rights for women were affirmed by Buddha approximately 2,500 years ago. Thus, in theory, Buddhism recognised equality, bestowing the responsibility of following Dharma to both sexes⁶.

Although one cannot undermine religion's contribution to the cultivation of moral and ethical values in personal and societal evolution, the distinct traditional and cultural biases against women, derived explicitly or implicitly from religious beliefs, cannot also be overlooked. The practices of *sati*, the custom of dowry and violence related to it; female genital mutilation; female infanticide and prenatal sex selection in favor of male babies which exist even today have influences from religious beliefs. Women in many societies were deprived of their basic human rights such as property ownership, marriage, divorce, child custody, voting rights and employment, to name a few. While many of the inhuman cultural practices and violation of human rights against women have been put to an end, violence against women in the form of domestic violence, rape, trafficking, forced prostitution, sexual slavery, and forced pregnancy are still everyday news.

1.2 Women's Rights Movement

The supremacy of men over women by almost all the religions has led to discriminatory treatment of women worldwide. Through the years, with increased realization, women had retaliated against the suppression by organizing individual and mass social movements. In the United States, the Women's Rights Movement began as far back as 1848. It took about 150 years before American women achieved their full civil rights⁷.

Similarly, activists were also working in many countries in the Middle East and North Africa where many governments routinely suppressed the civil societies by restricting freedom of the press, expression, and assembly. These restrictions affected particularly the women as they were

⁶ The Place of Women in Buddhism: A Talk given to the Midlands Buddhist Society (UK) on Sanghamittā Day 1988 by Swarna de Silva, BUDDHIST PUBLICATION SOCIETY, Sri Lanka, June 1994. Available at <http://www.bps.lk>.

⁷ National Women's History Project. Living the Legacy: The Women's Rights Movement 1848-1998, Santa Rosa, CA 95403. Also available on www.nwhp.org



already subjected to host of gender-specific human rights violations. Many pioneering women from all over the world, struggled for women's right to vote, as a fundamental human right. Almost all the countries now have the voting right, except in some countries, such as in the Middle East where there are no voting rights at all or very limited rights.

1.3 The UN Decade for Women & the World Conferences on Women

The overwhelming support and concern from the global communities on women's rights and equality led to the declaration of the "UN Decade for Women, 1976-1985" by the United Nations General Assembly with the main focus on women's equal rights and freedom. The Decade played an instrumental role in introducing the concept of Women in Development (WID), bringing women from the peripheries to the centre of social life and emphasizing on the productive role and active participation of women in development projects.

In the continuing struggle for gender equality, four world conferences were convened by the United Nations to develop strategies and global plans of action for the advancement of women. The first conference was convened in Mexico City, coinciding with the 1975 International Women's Year, followed by the second, in Copenhagen in 1980; then the third in Nairobi in 1985 and the Fourth World Conference held in Beijing in 1995⁸. The Conferences facilitated identification of key areas of concern and adoption of specific action plans for the states, the international organizations, NGOs and the private sector. Thus, the status of women progressed steadily from being passive recipient of development, to recognizing their essential contributions to development process, to seeking their empowerment, and promotion of their rights to full participation at all levels of human activity.

An important milestone of the second conference was the adoption of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), also termed "*the bill of rights for women*" by the General Assembly in December 1979. Today, it is one of the most powerful instruments for women's equality, which now legally binds 165 States⁹. While women's rights have been secured at varying degree of success, they still lack the ability to fully exercise these rights. Thus, stronger national measures are needed to ensure women's social, economic and political empowerment.

Equal access to education, employment opportunities and adequate health care services were highlighted as the three major thrust areas to address the persistent gender gaps. Gender mainstreaming was adopted as a new global strategy to promote gender equality and became part of the platform for action outlined in Beijing in 1995 at the UN Conference on Women.

1.4 The UN Convention on Elimination of Discrimination against Women (CEDAW)

The CEDAW was adopted by the United Nations General Assembly on 18th December 1979 and entered into force as an international treaty after it was ratified by the twentieth country on 3rd September 1981. As of today, 165 countries have ratified the Convention. Bhutan signed the Convention on 17th July 1981 and ratified it on 31st August 1981. The Convention is an important place in the international human rights treaties, in bringing the female half of humanity into the focus of human rights concerns by addressing three main aspects pertaining the equality of women :civil rights, legal status and women's dimension of human reproduction that have cultural impact on gender relations. By accepting the Convention, the countries commit

⁸ Report of the 2005 Beijing +10 Conference to commemorate the 4th World Conference on Women, held in Beijing, China in 1995 – August-September 2005.

⁹ National Commission for Women and Children (2006). 7th CEDAW Periodic Report. RGOB, Thimphu.



themselves to incorporating the principles of non-discriminatory legal system and ensure effective protection and elimination of all acts of discrimination against women by persons, organizations or enterprises.

2. CONTEXTUAL BACKGROUND: BHUTAN

Bhutan became a democratic constitutional monarchy in March 2008. The Wangchuck dynasty carefully nurtured the country into the path of modernization, at the same time preserving the country's unique culture and traditions. The Five-Year Plans, chartered under the vision of the Kings, have placed Bhutan in an enviable position to pursue the development philosophy of Gross National Happiness (GNH), which upholds strong principles of equality for all human beings, human rights and responsibilities¹⁰. The 10th Five-Year Plan (2007-2012) launched by the first democratically elected government with its overarching goal to reduce poverty, is committed to further enhancing the social, economic and political development in the country. Progress in the social sector is on track and Bhutan will fulfill most of the goals set in the Vision 2020 and the global compacts: the Millennium Development Goals (MDGs) and SAARC Development Goals (SDGs)¹¹.

Geographically, Bhutan is wedged between China in the North and India in the south on the southern slopes of the Eastern Himalayas. Throughout its known history, Bhutan has been an independent, un-colonized nation. The north to south mountain band divides the country into three distinct regions with three major ethnic groups: *Ngalops*, *Sharbops*, and *Lhotskampas* living in Western, Eastern and Southern parts of the country respectively. Although it is a small country of 38, 394 sq. km¹² and a population of 671,083¹³, the country is an example of living culture today. For administrative purposes, Bhutan is divided into 20 districts.

2.1 Demographic and Social Background

According to the Population and Housing Census of 2005, the population in 2008 was estimated at 671,083 with 69.1 % residing in rural areas. 49% of the population comprises women. The population density is estimated at 12 (16) people per square kilometers, which is one of the lowest in south Asia. Demographically, Bhutan has been characterized by a high fertility rate and a declining mortality rate, leading to very rapid population growth.

Allocations to social sectors like health, education, water and sanitation have always been a priority, as high as 26% during the Second Plan (1966-1970), when much of the modern sectors were established. In the 10th five year plan, the Royal Government has continued its firm commitment devoting nearly 33.5 billion or 23.61% of its outlays to these two sectors.

¹⁰ Department of Planning (1999), Bhutan 2020: A Vision for Peace, Prosperity and Happiness. Thimphu, RGOB.

¹¹ GNH Commission, Main Document of 10th Five Year Plan (2007-2012). Thimphu, RGOB

¹² National Statistics Bureau (2007). Bhutan Living Standard Survey, 200. RGOB, Thimphu

¹³ National Statistics Bureau (2005). Population and Housing Census of Bhutan, 2005. RGOB, Thimphu



Figure 1: Social and Human Development Indicators¹⁴

	End of 7th FYP (1997)	End of 8th FYP (2002)	End of 9th FYP (2007)
Education			
GPER	72%	81%	105.7%
NPER	-	62%	83.7%
Primary School Completion Rate	60.5%	78.8%	87%*
Teacher Student Ratio (Primary)	1:41	1:39	1:32
Teacher Student Ratio(Secondary)	1:38	1:36	1:27
Gender Parity in Education (Girls for every 100 boys)			
- Girl-Boy Ratio (Primary)	81	88	93
- Girl-Boy Ratio (Secondary)	77	87	98
- Girl-Boy Ratio (Higher Secondary)	41	61	85
- Girl-Boy Ratio (Tertiary)	29	39	54
National Literacy	-	-	59.5%
Adult Literacy	-	-	53%
Health & Sanitation			
Life Expectancy	66.1	-	-
Population Growth Rate	3.11	2.52	1.33
IMR (per 1,000)	70.71	60.12	40.13
U-5MR (per 1,000)	96.91	842	61.53
MMR (per 100,000)	3801	2552	150-200
Trained Birth Attendance (%)	10.91	23.62	51%
Access to improved sanitation	80%	88%	89%
Access to improved drinking water	(1996) -	(2000) 78% (2000)	84%
Nutrition (Children)			
% underweight	17	-	-
% stunted	40	-	-
% wasted	2.6	-	-
Human Development Index (HDI)	0.550 (1998)	0.583 (2003)	>0.600 (2005)

Programs for the social sector are on track and will fulfill most of the goals set in the Bhutan Vision 2020 and the global compacts: Millennium Development Goals (MDGs) and SAARC Development Goals (SDGs). While there has been notable progress in the area of reducing gender gaps, there are still challenges in achieving gender parity particularly in tertiary education and participation at the decision making level.

2.2 Economic Background

Even today, about 70% of Bhutan's population follows the traditional way of life, relying mostly on agriculture, and livestock for daily needs. In 1985, Bhutanese economy was dominated by agriculture, which contributed 54.9% of the Gross Domestic Product. Today, the agriculture sector's share has declined to 18% and is second to the electricity sector which is projected to contribute 22 % of the GDP. In addition, modern sectors such as construction, manufacturing, transport and communications, have increased significantly although employment in these sectors remain limited. A complete look at the changes in sector-wise growth rates of GDP from 2002 to 2007 reveals the following:

¹⁴ GNH Commission (2008). Draft 10th five year plan; Volume I, Main document. RGOB, Thimphu



Figure 2: Bhutan's economy and sector wise contribution to the GDP¹⁵

	2002	2003	2004	2005	2006	2007
Real GDP growth	8.80%	7.10%	7.50%	5.9%*	18.9%*	7%*
Agriculture, Livestock & Forestry	3.10%	2.7	2.5	0.4%*	2.2%*	2.2%*
Electricity	10.50%	-0.60%	9.90%	-.8%*	106%*	103%*
Construction	27%	5.30%	8.50%	10%*	8%*	7%*
Manufacturing	2%	6.80%	4.60%	5%*	5%*	5%*
Trade, Financial & Other Related Services	8%	21.80%	13.50%	7.7%*	6.6%*	6.6%*
Public Administration & Social Services	10.10%	7.50%	0.20%	9.7%*	6%*	6%*
Transport & Communications	4.60%	4.60%	18.90%	10%*	7%*	7%*

Although Bhutan's economy is one of the smallest, based on agriculture, forestry, tourism and hydroelectricity, the per capita income estimated at US\$ 1,321 is one of the highest in South Asia¹⁶.

Nevertheless, poverty is still a major concern and one of the contributing factors for advancement of women. The Poverty Analysis Report (PAR), 2007 revealed 23.2 % of the population to be poor, of whom 30.9 % were in the rural areas and only 1.7 % in urban areas¹⁷. The below poverty line of Nu. 1,096.94 for a person a month also found 5.9 % of the population to be subsistent poor.

For the Tenth Plan, the following overall objectives and strategies have been adopted, all of which are directed towards poverty reduction:

- Vitalizing Industry – expanding and accelerating broad based core economic sectors such as hydropower, tourism, cultural industries and ICT, in addition to manufacturing sector;
- National Spatial Planning – to promote balanced regional development, at the same time ensuring maximization of economic potential and opportunities;
- Synergizing Integrated Rural-Urban Development for poverty alleviation;
- Expanding strategic infrastructure;
- Investing in human capital; and
- Fostering an enabling environment.

2.3 Gender Background

There are favorable public policies and legislation guided by GNH which upholds strong principles of equality of all human beings, human rights and responsibilities that must guide human conduct. In addition, Buddhist values, inherent in the fabric of Bhutanese society place women in a relatively better position compared to many neighboring countries in the region.

¹⁵ GNH Commission (2008). Draft Tenth Five Year Plan; Volume I, Main document. RGOB, Thimphu.

¹⁶ Royal Government of Bhutan, (2005). Government Annual Report, 2005-2006 Thimphu

¹⁷ National Statistical Bureau, (2007). Poverty Analysis Report. 2007. RGOB, Thimphu.



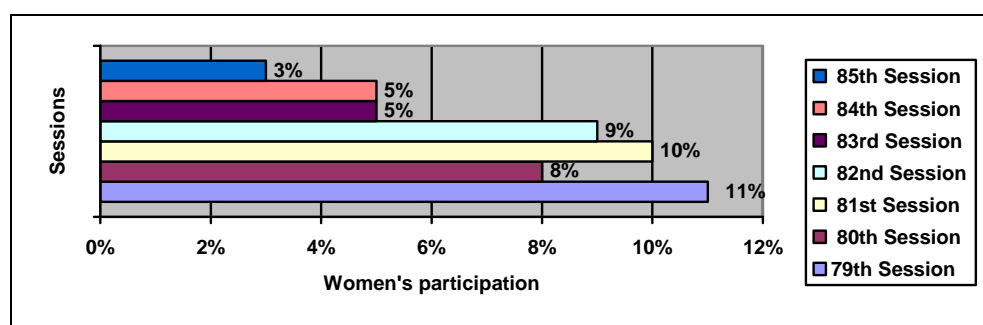
Since the launch of planned socio-economic development in the early 1960s, the Royal Government of Bhutan under the visionary Monarchs has always provided equal opportunities, entitlements and legal status to both women and men. Starting from the First Five Year plan in 1960, there has been a gradual progress from establishing basic social infrastructural facilities towards efforts to attaining economic self reliance. One of the overriding development priorities was to ensure equitable distribution and coverage of development services and benefits between the Dzongkhags, the regions, the vulnerable and the disadvantaged groups considered only from their physical and economic position. Women were subsumed in these groupings and there was no separate women’s chapter in the six successive plan documents.

It was only from the 7th plan onwards, that a separate chapter was opened for women to mainstream women in development. The National Women’s Association of Bhutan (NWAB) was established in 1981 under a resolution passed in the 53rd session of the National Assembly with the main objective of enhancing the role of women at all levels of the development process. Since then, efforts were made to incorporate women in development in all sectoral projects to reflect their special needs, roles and potential without having parallel projects formulated specifically for women. Efforts were made to remove gender disparity such as in daily wage rates. Bhutan also signed and ratified the CEDAW in 1981, recognizing the importance of gender in the development of a nation.

After 50 years of entering into modernization, and with rapidly increasing and improving education and literacy attainment, there has been a noticeable change in women’s roles. They are shifting from their traditional roles as homemakers, as wives and mothers to non-traditional roles in government, private and other economic sectors. Bhutan has made a slow and a steady progress in mainstreaming women into social, economic and political development.

Despite favorable and gender neutral policies and legal instruments, women’s participation, particularly in the decision making level in almost all sectors of development is still insignificantly low as indicated in the flowing tables.

Figure 3: Women’s Participation in legislation, 2001 – 2006¹⁸



¹⁸ GNH Commission) and NCWC. National Plan of Action for Gender, 2007-2013. RGOB, Thimphu

Figure 4: Women’s Participation in Local Governance, March – June 2006¹⁹

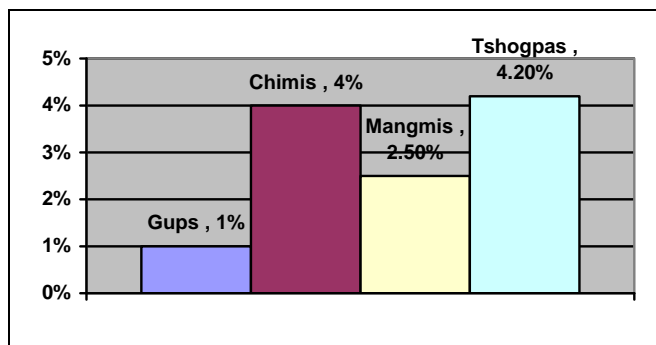


Figure 5: Women’s Participation in Judiciary, 2008²⁰

Position	Proportion of Women
High Court Judge	None
Drangpon	3% (1/36)
Drangpon Rabjam	4.2% (1/24)
Court Registrar	30% (3/10)

Figure 6: Women’s Participation in civil service, 2008²¹

Position Level	Total	Female Total	Female Representation
Executive	186	10	5.4%
Specialist	46	6	13.0%
Prof. & Mgt	8925	2741	30.7%
Supervisory	7621	2422	31.8%
Operational	1959	392	20.0%
Total	18737	5571	29.7%

While female enrollment up to the higher secondary level has made significant progress, there are still significant gaps that need to be addressed. One of the 10th plan targets of the Ministry of Education is to enhance enrollment of girls in tertiary institutes to 80 girls for every 100 boys.

2.4 Gender Specific Institutions

A number of institutions, governmental and non-governmental were established since the early 1980 to devote to women’s issues.

- The National Women’s Association of Bhutan (NWAB), was established in 1981 with the objectives to improve the living standards and socio-economic status of women.
- The Youth Development Fund (YDF), established in 1999, with a mission to ensure sustained financial support to enable Bhutanese youth to realize their full potential as productive citizens.
- Tarayana Foundation, established in 2003 with the objective of providing income generation opportunities to the disadvantaged and the under privileged groups.

¹⁹ GNH Commission and NCWC. National Plan of Action for Gender, 2007-2013. RGOB, Thimphu

²⁰ Information collected from the judiciary (Percentage calculated from the current employment record – 2008)

²¹ Information collected from the Royal Civil Service Commission Bulletin, 2008. RGOB, Thimphu

- RENEW (Respect Educate Nurture and Empower Women), established in 2004 and dedicated to the relief and empowerment of disadvantaged women and girls.
- The establishment of the National Commission for Women and Children (NCWC), in 2004 which will act as a national mechanism for coordinating and monitoring activities related to women and child rights, is one of the most important milestones in the advancement of Bhutanese women.

Recognizing the importance of women as equal development partners, Bhutan also has joined the global community by ratifying the CEDAW in 1981; the SAARC Convention on Preventing and Combating Trafficking of Women and Children for Prostitution in 2003 and the SAARC Code for the Protection of Breastfeeding and Young Child Nutrition. These institutions and mechanisms, although at infancy have helped sensitizing and highlighting important issues. Increased coordination and cooperation among these organizations and other key stakeholders in the government, is crucial.

2.5 National Policies and Legislation

Important national policies and legislations that are relevant to the study were reviewed. The literature review findings in conjunction with other data collection helped assess the gender gaps in explicit or implicit forms which are barriers or led to inequality and discrimination against women.

Public Policies

The Bhutan Vision 2020 launched in 1999 sets the vision for Bhutan towards peace, prosperity and happiness, and takes an “inclusive” development approach, stating that *“the development of our society has traditionally been an inclusive process. Our rural community made full use of the knowledge and skills of all members of society, including the functionally illiterate and the elderly. They were societies without discrimination. The inferior position occupied by women in many countries was unknown in Bhutan. Women have always held the same rights as men and under our inheritance laws, they enjoy the same entitlements as male heirs, and in some parts of the nation it is customary to favour female succession in land. Unlike many countries, no shame is attached to the dissolution of marital status, and a one-parent mother seldom fears social stigma”*²².

Drawing from the philosophy of GNH, public policies and programs adopted remain gender neutral in general, providing equal opportunity to both females and males. Similarly, gender-neutral provision is enshrined in the country’s supreme law - the Constitution of the Kingdom of Bhutan, adopted in 2008 by the first democratically elected Parliament and the national legislations. It states that *“all persons are entitled to equal and effective protection of the law and shall not be discriminated against on the grounds of race, sex, language, religion, politics or other status”* (Article 7 – Fundamental Rights). The Constitution also has a provision to take appropriate measures *“to eliminate all forms of discrimination and exploitation against women including trafficking, prostitution, abuse, violence, harassment and intimidation at work in both public and private spheres”*, therefore, granting every woman the legal support and protection to live without fear of exploitation, be that economic, cultural or religious²³.

National Legislations

Recognizing the importance of gender representation in promoting good governance and political participation, beside the traditional laws, the government has maintained gender

²² Bhutan 2020: A Vision for Peace, Prosperity and Happiness, 1999, Planning Commission. RGOB, Thimphu

²³ The Constitution of the Kingdom of Bhutan, 2008



neutrality in the new legislations such as the Election Bill, Local Governance Act, etc. The following are some of the important legislations that have an impact on women. Some of them were amended more than once to enhance the relatively equal status of women and also to prevent and eliminate any discrimination, violence and exploitation, amongst other changes (Relevant sections of the Acts are given in **Appendix 4**).

The Marriage Act, 1980 (amended selected sections in 1996) - marriage is central to a woman’s life. In order to ensure full gender equality in terms of rights and claims, two sections were repealed and six were amended in 1996.

Bhutan Citizenship Acts (1958, 1977 and 1985) - the citizenship Act of Bhutan was first enacted in 1958, called the “Nationality Law of Bhutan, 1958, and later amended and known as the “Bhutan Citizen Act, 1977”. Taking a conservative approach to preserve the sovereignty of the country and safeguarding the peace and well being of the people, it had a distinct discriminatory provision in the acquisition and deprivation of a citizenship, pertaining to the marriage of a Bhutanese to a non-Bhutanese and neutralization of their children. According to this, *“a person can become a Bhutanese National if his/ her father is a Bhutanese national and is a resident of the kingdom of Bhutan; or if any person is born within or outside Bhutan after the commencement of this law provided the father is a Bhutanese national at time of his/ her birth”*²⁴. This provision has been amended in Bhutan Citizenship Acts 1985.

The Inheritance Act (1980) - the Act provides equal rights and entitlements as well as poses equal restrictions in inheriting, dividing and in transacting the inherited properties to both female and male members of a joint family as defined in the Act. Since the traditional inheritance practices are still prevalent, the law has incorporated the parents’ discretionary authority on the proportion of shares to be given to the individual female and male members of the joint family; the decision thus becoming a legal basis of the division of inherited properties. The law recognizes both /either mother or father as the “Parent”. The traditional inheritance practice varies with geographical. The variation found during the study is indicated below (which may not represent the entire country):

Figure 7: Inheritance variations in Bhutan

Inheritance	Region	Dzongkhag
Matrilineal	Western	Wangdi, Paro, Punakha, Haa, Thimphu
	Central	Trongsa (Tangsibji, Nubi), Bumthang
	Eastern	Mongar (Chaskhar, Mongar, Ngatsang, Drepong, Chali) Tashugang (Radi, Kheling, Bidung,Bartsam) Lhuntse (Gangzur)
Patriarchal	Eastern	Mongar Trashigang (Thirmshing, Kangpara, Uzorong) Tashigangtse, Lhuntse, Samtse, Tsirang, and Chukkha
Mix		Gasa, Zhemgang

The Land Act (1985) – the Act was amended in 2007 with the aim to manage, regulate and administer the ownership and use of land for socio-economic development and environmental well being through efficient and effective land administration, security of land tenure, equal opportunity to land, and facilitation of effective land resources. The Act has no gender distinction and provides equal rights to both women and men in the registration of land, ownership and on sale/purchase.

²⁴ The Bhutan Citizenship Act, 1977, Ministry of Home and Cultural Affairs, RGOB, Thimphu

Penal Code of Bhutan (2004) - amongst others, the Penal Code addresses many of the offences related to woman such as: Homicide (abortion and trafficking); Assault and battery (assault, battery); Sexual offence (rape, rape of married person, statutory rape, rape of child above 12 years, rape of pregnant woman, gang rape, child molestation, sexual harassment, Incest; and Prostitution (promotion, and patronizing of prostitution). The provisions give fair protection to women.

Abortion is illegal in Bhutan which is viewed as restricting women's freedom of choice especially in case of impregnation resulting from rape and congenital deformities of the fetus. Moreover, not having the legal provision in the country, the "underground abortion" taking place outside Bhutan is resulting in serious health complications for women, mostly young girls.

With regard to rape of a minor (under 12 years of age), the sentence ranging from 9 years to 15 years, was indicated by the participants of the study to be less stringent. The contributing factors are yet to be analyzed with regard to increasing number of minor rape. As per the recent report in Kuensel dated 31, December 2008, "of the 28 victims in Thimphu in 2008, 8 were minors below 18 years".

The Civil and Criminal Procedure Code of Bhutan, 2001 – like any other law, it also upholds equal justice under its statement "*all person are equal before the law and are entitled to equal and effective protection of the law without discrimination on the ground of race, colour, sex, language, religion, politically or other opinion, national or social origin, property or birth or other status*"²⁵.

Labour and Employment Act of Bhutan, 2007 - the Act governs all labour and employment matters, except the armed forces in the country. It has provisions for protections and prohibitions against any forms of discrimination relating to labour and employment. Beside, equal access to opportunity, job market, and wages, there are also provision to ensure conducive working environment for women such as sexual harassment protocol, flexible working hours for pregnant and nursing women.

The gender-neutrality on laws and policies is one step ahead in ensuring equality. But it cannot serve the different need and interest of a heterogeneous society: the disabled, the elderly, the children, the women, etc. Thus, despite claiming to have equal rights and opportunities, a bigger question on gender equality remains, as statistics indicate that Bhutanese women are still far behind in almost all the sectors at the higher decision making positions.

Today, globally, there is an increased attention to the centrality of women in development. Thus even in Bhutan, the government has proactively recognized woman's integral participation in development which are supported by the allocation of women specific resources in the 10th five year plan and establishing a national level institution, the National Commission for Women and Children (NCWC) for coordinating women related activities.

²⁵ The Royal Court of Justice. The Civil & Criminal Procedure Code of Bhutan, 2001. RGOB, Thimphu.

3. STUDY OBJECTIVES, METHODOLOGY & ANALYSIS

3.1 Rationale for Gender Study

There are no nationwide baseline study on gender, except for the Gender Pilot Study (2001) carried out as a joint initiative of the Royal Government (Planning Commission & Central Statistical Office) and the UN Agencies (UNDP, UNICEF & WFP, Bhutan Country Office). The Study, although had limited sample representation and respondents, highlighted important trends and areas of gender gap which required further detailed study and analysis. One of the key recommendations of the study was a baseline study and micro studies on thematic areas such as the impact of economic changes and socio-cultural dynamics on gender²⁶.

Nevertheless, there are number of sectoral reports with gender information generated by different organizations, indicating visible disparities in many important fields of development:

- Low participation of women in decision-making positions (Judiciary, Executive, Parliament, and Local Governance).
- High unemployment rate for female (overall: 3.4% for female against 1.9% male; and urban: 4.3% for female against 1.1% for male).
- Low participation in economic activities.
- Low enrolment of female in tertiary education which indicates higher dropout rate of females after completion of secondary education.
- Low enrollment in technical and professional fields.

Therefore the overall objective of the study was to identify barriers impeding advancement of women through quantitative and qualitative data analysis related to the existing, reported and perceived gender inequality, affecting participation of women in governance, particularly at the decision making level. Moreover, one of the major findings of the pilot study (2001) was the high prevalence of existing discriminatory traditions, societal perception and attitudes toward women. Thus the study analyzed these influences over the emerging gender gaps, with the following assumptions:

- Beside the gaps in number, gender analysis also considered other aspects of human relationship and gender interactions.
- The approach strived to work against the social trends of family disintegration or nuclearisation.
- Efforts were made to recognize and promote existing values in institution of families and communities where, there is mutual understanding, respect and care between women and men, fostering harmony in the society – befitting our vision of a happy nation. Moreover, one of the priority recommendations of the Gender Pilot Study (2001) was stated as “not construing gender as forwarding the interest of women at the cost of men, creating a divide between men and women, and tearing the social fabric of the society”.
- Lastly, the study recognized the fact that women are physically weaker and sexually more vulnerable than men – a reality in our Bhutanese society as well.

²⁶ Planning Commission (2001). Gender Pilot Study: Report, Bhutan, 2001. RGOB, Thimphu.

3.2 Overall Objective

The overall objective of the study was to gather quantitative and qualitative information related to the existing, reported and perceived gender inequality, affecting participation of women in governance, particularly at the decision making level.

3.3 Specific Objectives

The specific objectives were:

- To document existing religious, traditional, societal and cultural perception toward women in various spheres of life.
- To identify obstacles to women's equal and meaningful participation in decision making process.
- To assess the adequacy of the work environment, institutional and legal framework effecting women's active participation and representation, especially in political and professional fields.

3.4 Methodology

The study adopted cross sectional design with both qualitative and quantitative data collection methodology with periodic consultative and thematic analysis. The study utilized logical approach to identify a set of common norms/ judgments concerning existing position of women (gender stereotype) in all legal frameworks, programs, politics, governance, culturally, societal, and religious spheres. The second step explored beyond the views and perceptions of gender stereotyping to understand the way people conceived or behaved towards gender issues. The combinations of the two yielded the following framework:

- Bhutanese position on gender (politically, socially, and culturally)
- Reasons for formation and retention of such views.
- Concrete bases for Policy recommendations

3.4.1 Brief Logical steps taken to conduct the study:

Step 1: Discussed the scope of the study and expected output with the NCWC steering committee.

Step 2: Piloting of the questionnaires.

Both qualitative and quantitative instruments were pre tested in Thimphu, during which steering committee members were also given opportunity to participate. The piloting of the instrument followed all the guidelines described in the methodology section. Verbal consents were obtained from all participation for recording and participation in the discussion.

Step 3: Field work.

With completion of the questionnaires, team of researchers was assigned for administration of fieldwork: structured interview, in-depth interview and focus group discussion. FGD was conducted in two tier manners: One at the target population level and other at the district stake holders.

3.4.2 Sampling

The target group for the study was identified as anyone above the 18 years with more focus on women in all of the randomly selected regions. The study used "Purposeful Sampling with

Maximum Variation”. The sampling factors were defined, taking into consideration practicality, economics, ethical, and technical feasibility so as to obtain a timely and productive outcomes. Following are list of key factors considered for the composition within each region: Gender; Age (above 18); Education level and Field of Work.

a. Sampling method:

For the quantitative section we used “convenience sampling”. As for the selection of participation in the qualitative section we used “Purposeful Sampling with Maximum Variation”, where all the above mentioned factors were considered in each region. The main justification for using a sampling design was: To ensure that particular groups within the population are adequately represented in the sample; and to improve efficacy by gaining better control of the sample composition.

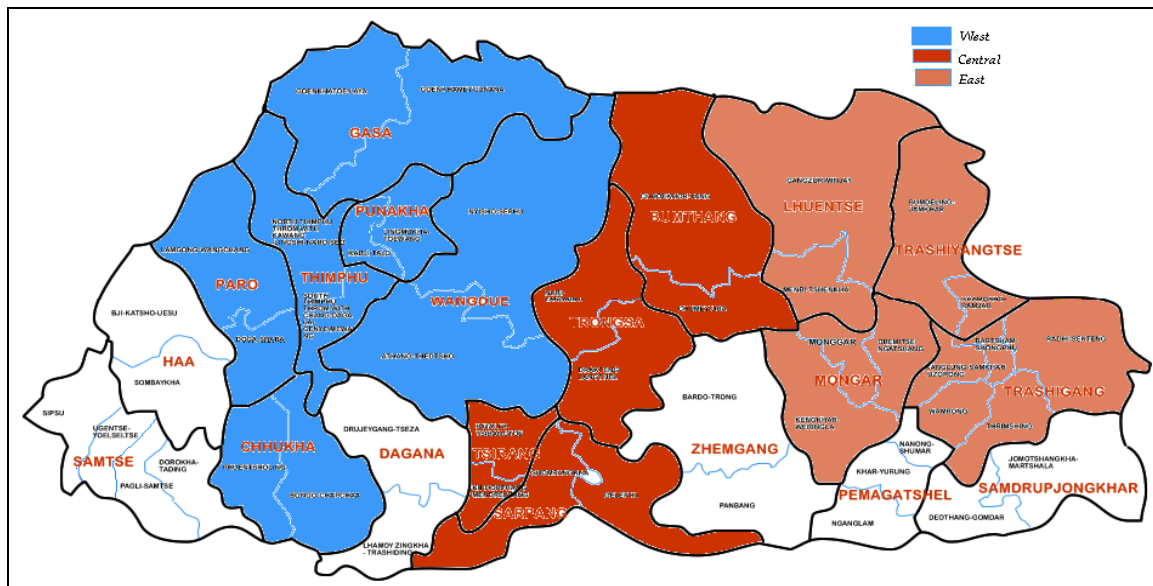
b. Sample size:

In case of qualitative study, the sample size was determined by information redundancy or theoretical saturation. The main objective of the sampling size was to obtain adequate representation from all spectrums to ensure a full unbiased theoretical base. Randomization was introduced where/when possible for accurate validity. However, for practical purpose, minimum of 5 participants for individual interviews and between 7-10 participants for focus group discussion were allocated. As for the FGD, the general location and all predefined requirements were taken into consideration for informative and productive discussion.

3.4.3 Study Site

Study site was divided into three major regions, namely; west, central and east. From each region, districts were randomly selected for study.

Figure 8: Study site



In total 14 districts out of 20 districts were selected which gave an overall coverage of 70% with 75%, 67%, and 67% in west, central and east respectively.

Figure 9: Study Site Distribution

REGIONAL DISTRIBUTION			
	WEST	CENTRAL	EAST
Names	Thimphu	Trongsa	Trashigang
	Gasa	Bumthang	Tashiyangtse
	Wangdue	Tsirang	Lhuntse
	Paro	Sarpang	Mongar
	Chukkha	Dagana	Pemagatshel
	Punakha	Zhemgang	Samdrup Jongkhar
	Samtse		
	Haa		
Total Dzongkhags	8	6	6
Study site	6	4	4
Coverage (%)	75%	67%	67%

Within each district, *gewogs* were randomly selected for the study. At the gewog level, with the assistance from the *gups* and *mangmis*, FDG and in-depth interviews with key informants were conducted.

3.4.4 Data collection

Data was collected during November – December, 2008 in all regions that were selected during the randomisation. All the participants were informed about the objective of the study and a verbal consent was obtained. The participants were also assured anonymity and no individual identifiers were noted. All interviews and FGD were documented for analysis. Voice recording and filming was not considered due to reservations expressed by the participants.

Survey instruments used for data collection:

1. Literature review: A thorough review of all published and unpublished reports, articles, official documents, policy documents, national statistics, newspapers, relevant laws and all other related literature was undertaken to understand and assess gender gaps and barriers for inequality and possibilities of discrimination against women. In addition, reference was also made to various international and regional treaties/conventions and reports to obtain global gender perspective. The findings of the literature review provided the initial framework for the other means of data collection such as in-depth interviews, observations, FGD, and consultations with the stakeholders.

2. In-depth Interviews: A verbal discourse whereby the participant provided information through verbal interchange or conversation. The study used three types of interviews (structured, Semi-structured and open ended) with the main focus on semi-structured opened ended interviews. The list of the organizations, where key informants were interviewed is attached in *Appendix 2.*

3. Survey Questionnaires: Closed ended survey questionnaires were also distributed through gender focal persons in ministries and departments (Appendix 2 – Survey instrument). In total, 541 survey questionnaires were collected with representation from 75% of the regions.

4. Focus Group Discussions: A formal group discussion on a topic of interest was conducted. The same guidelines for individual interviews were applied with continuous monitoring of group dynamics. In total 99 FDG were conducted, covering 660 participants with an average time of 2

hours 30 minutes per discussion.

Figure 10: Number of FGD and Gender of Participants

Region	Dzongkhag	# FGD	Total	Male	Female
West	Thimphu	8	41	24	17
	Paro	8	51	15	36
	Punakha	6	40	17	23
	Gasa	6	39	14	25
	Wangdi	8	57	20	37
Central	Chukha	7	47	16	31
	Sarpang	8	54	19	35
	Tsirang	6	39	12	27
	Bumthang	8	52	20	32
East	Trongsa	6	51	9	42
	Trashigang	8	62	25	37
	T/yangtse	5	38	14	24
	Lhuntse	7	40	20	20
Total	Mongar	8	49	12	37
		99	660	237	423
Percentage			36	64	

3.4.5 Data Analysis

Qualitative data was reviewed and categorised into socio-cultural and economic dimensions as mentioned in the key finding section. As for the quantitative data, every survey received was double-checked for human error. All the information collected was then entered into an Excel database designed specifically for this project, and subsequently imported into SAS software for further analysis.

For the demographic section, frequency of gender, age category, and marital status was generated along with field of work, educational background for the whole study population. For the various question relating to discrimination and stereotypes, frequencies and percentages were obtained followed by comparative analysis among the regions. Categorical variables with YES/NO/Not Sure (question# 6 – 21) were assigned numeric value 1, 2 and 3 respectively. A PROC FREQ was used to obtain frequencies and percentages for all categorical variables. After the generation of frequencies and percentages, a comparison was made to identify any geographic and gender variation.

3.5 Ethical Concerns

Prior to starting the study, the study design was approved by the National Statistic Bureau (NSB), Thimphu. In the field, individuals interested in participating in the study were briefed on the objective of the study and the utilization of the data. All the participants were ensured that the information collected will be confidential and will not be used for any other purposes.

In case of survey administration, the participants were given the option to “self administration” or “surveyor administration”. In the case of “surveyor administration”, the questions were translated (verbally) in the local languages.

Participation in the FGD and interview was voluntary. For all the study tools, participants could choose not to answer any individual question or the entire survey or discussion. If for any reason, the participants did not want to continue with the study, the researchers respected the “will” of



the participant, and destroyed all documented information pertaining to the discussion. Lastly, the researchers, both being females followed strictly a set of objective guidelines for conducting the surveys and discussion in order to remove any biases in the findings. Throughout the study, the researchers maintained general politeness, openness and frankness; proper briefing on the purpose of the interviews and discussions; seeking verbal consents; and providing opportunity for questions.

3.6 Limitations

a. Study Design

The design of the study had following limitation. Firstly, the use of convenience sample in case of survey questionnaires limits the generalization of the findings to more diverse populations. Secondly the cross-sectional design limits the investigation of any interference of causality. Lastly not all causes of discriminations were explored due to time and resource constrains.

b. Survey Instrument

Considering the time constrain, the survey instrument had to be manageable, thus by the virtue of being a “short survey”, there were no follow up questions or opportunities to provide justification for the choice of answer. Due to the lack of details such as schooling year, and job responsibilities for the educational background and field of work question, there was a gap in understanding the impact of education on knowledge, behavior and attitude towards women.

Although, it would have been beneficial to examine the impact of educational background on perception of cultural biases, the design of the survey instrument did not allow examination of this causality or correlation.

c. Focus Group Discussion

Although there was randomization at the gewog level, from the logistic and coordination point of view, household randomization was not feasible. The utilisation of local leaders in coordinating the focus group discussion may have created selection biases to some extent.



4. KEY FINDINGS

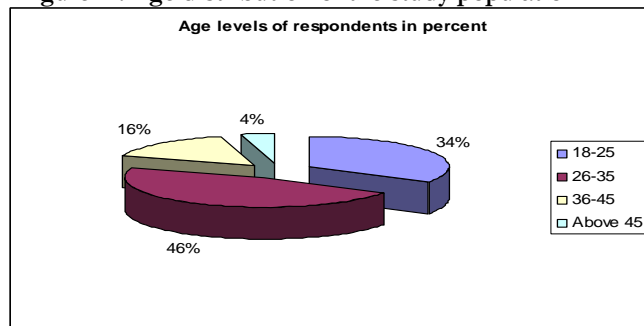
4.1 Demographic Information of the Sample Population

In total 660 individuals participated in 99 focus group discussions with 237 male and 423 female which represented 36% and 64% respectively. The age of the participants in the FGD ranged from 23 – 65 among adults in rural areas and 25 – 56 in urban areas. For the FGD in high schools, the age ranged from 15 -18 years and 19 – 24 in tertiary institutes.

For the quantitative section, there were 541 respondents to the survey questionnaires, with representation from 75% of the regions. There were 246 male and 295 female respondents with 45% and 55% representation respectively.

The total study population had the following age distribution; 46% were between the ages of 26-35years, followed by 34 % in the 18-25 category, 16% in the 36-45 category and only 4 % in the +45 category.

Figure 11: Age distribution of the study population

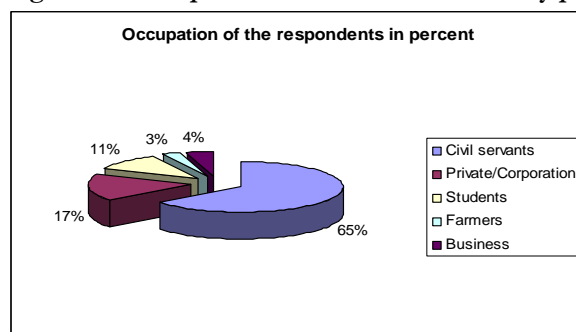


Majority of the people surveyed identified themselves as having undergone western education (93.5%), and only 5.5% identified as having had no educational background and only 0.6 % of the population had non-formal educational background. Monastic educational background consisted of only of 0.36%.

Figure 12: Educational background of the study population

Type of Education	Percent
Western	93.50%
Monastic	0.36%
Non-formal	0.60%
No education	5.50%

Figure 13: Occupation distribution of the study population



In the total sample, civil servants constituted 64%, followed by private/corporation at 17%, students at 11%, individual business persons at 4.2%, and farmers at 3%. The rest were non respondents.

Of the total, 53% of the respondents were married followed by 43% single and 4% divorced with only 0.02% widowed. There were no significant demographic variations

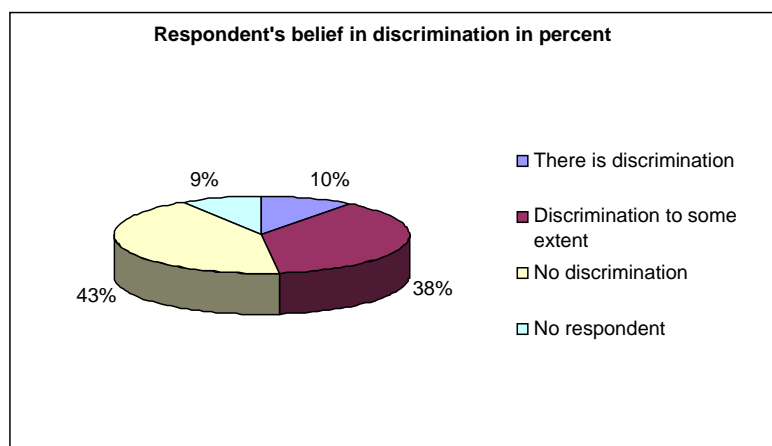
within the regions.



4.2 Belief and Awareness on Discrimination

Of the 541 survey respondents, 43% believed that there is no discrimination against women in Bhutan, with 10% stating otherwise.

Figure 14: Respondents belief in discrimination



On the other hand, 38% believed that there is discrimination to some extent. Of the 38% stating “discrimination to some extent”, 56% are female. For this question, there was a 9% “non respondent”.

The study explored the respondent’s view on discrimination in government policies, laws and opportunities. 70% of

the respondents stated that government policies and the legal system consider men and women equal with only 14% stating otherwise. 16% of the respondents were not aware of the gender neutral laws and policies.

With regard to opportunities, 73% of the respondents stated that there are equal opportunities for both men and women, with 17% disagreeing and 10% stating not sure. Although participants expressed appreciation for gender neutral laws and policies, the discussion highlighted concerns with regard to implementation such as the requirement of father’s national identification card for availing social services especially for school admission. This was a major concern raised by all the participants and suggested a procedural change to accommodate single mother’s difficulties.

4.3 Socio-cultural Dimension

4.3.1 Religion and Gender relations

In order to gain insight into the current position of women in Bhutanese society, we highlighted practices in early Buddhism. During the life of the Buddha, many monastic schools flourished: the period was characterized by a greater degree of freedom and reverence for women. In case of women wanting to join the monastic schools, they were subjected to same ceremonial regulation and other disciplinary measures²⁷. However after the death of Buddha the upward mobility of women diminished and through time the scales began to tip in favor of men. For instance, the Buddhist texts after Buddha were all written by male *lamas*. The embodiment of god was exclusively for men, thus the very reason why there are very few female *lams* and *trulkaus*. There are few female saints in Bhutanese society and according to Bhutanese writer Aum Kunzang Choden, “Bhutanese women drew their inspiration and guidance from the exemplary lives of well known Buddhist women such as Khandro Yeshe Tshogyel, Ashi Nangse and Gelongma Palmo”²⁸.

Thus, the study explored the most common traditional beliefs perceived to be originated from

²⁷ Horner, I.B. Women under Primitive Buddhism. Motilal Banarsidass Publishers, Gender Study Delhi. 1989.

²⁸ Choden, K. Women in the city, in the mountain fortress of the gods. London: Serindia. 1997.

Buddhism in Bhutan.

Figure 15: Religious beliefs of the study population

Beliefs	Yes	No	Not Sure
Believe in <i>kerab gu</i>	39	38	28
Women should be allowed to enter <i>goenkhang</i>	27	47	26
Pray to be born as a man in next life	65	24	11

With regard to Bhutanese belief in *kerub gu*, 39% of the respondents indicated their belief in it, with 33% indicating otherwise and 28% indicating not sure.

Contrary to the survey findings, 75% of the participants during FGD indicated the “religious” saying “*kerab gu*”, as one of the main bases for gender differential societal status such as giving preference to man while serving food, sitting, cultural rites etc. The belief, owing to its origin from Buddhism, is still deeply rooted in Bhutanese culture, especially with the rural population. However, many said that it is changing with education.

On the other hand 47% indicated that women should not be allowed to visit *goenkhang* with only 27% indicating that women should be allowed. Even during the FGD, majority of the participants did not view, not having access to *goenkhang* as discrimination, but rather respected it as a religious norm and cultural practice. When asked if given the opportunity, they would enter the *goenkhang*, 97% of the participants said that they would not take the opportunity.

Even with 94% of the study population having undergone modern education, 65% indicated a desire to be born as a man in their next life compared to only 24%, stating otherwise. The survey findings were further confirmed during the FGD where 95% of the female participants in the rural areas expressed their desire to be born as man in the next life to achieve what they called an “embodiment of lesser suffering body”.

About 90% of the participants (both male and female) during the study agreed with the belief that women are biologically inferior, thus providing men with a higher platform in the society, both culturally and religiously. The “biological inferiority” has resulted in negative cultural biases and beliefs, impacting on the social, cultural and psychological wellbeing of a woman.

Although, there are no references in any of the Buddhist texts or manuscripts of “biological inferiority” according to the senior lams of the Zhung *Dratshang*, women’s bodies have been exclusively associated with procreation and impurity, and the belief of biological inferiority is strong in Bhutanese culture.

In the rural areas, both male and female participants viewed the female body form as “impure” and associated biological realities as suffering, thus considered inferior to men. The most common phrase that came up in all the discussions was “*drib*”, meaning “impurity” originally associated with women’s menstrual and reproduction cycle. But to the layman it has become synonymous with being inferior. This is also one of the main reasons for not allowing women to enter the *goenkhang*.

Another phrase used was *morem* with major negative bearing on women’s physical, social, emotional and cultural empowerment. All female participants indicated that the phrase *morem* has a strong negative connotation that when called, they feel “less human”.

The in-depth interview with religious personnel from *Dratshang* and individual practitioners indicated that the core doctrine of Buddhism attaches no sex differentiation. According to the



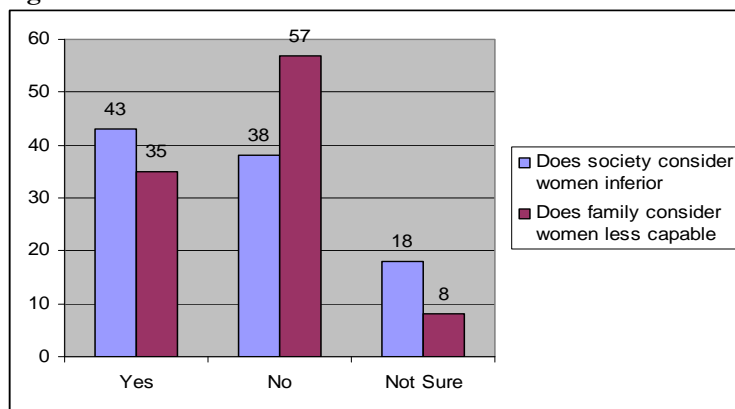
religious doctrines, Buddhahood can be attained by anyone regardless of sexual orientation. Moreover, Buddhism considers interdependency and interconnectedness of female and male as *thab dang sherub* – signifying unity and coexistence. Thus, the beliefs and sayings of *kerab gu*, *drib* and *morem* relegating women an inferior position, were said to have no known source to prove their religious origin.

The difference between the regions was also not statistically significant (p-value of .09).

4.3.2 Cultural and Traditional Perception

Being predominantly a Buddhist society, there was a strong presence of age old cultural and traditional values embedded in the fabric of Bhutanese society. Although the origins of such values are undocumented, the study suggested a varying degree of cultural biases with regard to gender that led to women being considered inferior to men.

Figure 16: Cultural attitude towards women



43% of the study respondents indicated that Bhutanese culture considers women inferior to men followed by 38% stating otherwise with only 18% indicating “Not sure” as the answer, with 1% non respondent. In case of family considering women incapable, 57% said “No” with 35% stating “Yes” and 8% stating “Not sure”.

During the study, the participants cited a number of proverbs that directly or indirectly considered men superior to women. The following are list of some of the proverbs that were commonly mentioned during the discussions and interviews:

- “*Pbo zshen ru bjinmi; mo drak ru lenmi*” (No matter how incompetent a man, he is always the provider, no matter how competent a woman, she is always a receiver)
- “*Kep pbo lue thob chu, dam pai choe dang je chu*” (May I be born as a man, may I get the opportunity to practice Dharma)
- “*Lang jatsba awa lam ta yang tang; lam wo yang tang*” (oxen can excrete above or below the road – indicating a man’s sexual liberty)
- “*Dra rangi lue lu*” (the enemy is within your own body – indicating “motherhood” as a barrier)
- “*Mo juma yug sa pbo thoen wong*” (If a woman wags her tail, the man will follow, indicating women as initiators of problems)
- “*Kep ja thruel tong thruel; zamo chig thruel nyi thruel*” (Men are allowed to make mistakes in thousands, but for women even one or two are unacceptable – indicating the higher level of tolerance for man’s misconduct).



Beside the perceived and implied inferiority, the participants also highlighted the visible “symbol” of the man’s superiority such as the painting of phallus on the houses for protection and the critical role of phallus during the consecrations of new house.

Picture 1: Painting of phallus on the wall of a house



4.3.3 Gender roles within the society

Although there are no defined roles, there are “societal expected” roles for both the genders. Like many neighboring societies, the father is expected to be the main provider of the family and unquestionably the responsibilities of the household is the domain of the mother. In Bhutanese society, the family being the foundation with regard to values and expected behavior, plays an important support network – standing by each other through good and bad times. All the participants claimed that women are the glue that holds the household together.

In the rural areas, within the household, there is an “expected” division of labor. Although there is no gender specific taboos associated with work (inside and outside), women are expected to do majority of the household chores such as washing, child care, cooking, cleaning, and grocery shopping, and hence making the household her main domain. In rural areas, the lady of the house, commonly referred to as *nangi aum*, is responsible for most of the interaction and transaction and decision making related to household activities. Man, on the other hand, being the provider (in economic term) in most cases is considered the head of the household and thus major decision are made by him or with his consent.

In urban areas, the nuclear families are more prevalent with both partners working and contributing economically to the household. In such a setting the “expected” division of labor is more fluid and major decisions are made jointly. Compared to other Asian countries, gender roles are more relaxed and changing.

However there are pockets of communities in Sarpang, Tsirang and Chhukha that still follow stringent traditional gender roles. During the in-depth interviews and FGD, many participants indicated the prevalence of traditional gender roles, for example, a man will not enter the kitchen, let alone do any cooking and washing. Furthermore, few of the key informants in these regions mentioned that during the time of menstruation, girls are forbidden to enter the kitchen and the shrine room. During the discussion, girls expressed that such practices are discriminatory and undermines woman’s wellbeing.

Similarly, key informants and all participants in Wangdi, Paro and Trongsa said handling and carrying *lue* is exclusively allocated to women. In these regions, for a man to carry *lue*, is considered unimaginable and unacceptable. Although this tradition is prevalent only in few regions, it has enormous bearing on how society views women. This could be one of the bases for correlating women being inferior and impure.

During the in-depth interviews and the FGD in the rural areas, when asked why there are no female *gups*, most replied that women are less confident and lack peer support in the village. Moreover, Bhutan being an agrarian society, due to the requirement of the physical stamina, men did the “outside work” that provided opportunities to interact and build comprehensive social networks. Women, on the other hand were expected to do the “inside work” thus limiting her exposure to the world. Traditionally, the mobility of the women is limited due to household responsibility and men undertook all tasks that required traveling which led to men being the “face of the family”.

Such gender stereotyping was explicit during discussions, regardless of the geographical location. To further examine this, a scenario based discussion regarding the household chores was conducted during which participants were asked:

“who do you give more work during school breaks – son or daughter?”



Irrespective of education (literate or illiterate) or place of residency (urban or rural), majority of the participants unanimously said “*daughter*” with the justification that daughters will have to be the “homemaker”.

Therefore, even though there are no stringent gender roles in Bhutan, women still take household responsibilities exclusively regardless of economic or social empowerment because of societal expectation as well as women’s self-imposed cultural values. Nevertheless, majority of the participants during the FGD and in-depth interviews agreed that with the attainment of education, women are now increasingly taking up productive responsibilities.

Both urban and rural women suggested that the “times are changing” and there are more men doing household chores and proactively participating in child rearing. Overall the trend they indicated is moving toward a very fluid society due to education.

4.3.4 Code of Conduct

Code of conduct is the practices and expression of values that are appropriate and accepted in a particular society that are part of everyday life²⁹. Like in many cultures, Bhutanese values and codes of conduct are based on ancient traditional and religious values. In Bhutan, the general accepted social conduct is guided by *driglam namzha*, *tha damtshig* and *le jundre*, shaped by the Buddhist culture and wisdom. The codes not only include an individual’s relationship with the natural world for the promotion of harmony and respect, but compassion for every sentient being as well.

The concept of *tha damtshig* and *le jundre* was found to be central to Bhutanese social interaction. The entire concept is outlined as the sacred commitment to one another – pairing of duty and obligation between parent and children; teacher and pupil; husband and wife; employee and employer and state and people, thus encompassing all spheres of social interaction. Although these values are highly revered and considered gender neutral, there are different degree of consequences and acceptance by the society in case of violation of the code of conduct as indicated by the saying “*kep ja thruel tong thruel; zamo chig thruel nyi thruel*”. Majority of the participants both male and female agreed that society is less forgiving if the violation is committed by the women versus the men. Moreover, in case of a married couple, there is a higher degree of societal and family expectation for women to uphold the value of *tha damtshig*.

Resulting from higher societal and family expectation and stringent code of conduct, movement of girls outside the house is limited.

During an interview with an 18-year old girl in Lhuentse, she said:

“Although I want to go out and play with my friends, my parents think that I am looking for trouble (...meaning flirting with boyfriends). They give long lectures on getting pregnant; it is like they don’t trust me. My brother on the other hand has much more freedom than I do.”

When asked for justification with regard to parents’ reaction, biological vulnerability was indicated as the main reason. As stated by a mother in Wangdi,

“Boys, they will move on, and as a girl, she has to carry that fetus and go through all trials. The girl will be the one who has to make all the sacrifices.”

²⁹ Cauquelin et al. Asian values encounter with diversity. Richmond: Curzon press. 2000.

During the FGD, most of the participants indicated that Bhutanese society is much more forgiving in case of men committing adultery. Most women agreed and accepted the societal liberal treatment for men because men don't bear the brunt of consequences. In general, women are very tolerant as one married women said

“We just can't think about us, we have to think about the child and our family, after all there are more people involved in the relation than just two of us”.

Given the increasing incidence of domestic violence reported by the media and NCWC, the study also examined the various reasons for tolerance and causes of abuse. During the discussion, participants both in the rural and urban areas cited the following as reasons and causes of abuse - physical and emotional:

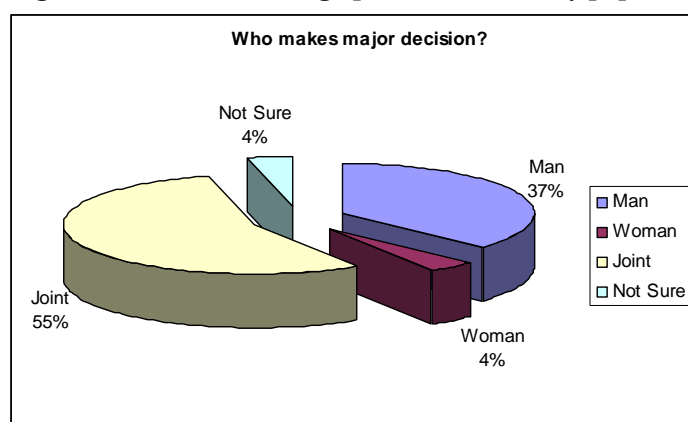
- Infidelity
- Alcohol
- Mobile phones (the misunderstanding caused due to “missed calls”)
- Lack of family support
- Lack of self confidence
- Family pressure to stay together
- Societal expectations of gender roles

Further, majority of the participants cited education and economic empowerment as the key determinant for curbing violence against women.

4.3.5 Decision-making model

In case of decision making “power” there was no strong “domination” of female or male.

Figure 17: Decision making “power” of the study population.



55% of the survey respondents indicated that the major decisions in the family are made jointly. While 37% indicated men as the major decision maker, only 4% indicated women as the major decision maker.

Participants in the study stated that the process of decision making is complex and hard to classify based purely on gender. According to the participants, following are the list of

factors that influence decision making process:

- Family background
- Economic Background
- Regional (Urban vs rural)
- Level of education
- Capabilities and skills of both the party involved

- Traditional inheritance practices (*num* vs *mup*)

According to participants during the FGD in the rural areas, women are regarded as the custodian and controller of the household, thus any decision pertaining to the daily activities of the household are generally made by the lady of the house (could be the mother, elder daughter or *num*). In case of major decisions such as buying land, farm machineries, construction, farm animals etc, men are given the responsibility due to their relatively high interaction with the “outside” world.

The analysis of the study found that, the decision making to some degree was influenced by asset ownership. For example, if a woman moves in with her husband’s family as the *num*, her decision making “power” is limited compared to her husband moving in with her as the *mup*. In general, the arrangement of *num* and *mup* followed the inheritance patterns prevailing in different regions.

The study came across few extreme practices such as the one in lower Zhemgang where the “to-be groom” is required to serve the bride’s family till the approval is granted for the marriage. After the marriage is formalised, the bride moves in with the groom’s family, where she is subjected to the control of her husband’s family with limited rights and freedom of her own.

In the case of urban setting, where both the husband and the wife are working and contributing to the household, many participants during the discussions said that the decisions are generally made jointly.

4.3.6 Education and Gender Dynamics

The study indicated no discrimination in case of access to education as supported by 73% of the respondents stating that there are equal opportunities for both men and women.

The following concerns presented here are insights highlighted from three different perspectives, namely; students, parents and the school management regarding education and gender dynamics. As indicated in the literature review, beside the “pyramid phenomenon” regarding enrollment there are no visible gender discrimination in case of access to education. Many of the concerns expressed in the study were mostly due to the biological vulnerability, family protection and care for a girl child.

Students:

Majority of the students agreed that there is no gender discrimination in schools. Students in tertiary schools expressed concerns regarding conducive environment for travel and having limited “freedom of movement” within the campus, which was also a common concern to all students interviewed.

The female students interviewed expressed the following implications due to limited movement:

- Limits their access to sports facilities during leisure time
- Prevents formation of healthy social network
- Discourages open social interaction with friends (especially boys)
- Inhibits them the “outside school” exposure.

During the interview, students (both boys and girls) indicated that although there are equal opportunities for both girls and boys, girls in general shy away from the opportunities due to lack of confidence. Compared to boys, girls also lack peer support as one of the girls said

“I want to give a speech, but the boys say I am trying to show off and to make the matter worse, some of my own girl friends also think that I am trying to be smart”.

It was observed during discussions that girls from the urban areas were comparatively more vocal. Approximately 70% of the proactive participants in discussions had undergone education in one of the urban regions.

During discussions, majority of the students mentioned exposure and family upbringing to be the key factors for cultivating confidence. On the other hand, both male and female students also agreed that girls have relatively low aspiration in life and some expressed that girls work less hard and only aspire to marry and live a comfortable life.

Parents:

Regardless of geographic regions, all the parents interviewed both in FGD and in in-depth interviews agreed that education of both girls and boys are equally important. They also indicated that they have not experienced any gender discrimination from the management in case of enrollment and other facilities. But when presented with following scenario:

“You have two children – a boy and a girl, with equal capability and intellect. Unfortunately you can afford to send only one for higher education, which one will it be?”

Almost 90% of the parents interviewed chose the boy, and there was no regional variation in the answers. When asked why, following justifications were presented:

- Economic - Although girl’s education is important, boy’s education is more important because he has to bear the family responsibilities. Unlike the boy, once she is married, she generally does not have to shoulder the economic burden of the family.
- Cultural values - The Bhutanese culture today, regardless of modernisation, view the man as the provider of the family. Moreover, girls are generally compassionate and are better care givers, thus making them the home maker.
- Biological vulnerability – The parental care and protection of the girl to avoid sexual misconduct and related harassments and abuses, which are realities in any societies. The traditional perception and the saying “*“Dra rangi lue lu”*” is deeply ingrained.

The UNICEF report on the “Situation Analysis of Children and Women in Bhutan, 2006” has also identified the same reasons, leading to preference of boys over the girls in terms of education.

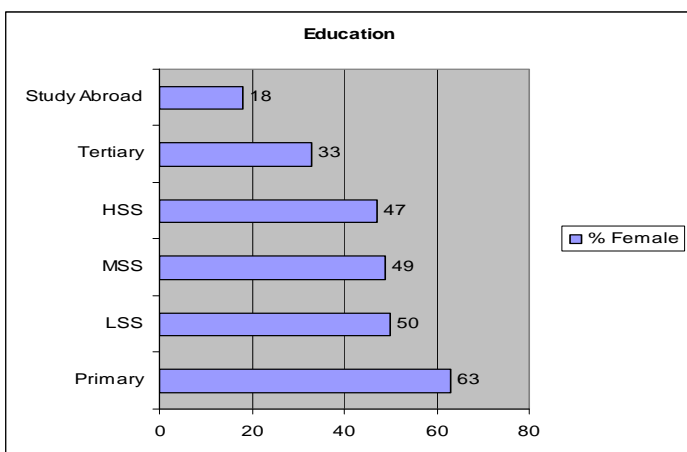
There was a general agreement that with modern education, the traditional roles of women and men are changing, especially among the urban population. But women take up a self imposed responsibility and is still burdened despite modern education and being the bread earner of the family.

Management:

Although there is no discrimination in enrollment, there are definitely visible disparity as indicated during the interviews and literature review.

As per the most recent statistics available³⁰, there is a gradual decrease in enrollment. Although there are equal percent of boys and girls till the higher secondary level, there is a significant drop in female enrollment from the tertiary level and study abroad.

Figure 18: Percentage enrollment at different level of schooling



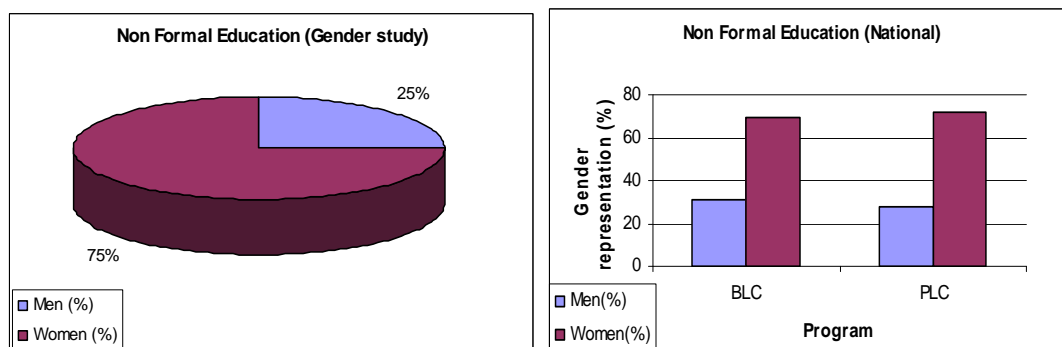
During the in depth interview with a senior official of the Ministry of Education, gender disparity in enrollment, particularly in higher education level was indicated as a major concern. Although there are no current strategies to combat the issue, Ministry is currently conducting a study to understand the causes of disparity.

Some school managements also pointed out that one of the possible reasons could be the termination of

free education after high school that constrains the family from supporting private schooling. Like many countries, inability to provide education for many financially challenged families is a reality in Bhutan as well. In addition, in Bhutan it is culturally preferable for girls to stay home and help the family.

In rural areas, 30% of the FGD participants had attended non formal education. Of the total, 75% were women. Most of them expressed the benefits of such programs especially for women. This finding of the FGD is validated by the national statistics published by the Ministry of Education³¹.

Figure 19: Non-Formal Education participation by sex



4.4 Economic Dimension

4.4.1 Livelihood Activities

Agriculture is the primary economic activity in the rural areas with the other dominant activities being cattle rearing and weaving (women in eastern and central). In rural areas there are very limited opportunities to generate extra income beside agriculture. In majority of the homes, men were the primary providers. In rural areas there are culturally imposed roles and responsibilities

³⁰ Ministry of Education. General Statistic 2008. RGOB, Thimphu

³¹ Ministry of Education. General Statistic 2008. RGOB, Thimphu



between women and man in terms of work: Women by virtue of their physique and their biological functions are considered weak, thus subjected to majority of the reproductive activities.

Reproductive activities are defined as activities that do not generate direct income and normally conducted as social responsibilities –called “invisible work”. Productive activities, on the other hand are activities that generate income, where men are normally involved.

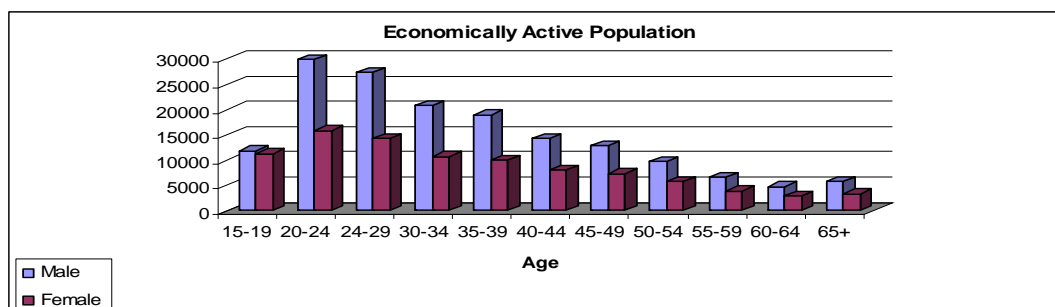
Although man is also a party to reproduction, in most cases the brunt of the burden is borne by the woman. Among the educated working women, the participants highlighted the impact of “dual burden” having to do both the productive and reproductive activities. In general, men also agreed that women bear a relatively higher share of the burden.

4.4.2 Access and Opportunity to Market

In depth interviews with officials of the Ministry of Economic Affairs indicated that both men and women have equal access and opportunity to participate in the free market. There are no gender biases regarding obtaining of trade licenses and business ownership.

However, literature review of the policies and labor force survey indicated the disparity in the number of economically active labor force at different age categories as shown in the chart.

Figure 20: Economically active population - Bhutan³²



During the FGD in both rural and urban areas, majority of the participants indicated economic independence as the key to women empowerment. Participants also implied the impact of economic dependency leading to domestic violence and abuse.

4.4.3 Property Inheritance

Although, the Inheritance Act (1980) is gender neutral and provides equal rights and entitlements, there are few geo-cultural variations as indicated in the table below. According to the law, regulations for inheritance, division and transaction of the inherited properties are equally applicable to both female and male members of the family. The reviews of the law pertaining to inheritance indicate no gender biases as long as the member fulfills the definition of “Joint family of the main house” as defined by the Act³³. However, the Act recognises and accepts the parents’ discretionary authority on the proportion of shares (major or minor) to be given to the individual family members³⁴.

³² Ministry of Labour & Human Resources. Labour Force Survey 2007. RGOB, Thimphu

³³ Inheritance Act, 1980, GA2-236. RGOB, Thimphu

³⁴ Inheritance Act, 1980, GA2-237. RGOB, Thimphu

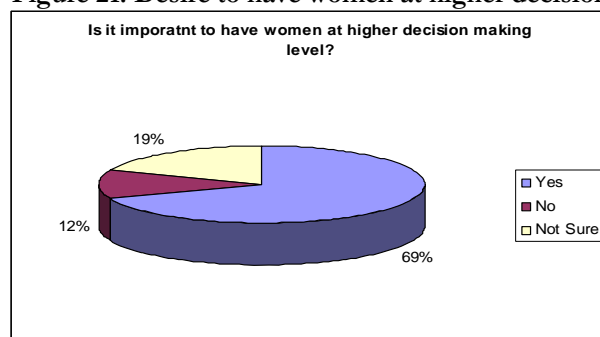


4.5 Women’s Participation in Governance

Good governance and gender are central to the attainment of sustainable development. Evidence increasingly demonstrates that gender balanced participation both quantitatively and qualitatively, in public decision making is positive, with different and better decisions being articulated, discussed and negotiated. This is because a wider range of issues and concerns are discussed and the priorities of the entire population taken into consideration³⁵.

The survey result for “the need to have women at higher decision making level”, showed support from the majority of respondents.

Figure 21: Desire to have women at higher decision making level



69% of the survey respondents felt that it is important to have women at the higher decision making level with only 12% stating “No”. This was supported by the finding that 80% of the respondents agreed that women are better at understanding women’s issues. Even with equal opportunity, 57% of the participants indicated a need for special privileges for women.

The analysis of the gender distribution indicated that 70% of the respondents for the question were women. More than half (54%) of the respondents indicated that sexual harassment is a problem in Bhutan with only 17% stating as “non problem”.

Women’s representation in civil service is rising gradually, as high as almost 30% on the average (refer Table 3D). However, women at the top decision making level is significantly very low. The following is the current (December 2008) level of women’s representation in the government at the top decision making:

Figure 22: Representation of women at top positions (December 2008)

Position	Female Representation
Minister	none (0%)
Parliament Member	NC - 5 (20%); NA - 4 (8.5%)
Secretary level	2 (1%)
Local government: Dzongda	none (0%)
Judiciary (Lawyers)	5 (14%)

During the in-depth interview with the key informants, most participants claimed that the national policies and legislations are gender neutral and that discrimination is not an issue in Bhutan. This perception is also supported by the survey finding, where 70% of the respondents stated that policies and laws consider both men and women equal, while 73% of the respondents stated having equal opportunities. Therefore, most participants interviewed considered gender neutrality in our Bhutanese system as adequate measures to ensure advancement of women.

³⁵ GNH Commission (Planning Commission) and NCWC. National Plan of Action for Gender 2007-2013. ROGB, Thimphu.

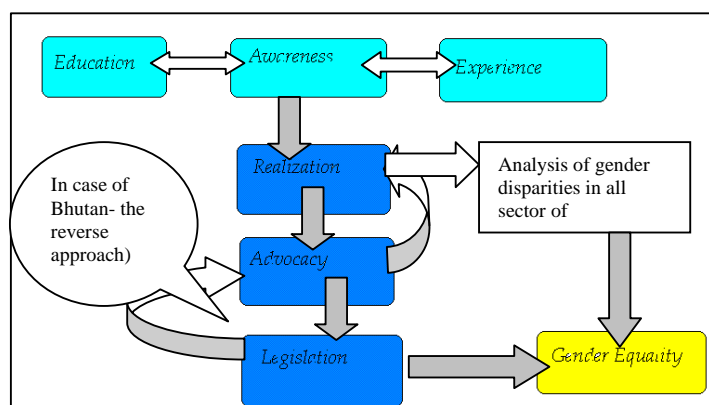
However when presented with cases of apparent gender disparities and where women lag behind men in many important development fields, the participants then spoke about the existing cultural, traditional and perception biases; biological inferiority and vulnerability, impacting women’s capability for equal participation. The same observation was also made in the focal group discussions, where there was lack of awareness and realisation of gender equality. This may be due to the fact that, unlike other countries where women were suppressed and suffered many forms of direct and explicit discrimination, Bhutan has been fortunate of not facing such problems.

Bhutan is yet to understand and realise the luxury of equality not only from the provisions in the gender neutral policy documents and legal system but also in the context of a modernized literate society, party to international conventions. ***Equality is not about treating everyone in the same way, but recognizing that their needs are met in different ways.*** Thus, while the study has established that one of the causes of gender disparity is due to the role of women in procreation, very little was understood about the protection of women’s reproductive rights. CEDAW, in article 5 advocates ***“a proper understanding of maternity as a social function”, “demanding fully shared responsibility for child-rearing by both sexes.”*** Further, CEDAW mandates elimination of cultural stereotypes which define ***“the public realm as a man's world and the domestic sphere as women's domain”***.

Again, taking a cue from the survey findings on sexual harassment, where more than half the respondents indicated a problem, no sexual harassment protocols are found to be in place. Women’s sexual vulnerability will have to be addressed with proper safety and security measures. Although sexual harassment is an offence under the Penal Code of Bhutan, 2004 its clarity and knowledge at the grass-root was very minimal. The Labour and Employment Act also has a provision for it but has not yet been operationalised.

Without the realization that gender disparities exist in the system, the gaps are unnoticed, such as enrollment in tertiary education, participation in decision making bodies, employment in economic activities, etc. that could be a precursor to low participation of women in all phases of development. Therefore understanding and realization should come first before the problem can be addressed. A logical framework has been developed to represent the current situation of Bhutan, in relation to gender issues.

Figure 23: logical framework for the study recommendations



5. CONCLUSIONS

Unlike other countries in the region, Bhutanese women enjoy relatively greater freedom and equality in many fields. There are no strong ‘son preference’ cultural practices or female infanticide. At the household level, there is no strong domination of men in decision making, property ownership, household work etc. Even at the national level, both the policies and legal instrument are all gender neutral.

Since the start of the socio-economic development, Bhutan has consistently upheld gender neutral national laws and policies, providing equal opportunity to both men and women. Over the years, these legal and policy frameworks were being continuously modified to further enhance the relatively equal status of women and eliminate any discrimination and violence against women. However, despite favorable environment, national statistics have shown prevalence of gender disparities in many important fields of development. Thus, there is a growing concern that women have not been able to avail the equal opportunities provided to them.

One of the biggest challenges presented during the study was the presence of strong cultural beliefs in biological inferiority and vulnerability of women. These are subtly embedded in age-old traditional proverbs and sayings, which establish men’s higher status in the society. On these very grounds, families and the society in providing more care and protection to a girl child, limits her mobility and hence also her participation in the “outside the house” affairs. All these have perpetuated discriminatory practices such as serving food to the man first, accepting a man to sit higher than a woman, and the societal expected gender roles and codes of conduct, having negative implications on the social, cultural and psychological growth and wellbeing of Bhutanese woman.

Another hurdle to women’s advancement is the violence against women both at home and work place. The study identified economic dependency as one of the major factors resulting in violence against women, sexual harassment and discriminatory treatment by male partners. Education is the key to economic and political empowerment.

Thus, it is not adequate to have gender neutral laws and policies on paper but they need to be translated to gender sensitive programs and action plans. Gender mainstreaming is crucial to attain gender parity at all levels and in all fields of developments. The key to addressing gender issue has been identified as capacity building to ensure that the importance of equality and rights are realised, understood and exercised in a positive manner and in the right context.

The approach to and the recommendations of the gender study is that of inclusiveness and not creating a divide between men and women by forwarding the interest of women at the cost of men. There are sufficient lessons to be learnt from other countries on the consequences of pursuing selfishly individual rights and freedom as are self evident in the traumas in broken families with the challenge of single parenting; the emergence of youth delinquencies (rape, teenage pregnancy, substance abuse, suicides, etc.), the abandoning of the old, sick and the disabled to the fringes of society. Therefore utmost care has been taken during the study that striving to address women’s issues, does not work against the social trends of family and societal disintegration, rather strengthen institutions of families and communities with full participation of women and men as equal partners of development.



6. RECOMMENDATIONS

Education and awareness are without doubt, the most fundamental prerequisites in bringing the female half of humanity into the main focus of development. Education together with conducive environment, are necessary to enable getting access to economic opportunities, participate in and be represented in government and gain political influence. Today, information and communication technologies have become a potent driving force of the development process which represents yet another dimension in which the knowledge gap and societal stereotypes can be minimized to cultivate and promote a society free of cultural biases and discrimination. Taking these into consideration, the study has made the following recommendations:

6.1 Increase awareness and education on gender neutral policies and legislations

There is a general lack of realisation and awareness of gender equality and women's rights. Therefore, despite the existence of adequate gender neutral policies and legislations, they do not get translated into practice. Therefore, the study recommends:

- Advocacy, education and awareness-raising at all levels, including political and administrative institutions and schools, on gender equality and equity, gender issues and concerns, national legal provisions and on Government's international commitments and legal obligations.
- Dissemination of information by expanding the ongoing legal awareness program (Know Your Law to Protect Your Rights) carried out by the Judiciary in collaboration with NCWC should continue and extend to the community level.

6.2 Implement gender responsive policies and legislations

Although national policies and legislations are gender neutral, there are gender differences which must be appropriately addressed through formulation of gender responsive policies and programs. The study recommends:

- Policy changes to ensure recognition of women's reproductive role and maternity as a social function, to be fully shared by both the sexes. Balancing work with family life should not be considered exclusively a woman's issue.
- Both public and private organizations must look into the feasibility and applicability of initiating and implementing provisions on flexible working hours for breastfeeding mothers and extended maternity leave to help promote the global agenda of 'healthy mother and child'.
- Encourage both public and private organizations to initiate policies and plan of action to operationalise the provisions of the sexual harassment protocol in the Labour and Employment Act.
- Review the current implementation of gender neutral legislations on naturalization of citizenship with specific focus on the procedures pertaining to requirements (such as the



need to provide father's national identification number) for children of single mothers while availing social services.

6.3 Eliminate cultural biases and traditional perception

The presence of strong, age old cultural and traditional values, embedded in the fabric of Bhutanese society, has given rise to cultural biases at varying degree. They have created and sustained discriminatory practices and norms. A change in cultural attitude and perception is required for which the study recommends:

- Sensitize the general population on the existing cultural and traditional perceptions on gender roles and “invisible” discrimination through media, e.g. awareness building seminars and programs on women role models
- Initiate awareness building seminars to change the existing cultural and traditional perceptions on gender roles and to encourage equal participation in government and non-government organisations both at the national and local level.
- Incorporation of ‘responsible sex’ and societal value based educational programs in the curriculums in schools, NFE centers and vocational institutes to promote growth of socially responsible youths.

6.4 Increase participation of women in governance

There is a need to encourage and increase the participation by women in all levels of governance. Without their active participation, issues, concerns and the priorities of the entire population cannot be addressed. The following recommendations are proposed to strengthen and cultivate women's political participation and in governance:

- Government to consider developing minimum requirement of women's representation in governance – the Parliament (National Assembly and National Council), the Executive (Cabinet and the Civil Service), the local governance, the Judiciary and other public and private organizations, to reduce the existing visible gender gaps.
- Implement additional support measures in education and training by designing special scholarship programs and promoting leadership skills for women.
- Conduct in-depth study to address the growing assumption and concern with regard to high rate of female school dropouts resulting in underground sex industries.
- Conduct a study on the causality of the finding resulting in higher percent of study population wanting to be born as man.)
- Strengthen sectoral gender focal persons to analyse existing data to identify gender disparities- source and/or causes for gender disparities within the organisation with special attention to access, control, participation and benefits for designing appropriate gender mainstreaming interventions. In addition to analysis, the sectoral focal persons can look into the possibilities of developing gender sensitive tools to monitor and evaluate the programs.
- Local government should proactively involve women at the gewog decision making level



and trainings through mandatory requirement of certain number of female participation.

- Initiate and promote organization in the village to encourage women to take up leadership positions such as *gups*, *mangmis* and *tsbogpas*, and also promote active participation in *zomdues*. The organisation will create special groups and discussion forums for women to share information and knowledge.

6.5 Capacity building for economic empowerment

The government must take steps to build the capacity of women so that they are empowered to become economically self sufficient. This will ensure that women take measures and steps to protect their rights, and also enable them to play an active role in developmental activities, which otherwise would not be possible.

- Provide technical assistance at the grassroot level for development of strategies to promote cottage industries, marketing and production of local commodities. In addition, current government organizations (MOA, MOEA, MoLHR), NGO (YDF, NWAB, Tarayana Foundation) and the private sector (BCCI) who are focusing on micro-income generating activities should be encouraged to promote exchange of knowledge and skills.
- Provide financial support by exploring avenues for obtaining low risk financial loans or grants to facilitate the establishment, growth and sustainability of economic activities.
- Promote establishment of social and professional associations for networking and to provide forum for exchange of experiences and skills and also as medium for a united voice.

6.6 Conducive work environment

Given the importance of safe and conducive work environment, the following recommendations are proposed to enhance the current gender neutral policies and laws for productive participation of women in all sectors of development:

- Policy direction is needed to incorporate service facilities for maternity protection and child-care in all development sectors that will allow women to combine family responsibilities with work and participation in public life.
- In line with supporting the women at work place, sectors employing women need to analyse current infrastructures to create women friendly work environment such as separate restrooms, baby nursing rooms, etc.
- Since sexual harassment and abuse is a problem limiting the movement of women, and hence their productivity, policy direction is needed to mandate service providers such as hoteliers, guest houses and building owners to maintain certain minimum level of safety measures in their facilities.

6.7 Elimination of violence against women

While we lack reliable data on violence against women, there is a general consensus that the



incidence is growing especially in the urban areas. The most common contributing factors highlighted during the study were economic dependency and alcohol. Knowing that there are multiple facets of domestic violence, creating a concrete indicator is a step towards achieving and understanding the various causes of domestic violence in the country.

- Stakeholders (NCWC, RBP –Women and Child Protection Unit, The Judiciary, Media and the NGOs) should coordinate and communicate information to understand and analyze the current data and designing appropriate interventions.
- Awareness program at community level on legal provisions on violence against women, human rights, ethical and moral values should be developed and conducted.

APPENDICES

Appendix 1 – Literature Referenc

1. *National publications*

- Bhutan 2020: A Vision for Peace, Prosperity and Happiness
- Five Year Plans (9th and 10th plans)
- Government Annual Reports
- Bhutan Civil Service Rules & Regulations
- Bhutan Living Standard Survey, 2007
- Labour Force Survey, 2007
- Education Statistics, 2008
- National Plan of Action for Gender 2007-2013
- A situation Analysis of Children and women in Bhutan 2006
- Poverty Analysis Report, 2007
- Population and Housing Census of Bhutan, 2005
- Gender Pilot Study Report (2001)
- Plus 5 “World Fit for Children” Review for the kingdom of Bhutan 2006
- Report on workshop on violence against women – December 2006
- Report on National Consultation on Women & Child Friendly Judicial Procedures – March 2006
- Report on the sixth Asia Pacific congress on women in politics and decision making February 2006

2. *National legislation*

- The Marriage Act, 1980 (amended selected sections in 1996)
- Bhutan Citizenship Acts (1958, 1977 and 1985)
- The Inheritance Act (1980)
- The Penal Code of Bhutan (2004)
- The Civil and Criminal Procedure Code of Bhutan (2001)
- Labour and Employment Act of Bhutan, 2007
- The Constitution of the Kingdom of Bhutan, 2008

3. *International and regional conventions*

- Millennium Development Goals
- Convention on the Elimination of All Forms of Discrimination against Women
- SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution in 2003
- SAARC Code for the Protection of Breastfeeding and Young Child Nutrition
- UN Convention on the Rights of the Child (CRC) Committee, 1999



Appendix 2 – List of Key Informants interviewed

Sl. #	Organization	No. of Informants
1.	Office of the Attorney General and Judiciary (lawyers)	3
2.	Religious Leaders (<i>lams, lopens</i> & individual practitioners)	4
3.	Local government representative (<i>Dzongdas, Dzongrabs and Gups</i>)	12
4.	Royal Civil Service Commission (Employment Division)	1
5.	National Women's Association of Bhutan	1
6.	Royal Bhutan Police (Child Protection Unit)	1
7.	MoE (Secretariat, Department of Youth and Sports, Teachers)	6
8.	MoH(doctors and Public Health Department)	3
9.	MoLHR (Department of Labour)	1
10.	Ministry of Trade and Industry, PPD	1
11.	Bhutan Chamber of Commerce & Industry (BCCI)	1
12.	Financial Institution (BNB and BDFC)	2
13.	Private Corporation (Lhaki and Tashi)	2
14.	Individual elders from urban and rural	10
15.	Politicians	3
16.	National Commission for Women & Children	2
	Total	53

Appendix 3 – Sample of the survey questionnaires

Survey Instrument for Gender Study

Date.....

Objective: The overall objective of the study is to gather quantitative and qualitative information related to the existing reported and perceived gender inequality, affecting the complete and full participation of women in governance, particularly at the decision making level.

Dzongkha:

A. Demographic:

1. What is your gender?

1. Male

2. Female

2. Age category that best describes your age (check one)

1. 18-25

2. 26-35

3. 36- 45

4. above 45

3. What is your current marital status?

1. Single

2. Married

3. Divorced

4. Widowed

4. Which of the following best describes your field of work?

1. Civil servant

2. Private/ corporation

3. House wife

4. Military

5. Business

6 Farmer

7. Student

8 Religious

5. What form of education did you undergo?

1. Modern/western education

2. Monastic

3. Non-formal education

4.

None

B. Study Questionnaires:

6. Do you think women are discriminated in Bhutan?

1. Yes

2. NO

3. Some extent

4. Not sure

7. Does our culture consider woman inferior to man?

1. Yes

2. No

3. Not sure



8. Does our family consider woman less capable?
 1. Yes 2. No 3. Not sure
9. Does the law consider both man and woman equal?
 1. Yes 2. No 3. Not sure
10. Does the government policy consider both man and women equal?
 1. Yes 2. No 3. Not sure
11. In general who is more dominant in the family?
 1. Man 2. Woman 3. Both
12. In general who makes the major decision in the family?
 1. Man 2. Woman 3. Jointly 4. Not sure
13. Do you believe “that woman is behind man by nine lives (*Kerab gu*)
 1. Yes 2. No 3. Not sure
14. Do you think woman should be allowed to visit *goenkhang*?
 1. Yes 2. No 3. Not sure
15. Do you pray to be born as a man in your next life?
 1. Yes 2. No 3. Not sure
16. Who in your opinion is a better leader?
 1. Man 2. Woman 3. Both 4. Not sure
17. Is it important to have woman at high decision making level?
 1. Yes 2. No 3. Not sure
18. Are there equal opportunity for both man and woman?
 1. Yes 2. No 3. Not sure
 If No who has more?
 1. Man 2. Woman
19. Should the government provide special privileges for woman?
 1. Yes 2. No 3. Not sure
20. Who will understand woman’s issues better
 1. Man 2. Woman 3. Not sure
21. Is sexual harassment a problem in Bhutan?
 1. Yes 2. No 3. Not sure

Appendix 4 – Relevant sections of the Acts

1. THE MARRIAGE ACT, 1980 (amended sections of 1996)

C H A P T E R - O N E

RULES GOVERNING ACQUIRING OF A MARRIAGE CERTIFICATE BY A COUPLE.

Kha 1-3

Whenever a marriage is contracted according to the customary rites and rituals or following an engagement or a love marriage, a Marriage Certificate (Nyentham) shall have to be acquired from a local Court of law to make such a marriage valid. And excepting those couples married prior to the year 1963, who are exempted from acquiring a Marriage Certificate as defined hereinafter in Section Kha 1-9, all other couples married subsequently to that year shall only be entitled to lay claims over properties on their divorce if they have acquired a marriage Certificate on payment of the prescribed fines as laid down hereinafter in Section Kha 9-1.

PROCEDURE FOR ACQUIRING A MARRIAGE CERTIFICATE FROM A COURT.

Kha 1-4

Any couple approaching a Court of law for acquiring a Marriage Certificate shall have to present before the Court as sureties a male person for the bridegroom and a female person for the bride; and the Court shall obtain a document from the said sureties in the form and manner prescribed in Section

Kha 1-5.

Thereafter, the Court shall fully satisfy itself as to whether or not that couple are eligible to marry each other and whether or not any provisions of the Marriage Act will be contravened by contracting such a marriage. If no provisions are contravened, then that couple shall be recognised as a man and wife and the Court shall grant them a Marriage Certificate as prescribed in the form and manner "Ka" set forth in the Schedule.

RECOGNITION OF COUPLES AS LEGALLY MARRIED EVEN WITHOUT HAVING A MARRIAGE CERTIFICATE.

Kha 1-9.

Couples contracting marriages subsequent to RABJUNG 16th of the Water Hare Year corresponding to the English calendar year 1963 shall have to comply with the provisions laid down in the aforesaid Section Kha 1-3 of this Act.

But couples who have contracted marriages prior to that aforesaid year without acquiring a Marriage Certificate shall also be recognised as legally married couples (Addendum to resolution 2 of the 21st National Assembly held in the Bhutanese Wood Dragon Year).

INVALIDITY OF TRADITIONAL MARRIAGES CONTRACTED BETWEEN BLOOD RELATIONS.

Kha 1-10.

The traditional marriages between persons of the permitted degree of consanguinity and affinity performed according to the local customs varying from village to village shall also cease to be contracted with the enactment of this Act. In contravention of which, the case shall be dealt with in accordance with provisions laid down hereinafter in Section Kha 9-10 of this Act.

RESTRICTION ON PERFORMING MARRIAGES OF MINORS

Kha 1-11.

The traditional performance of marriages between minors as mentioned hereafter in Section Kha 1-14 shall also cease with the enactment of this Act. In contravention of which, the case shall be dealt with in accordance with the provisions laid down hereinafter in Section

RESTRICTION ON GRANT OF MARRIAGE CERTIFICATE FOR MARRIAGES OF MINORS.

Kha 1-14.

Consequent to the restrictions on the marriages of minors as stipulated in the aforesaid Section Kha 1-11, no Marriage Certificates shall be granted for marriages performed between a male person not attaining the age of eighteen years and a female not attaining sixteen years as they are considered not to have attained full age.

RESTRICTION ON GRANT OF FOURTH MARRIAGE CERTIFICATE TO A PERSON THRICE DIVORCED FOR MISCONDUCT.

Kha 1-15.

If any man or woman who subsequent to acquiring a Marriage Certificate on three separate occasions from a Court because of being divorced on all the three occasions by his or her successive partners on account of his or her

repeated misconduct, then in such a case, the said defaulting man or woman shall not be granted a Marriage Certificate if he or she marries for the fourth time.

RESTRICTION ON GRANT OF A MARRIAGE CERTIFICATE TO A PERSON TAKING DAMAGES THRICE.

Kha 1-16.

If either of the parties to a marriage because of his or her repeated misconduct has been paid damages (GAO) on three separate occasions, then in such a case, that defaulting partner shall not be granted a Marriage Certificate when contracting a fourth marriage.

*[LIMITATION TO GRANT OF ONLY ONE MARRIAGE CERTIFICATE TO A WOMAN HAVING SEVERAL HUSBANDS.****

Kha 1-17.

Whereas a woman may legally be married to only one husband, Marriage Certificates for contracting marriages with more than one husband shall not be granted. (Refer Section Kha 1-12 of THRIMSHUNG 1957).] – Repealed in 1996 Amendment

RESTRICTION ON GRANT OF MARRIAGE CERTIFICATE ON FAILURE TO PRODUCE DEED OF DIVORCE.

Kha 1-18.

Any husband or wife seeking to acquire a Marriage Certificate from a Court of law for intending to contract another marriage shall not be granted a Marriage Certificate if the deed of divorce (YIKTHI) executed with the former wife or husband is not produced before the Court.

[RESTRICTION ON CONTRACTING ANOTHER MARRIAGE WITHOUT CONSENT OF FORMER WIFE.

Kha 1-19.

Any husband seeking to acquire a Marriage Certificate from a Court of law for contracting another marriage shall have to present his former wife in person before the Court for confirmation of her express consent to the subsequent marriage; and if the former wife is not able to present herself in Court, then a written agreement in her own handwriting giving her express consent to the subsequent marriage shall have to be produced by that husband before the court; and if such a consent from the former wife is not available, then the Court shall not grant a Marriage Certificate for the subsequent marriage.– Amended in 1996 as:

Kha 1-19

The Court shall not grant a Marriage Certificate for a subsequent marriage unless his/her former spouse:

- (Ka) appears in person before the Court and confirms his/ her express consent to the subsequent marriage; or
- (Kha) submits a written consent, signed and attested and giving his/her express consent to the subsequent marriage.

CHAPTER - THREE

PAYMENT OF COMPENSATION(GAWO) BECAUSE OF HUSBAND OR WIFE BEING INVOLVED IN ADULTERY.

RULES GOVERNING CLAIMS OF COMPENSATIONS.

[Kha 3-1.

If any third person commits adultery with a married woman, then whether or not that woman has children, and whatever be the relationship existing between that woman and her husband, and whether or not that adulterer entices her away with him, that adulterer committing the said offence shall have to pay compensation to the said husband of that woman in accordance with the duration of that woman's marriage with her husband in the amounts stipulated herein below:

AMOUNTS OF COMPENSATIONS PAYABLE ACCORDING TO DURATION OF MARRIAGES.

(ka). A sum of Ngultrums nine hundred and ninety-nine if the duration of marriage does not exceed three years.

(kha). A sum of Ngultrums one thousand nine hundred and ninety-nine if the duration of marriage exceeds three years but not seven years.

(ga). A sum of Ngultrums two thousand nine hundred and ninety-nine if the duration of marriage exceeds seven years. – Amended in 1996 as:

Kha 3-1.

If any person commits adultery with a married person, he/she shall pay compensation (Gao) to the aggrieved spouse at the national daily wage rate, calculated in accordance with Chathrim for national wage rate, for:

- (Ka) three months, if the duration of marriage does not exceed three years;

- (Kha) five months, if the duration of marriage does not exceed seven years; or
(Ga) seven months, if the duration of marriage exceeds seven years.

RULES GOVERNING COMPENSATION PAYABLE TO WIFE.

Kha 3-2.

If any other woman elopes with a married man, then that woman shall have to pay the compensation stipulated in the aforesaid Section to the wife of that man. But if that woman does not marry that man and is guilty of committing adultery only with him, then in such case, the proceedings shall be dealt with in accordance with provision laid down hereinafter in Section Kha 3-9.

RULES GOVERNING COMPENSATIONS PAYABLE WHEN THERE ARE SEVERAL WIVES.

Kha 3-3.

If any other woman marries and elopes with a man having two or more wives, then that woman shall have to pay compensation to each of that man's former wives possessing a Marriage Certificate in accordance with the duration of their individual marriages with that man.

In like manner, if any married man marries two or more wives simultaneously, then those subsequent wives shall have to pay compensation to each of that man's former divorced wives in accordance with the duration of their individual marriages with that man.

COMPENSATION PAYABLE ON RETURN OF PERSON ENTICING A MARRIED WOMAN.

Kha 3-4.

On the return of that person enticing away a married woman, then whether or not that married woman returns, that person who has committed the offence shall have to pay compensation as prescribed by law to the husband of the eloped woman, whether or not the said husband has re-married in the meantime, provided the said husband is alive.

And where the said husband has expired but a prior submission had been made to a Court of law regarding the elopement of that woman in the form and manner "Nga" set forth in the Schedule, then the Court shall realize the compensation from the offender and had it over to the relatives of that deceased person.

In like manner, if any woman elopes with a married man, then whenever that woman committing the offence returns, the case shall be processed in a manner as mentioned above.

COMPENSATION AND FINES PAYABLE ON CONCEALING FACT OF MARRIAGE.

Kha 3-5.

If any married woman conceals the fact of her marriage and commits adultery with a third person, then that person shall have to pay compensation to the husband of that woman as prescribed by law. But if proof is furnished that the adultery was committed because of enticement on the part of that woman, then that woman shall be punished with fine extending from Ngultrums one hundred to Ngultrums three hundred.

COMPENSATION AND OTHER COSTS PAYABLE WHEN COUPLE CONNIVES ANOTHER PERSON TO COMMIT ADULTERY.

Kha 3-6.

If claims for compensation are made by a couple after collusion or connivance between them to obtain monetary gain by enticing a third person to commit adultery with the wife by concealing the fact of their marriage, then the husband of that wife shall be entitled to the compensation as prescribed by law, but from the day the compensation has been so realized, that couple shall be prohibited from remaining as a man and wife. And in such a divorce, apart from the normal costs, that couple shall not be entitled to claims of any separation costs from each other as laid down in the provisions hereinafter in Section Kha 5-1.

RULES GOVERNING COMPENSATION PAYABLE TO WIFE.

[Kha 3-9.

If a married man without contracting a marriage with another woman only keeps her as his paramour (ARO-G/ARO), then in such a case, the wife of that man shall not be entitled to claim any compensation. In contravention of which, the case shall be processed under the provisions laid down hereinafter in Section Kha 8-16 and Kha 8-17 of this Act.] – Repealed in 1996 Amendment

RESTRICTION ON CLAIMS FOR COMPENSATIONS.

Kha 3-10.

An husband or a wife of a couple without a Marriage Certificate or not married in accordance with the provisions laid down hereinafter in Section Kha 9-1 or a couple not recognised as a legally married couple or a wife or husband who has exchanged letters of divorce shall not be entitled to lay claims on any compensations whatsoever.

RESTRICTION ON CLAIMING COMPENSATION IF SPOUSE REMAINING AT HOME COMMITS ADULTERY IN ABSENCE OF PARTNER FROM HOME FOR MORE THAN A YEAR.

Kha 3-11.

Excepting for an husband or a wife in Government service, if any husband or wife leaving the house for personal work has lived apart for more than one year without looking after the welfare of the spouse at home, then if the spouse staying at home commits adultery or contracts another marriage, then notwithstanding that husband or wife away from home remaining faithful to the said spouse at home, that husband and wife away from home shall not be entitled to claim any compensation.

COMPENSATION PAYABLE TO HUSBAND OR WIFE AT HOME IF SPOUSE AWAY FROM HOME COMMITS ADULTERY.

Kha 3-12.

But if either the husband or wife who has left home on some personal work, other than on Government duty, has stayed away from home for more than years and commits adultery with third person, then the spouse staying at home shall be entitled to claim compensation thereof, provided the said spouse has remained faithful to that husband or wife absent from home.

NON-REALIZATION OF COMPENSATION AFTER THIRD OFFENCE OF ADULTERY.

Kha 3-19.

If a wife without leaving her husband commits adulteries, then in such cases, the husband is entitled to claim compensation for three such offences, but from the fourth such offence, no compensation may be realized.

But where compensation are permissible to be realized in a case of forcible rape as defined hereinafter in Section Kha 8-13, then this Section shall not be applicable.

NON-REALIZATION OF COMPENSATION BY FOURTH HUSBAND.

Kha 3-20.

If any woman contracts successive marriages after leaving her former husbands, then from among the several such former husbands, compensations may be realized by the first three of her former husbands only. And since the realization of compensations are limited to three offences of adultery of a woman throughout her life, no compensation may be claimed for any further acts of adultery, excepting an act of forcible rape as defined hereinafter in Section Kha 8-13 where compensations are permissible to be realized, in which case this Section shall not be applicable.

NON-REALIZATION OF COMPENSATION BY FOURTH WIFE.

Kha 3-21

If any husband contracts a marriage with a second wife after leaving his first wife, then in such a case, that first wife may realize compensation.

And, if that husband leaves his second wife and marries a third wife and then leaves her and marries a fourth wife, then compensations may be realized only by the second wife from the third wife and the third wife from the fourth wife, but if that husband contracts further marriages after the realization of three such compensations, no further compensations may be realized.

NON-REALIZATION OF COMPENSATION FOR ADULTERY DISCOVERED AFTER DIVORCE HAS BEEN GRANTED.

Kha 3-22.

If the husband of a married couple only discovers his wife's adulterous behaviour during their stay together subsequent to their divorce, then no compensation may be admissible for such acts of adultery.

NON-REALIZATION OF COMPENSATION AFTER THIRD OFFENCE OF ADULTERY EVEN IF ONE OF THE CLAIMS HAVE BEEN FORGONE.

Kha 3-24.

In a case involving a wife in three offences of adultery with three separate persons, then notwithstanding the husband having forgone claims to realize compensation for any one of such offences, from the fourth such offences by the wife with another person, no compensation may be realized.

COMPENSATION PAYABLE FOR ATTEMPTED ADULTERY.

Kha 3-27.

In a case where a third person has attempted to commit adultery with a married woman, then notwithstanding the absence of any proof of the actual act of adultery, that person shall have to pay half the amount of the compensation for attempting to commit adultery.

CHAPTER – FOUR

DAMAGES (LOG JYEL) PAYABLE TO HUSBAND BY A CO-RESPONDENT COMMITTING ADULTERY WITH WIFE AND MARRYING HER.

RULES GOVERNING REALIZATION OF DAMAGES.

[Kha 4-1.

If any third person commits adultery with a wife of another person and subsequently marries her, then whether or not the respondent has children from her former marriage, and notwithstanding the duration of her marriage with her former husband, the co-respondent in adultery marrying her shall have to pay the said husband the damages (LOGJYEL) prescribed herein under. But where that co-respondent commits adultery only and does not marry her, the no such damages may be realized from that co-respondent.

Similarly, if a married man commits adultery with any other woman and subsequently marries her, then the realization of the damages thereof by his former wife shall be processed in like manner. (Refer Section Kha 2-13 of THRIMSHUNG 1957):

AMOUNT OF DAMAGES PAYABLE ACCORDING TO DURATION OF MARRIAGES.

(Ka) If within three year's duration of couple's marriage, the offender shall have to pay a sum of Ngultrums four hundred as damages; or (kba) If within seven year's duration of a couple's marriage, the offender shall have to pay a sum of Ngultrums eight hundred as damages; or

(ga) If a couple's duration of marriage exceeds seven years, the offender shall have to pay a sum of Ngultrums one thousand two hundred as damages.] – Amended in 1996 as:

Kha 4-1

Where a person commits adultery with a married person and subsequently marries him/her, the co-respondent in adultery marrying that person, shall pay compensation (Log Jyel) to the aggrieved spouse at the national daily wage rate calculated in accordance with Chathrim for wage Rate, for:

- (Ka) three months, if the duration of marriage does not exceed three years;
- (Kha) five months, if the duration of marriage does not exceed seven years; or
- (Ga) seven months, if the duration of marriage exceeds seven years.

RULES GOVERNING DAMAGES IF THERE ARE TWO OR MORE WIVES.

Kha 4-2.

If a married man who has two or more wives commits adultery with some other woman and then marries her, then that wife shall have to pay damages to each of that man's former wives as prescribed by law. But if any one wife from among such wives does not have a Marriage Certificate, then she shall not be entitled to realize any damages.

PAYMENT OF DAMAGES ON RETURN OF A PERSON ENTICING ANOTHER'S WIFE.

Kha 4-3.

Any person who returns subsequent to his enticing the wife of another man shall have to pay the stipulated amount of damages prescribed by law to the said husband of that woman. Similarly, any other woman who returns subsequent eloping with a married man, and whether or not that man returns, shall have to pay the stipulated amount of damages to the former wife of that man in like manner.

PAYMENT OF DAMAGES ON RETURN OF DAMAGES ON RETURN OF ENTICER EVEN IF HUSBAND OF THE WOMAN REMARRIES.

Kha 4-4.

Any person who returns subsequent to his enticing away the wife of another man shall still have to pay the amount of damages to the husband of returns and notwithstanding the said husband having contracted another marriage.

PAYMENT OF DAMAGES ON RETURN OF WOMAN ELOPING WITH ANOTHER'S HUSBAND EVEN IF FORMER WIFE REMARRIES.

Kha 4-5.

Any woman who returns subsequent to her elopement with a married man, and whether or not that man returns, shall have to pay the amount of damages to the former wife of that man, notwithstanding the former wife having contracted another marriage.

PAYMENT OF DAMAGES TO RELATIVES OF DECEASED IF A SUIT OF ELOPEMENT OF HIS WIFE FILED IN COURT PRIOR TO HIS DEATH.

Kha 4-6.

If the husband prior to his death has forwarded a submission to a Court of law in the form and manner "Nga" set forth in the Schedule to file an elopement suit of his wife with a third person, then even if that husband expires, the

damages so realized shall be paid to his joint family members.

Similarly, if a wife had forwarded a submission to a Court of law in the aforesaid form and manner in a case of enticement of her husband by another woman, then on the return of that woman enticing the husband, the payment of the damages shall be settled in like manner even if the said wife has expired.

RULES GOVERNING DAMAGES IF SUIT FILED IN COURT PRIOR TO DEATH OF HUSBAND OR WIFE IF THERE ARE NO RELATIVES.

Kha 4-7.

In cases of elopement, if either the husband or wife staying at home expires without filing a suit in a Court of law, then even if the person who has enticed the said spouse of the deceased husband or wife returns, no person may realize any damages from that person.

But if a suit has been filed in a Court and the husband or wife staying at home expires and if there are no joint family members also, then the amount of damages so realized shall be given to the person who performed the last rites for the deceased husband or wife.

RESTRICTION ON CLAIMING ANY DAMAGES UNTIL RETURN OF THE PERSON ENTICING WIFE OR HUSBAND.

Kha 4-8.

Except for waiting until the return of the person enticing the wife of another man, nothing of any value shall be realized in the form of damages from the household members of that person, In like manner, in a case of elopement of a woman with another's husband, the same ruling thereof shall be applicable.

RESTRICTION ON REALIZING ANY DAMAGES FROM FAMILY OR RELATIVES OF DECEASED WHO HAD ENTICED THE WIFE OR HUSBAND.

Kha 4-9.

Notwithstanding a suit having been filed in a Court of law prior to the death of a person who had enticed the wife or husband, the realization of any damages from the household members and relatives of that deceased person shall be strictly prohibited.

NON-REALIZATION OF DAMAGES BY A PERSON ABSENT FROM HOME FOR OVER A YEAR IF HIS SPOUSE AT HOME REMARRIES.

Kha 4-10.

If a person has been absent from home for over a year on some personal work, apart from being on Government duty, and neglects his or her spouse at home, then in the event of that spouse at home, contracting another marriage, that person shall not be entitled to realize any damages whatsoever, even if that person had remained faithful to his or her spouse at home.

REALIZATION OF DAMAGES BY SPOUSE AT HOME IF PERSON ABSENT FROM HOME FOR OVER A YEAR CONTRACTS ANOTHER MARRIAGE.

Kha 4-11.

However, if a person, apart from being on Government duty, has been absent from home for over a year and if that person contracts another marriage, then his or her spouse staying at home shall be entitled to realize damages, provided the said spouse has remained faithful to that person absent from home.

NON-REALIZATION OF DAMAGES IF ALREADY REALIZED THRICE FOR A WOMAN'S FAULT.

Kha 4-12.

In a case where a woman after leaving her successive husbands contracts marriages with several successive husbands, then her former successive husbands shall be entitled to realize damages once only to the limit of three such damages on account of that one woman, subsequent to which no further damages may be claimed.

NON-REALIZATION OF DAMAGES IF REALIZED THRICE FOR A MAN'S FAULT.

Kha 4-13.

Similarly, in a case where a man after leaving his successive wives contracts marriages with several other successive woman, then his former wives shall be entitled to realize damages once only to the limit of three such damages from that one man, subsequent to which no further damages may be claimed.

NON-REALIZATION OF DAMAGES AFTER THE THIRD TIME EVEN IF ONE OF THE CLAIMS ARE FORGONE.

Kha 4-14.

If a woman because of her depraved character has contracted several marriages and if three amounts of damages

have been realized for three such incidents because of that woman's depravity, including the forgoing of claims on any one of such damages by the husband for such marriages, then no further damages may be claimed.

C H A P T E R - F I V E .

SEPARATION COSTS (DOAG JINPHEY SHENTHUI) ON DIVORCE OF A COUPLE.

RULES GOVERNING SETTLEMENT OF SEPARATION COSTS.

[Kha 5-1.

In any proceedings under this Act on a petition for dissolution of marriage by a decree of divorce, then whether or not the said couple have children and whether the husband or the wife is guilty of committing any misdemeanour with a third person, and irrespective of them benefits derived from each other during their stay together, that party to the marriage seeking the divorce thereof shall have to pay the separation costs (DOAG SHENTHUI) according to the duration of their marriage as prescribed herein under :

AMOUNTS OF SEPARATION COSTS PAYABLE ACCORDING TO DURATION OF MARRIAGES.

(Ka). If within three year's duration of their marriage, the party seeking divorce shall have to pay Ngultrums five hundred;

(Kha). If within seven year's duration of their marriage, the party seeking divorce shall have to pay Ngultrums one thousand; or

(ga). If the duration of their marriage exceeds seven years, the party seeking divorce shall have to pay Ngultrums one thousand five hundred.] – Amended in 1996 as:

Kha 5-1

Any spouse who is seeking a divorce, shall pay compensation (drok zhen pai zhenthued) to his/her spouse at the national daily wage rate calculated in accordance with Chathrim for national wage rate, for:

(Ka) three months, if the duration of marriage does not exceed three years;

(Kha) five months, if the duration of marriage does not exceed seven years; or

(Ga) seven months, if the duration of marriage exceeds seven years.

RULES GOVERNING SETTLEMENT OF SEPARATION COSTS ON WIFE'S OR HUSBAND'S ELOPEMENT TO PARTNER REMAINING AT HOME.

Kha 5-2.

If any wife who has eloped returns, then whether or not that third person enticing her returns, that wife shall have to pay the separation costs to her former husband in the amounts prescribed by law, notwithstanding her former husband having contracted another marriage in the meantime, provided the said husband is still alive.

But where a wife has eloped with a third person and a suit has been filed in a Court of law in the form and manner "Nga" set forth in the Schedule, then even if the said husband expires, the stipulated separation costs prescribed by law shall be realized by the Court and made over to the household members of the deceased; and if there are no such persons, then the said amount shall be paid to the person who had performed the last rites of the said deceased husband.

Similarly, if any husband who has eloped with some other woman returns, then whether or not that woman returns, the realization of the separation costs shall be processed in like manner as defined in the aforesaid paragraph.

RULES GOVERNING REALIZATION OF SEPARATION COSTS BY A WIFE ACQUIRING A DEED OF DIVORCE FROM A COURT ON HER HUSBAND CONTRACTING ANOTHER MAIRRAIGE.

Kha 5-5.

In the event of a man having one or more wives contracting another marriage his former wives seeking divorce acquire deeds of divorce (YIKTHI) from a Court of law, then that man shall have to pay the separation costs as prescribed by law to each of his former wives.

But if any wife from among his former wives is guilty of committing a misdemeanour with a third person, then such a wife shall not be entitled to any separation costs whatsoever.

NON-REALIZATION OF SEPARATION COSTS BY A PERSON ABSENT FROM HOME FOR OVER A YEAR IF DEED OF DIVORCE ACQUIRED BY SPOUSE AT HOME.

Kha 5-6.

If any person, except for being on Government duty, has been living apart from his or her household family members for more than a year because of some personal work, and if his or her spouse staying at home seeking divorce acquires a deed of divorce from a Court of law, then on the return of that person away from home, the realization of the separation costs from the said spouse who had sought the divorce shall not be admissible.

But where a deed of divorce has been acquired by that person living apart from his or her household family members, notwithstanding that person being restricted from acquiring such a deed, then that person shall only be exempted from paying the separation costs if evidence can be furnished of the perfidious behaviour on the part of

his or her spouse at home towards him or her; but where no such evidence is forthcoming, the separation costs shall have to be paid.

SEPARATION COSTS PAYABLE BY PERSON ADMITTING GUILT.

Kha 5-7.

Except for the confession of the guilt by the wife in the absence of a witness to furnish evidence or an eye witness to an act of a misdemeanour committed by that wife with a third person, then when a divorce is granted to the husband from that wife, the said wife who had admitted the guilt shall have to pay the separation costs.

SEPARATION COSTS PAYABLE TO INDIVIDUAL WIVES IF HUSBAND CONTRACTS ANOTHER MAIRRAIGE.

Kha 5-8.

If a man having more than one wife contracts another marriage and wilfully neglects his former wives, then that man shall have to pay the separation costs to each of his former wives in accordance with the duration of their individual marriages with him.

SEPARATION COSTS PAYABLE BY PERSON COMMITTING MISDEMEANOUR WITH ANOTHER'S WIFE.

Kha 5-9.

If any man has more than one wife and if one of the wives has to be divorced because of her committing a misdemeanour with a third person, then the co-respondent involved in that act shall have to pay the separation costs to the said husband of that woman.

SEPARATION COSTS AND FINES PAYABLE FOR DIVORCE BY FRAUD.

Kha 5-10.

If any husband intending to leave his wife connives in collusion with his friends and makes them commit adultery with his wife to divorce her or if proof is furnished of such fraudulent collusion, then that husband shall have to pay the separation costs. In addition, he shall be punished with a fine extending from Ngultrums three hundred to six hundred for committing the fraud.

SEPARATION COSTS PAYABLE BY PARTY DESIRING DIVORCE ON GROUNDS OF INCOMPATIBILITY.

Kha 5-13.

If either the husband or wife neither of whom is guilty of unreasonable behaviour seeks a divorce on grounds of incompatibility, then the party to the marriage who had desired the divorce shall have to pay the separation costs.

SEPARATION COSTS PAYABLE BY PERSON BEATING WIFE OR HUSBAND.

Kha 5-14.

If a deed of divorce has been granted by a Court of law because of the husband's cruelty in beating his wife or her relatives, then in such a case, that husband who has beaten his wife shall himself be liable to pay the separation costs.

Similarly if a divorce has been granted because of the wife's cruelty in beating her husband and his relatives, the case shall be processed in like manner.

SEPARATION COSTS PAYABLE BY PARTY DESIRING DIVORCE ON GROUNDS OF NEGLIGENCE.

Kha 5-15.

If a couple seek a divorce on the grounds of wilful negligence by either of the parties to a marriage, then that party seeking divorce from a Court of law shall be liable to pay the separation costs thereof.

CHAPTER SIX

**DEED OF DIVORCE (YIKTHI) ON OBTAINING DIVORCE.
RULES GOVERNING EXCHANGE OF DEED OF DIVORCE.**

Kha 6-1.

In any proceedings under this Act where a dissolution of marriage is sought by a decree of divorce, the husband and wife shall have to exchange deeds of divorce (YIKTHI) in the form and manner "Jhha" set forth in the Schedule.

AMOUNT OF PAYABLE WHEN EXCHANGING DEED OF DIVORCE.

Kha 6-2.

Any couple whether or not they have children, and whether or not they have looked after each other, and

notwithstanding the duration of their marriage, shall on divorcing exchange between them deeds of divorce; and the party to the marriage through whose default the divorce has had to be sought shall have to pay a sum (YOKTHEN) for the deed of divorce amounting to Ngultrums fifty.

RULES GOVERNING SHARING OF PROPERTIES AFTER EXCHANGE OF DEED OF DIVORCE.

Kha 6-5.

Subsequent to the exchange of the deeds of divorce, the sharing of the properties shall be undertaken in accordance with the conditions laid down in the deed of divorce. And if any particulars of a property have been omitted at the time of sharing in this manner, then that property shall not be shared out but shall be retained by the party having its possession.

And in such a case, no person shall be entitled to raise any objections.

RULES GOVERNING GRANT OF DEED OF DIVORCE TO SPOUSE OF A PERSON ABSENT FROM HOME FOR OVER A YEAR.

Kha 6-9.

If any person, apart from being on Government duty, has been living away from home for some personal work for more than a year, then if his or her spouse at home approaches a Court of law for a grant of a deed of divorce, then the Court shall grant the deed of divorce.

And the separation costs liable in such a case shall be processed under the provisions laid down hereinbefore in Section Kha 5-6.

RESTRICTION ON TAKING OUT A DEED OF DIVORCE WITHOUT HAVING A MARRIAGE CERTIFICATE.

Kha 6-16.

A couple having no Marriage Certificate (NYENTHAM) shall be debarred from a grant of a deed of divorce (YIKTHI) from a Court of Law.

CHAPTER SEVEN

CUSTODY (THOB-LAM) OF CHILDREN AND THEIR MAINTENANCE AND SETTLEMENT OF JOINT EXPENSES (SEY-CHI) ON DIVORCING.

RIGHTS OF CUSTODY OF CHILDREN ON DIVORCE.

Kha 7-1.

In any proceedings under this Act where a couple having children have been granted a divorce, then whether or not they have looked after each other during their stay together, and irrespective of either of the parties to the marriage having committed a misdemeanour, their children aged nine years and upwards, subsequent to their divorce, shall have the rights to choose whether they wish to live with the father or the mother.

RIGHTS OF MOTHER OVER CUSTODY OF CHILDREN BELOW NINE YEARS.

Kha 7-2.

In any proceedings under this Act where a couple having children have been granted a divorce, the custody of the children not attaining the age of nine years shall be given to the mother.

RULES GOVERNING MAINTENANCE AND EXPENDITURE FOR CHILDREN'S UP BRINGING.

[Kha 7-3.

(1) If because of a misdemeanour by a husband, a couple has been granted a divorce, then the custody of the children not attaining the age of nine years shall be given to the mother and their maintenance shall be done according to any mutual agreement between that couple. But in the absence of any such agreement, where a suit has been filed in a Court of law, then if that mother has not contracted another marriage, the father shall have to pay a sum in cash amounting to Ngultrums thirty a month to each of his children once a year or at one time, depending on his convenience, through a Court of law in lieu of giving them cereals, meat, butter, clothing etc.

(2) Where the children have chosen to live with the father, then they shall not be entitled to any allowances from the mother And

(3) Where the mother expires prior to the children attaining nine years, the father shall have to take over the custody of such children. And if he refuses to do so, then their monthly allowances shall have to be paid to the person who will look after them.] – Amended in 1996 as:

Kha 7-3

- (1) Where a married couple has been granted a divorce, the custody of a child under the age of nine years shall be given to the mother. The father shall pay child support allowance according to the provisions of a marriage settlement agreement. In the absence of any such agreement, the father shall pay a sum in cash amounting to twenty percent of his monthly

income per month to each child as child support allowance. Provided, the total child support allowance does not exceed 40% of his monthly income.

The payment of the child support allowance may be made either monthly or once a year in lump sum, depending upon his convenience, until the child attains eighteen years of age.

RESTRICTION ON VERIFYING EXPENDITURE FOR MAINTENANCE.

Kha 7-4.

Subsequent to a divorce, it shall be prohibited to ask for accounts of the maintenance allowance given by the father to verify if such allowances have been properly expended.

NON-ENTITLEMENT OF MAINTENANCE IF DIVORCE DUE TO WIFE'S DEFAULT.

Kha 7-5.

Subsequent to a divorce being granted on the grounds of a misdemeanour having been committed by a wife, no maintenance allowance shall be admissible to that wife for the children. But where a couple had been living apart prior to their divorce, then the maintenance allowance for the children shall have to be processed in accordance with the provisions laid down in the Inheritance Act.

RULES GOVERNING SETTLEMENT OF EXPENSES FOR MARRIAGES.

Kha 7-6.

(1). If a couple has to seek a divorce within three years of their marriage because of a misdemeanour committed by one of the parties to the marriage, then the costs incurred for their marriage shall, after accounting, have to be borne by the party guilty of the misdemeanour. But where a divorce is granted after more than three years of marriage, then neither parties to the marriage shall be liable to pay such costs.

(2). For finding out the costs incurred for a marriage, the amount determined by the village headman or member of the Assembly (CHIMI) or by a minimum of three impartial witnesses not related to either of the parties to the marriage shall be accepted.

(3). However, in any case the limitation for claims of such costs shall not exceed three thousand Ngultrums.

RULES GOVERNING REALIZATION OF EXPENSES ON EACH OTHER ON DIVORCING.

Kha 7-7.

In any proceedings under this Act where a couple with or without children are granted a divorce, then notwithstanding the duration of their marriage, the settlement of the expenses incurred for their individual benefits when living together or the amounts jointly expended or the amounts given to each other or to their respective relatives on their own express consent or the amount expended for their individual personal work or the partitioning of the properties shall all be processed under the provisions laid down in the Inheritance Act.

CHAPTER EIGHT

LEGAL PROCEEDINGS FOR ADULTERY BY FRAUD OR ENTICEMENT (LOTIT GOKOR), RAPE OF MINOR (MAMIMPER CHOEPA), FORCIBLE RAPE (WANGTSEKHI CHOEPA) AND CONTRAVENTION OF MARRIAGE LAWS.

COMPENSATION FOR MOTHER OF AN ILLEGITIMATE CHILD.

[Kha 8-1.

In any proceedings under this Act where a suit has been filed in a Court of law on the grounds of an unmarried woman having been made pregnant, and if the person committing the offence is presented before the Court with supporting evidence, then the Court shall realize a compensation of Ngultrums five hundred from that offender and give it to that woman for her medical treatment and maintenance of that illegitimate child.] – Amended in 1996 as:

Kha 8-1

(1) Where a suit has been filed in a Court of Law on the grounds of an unmarried woman having been made pregnant and if the suit succeeds, the person committing the offence shall pay an amount equal to the national daily wage for ten months calculated in accordance with the Chathrim for national wage rate to the unmarried woman towards the cost of her medical treatment.

(2) The father of a child born out of wedlock shall pay child support allowance according to the provisions of a mutually settled agreement. In the absence of any such agreement, the father shall pay a sum in cash amounting to twenty percent of his monthly income per month to each child. Provided, the total child support allowance does not exceed 40% of his monthly income.

The payment of the child support allowance may be made either monthly or once a year in lump sum, depending upon his convenience, until the child attains eighteen years of age.

- (3) Income shall mean:
- a) net salary/wage in the case of employees;
 - b) net income from ownership of property/ farm/business;
 - c) net income from dividends of stocks or shares; or
 - d) any net income earning not included above.

LIABILITY OF EXPENSES ON DEATH OF AN ILLEGITIMATE CHILD MOTHER.

Kha 8-2.

If such a woman expires while giving birth to that child, then whatever fines have been prescribed by law in a case of accidental death under the provisions laid down in the Penal Code (THRIMGYEL THRIMYIG) shall be realized from the offender by a Court of law and given to either the parents or the household members of that deceased woman for her funeral rites. And where no such persons exist, the amount shall be given to the villagers of that deceased and the said villagers shall together have the last rites performed for that deceased woman.

RESPONSIBILITY FOR THE UPBRINGING OF THE CHILD.

Kha 8-3.

If the mother expires in this manner and where there are no relatives of the deceased to bring up that child, then it shall be incumbent upon the person who had committed the misdemeanour with that deceased woman to bring up the said child.

PUNISHMENT ON BREACH OF TRUST TO MARRY A WOMAN.

Kha 8-4.

If any man cohabits with a woman on the promise of marrying her but subsequently divorces her without having acquired a Marriage Certificate, then that woman shall be entitled to acquire a Marriage Certificate after paying the stipulated fine, and following the divorce, she shall be given all such properties as are entitled to her by law. In addition, that man who had deceived her shall be punished in accordance with the penalties laid down in the Section of fraud under the Penal Code.

IMPOSITION OF FINE FOR PERFORMING CHILD MARRIAGES.

Kha 8-20.

Whereas the performance of child marriages in villages are seemed to be against the laws, the realization of expenses so incurred for performing such marriages shall not be permitted. And where there have been exchanges of any lands, houses, properties, livestock etc. in such marriages, then the person who has given such properties shall have to take them back, and the persons performing such child marriages in contravention of the prescribed law shall be punished with a fine extending from Ngultrums three hundred to Ngultrums one thousand.

IMPOSITION OF FINES ON PERFORMING SUCCESSIVE CHILD MARRIAGES BY FRAUD.

Kha 8-21.

If evidence is furnished of the performance of successive child marriages by resorting to fraudulent means and of the expenses realized thereof, then the offender shall be punished with the fine prescribed in the aforesaid Section Kha 8-20. In addition, the offender by performing successive child marriages by concealing the fact of the child's prior marriages shall be punished with a separate amount of fine.

2. THE BHUTAN CITIZEN ACT, 1985

2. CITIZENSHIP BY BIRTH

A person whose parents are both citizens of Bhutan shall be deemed to be a citizen of Bhutan by birth.

3. CITIZENSHIP BY REGISTRATION.

A person permanently domiciled in Bhutan on or before 31st December, 1958, and, whose name is registered in the census register maintained by the Ministry of Home Affairs shall be deemed to be a citizen of Bhutan by registration.

4. CITIZENSHIP BY NATURALIZATION.

A person desiring to apply for Bhutanese citizenship to the Ministry of Home Affairs in Forms KA-1 and KA-2 must fulfil all the following conditions to be eligible for naturalization:

- a) The person must have attained the age of 21 years, and 15 years in the case of a person either of whose parents is a citizen of Bhutan;
- b) The person must be mentally sound;
- c) The person must have resided in Bhutan for 15 years in the case of Government employees and also in the case of applicants, either of whose parents is a citizen of Bhutan, and 20 years in all other case, and this period of residence must be registered in the records of the Department of Immigration and Census.
- d) The person must be able to speak, read and write Dzongkha proficiently;
- e) The person must have good knowledge of the culture, customs, traditions, and history of Bhutan;
- f) The person must have good moral character and should not have any record of imprisonment for criminal offences in Bhutan or elsewhere;
- g) The person must have no record of having spoken or acted against the King, Country and People of Bhutan in any manner whatsoever, and
- h) The person must be prepared to take a solemn Oath of Allegiance to the King, Country and People of Bhutan according to the prescribed Form KHA. 3

On receipt of the application Form KA-1 for naturalization, the Ministry of Home Affairs will take necessary steps to check all the particulars contained in the application. The Ministry of Home Affairs will also conduct written and oral tests to assess proficiency in Dzongkha and knowledge of the culture, customs, traditions and history of Bhutan. The decision of the Ministry of Home Affairs on the question of eligibility for naturalisation shall be final and binding. The Royal Government of Bhutan also reserves the right to reject any application for naturalisation without assigning any reason.

5. GRANT OF CITIZENSHIP:

- a) A person, whose application for naturalization has been favourably considered by the ministry of Home Affairs, shall take the Oath of Allegiance according to Form KHA of this Act and then His Majesty the King may grant citizenship Kasho.
- b) A person shall then be deemed to be a citizen of Bhutan upon receiving a Kashog from His Majesty the King of Bhutan according to Form GA of this Act.

6. TERMINATION OF CITIZENSHIP:

- a) Any citizen of Bhutan who acquires the citizenship of another country shall cease to be a citizen of Bhutan. The wife/husband and children of that person if they were Bhutanese citizens, shall have the right to remain as citizens of Bhutan provided they are permanently domiciled in Bhutan and are registered annually in the citizenship Register maintained by the Ministry of Home Affairs.
- b) Any citizen of Bhutan who has acquired citizenship by naturalisation may be deprived of citizenship at any time if

it is found that naturalisation had been obtained by means of fraud, false representation or the concealment of any materials fact.

c) Any citizen of Bhutan who has acquired citizenship by naturalisation may be deprived of citizenship at any time if that person has shown by act or speech to be disloyal in any manner whatsoever to the King, Country and People of Bhutan.

d) If both the parents are Bhutanese and in case of the children leaving the Country of their own accord, without the knowledge of the Royal Government of Bhutan and their names are also not recorded in the citizenship register maintained in the Ministry of Home Affairs, then they will not be considered as citizens of Bhutan.(Resolution No.16 (2) adopted by the National Assembly of Bhutan in its 62nd Session).

e) Any citizen of Bhutan who has been deprived of Bhutanese citizenship must dispose of all immovable property in Bhutan within one year, failing which, the immovable property shall be confiscated by the Ministry of Home Affairs on payment of fair and reasonable compensation.

(The resolution of the 67th National Assembly in 1988 provided full entitlement to health, education and social benefits as citizens of Bhutan till the naturalization of the children as per the proceedings in the 1985 Citizenship Act)

3. THE PENAL CODE OF BHUTAN, 2004

PART TWO - OFFENCES AGAINST THE PERSON

CHAPTER 11 - HOMICIDE

Illegal Abortion

146. A defendant shall be guilty of the offence of illegal abortion, if the defendant unlawfully aborts or induces expulsion of an embryo or foetus or prevents a child from being born alive, except the act is caused in good faith for the purpose of saving the life of the mother or when the pregnancy is a result of rape or incest, or when the mother is of unsound mental condition.

Trafficking a person

154. A defendant shall be guilty of the offence of trafficking a person, if the defendant transports, sells or buys a person within, into or outside of Bhutan for any purpose.

Grading of trafficking a person

155. The offence of trafficking a person shall be a felony of the fourth degree.

CHAPTER 12 - ASSAULT, BATTERY AND RELATED OFFENCES

Assault

156. A defendant shall be guilty of the offence of assault, if the defendant purposely, knowingly, recklessly, or negligently causes apprehension of bodily injury to another person.

Grading of Assault

157. The offence of assault shall be a violation.

Battery

158. A defendant shall be guilty of the offence of battery, if the defendant purposely uses physical force of an adverse nature on another person.

Grading of Battery

159. The offence of battery shall be:

- (a) A petty misdemeanor; or
- (b) A misdemeanor, if aggravated circumstances is present.

CHAPTER 14 - SEXUAL OFFENCES

Rape

177. A defendant shall be guilty of the offence of rape, if the defendant has sexual intercourse with another person:

- (a) Without the person's consent or with consent, when consent is obtained by putting the person or a third person in fear of death or of grievous hurt;
- (b) Compels the other person to submit to sexual intercourse by force, or by threat of imminent death, bodily injury or serious bodily injury or the commission of a felony to that person or a third person;
- (c) Substantially impairs the other persons ability to appraise or control the conduct by administering drugs, intoxicants, or other substances without consent for the purpose of preventing the person's resistance to the sexual intercourse, or
- (d) Renders the other person unconscious for the purpose of committing sexual intercourse.

Grading of Rape

178. The offence of rape shall be a felony of the fourth degree.

Rape of a married person

179. A defendant shall be guilty of the offence of rape of a married person, if the defendant rapes a married person.

Grading of Rape of a married person

180. The offence of rape of a married person shall be a felony of the fourth degree and shall also be liable to pay "GAO" in accordance with the other laws.

Statutory rape

181. A defendant shall be guilty of the offence of statutory rape, if the defendant engages in sexual intercourse with a child below twelve years, or an incompetent person, either with or without knowledge of the other person being a

child or incompetent person.

Grading of Statutory rape

182. The offence of statutory rape shall be a felony of the second degree.

Rape of a child above twelve years of age

183. A defendant shall be guilty of the offence of rape of a child above the age of twelve years, if the defendant has sexual intercourse with a child between the age of twelve to eighteen years.

Grading of Rape of a child above twelve years of age

184. The offence of rape of a child above the age of twelve years shall be a felony of the third degree.

Rape of pregnant women

185. A defendant shall be guilty of the offence of rape of a pregnant woman, if the defendant rapes a pregnant woman.

Grading of Rape of pregnant woman

186. The offence of rape of pregnant woman shall be a felony of the fourth degree and shall also be liable to pay “GAO” in accordance with other laws wherever applicable.

Gang rape

187. A defendant shall be guilty of the offence of gang rape where two or more persons engage in raping another person.

Grading of Gang rape.

188. The offence of gang rape shall be a felony of the third degree.

Gang rape of a married person

189. A defendant shall be guilty of the offence of gang rape of a married person, when two or more person engages in raping a married person.

Grading of Gang rape of a married person

190. The offence of gang rape of a married person shall be a felony of the third degree and shall also be liable to pay “GAO” by each defendant in accordance with the other laws.

Gang rape of a child below twelve years of age

191. A defendant shall be guilty of the offence of gang rape of a child below the age of twelve years, when two or more persons engage in a sexual intercourse with a child below the age of twelve years.

Grading of Gang rape of a child below twelve years of age

192. The offence of gang rape of a child below twelve years of age shall be a felony of the first degree.

Gang rape of a child above twelve years of age

193. A defendant shall be guilty of the offence of gang rape of a child above the age of twelve years, when two or more persons engages in raping or indulging into a sexual intercourse with a child between the age of twelve and eighteen years.

Grading of Gang rape of a child above twelve years of age

194. The offence of gang rape of a child above twelve years of age shall be a felony of the second degree.

Gang rape of pregnant woman

195. A defendant shall be guilty of the offence of gang rape of a pregnant woman, when two or more persons engage in raping a pregnant woman.

Grading of Gang rape of pregnant woman

196. The offence of gang rape of pregnant woman shall be a felony of the third degree and shall also be liable to pay “GAO” by each defendant in accordance with the other laws wherever applicable.

Custodial rape

197. A defendant shall be guilty of the offence of custodial rape, if the defendant who has custody of a person, or being a legal guardian takes advantage of one’s official position and engages in sexual intercourse with such person.

Grading of Custodial rape

198. The offence of custodial rape shall be a felony of the third degree.

Marital rape

199. A defendant shall be guilty of marital rape, if the defendant engages in sexual intercourse with one's own spouse without consent or against the will of the other spouse.

Grading of Marital rape

200. The offence of marital rape shall be a petty misdemeanour.

Injury

201. Where injury is the result of the commission of rape of any description, the victim is entitled to compensation as provided by this Penal Code.

Compensation to victim

202. The victim of rape shall be entitled to compensation as per the provision of this Penal Code. Each defendant or defendants shall be liable to pay individually.

Child molestation

203. A defendant shall be guilty of the offence of child molestation, if the defendant molests a child.

Grading of Child molestation

204. The offence of child molestation shall be a felony of the fourth degree.

Sexual Harassment

205. A defendant shall be guilty of sexual harassment, if the defendant makes unwelcome physical, verbal or non-verbal abuse of sexual nature.

Grading of Sexual harassment

206. The offence of sexual harassment shall be a petty misdemeanour.

CHAPTER 15 - OFFENCES AGAINST INFANT, CHILD, MENTALLY DISABLED AND INCOMPETENT PERSON**Pedophilia**

225. A defendant shall be guilty of the offence of pedophilia, if the defendant:

- (a) Photographs or videotapes a child in a sexual act;
- (b) Sells, manufactures, distributes, or otherwise deals in material that contains any depiction of a child engaged in sexual contact; or
- (c) Solicits directly or indirectly the services of a child for sex.

Grading of Pedophilia

226. The offence of pedophilia shall be

- (a) A misdemeanour; or
- (b) A felony of the third degree, if the defendant solicits directly or indirectly the services of a child for sex.

Trafficking of a child

227. A defendant shall be guilty of the offence of trafficking of a child, if the defendant, sells, buys or transports a child for any illegal purpose.

Grading of Trafficking of a child

228. The offence of trafficking of a child shall be a felony of the third degree.

Endangerment of a mentally disabled or an incompetent person

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

Grading of Endangerment of a mentally disabled or an incompetent person.

230. The offence of endangerment of a mentally disabled or incompetent person shall be a misdemeanour.

CHAPTER 26 - PROSTITUTION AND RELATED OFFENCES

Prostitution

373. A defendant shall be guilty of the offence of prostitution, if the defendant offers, agrees to engage, or engages in sexual conduct with another person for money or property.

Grading of Prostitution

374. The offence of prostitution shall be a misdemeanour.

Promotion of prostitution

375. A defendant shall be guilty of the offence of promotion of prostitution, if the defendant:

- (a) Owns, leases, controls, manages, supervises a brothel or otherwise keeps a prostitution business;
- (b) Procures a person for a house of prostitution;
- (c) Encourages, induces, or otherwise purposely causes another to become or remain as a prostitute;
- (d) Solicits a person to patronize a prostitute;
- (e) Procures a prostitute for a patron;
- (f) Requires a prostitute to give a part or all of the money or property received as a result of the prostitution.

Grading of Promotion of prostitution

376. The offence of promotion of prostitution shall be:

- (a) A misdemeanour;
- (b) A felony of the fourth degree, if the person used for prostitution is a child of above 12 years and below 18 years;
- or
- (c) A felony of the third degree, if the person used for prostitution is a child of 12 years and below.

Patronizing a prostitute

377. A defendant shall be guilty of the offence of patronizing a prostitute, if the defendant gives money, property, or other gratification to engage in sexual act.

Grading of Patronizing a prostitute

378. The offence of patronizing a prostitute shall be:

- (a) A misdemeanour;
- (b) A felony of the fourth degree, if the person used for prostitution is a child of above 12 years and below 18 years;
- or
- (c) A felony of the third degree, if the person used for prosecution is a child of 12 years and below.

Trafficking a person for prostitution

379. A defendant shall be guilty of the offence of trafficking a person for prostitution, if the defendant transports, sells or buys a person into or outside of Bhutan with the purpose of engaging that person in prostitution.

Grading of trafficking a person for prostitution

380. The offence of trafficking a person for prostitution shall be a felony of the:

- (a) Third degree;
- (b) Second degree, if the person is a child of above 12 years and below 18 years;
- (c) First degree, if the person is a child of 12 years and below.

4. LABOUR AND EMPLOYMENT ACT OF BHUTAN 2007

CHAPTER - II

PROHIBITIONS

Prohibition against discrimination of employees and job seekers

11. An employer and an employment agent shall not discriminate against employees or job applicants for vacancies in connection with recruitment, dismissal, transfer, training and demotion.

12. An employer shall not discriminate against an employee with regard to wages and working conditions.

13. Discrimination regarding pay conditions takes place in the case of failure to give equal pay for equal work or work of equal value.

Prohibition against sexual harassment

16. An employer shall not sexually harass:

- (a) a person seeking employment with that employer; or
- (b) an employee of that employer.

17. An employee shall not sexually harass:

- (a) another person employed by his or her employer;
- (b) his or her employer; or
- (c) a person seeking employment with his or her employer.

18. For the purposes of sections 16, 17 and 19, sexual harassment includes:

- (a) making an unwelcome sexual advance or an unwelcome request for sexual favours to the other person; or
- (b) engaging in any other unwelcome conduct of a sexual nature in relation to the other person.

19. In sections 16 to 18 "conduct of a sexual nature" includes-

- (a) subjecting a person to any act of physical intimacy;
- (b) making any oral or written remark or statement with sexual connotations to a person or about a person in his or her presence; or
- (c) making any gesture, action or comment of a sexual nature in a person's presence.

20. A person who contravenes sections 16 to 19 shall be guilty of an offence which shall be a petty misdemeanour. In addition, the Court may impose fine at the rate of the Daily Minimum National Wage Rate to a maximum of 3000 days in accordance to the severity of the offence.

CHAPTER - V

CONTRACTS OF EMPLOYMENT

Internal service rules

76. An employer with an enterprise that is either-

- (a) a registered company under the Companies Act of the Kingdom of Bhutan (2000); or
- (b) a small, medium or large scale industry - shall prepare and implement internal service rules in consultation with the Workers' Association or, if there is no such Association, with the employees at the enterprise.

77. The internal service rules shall be framed as per the Rules and Regulations to this Act.

78. The internal service rules may contain terms and conditions of employment that are more than the minimum set down in this Act but any terms or conditions which are less than the minimum terms of this Act shall be void.

79. The internal service rules are not enforceable until they have been approved by the Chief Labour Administrator as being in compliance with this Act.

80. An employer who contravenes sections 76 to 79 shall be liable to pay a fine at the rate of the Daily Minimum National Wage Rate to a maximum 3 years of the Daily Minimum National Wage Rate.

CHAPTER - VII

HOURS OF WORK AND LEAVE

Application of Chapter VII

103. Chapter VII applies to all forms of employment

Working Hours

104. The Ministry shall fix the duration of working hours from time to time and an executive order shall be issued to this effect.

105. No employee shall be required to work beyond the maximum working hours specified in the executive order.

Leave

106. An employee is entitled to the following type of leaves.

- (a) Sick Leave;
- (b) Annual Leave;
- (c) Casual Leave;
- (d) Maternity Leave; and
- (e) Paternity leave.

107. The procedure for entitlement of the above leave shall be as specified in the rules to this Act.

Public holidays

108. An employee is entitled to a minimum of 9 public holidays each year, inclusive of the birth anniversary of His Majesty the King and the National Day, to be taken as leave with pay based on the employee's normal rate of pay that was paid to the employee in his or her most recent pay period.

109. An employer may agree with his or her employees to substitute a public holiday under section 108 with another public holiday.

110. If an employee is required to work by the employer on a public holiday, the employer shall pay additional 50% of the employee's normal rate of pay.

Night work and risky work

111. An employer shall not require a pregnant employee to work between the hours of 10 o'clock at night and 8 o'clock in the following morning:

- (a) 140 days before she is due to give birth and 56 days after she has given birth to the child; or
- (b) at any other time if the employee produces a medical certificate showing that such work would endanger the child or the mother.

112. If an employee is withdrawn from night work under section 111 or if, due to her pregnancy or breastfeeding, an employee's work is a risk to the health or safety of the employee or her unborn or newborn child:

- (a) the employer shall temporarily adjust the employee's working conditions or hours of work to avoid exposure to the risk; or
- (b) if an adjustment is not feasible or can not reasonably be required to be made, the employer shall transfer the employee to other appropriate work that-
 - (i) will not expose her to the risk; and
 - (ii) is, as nearly as possible, comparable in status and pay to that of her present work.

Work on return from maternity leave

113. On return from maternity leave, the employer shall place the returning employee in the same or a materially similar position to the position held by the employee immediately before starting the leave.

Nursing mothers

114. An employer shall allow an employee to interrupt her work every 4 hours for one hour for a period of one month immediately after the expiry of her maternity leave to nurse her child and those interruptions shall be treated as work time for which the employee shall be paid.

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