

WPM RESEARCH SNAPSHOT

Preserving Harmony, or Preventing Justice?

October 2020



What you need to know...

Among the many who face violence at the hands of their partners, few seek outside help. For those who do, gender-sensitive services or access to justice are not usually offered. They most often go through ADR process, particularly, reconciliation and conciliation – with an overall goal to stay together with an abusive partner. Such local form of ADR with reconciliation or conciliation method often do not serve the best interest of women and frequently fail to protect them.

What is this research about?

Through cases of domestic and intimate-partner violence that participated in local dispute resolution across Cambodia, this research explores the experiences of survivors as well as the perspectives of institutional stakeholders and service providers. It builds upon years of fieldwork by practitioners who have observed substantial problems in local ADR practices in cases of domestic and intimate partner violence. As an action research initiative, it goes further to analyze findings with a specific goal to inform policy and practice accompanied by key recommendations on overcoming current issues through a survivor-centered approach.

How was the research carried out?

After a literature, legal, and policy review, researchers conducted a survey, carried out interviews, and held focus group discussions with a total of 167 people across four Cambodian provinces. All participants had some form of experience or involvement with local ADR in the scope of domestic and intimate partner violence. They looked at the data they collected and broke it down into different groups who participated (such as women survivors, local authorities, police officers, etc.). By getting familiar with each group, they looked for common themes that could be seen across the answers they provided. The data was read a second time and coded into the themes to provide a bigger picture before it was written up in a research report.

What did we find out?

Violence against women is complex and can also include forms of psychological and economic abuse. Many women feel trapped in their abusive situations highlighting a power imbalance even before starting an ADR process. Alcohol plays a big part in violence and many women believe that cultural stigma and victim-blaming cause them to feel responsible – even in cases of abuse by another.

Terminology used for different forms of ADR is often inconsistent in academia and policy. In current ADR practice, for example, conciliation is frequently used instead of mediation. The majority of women who have participated in ADR in their communities have had a negative experience. This is most commonly due to the refusal to refer them to higher levels of authority, the power of the perpetrator in the community, ongoing ADR sessions even after repeated failures, and the challenges in actually getting a divorce in real practice. Most women (78% in the study) also have little to no knowledge about legal protection available to them in abusive situations and the role of the police in conducting ADR also continues to be unclear and problematic.

For service providers working in the scope of domestic violence, specific challenges persist in practice. Many do not have the knowledge or training in law or ADR and often try to discourage couples from going to court. Poor space conditions often contribute to a lack of confidentiality and gender-sensitivity during ADR. ADR sessions are frequently delayed, and even when held, the focus on conciliation between the parties can distort the rights of the survivor of violence. A legal agreement produced at the end of the ADR process is usually seen as useful, but not truly binding or enforceable. Success is often interpreted by whether the couple stays together, which is problematic and can prevent justice. Continued inconsistency in referring cases to proper authorities and the unfounded belief that perpetrators can be released if the victim drops the case create enforcement challenges. In spite of the many issues in practice, there is overwhelming goodwill among service providers and the lack of clarity in procedures does not reflect on negative intentions.

How can you use this research?

This research has important policy and practice implications. At a national level, gender-sensitive mediation guidelines and training for service providers working on cases of domestic and intimate partner violence is crucial. Mediation must not be used in cases of misdemeanors and steps should be taken to ensure the safety and security of women survivors. ADR should not be seen as an alternative to pressing criminal charges. More effective and gender-sensitive guidance is needed for processes to end informal marriages and easily obtain protection orders in cases of violence. Safe shelters and victim support services must be made available and specific policy language and roles of local authorities need to be reviewed. At the local level, community education on mediation, divorce, and domestic violence is critical and women must be ensured free ADR services that have the appropriate private space. Women's equal leadership on committees and mechanisms that respond to domestic violence is fundamental and police involvement in ADR requires review and clarity, including their duty to formally report criminal complaints.

Who is leading this research?

This research initiative was led by Suyheang Kry of Women Peace Makers (WPM) and Savath Meas of the Cambodia Center for Mediation (CCM), in collaboration with Kate Seewald of Klahan and Leang Sok.

Learn more

For more on this study, read the full research report that includes the methodology, a literature and policy review, findings, and recommendations.

You may contact WPM by email at wpm@women-peacemakers.org

