

Introduction

Disputes between individuals, communities and nations for a variety of reasons are inevitable, and it is natural to assume that every society develops its own dispute settlement mechanisms. Effective dispute resolution system, whether formal or informal, ensures that disputes are resolved at the earliest opportunity, for the benefit of both the parties and the communities.

Since the eighth century, informal systems of dispute resolution existed in Bhutan. Popularly known as Nangkha Nangdrik, it is widely practiced in Bhutan to the present day. One of the earliest account has it that Nangkha Nangdrik occurred at Nabji, in Trongsa Dzongkhag, in which Guru Padmasambhava mediated and resolved a border dispute between Sindhu Raja and Gyelp Naoche at Nabji. The stone pillar installed at the place of mediation still stands at Nabji under Korphu Gewog, Trongsa Dzongkhag. Since then, Nangkha Nangdrik, the term which is equivalent to modern day mediation system practiced in the world, was one of the primary methods to resolve the disputes in the country.

Formal justice system in the country has been instituted in the early 1960s. Even after the introduction of the Court system in the country, mediation was the mainstay of dispute resolution in Bhutan. With the legal reforms and socio economic development in the country, different terms are used to describe the process of mediation, including Dum Drik, Thri Dum, Nang Drik, Khen Dum, and Bar Dum. Regardless of its name, the process involves a third party, often a local leader, monks and village elders who facilitates discussion between the disputants and helps amicably resolve the dispute to the satisfaction of both parties.

Owing to the continuing importance of age old practices of mediation, the Bhutan National Legal Institute (BNLI), under the visionary and dynamic leadership of Honourable President, Her Royal Highness Ashi Sonam Dechan Wangchuck, undertook a comprehensive program of mediation training for local leaders. Started in 2012, its primary mission of the nationwide training program was to strengthen revitalize and institutionalize the practice of mediation in Bhutan in order to meet the needs of the communities by taking justice closer to the doorsteps of the people.

After assessing the state of the existing mediation practices in different parts of the country, BNLI consolidated the system and began training local government leaders on mediation skills and techniques. In addition to basic mediation training, BNLI's goal was to establish uniform best practices of mediation throughout the country. Thus, BNLI has trained 205 Mangmis, 130 female local leaders including Gewog Administrative Officers (GAOs), and 718 Tshogpas.

In the wake of the training, BNLI initiated a nationwide survey to determine the number and types of cases resolved both by the local leaders and the judiciary. The survey covered the period from 2012 to 30 June 2015, and the sample questionnaire was distributed to every 205 Gewog Administrations and to the Judiciary through the Department of Local Governance, Ministry of Home and Cultural Affairs and by the Registrar General of the Supreme Court respectively. This report, therefore, is the assessment of the number of disputes mediated in the community itself without resorting to the court of law, and also highlights a comparative analysis on the same issues adjudicated by the court of law. The report briefly substantiates how courts will be burdened without trained mediators in the community.

Objective

A single case resolved through mediation can be regarded as reducing caseload burden on the judiciary. Therefore, the objective of this study was to tally the cases resolved by mediation and formal litigation, by subject matter in respective Dzongkhag. BNLI hopes thereby to assess the nationwide impact of mediation and to determine the importance of training for local leaders. Overall, the main aim of the study is to examine the long-term effectiveness of the mediation services in the community and reforms that may be required in due course of time.

Methodology

Research methodology used to accomplish this assessment was a quantitative research methodology. A notification letter along with the sample questionnaire was sent to each and every Gewog administration and the judiciary. This detailed the rationale for the study and gave the clear instructions of the information sought.

Telephone conversations were conducted with every local leader asking queries and doubts on the information to be submitted. The information and data were mostly received by fax, although few opted to send through surface mail. The full tabulations of the results of the survey is analysed and the sample questionnaire have been provided under separate topic as Annexures.

Challenges and Opportunities

In designing this study, the principal methodological challenge was the lack of any baseline, pre-2012, and numbers. This survey therefore serves as a “snapshot” of the relative caseloads of the mediators and the judiciary, rather than an assessment of the impact of the BNLI training upon mediation practices in the country. It is hoped that, as future mediator training programs are concluded, this study will serve as a useful baseline for the assessment of the impact of those programs.

The survey itself required the support and cooperation of the Judiciary and the Gewog Administrations. Thus, it provided BNLI the opportunity, in many cases for the first time, to interact directly with the various Courts and Gewogs across the country. Coordinating and collecting data was frequently challenging, as it required explaining the objective of the project, justifying the processes and methods of compilation, and constant follow-ups on the submission of reports. It was a rewarding exercise, however, as it helped the BNLI staff to learn about the need to adopt appropriate approaches and strategies for undertaking such projects in the future.

Key Findings

The key findings of the report is as enumerated below:

- Total number of cases – As of 2012 to 30 June 2015, 36250 cases were resolved either through mediation or litigation.
- Total number of mediation – Of the total 36250 disputes, 15316 disputes were resolved through mediation.
- Total number of litigation – Of the total 36250 disputes, 20934 cases were resolved through judicial proceedings.
- Table 1 illustrates the list of Dzongkhags that has resolved highest number of disputes either through mediation or litigation.

Sr. No.	Matters/ Issues	Highest No. of cases resolved by a Dzongkhag through mediation	# of cases mediated	Highest No. of cases resolved by a Dzongkhag through litigation	# of cases litigated
1	Footpaths and access to road	Chukkha	141	Mongar	21
2	Drinking water and irrigation	Trashigang	145	Punakha	11
3	Irrigation channel and walls	Mongar	64	Paro	12
4	Crop damaged by livestock	Mongar	198	Trashigang	8
6	General land issues	Bumthang & Tsirang	40		
7	Land boundaries & fruit trees grown on the boundary of two plots of private registered land	Trashigang	303	Paro	21

8	Inheritance	Mongar	729	Paro	761
9	Monetary	Trashigang	422	Thimphu	2012
10	Matrimonial	Mongar	777	Thimphu	895
11	Miscellaneous	Trashigang	513		

Table 1: Table showing the list of Dzongkhags that has resolved highest number of disputes either through mediation or litigation.

Table 1 highlights the echelon of cases resolved by each Dzongkhag either through mediation or litigation. When contrasting the cases resolved by each Dzongkhag on the different subject matters or issues, it clearly shows that some Dzongkhag has achieved astonishing number of cases. For instance Mongar Dzongkhag has resolved 777 matrimonial cases through mediation. Similarly, Thimphu Dzongkhag has resolved 2012 monetary cases through judicial proceedings. When comparing the data it evidently demonstrates that Mongar and Trashigang Dzongkhag has repeatedly achieved in resolving maximum number of different cases including both through mediation and litigation.

Analysis of the Report

The report is structured as follows:

A: Summary

The summary provides, in tabular format, the results of the survey, comparing the number of disputes resolved via mediation and litigation. The data is divided into ten subject matter headings (nine subject-specific, plus one “Miscellaneous.”)

B: The Narrative description of results, by subject matter

In this section, the results of each subject matter is discussed in detail.

C: Way Forward

Drawing upon the data presented in the previous sections, this section sets out the way forward for future plans and programs for mediation training.

D: Conclusion

A: Summary

The table below shows the summary of total number of disputes resolved through mediation and litigation.

Sr. No.	Dzongkhag(s)	# of Disputes Mediated	# of Cases Litigated	Total
1	Bumthang	378	362	740
2	Chhukha	1357	1439	2796
3	Dagana	677	581	1258
4	Gasa	208	81	289
5	Haa	509	380	889
6	Lhuntse	296	1124	1420
7	Mongar	2997	1241	4238
8	Paro	665	2958	3623
9	Pema Gatshel	313	1575	1888
10	Punakha	351	960	1311
11	Samdrup Jongkhar	438	764	1202
12	Samchi	807	831	1638
13	Sarpang	347	1073	1420
14	Thimphu	160	3762	3922
15	Tashigang	2545	1046	3591
16	Tashiyangtse	693	327	1020
17	Trongsa	786	392	1178
18	Tsirang	384	288	672
19	Wangdue	1089	1147	2236
20	Zhengang	316	603	919
Grand Total		15316	20934	36250

Table 2: Table showing the total number of disputes resolved through mediation and litigation in respective Dzongkhag.

Of the total 36250 civil disputes since 2012 to 30 June 2015, 15316 cases were resolved in the community itself through mediation; and 20934 cases were resolved through litigation. Although the number of disputes mediated were not very less (42.25% of the total number of disputes), however, the table shows that the number of litigated cases were relatively high. Perhaps, this demonstrate how Bhutanese people prefer to settle the conflicts through formal judicial process despite mediation possess numerous advantages. Nevertheless, it is not fair to conclude that litigation is the single most preferred

dispute settlement mechanism. For instance, in Mongar Dzongkhag, the total number of disputes were recorded to be 4238, out of which only 1241 were litigated through formal court system. Rest 2997 disputes were resolved through mediation. In contrast, Thimphu Dzongkhag has only 160 cases reported to be resolved through mediation out of 3922 cases. Rest 3762 were resolved through judicial proceeding. Perhaps, this illustrate how the attitude of people actually attributes towards the success of mediation. This also indicate how urbanization effects the mental attitude of resolving the disputes, since urban people are more exposed to statutory rights. Conceivably, it can also be presumed that mediation training in Mongar Dzongkhag was exceptionally successful compared to Thimphu Dzongkhag. Therefore, it is acceptable to interpret that BNLI should determine to put more effort in the Dzongkhags where mediation was not a preferred means of dispute resolution method. Conversely, BNLI would also interpret to give a meaning that if mediation was not institutionalized at the grassroots level, court would have been burdened with each and every trivial disputes thereby making justice delayed.

There is another significant data which elucidate mediation as a preferred means of dispute resolution method in the country. The below table (Table 3) provides the summary of the total number of nature of cases resolved by the local leaders through mediation and by the courts through litigation. It provides a clear picture of the cases that were resolved through both informal and formal dispute resolution methods.

Sr. No.	Matters/Issues	# of cases resolved through		Total
		Mediation	Litigation	
1	Footpaths and access roads	830	110	940
2	Drinking water and irrigation	820	64	884
3	Irrigation channels and walls	404	37	441
4	Crops damaged by livestock	1039	44	1083
5	General land issues	223	73	296
6	Land boundaries & fruit trees grown on the boundary of two plots of private registered land	1495	19	1514
7	Inheritance	1808	4496	6304
8	Monetary	2056	9735	11791
9	Matrimonial	3048	2464	5512
10	Miscellaneous	3593	3892	7485
Total		15316	20934	36250

Table 3: Table showing the total number of disputes resolved through mediation and litigation by subject wise.

Table 3 illustrates the subject matter of disputes resolved through mediation and litigation. While it is evident that the number of disputes referred for litigation is significantly high, however, this is solely because maximum of monetary cases were referred to the court of law for settlement. Out of 11791 monetary cases in the Kingdom, 9735 were resolved in the courts, and only 2056 were resolved through mediation. Similarly, inheritance related issues were mostly referred to the court of law. Table 3 clearly shows out of 6304 inheritance related disputes, only 1808 monetary disputes were referred for mediation; and rest 4496 were settled through litigation. This is evidencing to conclude that BNLI need to focus its future training to provide skills and techniques to mediate monetary and inheritance disputes in the community level itself. If these two major disputes can be resolved in the village level itself, courts will shift its focus to other important major cases. However, the data shows that other than the monetary and inheritance disputes, major disputes were mostly settled through mediation.

While the monetary cases topped with 11791, general land related issues stood minimum with 296 cases. Nonetheless, it can be concluded that inheritance, monetary and matrimonial cases are often the subject matter of mediation and litigation in the country. The detail narrative description of each subject matter is given below.

B: Narrative description of results, by subject matter

Footpaths and access roads

From 2012 to 30 June 2015, the local leaders have settled 830 disputes concerning footpaths and access roads, as compared to 110 by the courts. Chhukha Dzongkhag mediated the highest number of disputes on footpaths and access roads (141), while Zhemgang stand the least with one (1) disputes.

Sr. No.	Dzongkhag(s)	# of Disputes Mediated	# of Disputes Litigated	Total
1	Bumthang	26	4	30
2	Chhukha	141	1	142
3	Dagana	21	4	25
4	Gasa	19	2	21
5	Haa	30	5	35
6	Lhuentse	2	4	6
7	Mongar	105	21	126
8	Paro	37	17	54
9	Pema Gatshel	6	5	11
10	Punakha	15	15	30
11	Samdrup Jongkhar	15	9	24
12	Samtse	35	1	36

13	Sarpang	7	0	7
14	Thimphu	19	3	22
15	Trashigang	120	10	130
16	Trashi Yangtse	42	3	45
17	Trongsa	96	4	100
18	Tsirang	4	1	5
19	Wangdue Phodrang	89	1	90
20	Zhemgang	1	0	1
Total		830	110	940

Table 4: Table showing the total number of footpaths and access roads disputes mediated in respective Dzongkhag.

Drinking water and irrigation

Drinking water and irrigation is mostly disputed subject in the community. Table 5 shows that out of 884 cases, maximum (820) disputes were mediated and only 64 cases were settled through formal litigation system.

Sr. No.	Dzongkhag(s)	# of Disputes Mediated	# of Disputes Litigated	Total
1	Bumthang	10	0	10
2	Chhukha	129	0	129
3	Dagana	37	6	43
4	Gasa	12	3	15
5	Haa	37	2	39
6	Lhuentse	8	6	14
7	Mongar	63	10	73
8	Paro	27	2	29
9	Pema Gatshel	11	1	12
10	Punakha	19	11	30
11	Samdrupjongkhar	14	1	15
12	Samtse	57	1	58
13	Sarpang	9	2	11
14	Thimphu	4	4	8
15	Trashigang	57	6	63
16	Trashi Yangtse	145	3	148

17	Trongsa	60	0	60
18	Tsirang	12	1	13
19	Wangdue Phodrang	107	5	112
20	Zhemgang	2	0	2
Total		820	64	884

Table 5: Table showing the number of drinking water and irrigation disputes mediated and litigated in respective Dzongkhag.

Trashi Yangtse Dzongkhag mediated 145 disputes on drinking water and irrigation with only 3 disputes of such nature referred for litigation. On the other hand, Zhemgang Dzongkhag received only 2 of such disputes which were successfully mediated. In terms of litigation, Punakha and Mongar Dzongkhags has highest number of cases resolved through judicial proceedings (11 & 10 respectively), while many Dzongkhag courts never receive any of such cases.

Irrigation channels and walls

In this category, the total number of mediation for irrigation channels and walls stood 404 cases, as compared to 37 cases litigated in the courts. Haa and Mongar Dzongkhags mediated 60 & 64 cases respectively, while Bumthang, Gasa and Pema Gatshel received least number of disputes (1). Table 6 clearly shows that maximum number of disputes were resolved through mediation than litigation.

Sr. No.	Dzongkhag(s)	# of Disputes Mediated	# of Disputes Litigated	Total
1	Bumthang	1	0	1
2	Chhukha	33	1	34
3	Dagana	8	0	8
4	Gasa	1	0	1
5	Haa	60	0	60
6	Lhuentse	2	0	2
7	Mongar	64	3	67
8	Paro	26	12	38
9	Pema Gatshel	1	0	1
10	Punakha	19	2	21
11	Samdrupjongkhar	5	1	6
12	Samtse	17	4	21
13	Sarpang	7	0	7
14	Thimphu	9	1	10
15	Trashigang	44	7	51

16	Trashi Yangtse	48	5	53
17	Trongsa	20	0	20
18	Tsirang	13	0	13
19	Wangdue Phodrang	26	0	26
20	Zhemgang	0	1	1
Total		404	37	441

Table 6: Table showing the total number of disputes on irrigation channels and walls mediated and litigated in respective Dzongkhag.

Crops damaged by livestock

Bhutan is mostly agricultural and livestock dependent, and therefore, livestock plays an integral role in the lives of Bhutanese farmers. Large areas of the country can only be used for livestock production, while in other parts livestock is an integral component of a deeply rooted farming system. While Bhutanese farmers raise livestock, it also cause damage to the crops. Often Chiwog Tshogpas and Gewog Administrations were kept busy mediating the disputes on crops damaged by livestock. Table 7 illustrates the number of reported disputes on crops damaged by livestock.

Sr. No.	Dzongkhag(s)	# of Disputes Mediated	# of Disputes Litigated	Total
1	Bumthang	15	0	15
2	Chhukha	174	3	177
3	Dagana	46	5	51
4	Gasa	28	1	29
5	Haa	26	3	29
6	Lhuentse	11	2	13
7	Mongar	198	6	204
8	Paro	0	1	1
9	Pema Gatshel	21	4	25
10	Punakha	14	2	16
11	Samdrup Jongkhar	24	0	24
12	Samtse	51	5	56
13	Sarpang	12	0	12
14	Thimphu	12	1	13
15	Trashigang	79	8	87
16	Trashi Yangtse	127	2	129

17	Trongsa	86	0	86
18	Tsirang	7	0	7
19	Wangdue Phodrang	101	0	101
20	Zhemgang	7	1	8
Total		1039	44	1083

Table 7: Table showing the total number of disputes on crops damaged by livestock mediated and litigated in respective Dzongkhag.

Table 7 highlights that total of 1083 cases pertaining to crops damaged by livestock were reported in the country. Of these many cases, 1039 disputes were resolved through mediation. Remaining 44 cases were settled through judicial process. The data is significantly huge for mediation in contrast to litigation. This information provide the BNLI how mediation certainly help resolving the cases within short period of time thereby providing expedient justice in the community itself. Had all 1083 cases were settled through formal litigation process, social peace and harmony must have disturbed certainly.

Further analyzing the Table 7, maximum Dzongkhag Courts did not receive any case on crops damage by livestock. Trashigang resolved 8 cases through litigation which turns out to be maximum.

General land issues

Another category for the purpose of this assessment is the general land issues. General land issues cover disputes related to land other than the boundaries disputes and demarcation. Land issues like land transactions, buying and selling of land, transfer of land (other than inheritance) etc. were put under this general category. Table 8 clarifies the total number of general land disputes mediated and litigated.

Sr. No.	Dzongkhag(s)	# of Disputes Mediated	# of Disputes Litigated	Total
1	Bumthang	40	0	40
2	Chhukha	2	1	3
3	Dagana	6	3	9
4	Gasa	0	0	0
5	Haa	0	2	2
6	Lhuentse	6	0	6
7	Mongar	0	8	8
8	Paro	0	21	21
9	Pema Gatshel	6	6	12
10	Punakha	17	8	25

11	Samdrup Jongkhar	4	2	6
12	Samtse	19	0	19
13	Sarpang	36	0	36
14	Thimphu	2	10	12
15	Trashigang	0	3	3
16	Trashy Yangtse	14	3	17
17	Trongsa	0	4	4
18	Tsirang	40	1	41
19	Wangdue Phodrang	31	0	31
20	Zhemgang	0	1	1
Total		223	73	296

Table 8: Table showing the total number of disputes on general land issues mediated and litigated in respective Dzongkhag.

General land issues were recorded to be the least cases reported for settlement (296). This is solely because major land related disputes pertains to land boundaries, cadastral discrepancies, and fruit and tress grown on the boundary of two plots which are categorized differently in this report. Although land transactions generally takes place in the business market, however, with adequate legal infrastructure in place, the subject is least disputed.

Of 296 general land issues, Table 8 shows that 223 cases were cordially resolved through mediation. Only 73 cases were resolved through formal litigation proceeding.

Land boundaries and fruit trees grown on the boundary of two plots of private registered land

Often, farmers are seen quarrelling and accusing each other for minor issue. Trees grown on the boundary of two plots of private registered land is seems to be minor, however the differences due to such subject nature is predominately high. Similarly, land boundaries issues generally topped the mediation agenda as seen in Table 9.

Sr. No.	Dzongkhag(s)	# of Disputes Mediated	# of Disputes Litigated	Total
1	Bumthang	26	0	26
2	Chhukha	132	0	132
3	Dagana	69	0	69
4	Gasa	21	0	21
5	Haa	42	0	42
6	Lhuentse	26	0	26

7	Mongar	251	12	263
8	Paro	87	0	87
9	Pema Gatshel	39	0	39
10	Punakha	29	0	29
11	Samdrup Jongkhar	54	2	56
12	Samtse	89	1	90
13	Sarpang	26	0	26
14	Thimphu	12	3	15
15	Trashigang	55	0	55
16	Trashi Yangtse	334	0	334
17	Trongsa	105	0	105
18	Tsirang	28	1	29
19	Wangdue Phodrang	58	0	58
20	Zhemgang	12	0	12
Total		1495	19	1514

Table 9: Table showing the total number of disputes on land boundaries and fruit trees grown on the boundary of two plots of private registered land mediated and litigated in respective Dzongkhag.

The total number of cases on land boundaries and fruit trees grown on the boundary of two plots of private registered land is 1514. It is interesting to note that total of 1495 disputes of such nature were resolved through mediation. This means only 19 disputants opted to resolve through litigation. This clearly indicate people’s understanding of advantages of mediation and its process as contrast to litigation. While public legitimate trust and confidence in the court system may be high, however, since it does not retain party’s relationship and harmony, mediation is often a preferred means of dispute settlement mechanism for the people. Table 9 clearly indicates that maximum courts did not even receive a single caseload on land boundaries and fruit trees grown on the boundary of two plots of private registered land.

Inheritance matters

The practice of passing on property, titles, debts, rights, and obligations upon the death of an individual or based on the Inheritance Law has long played an important role in human societies. Bhutan has separate Law of Inheritance passed in the year 1980 and not many issues were left unresolved. However, owing to the personal satisfaction and contentment, the issue is not remote a subject matter of disputes. Table 10 clearly indicate this.

Sr. No.	Dzongkhag(s)	# of Disputes Mediated	# of Disputes Litigated	Total
1	Bumthang	41	7	48
2	Chhukha	208	210	418
3	Dagana	65	288	353
4	Gasa	22	44	66
5	Haa	43	181	224
6	Lhuentse	14	150	164
7	Mongar	729	423	1152
8	Paro	9	761	770
9	Pema Gatshel	11	12	23
10	Punakha	28	280	308
11	Samdrup Jongkhar	18	299	317
12	Samtse	53	225	278
13	Sarpang	39	172	211
14	Thimphu	12	11	23
15	Trashigang	43	374	417
16	Trashi Yangtse	281	153	434
17	Trongsa	52	230	282
18	Tsirang	21	150	171
19	Wangdue Phodrang	114	401	515
20	Zhemgang	5	125	130
Total		1808	4496	6304

Table 10: Table showing the total number of disputes on inheritance matters mediated and litigated in respective Dzongkhag.

A total of 6304 inheritance related cases were reported from the respondents. While 4496 cases were tried in the court of law, 1808 disputes were mediated by the local leaders. This clearly shows how inheritance matters are most commonly litigated. This information suggest the BNLI to strategies its plans and programs to encourage people from availing mediation service as its advantages outweighs formal litigation in terms of peace and happiness. Inheritance is not a

complex subject matter that necessitates court's intervention. Personal hatred, resentment, and anger would only destroy family relationship. Therefore, BNLI's future training should strategically plan to provide local leaders a required skills and techniques that can minimize the inheritance matter from going to the court of law.

Table 10 also provides Paro Dzongkhag Court with highest workload (761 cases) compared to other Dzongkhags. Similarly, Mongar Dzongkhag mediated a highest inheritance disputes with a total of 729.

Monetary matters

Personal lending, borrowings from financial institutions, and other trivial monetary issues often keep the Bhutanese courts thoroughly engaged. Table 11 gives detail information.

Sr. No.	Dzongkhag(s)	# of Disputes Mediated	# of Disputes Litigated	Total
1	Bumthang	50	237	287
2	Chhukha	252	622	874
3	Dagana	126	186	312
4	Gasa	9	17	26
5	Haa	108	128	236
6	Lhuentse	42	938	980
7	Mongar	281	322	603
8	Paro	37	1890	1927
9	Pema Gatshel	30	327	357
10	Punakha	22	430	452
11	Samdrup Jongkhar	73	231	304
12	Samtse	165	349	514
13	Sarpang	56	545	601
14	Thimphu	7	2012	2019
15	Trashigang	85	314	399
16	Trashiyangtse	422	103	525
17	Trongsa	117	124	241
18	Tsirang	93	99	192
19	Wangdue Phodrang	68	475	543
20	Zhemgang	13	386	399
Total		2056	9735	11791

Table 11: Table showing the total number of disputes on monetary matters mediated and litigated in respective Dzongkhag.

As shown in Table 11, a total of 11791 monetary cases were reported in Bhutan. While maximum (9735) cases were litigated, minimum (2056) were resolved through mediation process. The figure is quite alarming for Thimphu Dzongkhag which mediated only 7 out of 2019 monetary cases. Rest 2012 cases were litigated. No monetary cases were mostly mediated in each Dzongkhags.

Similar to that of the inheritance cases, monetary cases were commonly resolved through formal litigation process. The BNLI therefore also need to strategically customize the mediation training so that monetary cases were minimized from going to the court of law for settlement. Moreover, effective monitoring and evaluation of the mediators are essential to assist them in mediating the cases of such nature.

Matrimonial matters

Status of single parent keep adding to the Bhutanese society; and this is one of the top most social issues in the country. This survey also shows that matrimonial matters reflected the highest workload in mediation. Therefore, family breakdown, illegitimate child, child maintenance etc. are some of the common issues referred for mediation. However, for the purpose of clarity, matrimonial matter include issues relating to the family breakdown and domestic violence. Issues relating to the child maintenance and illegitimate child are put under different category.

Table 12 shows the number of matrimonial disputes that were resolved either through mediation or litigation.

Sr. No.	Dzongkhag(s)	# of Disputes Mediated	# of Disputes Litigated	Total
1	Bumthang	92	103	195
2	Chhukha	191	260	451
3	Dagana	129	31	160
4	Gasa	43	1	44
5	Haa	35	29	64
6	Lhuentse	84	4	88
7	Mongar	777	148	925
8	Paro	54	29	83
9	Pema Gatshel	63	175	238
10	Punakha	99	27	126
11	Samdrup Jongkhar	77	103	180
12	Samtse	180	138	318
13	Sarpang	95	264	359
14	Thimphu	55	895	950

15	Trashigang	142	183	325
16	Trashi Yangtse	363	10	373
17	Trongsa	169	9	178
18	Tsirang	47	14	61
19	Wangdue Phodrang	319	9	328
20	Zhemgang	34	32	66
Total		3048	2464	5512

Table 12: Table showing the total number of disputes on matrimonial matters mediated and litigated in respective Dzongkhag.

This assessment conclude that each and every Gewog has mediated matrimonial issues during the index period. Of the 5512 matrimonial disputes, 3048 disputes were resolved amicably through mediation and 2464 cases were decided by the courts. This indicate that mediation is the most preferred means of dispute resolution method for matrimonial disputes. However, the number is not fewer in the court of law. BNLI need to emphasize its training programs to assist in settling every matrimonial dispute without a single number having to refer to the courts for settlement. This will help maintain social relationship and harmony in the community.

Although maximum matrimonial disputes were settled through mediation, however, the stats is not that appreciable in Thimphu Dzongkhag. Out of 950 matrimonial disputes in Thimphu Dzongkhag, only 55 were resolved through mediation. 895 disputes were referred for court's intervention. In contrast, in other Dzongkhags except for Trashigang, maximum matrimonial cases were resolved through mediation. For instance, Mongar Dzongkhag has reported 925 matrimonial disputes, out of which only 148 were litigated. Remaining 777 cases were referred to local leaders for mediation. This evidences the BNLI to concentrate for the people of the Capital to encourage mediation.

Miscellaneous

The total number of disputes under "Miscellaneous" category mediated was 3593 and litigated was 3892. The miscellaneous category include issues pertaining to business, substance abuse, alcohol abuse, altercations and quarrels, census, tenancy, motor vehicle accidents, minor disputes with neighbors, friends, family members, etc. Table 13 shows types of disputes categorized under the "Miscellaneous" category.

Sr. No.	Miscellaneous Disputes	# of cases resolved through mediation
1	Substance abuse, smoking & abuse of alcohol	70
2	Illegitimate child & child support maintenance	187
3	House construction timber & wood work	13

4	Sale and purchase of - domestic animal, shop, oranges, vehicle, pork, orange orchard, cardamom and horse	19
5	Domestic animal - slaughter, access, death, rearing, harmed, tethered, killing and grazing.	12
6	House - construction, stone pelted, adverse effects & rent	13
7	Garden & crop issues	41
8	Family issues - dispute, neglecting of wife and aged old & family member	61
9	Rude & abuse	89
10	Contract money, wages & work	11
11	Motor vehicle accident	8
12	Assault, battery & larceny	592
13	Code of conduct	6
14	Instigation, provocation & jealousy	35
15	Baseless conversation	27
16	Quarrel & misunderstanding	43
17	Purchase of Goods	7
18	Census	7
19	Religious matters, performing ritual, and black magic	6
20	Other uncategorized disputes	2346
Total		3593

Table 13: Table showing the total number of Miscellaneous disputes mediated and litigated in respective Dzongkhag.

Interestingly (and in some cases inappropriately), petty criminal cases such as assault, battery and larceny were also mediated and resolved by the local leaders. It illustrates people's disposition and enthusiasm for cementing the existing social fabric and peaceful coexistence. Mediating a trivial criminal cases would provide speedy justice at the village itself. However, BNLI as a training institution, its mandate is to make understand the local leaders or any participants the legal implications of mediating the criminal disputes. During the training on mediation skills and techniques for local leaders, the participants were trained on the "mediable and non-mediabale cases". BNLI made sure to describe the subject-matter jurisdiction of the courts and of mediators in every training. However, this study provides that BNLI need to further disseminate and sensitize the differences between criminal and civil cases so that the local leaders make informed decision to mediate any dispute. However, in the interest of the justice, it is not just and fair to mediate the criminal cases.

One of the most noticeable disputes in the community is on issue pertaining to family breakdown, illegitimate child and child maintenance. Table 13 shows that the local leaders resolved 187 disputes of such kind. Although the BNLI disseminate family and juvenile law, however BNLI as a legal Institute need to take one step forward in enhancing the existing program and disseminate the social implications of family breakdown.

Table 13 illustrates 2346 disputes categorized under “Other uncategorized disputes”, and these include other disputes that are not categorized by the respondent local leaders and the courts. The BNLI also take responsibility for not being precise and particular on the categorization of the disputes by subject nature of the disputes.

C: Way Forward

The data demonstrates that mediation remains a significant pathway for dispute resolution across the country. Mediation is nearly co-equal to formal litigation in the aggregate, and with respect to many subjects, is in fact the preferred route for dispute resolution. As such, continuing training for experienced mediators, and induction training for new mediators, should be continued and improved.

Furthermore, now that this study has established a baseline for the distribution of caseload between the courts and the mediators, regular studies should be conducted in the future in order to identify trends in mediation and to target future regions or subject-matters which might be susceptible of training.

The BNLI as a pioneer to revitalize and institutionalize the mediation practices in Bhutan, the Institute further aspire to build a strong mediation system through numerous plans and programs. Therefore, BNLI will put efforts to advance the mediation system through following mechanisms:

- i) **Establishing the ADR Center** – The Alternative Dispute Resolution Act of Bhutan, 2013, mandates the establishment of “Bhutan Alternative Dispute Resolution Centre”, which is an independent body, having a distinct legal personality and capable of doing all such things and entering into all transactions as are incidental or conducive to the exercise or perform of its functions (Section 4 of the Act). The Centre will also extend its jurisdiction to the negotiated settlement as provided under the Chapter 12 of the Act. Since the BNLI has already revitalized and institutionalized the mediation practice in Bhutan, establishing the ADR Center would further cement the legal institution. Therefore, BNLI will endeavor to ensure that the ADR Center is established in Bhutan.

- ii) **Registration Process for Mediators** – Although the BNLI has trained 1053 local leaders on mediation skills and techniques, however, they are not registered as a “certified mediators”. It is a time that Bhutan should have a system in place where mediators are enrolled. BNLI will therefore strategies to commence a registration process for mediators in the coming years.
- iii) **Monitoring and Evaluation** – BNLI claims that every training programs are a huge success. We also asserts that local leaders provide best mediation services in the community. However, this statement needs to be proven. Therefore, BNLI endeavors to monitor and evaluate the local leaders periodically. Periodic submission of the mediation report is an immediate call. As a part of monitoring and evaluation system, BNLI will commence a system ensuring every mediator a timely submission of the report. This will ensure the BNLI to conduct regular studies to identify trends in mediation.
- iv) **Funding** – One of the key contributing success factors is the secured funding for the training. The Royal Government of Bhutan (RGoB), Swiss Development Cooperation (SDC), and Austrian Development Agency (ADA) have been funding the Institute in imparting mediation training. However, it is significant that BNLI strategies plans and programs for sustaining the training of its own.
- v) **Future Training** – BNLI has focused imparting mediation training to the local leaders with numerous reasons. In a long run, the Institute endeavors to provide training to the Executive level, governmental agencies, and other stakeholders.

D: Conclusion

Mediation remains a substantial pathway for dispute resolution in Bhutan. Mediation should be encouraged and promoted for several reasons. First, mediators reduce the burden on the courts, permitting the judiciary to focus attention and resources on a smaller docket of cases requiring a higher level of legal sophistication. Second, amicable resolution of disputes in the communities have minimized or mitigated the divisive effects of the litigation, and preserved the age-old culture of inter-dependence and harmonious co-existence of people in the communities. Third, the time and cost savings to disputants of an informal mediation process reduces the burden of justice on individuals and communities.

Through successive trainings to the local leaders and other stakeholders, BNLI has been able to create awareness and promote mediation as a useful and suitable means of resolution of disputes in the communities.

By imparting mediation skills and techniques to local leaders, the Institute has indeed taken justice to the doorsteps of the people in the communities.

Further reiterating the mediation data, a total of 15316 disputes were amicably resolved in the community itself. Considering the fact that there are minimum of two parties to the dispute, at least 30632 people ($15316 \times 2 = 30632$) has availed the mediation services. As of 1 January 2016, the population of Bhutan was estimated to be 781168 people. This means that for every 26 people, at least one person has availed the mediation services ($30632:781168 = 1:26$), thereby contributing for Gross National Happiness index.

The Bhutan National Legal Institute acknowledges the support and cooperation of the Registrar General of the Supreme Court and all the courts in the country, the Department of Local Governance under Ministry of Home and Cultural Affairs and all the local leaders and administration of the 205 Gewogs. The Institute is also grateful to the Royal Government of Bhutan for providing generous financial support for this project.

Annexure - 1

རྫོང་ཁག་ ༢༠ གི་ ཁྲིམས་འདུན་གྱིས་ སྤྱི་ལོ་༢༠༡༢ ལས་སྤྱི་ལོ་ ༢༠/༠༤/༢༠༡༥ ཚུན་ གཤམ་གསལ་གྱི་
 ཚོད་ཉེག་རིགས་སེལ་ཡོད་པའི་ཐོ།

ཚོད་ཉེག་གི་རིགས་	སྤྱི་ལོ་				དན་གསོ་
	༢༠༡༢	༢༠༡༣	༢༠༡༤	སྤྱི་ལོ་༢༠༡༥ སྤྱི་ཟླ་༤ པའི་ སྤྱི་ཚེས་༢༠ ཚུན།	
མི་ལམ་དང་སྐྱུ་འཁོར་ལམ་					
འཐུང་ཚུད་ཞིང་ཚུ					
ཚུལ་དང་ཚུབ་ལ།					
ལོ་ཐོག་ལུ་ཁྲིམ་ཚང་མེས་མེས་ཅན་ཚུ་ གིས་གནོད་པ་བཀལ་བ་					
ས་ཚའི་ས་མཚམས་དང་རྫོ་མཚམས་					
ས་མཚམས་ནང་གི་ཤིང་འབྲས་སྐྱོར་					
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གཉེན་འབྲེལ་					
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གསོ་འབྲས་					
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