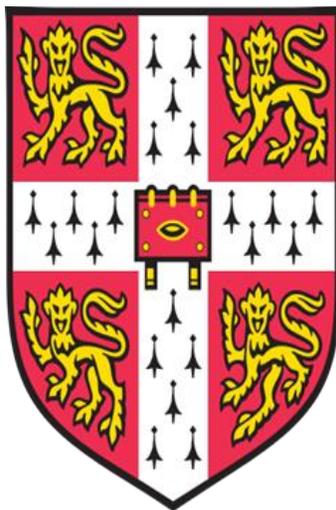


# **Police Conflict Resolution Processes for Spousal Violence in Nepal: Perceptions of Victims and Perpetrators**



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This thesis is submitted for the degree of Doctor of Philosophy

Supervised by Dr. Heather Strang

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## Declaration

- This thesis is the result of my own work and includes nothing which is the outcome of work done in collaboration except as declared and specified in the text.
- It is not substantially the same as any that I have submitted, or, is being concurrently submitted for a degree or diploma or other qualification at the University of Cambridge or any other University or similar institution except as declared and specified in the text. I further state that no substantial part of my dissertation has already been submitted, or, is being concurrently submitted for any such degree, diploma or other qualification at the University of Cambridge or any other University or similar institution except as declared and specified in the text
- It does not exceed the prescribed word limit for Faculty of Law Degree Committee.

## Abstract

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The criminalisation of spousal violence in many jurisdictions around the world has conferred powers on police forces to use coercive methods including arrest and detention to address this crime. Yet the use of punitive criminal sanctions in spousal violence remains contentious with empirical evidence showing limited effectiveness in preventing reoffending and that such measures are often unpopular among both police and victims.

In contrast to policing practices in many parts of the world, the Nepal Police employs a discussion-based conflict resolution process to deal with cases of spousal violence. Within the Women and Children's Service Centres of the Nepal Police, reported cases of spousal violence are settled through discussion between the victim, perpetrator and their respective friends and family. These discussions are moderated by police officers. Very little, however, is known about how victims and perpetrators experiencing this policing intervention perceive it.

This study involved 100 case observations of the police conflict resolution (PCR) processes and interviews with 82 victims and 73 perpetrators who participated in them, to explore how victims and perpetrators experienced PCRs. Their views of procedural justice and distributive justice were compared to the ratings of the observer. The findings suggest that procedural justice, in this context at least, is a subjective construct, the judgment of which might be influenced by factors beyond the police encounter and the objective behavior of the police, such as the expectations and life experiences of each party present. Victims' satisfaction and perpetrators' subsequent compliance with PCR outcomes also look to be influenced by factors beyond the PCR itself. Arguments are advanced for understanding the findings through the application of a relational model of justice that takes into account the social and situational contexts within which policing is conducted in Nepal. Implications of this research, particularly for policing in Nepal, are discussed.

**To**  
**My parents, Nirmala Sharma and Binoy Sharma;**  
**and my sister Pritha Dahal**

Thank you for everything

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I once heard an Emeritus Fellow at Cambridge say, ‘The PhD is 60% intellect: 40% is about whether you can hack it emotionally’. Perhaps the emotional arithmetic needs to be higher, but this is not the place for this discussion. I would like to however express a debt of gratitude to all my friends who supported this emotional side of my journey.

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When I was an undergraduate and knew very little about a PhD, my friend Andrew had espoused some wisdom in this respect. He said, ‘Aastha, a turkey with a PhD is still a turkey’. I believe he was right!

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## List of Abbreviations

APF	Armed Police Force
CA	Constituent Assembly
HMIC	Her Majesty's Inspectorate of Police
IGP	Inspector General of Police
MCPD	Metropolitan Police Crime Division
MGD	Millennium Development Goals
MP	Member of Parliament
NCO	Non-Commissioned Officer
NDHS	Nepal Demographic Health Survey
NGO	Non-governmental Organisation
NPC	National Planning Commission
NWC	National Women's Commission
PCR	Police Conflict Resolution
PLA	People's Liberation Army
QCET	Queensland Community Engagement Trial
RCT	Randomised Control Trial
RJC	Restorative Justice Conferencing
SP	Superintendent of Police
UNPOL	United Nations Police
WCSC	Women and Children Service Centre

## Glossary

bahini/did	younger sister/older sister
bhai/dai	younger brother/older brother
bhauju	older sister-in-law
byaji	individual of the same cohort (batchmate)
chalfal	discussion
izzat	honour
Jana Andolan	people's movement
mijan dewan	caste leaders
pancha bhaladmi	council of five male elders from the community
tarikh	date for signing attendance at the Women and Children Service Centre

# Chapter 1

## Introduction

### 1.1 The criminalisation and policing of spousal violence

Spousal violence, especially that committed by a man against a woman, is a global crime problem. The World Health Organisation's Global Health Observatory Data estimate 30% of women around the world have experienced physical and/or sexual violence by an intimate partner (WHO, 2017). Prior to the 1980s Western law enforcement agencies viewed spousal violence as a private matter not appropriately dealt with in the criminal justice system (Dobash and Dobash, 1979; Field and Field, 1973; Parnas, 1971). As Petersilia (1993) reports, police only stayed at a spousal violence scene to restore some semblance of order and exited as quickly as possible without taking any formal action. Police intervention was considered a waste of time and not 'real police work' (Buzawa and Buzawa, 1990, p.29), particularly as victims were perceived as being uncooperative during prosecutions and perpetrators unlikely to be punished by courts (Parnas, 1971; Sherman, 1992). Some police departments, for example in the U.S and New Zealand, had specially trained police officers to mediate spousal violence disputes (Bard and Berkowitz, 1967; Cross and Newbold, 2010). However, this conciliatory approach was never evaluated and disliked by many officers, who saw mediation as social work as opposed to police work (Hirschel et al., 1992). As a result, spousal violence interventions that developed in the West were largely confined to the realm of social services including psychological counselling, emergency shelters and job placements (Roberts, 2002 and Kurst-Swagner; Sherman, 2018).

A conciliatory and non-intervention-based police response to spousal violence was opposed by a strong feminist lobby that sought criminal sanctions against perpetrators (Schechter 1982; Sherman, 1992; Rhode, 1989). This lobby appeared to be supported by findings from the Minneapolis Domestic Violence Experiment, which showed that arrests in spousal violence cut the likelihood of repeated assault on the victim by 50 percent in a follow-up period of six months (Sherman & Berk, 1984). However, five replications of this experiment later showed that arrests only reduced recidivism in the short-term and had differential effects by the race and employment of perpetrators (Berk et al., 1992;

Garner and Maxwell, 2000; Dunford, Huizinga and Elliott, 1990; Hirschel and Hutchinson, 1992; Pate and Hamilton, 1992; Sherman, 1992). Despite the mixed results of the effectiveness of arrests police agencies across the U.S. adopted preferential arrest or mandatory arrest policies for spousal violence (Melton, 1999). The UK, Australia and New Zealand subsequently followed the American example and adopted preferential arrest policies (Hoyle and Sanders, 2000; Cross and Newbold, 2010; Holder, 2001).

There is little consensus in the literature about police officers' views of the use of arrest in spousal violence. Studies from the U.S and New Zealand find that officers dislike mandatory and preferential arrest laws because they are seen as limiting police discretion (Blount, Yegidis, and Maheux, 1992; Cross and Newbold, 2010). Officers in New Zealand state that they need discretion to make decisions on a case-by-case basis in spousal violence incidents because such matters are inherently complex (Cross and Newbold, 2010). Belknap's (1995) survey with police officers in the U.S., however, found that police expressed a strong preference for mediation over arrest as an appropriate response in most cases of spousal violence.

As the focus of research is on arrests there is limited information on other types of responses that police use in spousal violence cases. Nonetheless, alternative response measures identified by studies include non-intervention or mediation in Hong Kong (Leung, 2013), and cautioning and restorative justice approaches in some parts of England (Strang et al., 2017; HMIC, 2014). In several countries including India, the U.S and UK there are efforts to combine law enforcement responses with social work whereby police officers and social workers respond to spousal violence calls in joint teams (Goosey et al., 2017; Davis, Weisburd and Taylor, 2008; Whetstone, 2001; International Center for Research on Women and The Centre for Development and Population Activities, 2000).

## **1.2 Policing of spousal violence in Nepal**

Similarly to global trends, spousal violence is a serious crime problem in Nepal. The Nepal Demographic Health Survey (NDHS) 2016 shows that one in three women report being victims of spousal violence. About 38.8% of Nepali women aged between 15 and 49 years-old seek help for spousal violence. Among these women most turn to their own families (66.3%), neighbours (31.4%), friends (22.3%) or husband's family (9%) for help. Only 7.5% contact the police (Ministry of Health, New Era; DHS Program, 2017).

In 2009 Nepal passed the Domestic Violence (Crime and Punishment) Act 2066<sup>1</sup> (2009) (referred to hereafter as the Domestic Violence Act 2009), becoming the third South Asian country after India and Sri Lanka to criminalise spousal violence.<sup>2</sup> The Domestic Violence Act 2009 defines domestic violence as any form of physical, psychological, sexual and/or economic violence inflicted by one member of the household on another. Although spousal violence is also committed by women on men, my research in Kathmandu (hereafter referred to as the Kathmandu study) focuses only on male-on-female violence. The term ‘spousal violence’ is used instead of ‘domestic violence’ or ‘intimate partner violence’ to describe husband-on-wife violence.<sup>3</sup>

The Nepali law permits four state agencies to respond to complaints of spousal violence: the National Women’s Commission (NWC), the court, local authorities and the Nepal Police. Annual data from the Nepal Police show that there has been steady increase in the number of reported cases of domestic violence<sup>4</sup> from 988 cases in 2009 to 12,225 cases in 2018. While the increase may not reflect changes in actual crimes committed, police data shows that it is the biggest crime problem in Nepal. In fact, the Nepal Police policy identifies domestic violence as its highest priority area, alongside organized crime (Nepal Police, 2019).

Nepal’s method of policing spousal violence is especially different in comparison to Western jurisdictions that prescribe mandatory and preferential arrests. The Domestic Violence Act 2009 curtails traditional policing powers like arrest and detention. Instead it confers upon police the authority to conduct conflict resolution sessions to reconcile the victim and perpetrator with the consent of the aggrieved party. The police conflict resolution (PCR) programme is conducted by special police units called the Women and Children’s Service Centres (WCSC).

In PCR officers attempt to resolve a spousal violence dispute by inviting parties to a case to what they call ‘a discussion’. Broadly, in each PCR session the victim, perpetrator and their family

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<sup>1</sup> The year 2066 is the date according to the Nepali Calendar.

<sup>2</sup> Spousal violence was subsequently criminalised by Bangladesh (Domestic Violence (Protection and Prevention) Act 2010), Bhutan (Domestic Violence Prevention Act of Bhutan 2013) and the Maldives (Domestic Violence Act 2012). Pakistan and Afghanistan are yet to criminalise spousal violence.

<sup>3</sup> In international literature there is no consistency in the terminology used for this type of violence as studies call it spousal violence, intimate partner violence or domestic violence. When discussing international literature the term ‘spousal violence’ will be used to denote male-on-female spousal violence.

<sup>4</sup> This data on domestic violence has not been disaggregated and thus may reflect violence committed by any member of the household against another. The NDHS 2016 suggests that a large proportion of reported violence is husband-on-wife spousal violence (Ministry of Health, New Era; DHS Program, 2017).

and/friends are assembled in one room. The facilitating officer asks the victim and perpetrator to recount their issues in everyone's presence. The length of time of a PCR session, who is allowed to speak during it, whether officers reprimand parties, use force against them or give them advice, vary according to the individual styles of facilitating officers. Towards the end of the discussion the police ask how the parties propose to resolve the dispute. If the parties do not suggest methods of addressing the violence that are acceptable to the police, the officers tend to prescribe what should be done. If the victim decides to separate from the perpetrator she is asked to go to court with a divorce petition. If she decides to press charges for spousal violence the police take the statement of the perpetrator and witnesses and send the file to court. If the parties decide to reconcile and stay together an agreement setting out the terms and conditions that both sides will be required to fulfil is drafted and signed by the couple. According to the law PCR can be conducted any number of times within a period of one month after a complaint is first filed at the WCSC (Domestic Violence Act 2009).

It is important to note that although PCR bears some structural resemblance to restorative justice conferences (RJC) or mediations they are neither. RJC's are a form of restorative justice practice. 'They involve face-to-face encounters between those responsible for a harm and those harmed by an offence, in the presence of family and friends who care about them; a thoroughgoing and often robust deliberation by everyone in the room about what happened and what the effects have been; an agreement about what should be done to achieve both material and emotional restoration' (Strang, 2012 p.86). While PCR assembles victims and perpetrators with their loved ones in the same room they are not motivated by the core objective of restorative justice: repairing the 'harm' that has been caused by a crime (Braithwaite, 1989). PCR is undertaken to reconcile disputing parties. This is within the larger aims of the domestic violence law, which seeks to protect victims and punish perpetrators for wrongdoing (Domestic Violence Act 2009).

Moreover, the role of the police officer facilitating PCR is different from that of an RJC facilitator or mediator. Unlike an RJC facilitator WCSC officers do not ensure that everyone in the room participates in the discussion. Neither do all officers tolerate outbursts of emotions during discussions (Strang, 2012). Differently from mediators, officers do not maintain their neutrality during PCR: instead of helping parties negotiate to reach common ground (Irving and Benjamin 1995) they emphasise reconciliation as the final outcome.

Additionally, mediation in Nepal is governed by the Mediation Act 2011, which requires certified mediators to facilitate discussion. Police processes are not governed by this law and no police officer has mediation training. It is owing to these differences from restorative justice and mediation that the programme referred to as '*chalphal*' ('discussion' in Nepali) by the Nepal Police is termed police conflict resolution in this thesis.

### **1.3 The Kathmandu study**

The Domestic Violence Act 2009 has been in force for 10 years and the WCSCs have been handling spousal violence cases since 1996. Yet very little is currently known about the nature of this policing programme or how victims and perpetrators perceive it. This Kathmandu study seeks to address this gap in knowledge by exploring three research questions:

1. What are the views of the police conflict resolution programme on spousal violence in terms of process and outcomes from three perspectives: victims, perpetrators and independent observers? How do these views differ from each other?
2. From a procedural justice perspective, how do victims' and perpetrators' views of the police conflict resolution processes and outcomes relate to their satisfaction?
3. From a procedural justice perspective, how do perpetrators' views of police conflict resolution processes and outcomes relate to their compliance with the decisions agreed or imposed?

The Kathmandu study explores how victims and perpetrators experience PCR in one WCSC in Kathmandu. Using observations of 100 PCRs, alongside interviews with 82 victims and 73 perpetrators who participated in them, this study investigates how participants (victims and perpetrators) recall their participation and police involvement in the PCR process. These reports by participants are compared to my own perceptions, as an observer, of the same process. This study also assesses the links between perceptions of police procedure and participant satisfaction and perpetrators' subsequent compliance with decisions reached/imposed during PCR, including repeat violence against victims.

As the research explored perceptions of both normative and instrumental aspects of police processes, and tallied their importance for satisfaction and compliance, the theory of procedural justice was found to be an appropriate theoretical framework from which to discuss findings. The theory of procedural justice shifts the focus of what justice means to people: from justice being linked to the evaluation of the instrumentality of outcomes (Heinz, 1985) to it being a normative assessment of whether procedures followed are fair. In research procedural justice is operationalised as a two-pronged concept: the fairness with which people are treated and the quality of decision-making procedures used by law enforcement officials during encounters with people (Tyler, 1990; Reising et al., 2007; Sunshine and Tyler, 2003; Bottoms and Tankebe, 2012). Through a sequence of empirical links procedural justice theory postulates that the treatment people receive at the hands of the police predicts the legitimacy they confer on the police. This perception of legitimacy in turn affects people's compliance with the law and satisfaction with authorities (Tyler, 1990). Although legitimacy is an important element of procedural justice theory the Kathmandu study was not designed to look at police legitimacy.

There is a corpus of empirical research from Western jurisdictions like the U.S., UK and Australia that affirms the procedural justice model (e.g. Tyler and Huo, 2002; Sunshine and Tyler, 2003; Jackson et al., 2012; Hough et al., 2013; Mazerolle et al., 2013; Tyler and Jackson, 2014). However, most of these studies look at crimes other than spousal violence with surveys conducted with general population samples as opposed to victims and perpetrators. Two studies found looking at procedural justice in the policing of spousal violence find that procedural fairness<sup>5</sup> is important for victims' satisfaction (Hickman and Simpson, 2003) and for reducing recidivism amongst perpetrators (Paternoster et al., 1997).

However, little is known about how this theoretical model would relate to policing in Nepal, which has a markedly different socio-political landscape from the West. In this context, as Tankebe (2009) argues, the only way to establish the relevance of procedural justice theory is through empirical work: as opposed to 'making deductions from ideological or theoretical predilections' (p. 1267). The Kathmandu study seeks to do this by analysing the empirical validity of procedural justice theory for spousal violence policing in Kathmandu. Notably this study is not a deductive

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<sup>5</sup> The term 'procedural fairness' is used in legal literature to refer to procedural justice. As there are no substantive differences between the meanings of procedural justice and procedural fairness (see for example Rawls' (1971) explanation of procedural fairness) the terms are used interchangeably in this thesis.

test of the theoretical model. Rather it uses an inductive approach to examine whether participants organically identify four elements of procedural justice - voice, respectfulness, neutrality and trustworthiness - as the most important factors for their satisfaction and compliance.

The Kathmandu study examines the model of procedural justice in two broad ways. Firstly, it gathers detailed information from participants about how they experienced PCR at the WCSC. Then it compares reports of PCR processes and outcomes provided by victims and perpetrators with my ratings, as an observer, of the same processes. This study shows that the perceptions of justice are not just based on the objective behaviour of the police but differing expectations and perceptions of different parties at such police encounters.

Secondly, this study correlates elements of police processes, such as participants' chances to tell their story, police listening, scolding, police use of improper conduct and outcomes reached at the end of PCR, to reports of satisfaction. Perpetrators' experiences of procedural treatment, outcomes and satisfaction are also correlated with their compliance with PCR decisions, as reported by victims. This research identifies situational factors beyond justice that affect satisfaction and compliance, suggesting a relational model of justice to explain findings.

The Kathmandu study makes several contributions to the ongoing debate in procedural justice theory, comparative criminology and policing in Nepal. Firstly, by examining whether procedural justice carries the same credence in a South Asian context the study allows for the development of 'concepts and generalisations at a level between what is true of all societies and what is true of one society in time and space' (Bendix, 1963: 532). Secondly, for the Nepal Police the study provides an explanation of how its long-standing practice of PCR is perceived by its service seekers. Thirdly, the insights of this research allow for the construction of intervention strategies that take into account local realities as opposed to wholesale importing of policy and intervention models developed in different situational contexts. Fourthly, within the discipline of criminology, which is highly western-centric, research contributions from the developing world are an important reminder that the Global South can also contribute pertinently to the generation of knowledge.

#### **1.4 Structure of the thesis**

The analysis in this thesis is undertaken in 10 chapters. Below I present the chapter outlines:

Chapters two and three seek to situate the research by describing the ‘background’ historical, social and political context within which spousal violence occurs and how it is policed in Nepal. Chapter Two presents an overview of women’s changing position in Nepali society. I highlight the gains made for women’s rights in the text of laws and policies, pointing to the difficulties in extrapolating what they mean to the lived daily lives of women in Kathmandu. I also describe major findings from research about women’s social position in Nepali society.

Chapter Three contextualises Nepal’s domestic violence law. I explain why this law has a reconciliatory as opposed to punitive focus. I also present an overview of the position of the Nepal Police in society.

Chapter Four presents the methodology of the Kathmandu study. I describe the logic behind selecting the research site in Kalimati, Kathmandu, the research design, the process followed to gain access to conduct research, and the development of interview instruments. I reflect on my experiences of conducting 11 months of fieldwork and the decisions and concessions made during participant observations and interviews. I describe the data analysis process in quantifying interview and observation data as well as conducting thematic analysis.

Chapter Five presents a detailed account of the PCR programme. I describe the variability of PCR processes, highlighting what is supposed to happen according to formal procedure, what in fact happened at the WCSC I observed and what did not happen.

Chapter Six presents the findings in terms of how victims, perpetrators and the observer experience PCR programmes. I describe the similarities and differences between the three perspectives. To test the association between elements of procedural treatment and participants’ satisfaction and compliance their reports of PCR processes were correlated with their satisfaction measures and perpetrators’ compliance measures. I also discuss post-PCR dynamics such as repeat victimisation and changes in the family relationships of participants.

Chapters seven, eight and nine discuss the findings through a procedural justice lens. Chapter Seven uses the procedural justice model to discuss participant satisfaction with policing. I describe how in Kathmandu satisfaction was related most strongly to outcomes, followed by some elements of procedure, police competence and control over decision making. This meant that the theory of procedural justice was inadequate to explain satisfaction. I propose a relational theory of justice that

takes situational realities into account to explain satisfaction. Within this framework I suggest that policing in Kathmandu is not perceived as a state mechanism but rather as authority figures akin to family elders.

Chapter Eight uses the procedural justice framework to discuss the link between perpetrators' experience of the PCR process and their subsequent compliance with its decisions as reported by victims. I suggest that the theory of procedural justice does not appear to explain compliance, including repeat violence. I identify the shortcoming of the procedural justice theory in its focus on individual encounters with police at the expense of third factors such as societal norms and family dynamics that may affect perpetrators' compliance behaviour.

Chapter Nine uses procedural justice theory to compare perspectives on PCR from three vantage points: those of observers, victims and perpetrators. I discuss how the greatest differences in views pertained to procedural justice elements and the greatest similarities in perceptions related to non-procedural justice dimensions such as police use of force and PCR outcomes. I suggest that differences and similarities of views are likely to be determined by participants' life experiences beyond policing encounters.

In Chapter 10, I conclude by highlighting the main findings of the study. In particular, I argue that the relational model of justice may be better suited to account for the findings in Kathmandu. I emphasise the importance of the situational context in explaining the findings. I also discuss the implications of the findings for police practice and future research.

## Chapter 2

### Women's Position in Nepali Society

#### Introduction

In order to situate this research this chapter presents an account of how women's position in Nepali society has evolved over time. To provide context the chapter will begin with a brief summary of Nepal's political history in Part One (2.1). In Part Two (2.2) the improvements to Nepali women's status prescribed by laws and policies will be described. During the period of data collection between 2016 and 2017 the National Legal Code (Muluki Ain 1963) was in force. In 2018 new legal codes were introduced: the Muluki Ain 2018 Criminal Code and Code of Criminal Procedure 2018. The Muluki Ain Civil Code and Code of Civil Procedure 2018 replaced the Muluki Ain 1963. Since the study's findings need to be understood within the framework of laws that existed in 2016-2017 the provisions of the Muluki Ain 1963 are described. Following a discussion of laws and policies Part Three (2.3) will explain the extent to which progress made in women's status on paper translates into the everyday lives of women in Kathmandu. The conclusion (2.4) will summarise the main discussion points of this chapter.

#### 2.1 Political history of Nepal

Nepal is a land-locked country nestled between India and China. Although recognised around the world for its mountains, particularly Mount Everest, Nepal's topography is diverse. It has mountains in the north, hills along the centre and flat plains in the south. Politically, Nepal has never been colonized. It was a monarchy for about 240 years under the rule of the Shah dynasty (Stiller, 1973). Since 2008 it has been a democratic republic. With a population of about 29 million people the socio-cultural diversity of Nepal is one of its defining features. According to the 2011 Census there are four castes and 126 ethnic<sup>6</sup> groups that speak 123 languages as their mother

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<sup>6</sup> The caste system is a hierarchical system within Hinduism that ascribes the status of 'purity' and 'impurity' to people on the basis of their birth. It broadly consists of the four castes Brahmin, Chettri, Vaishya and Shudra. While the Brahmins are at the top of the hierarchy, the Dalits (Shudra) are at the bottom. Ethnicity is a self-identified status. It is derived from the linguistic, cultural and historical commonalities shared among a group of people. Many ethnic groups in Nepal do not follow Hinduism. In 1854 the first Muluki Ain sought to create a singular national caste system by uniting groups belonging to the Hindu castes and autonomous ethnicity, namely the Tbeti-Burmese

tongue. The country is predominantly Hindu although ten religions are followed by various Nepali ethnic groups (Central Bureau of Statistics, 2012).

The modern state of Nepal was created in 1789 by Prithvi Narayan Shah, who unified 50 principalities through warfare (Stiller, 1973). The first major political change in Nepal occurred with the rise of the Rana dictatorship in 1846. J.B Rana, a military commander, usurped power, reducing the monarchy to a puppet regime.<sup>7</sup> As the prime minister he established an autocracy which passed from one Rana brother to another from 1846 to 1951. The Rana regime was extractive at its core. The ruling elite consolidated their stranglehold over all lucrative sectors, the Nepali economy lost its traditional businesses to imports, and development for the wider population was systematically neglected (Whelpton, 2005; Regmi, 1963).

In 1951 the Rana regime was overthrown through efforts led by dissident democrats under the banner of the Nepali Congress (NC). The dormant monarchy was restored and B. P. Koirala, leader of the Nepali Congress, became prime minister in 1959. Nepal's brief flirtation with democracy ended in 1962 when King Mahendra Shah dismissed the Congress government, declared political parties illegal and consolidated power entirely within the monarchy. This heralded the beginning of the three-decade long (1962-1992) Partyless Panchayat era. The Panchayat state claimed to be a developmental state, as the rhetoric firmly established the need to build the nation for the benefit of all its subjects.<sup>8</sup> Yet, the regime took on an authoritarian character where any political dissent against the monarchy was suppressed violently by the Nepal Police.<sup>9</sup>

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speaking population and the Tibetan ethnicity (see Hofer, 1979). Legislation cemented differences between various castes and ethnic groups by prescribing different punishments, economic access in the form of land tenure and trading rights (see Regmi, 1965; Levine, 1987; Gellner, 2007 for a detailed discussion of identity and socio-political access of various castes and ethnicities in Nepal).

<sup>7</sup> The State Council under the king, for example, advised the Rana prime minister instead of the prime minister advising the king.

<sup>8</sup> Despite the developmentalist era Gellner (2008) notes that the power of a day labourer's wage had fallen and agricultural yields had also declined. The differences in wealth and development levels between regions of Nepal had widened (see Bhattraï, 2003 for a critical analysis of economic conditions).

<sup>9</sup> The new constitution of the Panchayat regime established a four-tier *panchayat* system operational at each level of the state: village/town level, district level, zone level and central level in Kathmandu. At the local level there were 4,000 village assemblies, each constituting nine members. Groups like women, ex-soldiers, labourers and elders could elect their own representatives into these assemblies. The village panchayats sent representatives to the 75 district level panchayats. There were 14 zonal panchayats above the district panchayat and the king's central advisory body, called the National Panchayat. Despite the four tiers of assemblies the king exercised absolute power: he commanded the armed forces, appointed (and had the power to remove) members of the Supreme Court, appointed the Public

Growing dissatisfaction with authoritarian monarchy resulted in the next wave of political struggles for multi-party democracy. Initially, the Nepali Congress' demand for the reinstatement of democracy was defeated in favour of continuing the Panchayat regime by King Birendra Shah's National Referendum of 1980. However, ten years later, a political alliance between the Nepali Congress and communist parties culminated in *Jana Andolan I* (People's Movement I). King Birendra Shah succumbed to fierce protests from the streets and granted the 1990 constitution to his 'subjects'. This constitution declared the nation a constitutional monarchy and lifted the ban on political parties, allowing them to compete for government under the king's tutelage. However, the king's absolute power remained protected: he was beyond the country's laws as his actions could not be questioned in court.

In the decade following 1990 Nepal's experience of parliamentary democracy was fraught with political instability. From the government formed after *Jana Andolan I* to the dismissal of the government by King Gyanendra Shah in 2002 the government changed 12 times (Gellner, 2008). Liberalisation of the economy widened the gap between rich and poor. National budgets relied heavily on foreign aid as pervasive corruption regularly undermined effective implementation of development policies (Shrestha, 2001).

Simmering dissatisfaction with the failures of democratic rule ushered in the next wave of political struggle. The Communist Party of Nepal (Maoists) waged a decade-long (1996-2006) armed insurgency, called the People's War, against the government. The impetus for the declaration of war was the then government's discarding of a 40-point demand made by the Maoist party. The demand addressed a wide range of social, political and economic agendas such as ending all forms of exploitation and discrimination based on gender, caste and class, equalising the disparity between rural and urban areas, and state restructuring to establish a federal republic, amongst others (Pettigrew, 2013).<sup>10</sup> The Maoist People's Liberation Army (PLA) fought a guerrilla war

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Service Commission to oversee the civil service, and could change any judicial decision or amend the constitution at any time (Blaikie, Cameron and Seddon, 1977).

<sup>10</sup> The philosophical aim of the Maoist armed struggle was to establish a 'new people's democracy'. The concept of a 'new democracy' built on views of Mao Zedong, Lenin, Trotsky and Stalin. The 'new people's democracy' was envisioned as marking successful transition between the classical Marxist stages of bourgeois hegemony to proletarian hegemony ('new democracy'). As Nepali society was deemed to be in the stage of bourgeois hegemony, the Leninist theory of 'continuous revolution' in the form of armed conflict was perceived as being a necessary measure to move towards a new democracy (International Crisis Group, 2005).

against the state's armed forces, which comprised the Nepal Police, the Armed Police Force and the Royal Nepal Army. In the ten years of armed conflict over 13,000 people were killed, 1,300 forcefully disappeared and about 100,000 people were internally displaced (United Nations, Office of the High Commissioner for Human Rights, 2012).

The processes leading to the end of the armed conflict began in 2001 when the royal family, including the very popular monarch Birendra Shah, were massacred.<sup>11</sup> The king's brother, Gyanendra Shah, was subsequently crowned and took a more authoritarian approach to his country's politics compared to his brother. In 2002 he dismissed the incumbent government under the pretext of its inability to deal with the Maoists. In the next three years he dismissed three prime ministers for their failure to hold peace talks with the Maoists. In 2005 he dissolved the elected government and legislature, assuming full executive power as an absolute ruler. For the Maoists and other political parties the monarchy, in the form of a common enemy, provided the basis for forging an alliance called the Seven-Party Alliance. In 2006 they orchestrated the People's Movement II (*Jana Andolan II*), putting immense pressure on the palace from the streets. The king was forced to abdicate. A Comprehensive Peace Agreement was signed between the Maoists and the political parties. This accord set the stage for transforming the Hindu himalayan kingdom into a secular federal republic.

Politically, the peace process in Nepal was driven by two key agendas: the integration of the PLA into the Nepal Army and the promulgation of a new constitution through a Constituent Assembly (CA). In 2012 the Maoist-led coalition government terminated the United Nation's mission of army integration for its alleged failure to achieve its goal. Subsequently this government completed the integration process, with 1,500 PLA fighters joining the Nepal Army and 17,000 opting for the government's retirement and rehabilitation programmes.

Meanwhile, in the 2008 CA elections the Maoists emerged as the largest political party and led a coalition government. However, this government was toppled within the year. An inability to promulgate a new constitution in four years created a legal crisis that propelled Chief Justice K.R Regmi into the role of caretaker prime minister. He held a second round of CA elections in 2010

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<sup>11</sup> The Royal Massacre involved the crown prince Dipendra Shah shooting members of the royal family gathered at a family dinner, including his parents and siblings, before committing suicide. The Nepali people remain sceptical of the investigative reports that found the crown prince responsible for the killings.

that saw the Nepali Congress victorious with the Maoists in third place. In September 2015 Nepal's new constitution was passed. However, it immediately led to outbreaks of violent protests in the southern plains among the marginalized Madhesi and Tharu ethnic groups for its alleged failure to protect their rights and interests. India backed the protests by withholding the supply of essential goods like food, medicine and cooking gas to Nepal through an 'informal blockade'. A country reeling from the effects of a 7.5 magnitude earthquake in April 2015 was pushed further into humanitarian and economic crisis.

After the end of the six-month long blockade Nepal saw some stability in 2016. In 2017 local elections were conducted to put in place the three-tier governance system envisioned by the 2015 constitution. With elected local, provincial and central governments the Nepali people gained historically unprecedented access to state services. Yet, the task of institutionalizing good governance amidst the longstanding challenges posed by poverty, inequality, corruption and political instability make progress a precarious goal.

## **2.2 Women's rights in Nepali laws and policies**

Dobash and Dobash (1979) argue that research on violence against women needs to be grounded in the social and cultural context within which it exists. This form of analysis, contextualising violence with situational factors, reduces the errors of exaggeration in discussing violence. This argument calls for an understanding of the wider context of Nepal, its society, culture and the evolving role of Nepali women in order to understand the situational background behind spousal violence there. The greatest changes in women's position in Nepali society are seen within laws and policies enacted by the state. As policing is the focus of this study it is imperative to understand the broader legal and policy framework within which it operates. Moreover, the legality of recurring issues seen during police conflict resolution (PCR) such as citizenship, divorce, polygamy, property rights and sexual violence are described below.

### **2.2.1 Women's rights conferred by Nepal's constitution and laws**

Nepal has had seven written constitutions. The five constitutions enacted between 1948 and 1990 only addressed women's rights through the broad right to equality before the law (Government of Nepal Act 1948; Interim Government of Nepal Act 1951; Constitution of Kingdom of Nepal 1959; Constitution of Kingdom of Nepal 1962; Constitution of Kingdom of Nepal 1990). Women's

rights only received specialised attention in the post-armed conflict Interim Constitution of 2007. Under its Article 20 the rights of women were a separate fundamental right which guaranteed a right to reproductive health and a right to participate in state mechanisms on the basis of proportionality. This Article also rectified the long-standing discrimination in the property rights legally conferred upon men and women,<sup>12</sup> stating that sons and daughters have equal rights to inherit ancestral property. Moreover, for the first time in Nepal's constitutional history, violence against women was criminalized in all forms. The Constitution of Nepal 2015 expands on its protection of victims of gender-based violence by guaranteeing victims the right to compensation.

There is an inherent contradiction in the way women's rights have been treated by Nepal's constitutions. On the one hand, the expansion of women's rights into areas of property ownership, reproduction and control of violence demonstrates the state's intention to address the inequalities facing women. Yet, on the other hand, the nature of citizenship rights in Nepali law renders women unequal to Nepali men. For example, until 2007 a child could only gain Nepali citizenship (by descent) by showing proof of his/her father's citizenship (Interim Constitution of Nepal 2007). A mother's citizenship had no value in this process. The 2015 constitution lends continuity to the discrimination against women as it restricts foreign spouses of Nepali women from acquiring Nepali citizenship and limits the type of citizenship a Nepali mother alone can transmit to her child. In practice, government offices only process a married woman's application for citizenship if it is supported by her husband or a male member of his family (Gurung, 2019). The reason why women's access to citizenship is so important in Nepal is because all the rights and remedies guaranteed by the constitution are only available to citizens of the country. Without citizenship a person cannot own property, open a bank account, apply for jobs, apply to study in a university,

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<sup>12</sup> The laws governing the transmission of ancestral property stated that sons had an inherent right to their father's property. Before 2002 a daughter could only be a coparcener to her father's property if she was 35 years or older in age and unmarried. If she got married after inheriting her father's property she would have to return it to her father or brothers<sup>12</sup>. Haimendorf (1966) argued that even though daughters could not inherit their share of family property they were not disadvantaged as they received gifts from their family that would ultimately be equivalent to the value of property that the sons inherited. However, as Thapa (1985) points out, it was very unlikely that the few gifts given occasionally to a daughter would be equivalent to the fixed asset acquired by a son. With no property rights, women were poorer than men. Their social status was lower. They had a lower ability to prosper financially because property is required as collateral to access credit for business or finance other undertakings like paying for education or training.

obtain a passport for travel or apply for welfare allowances like senior citizen allowances and single women's allowances.

Beyond the constitution, the other area of law that influences women's social standing comprises the laws governing marriage, particularly polygamy, marital rape and divorce, which are discussed below.

#### i) Marriage

Jones (1976) states that the institution of marriage is an excellent starting place to discuss the roles of men and women in any society. In Nepal, among Hindu families, it is an honour for families to have their daughters married. Historically, the act of giving away a virgin daughter to a man in marriage was considered a sacrament for a father. In order to ensure the 'purity' of a bride girls were often married before menarche. Before 1935, the Muluki Ain 1854<sup>13</sup> set the minimum age of marriage for girls at five years-old. Later amendments to the code raised the minimum age for marriage of women to 18 and men to 21 years. This disparity was challenged by organisations working for women's rights. After the 11<sup>th</sup> amendment in 2002 the Muluki Ain 1963 set the minimum age of marriage for men and women at 18 (with parental consent) or 20 years.

Child marriage, in turn, is a criminal offence and can be annulled if any one of the parties to the marriage objects to it. Forcing people to get married is also a criminal offence (Muluki Ain 1963). Although child marriage has declined significantly since 1980, a 2003 study showed that 2% of girls were married between the ages of 10 and 14 and 33% of girls were married between the ages of 15 and 19 (Acharya, 2003). The decreasing rate of child marriage is speculated to be caused by increased levels of women's education and greater employment of women outside the agricultural sectors (UNFPA, 2007).

Similarly, polygamy is a criminal offence under the Muluki Ain 1963. Yet the prohibition against it has not always been absolute. Men could marry multiple wives, with the consent of their first wife, if the latter suffered from conditions such as a sexually transmitted disease, blindness or infertility.<sup>14</sup> Public-interest litigation was filed at the Supreme Court claiming that this provision

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<sup>13</sup> The Muluki Ain 1854 was the original national legal code of Nepal. The Muluki Ain 1965 repealed this older code.

<sup>14</sup> There were no provisions to allow women to marry multiple husbands. Although polyandry as practiced in the eastern Himalayan region of Nepal by the Sherpa community is permitted by Nepali law. (Muluki 1963)

discriminated against women. The petition submitted by a women's rights organisation, Forum for Women Law and Development, to court argued that the law gave birth to an environment that was conducive to spousal violence as men could coerce their wives into consenting to their second marriage. It claimed that the law provided leeway for husbands to neglect and abandon their wives when they were in greatest need of care due to sickness or disability (*Sapana Pradhan Malla v. HMG*, 2008). Another petition to the Supreme Court pointed out that many women stayed in abusive situations because separation from their husband would permit him to marry another woman (*Sapana Pradhan Malla v. HMG*, 2008).

The arguments submitted to the Supreme Court by the government in defence of polygamy provide an insight into the type of thinking that led to the retention of such legal provisions for many decades. The government argued that the presence of a co-wife could help alleviate the difficulties caused in the household for the first wife due to poor health. It stressed that free consent from the first wife was key and she had legal recourse if she was coerced. The court, in 2008, held the law to be discriminatory against women and in violation of the constitutional right to equality (*Sapana Pradhan Malla v. HMG*, 2008). Eight years later the 2015 amendment to the Muluki Ain 1963 struck out the law permitting polygamy. Now a man can only marry a second wife after divorcing his first one (*Muluki Ain 1963*).

## ii) Marital rape

Marital rape is a criminal offence under the Muluki Ain 1963. Public-interest litigation filed at the Supreme Court argued that rape can occur within a marriage. The judgment affirmed this claim and provided the impetus for criminalising marital rape (*Mira Dhungana v. HMG*, 2002). However, the maximum punishment of six months imprisonment for marital rape was much lower than the minimum of five years imprisonment for a rape of an adult outside marriage. A subsequent Supreme Court judgment in 2003 ordered the government to rectify this inequality in punishment (*Jit Kumari Pageni v. Government of Nepal*, 2007). The 2015 amendment to the Muluki Ain 1963 raised the punishment for marital rape to three-five years of imprisonment.

Nepal's rape law is a distinctive piece of legislation as it permits retributive defence. In other words, if a rape victim kills her assailant when there is an imminent threat of rape, during the rape

or immediately after the rape she will face no criminal liability (Muluki Ain 1963). Despite this long-standing legal provision this defence is rarely used by victims.

### iii) Divorce

The laws on divorce largely favour women. Since 2002 the grounds for filing for a divorce have been similar for men and women. However, if a woman marries another man without divorcing her husband the first husband is automatically divorced from his wife. In contrast to the provision that criminalizes polygamy for men, women face no criminal liability for marrying another man without divorcing their husbands. Moreover, upon divorce the woman is entitled to half of her husband's fixed assets regardless of the length of the marriage. The woman has priority over her husband for the custody of her children. While the man has to contribute to the living expenses of the children, the extent of the woman's financial contribution (provided she is the richer party) is decided by the court (Muluki Ain 1963).

Procedurally, divorces in Nepal have to be granted by courts. According to the Marriage Registration Act 1971 a woman can go straight to a court and file a petition for divorce. However, if a man wants a divorce he has to submit an application to the local authority first. This office must attempt to reconcile the marriage for one year in order to stop the divorce from taking place. The case is forwarded to court for divorce proceedings only if reconciliation efforts fail.

### **2.2.2 Public policy**

Nepal's public policy has followed a similar course to the law in its progressive approach to strengthening women's social, economic and political position. Nepal is a signatory to key international agreements on goals regarding education, health and poverty eradication for women. For example, the Beijing Platform for Action commits Nepal to promoting women's empowerment and equality in all fields: economic, social and political. Likewise, the International Conference on Population and Development (ICPD) and ICPD+10, Education for All, the Millennium Development Goals (MDGs) and the Sustainable Development Goals commit Nepal to ensuring women's universal access to reproductive health, all other health services, education and poverty reduction.

The five-year/three-year National Plans of the Government of Nepal are the country's primary public policy documents. They provide the framework under which ministries and their line agencies create their strategies. A review of the 14 National Plans shows that the 6<sup>th</sup> National Plan (1980-1985) (NPC, 1980) was the first one to recognise that women's participation was integral to national development. The 10<sup>th</sup> National Plan (2002-2007) (NPC, 2002) reflected on the limitations of mere participation, explaining how the absence of women in decision-making roles set back the country's progress. It thus introduced a policy framework to put women in leadership and decision-making positions. The 11<sup>th</sup> National Plan (2007-2010) (NPC, 2007) and 12<sup>th</sup> National Plan (2010-2013) (NPC, 2010) set long-term goals of ending discrimination and violence against women in all forms. The 13<sup>th</sup> National Plan (2013-2016) (NPC, 2013) and 14<sup>th</sup> National Plan (2017-2020) (NPC, 2017) lay out the most comprehensive strategies for achieving women's progress seen to date in the National Plans. Measures outlined include increasing training for capacity development, developing gender-sensitive budgeting, ensuring political representation of women, amending discriminatory laws and ending oppressive socio-cultural practices, putting in place affirmative action and reservation for women in public institutions, and strengthening the capacity of institutions such as the Ministry for Women and Children and the National Women's Commission<sup>15</sup> to enable them to work more effectively for women's welfare.

The Nepal government's Millennium Development Goals Final Status Report 2015 provides a review of achievements made by implementation of policies pertaining to women's uplifting. It states that the country successfully reached its target commitments under the Millennium Development Goals by halving extreme poverty, hunger and child mortality. However, targets set for women's health, education and employment were only partially met. The gender parity index for school enrolment showed that there was equal enrolment of girls and boys at all levels of primary, secondary and tertiary education. Maternal mortality declined to 258 per 1,000, a significant reduction from 850 per 1,000 in 1990. There were increases in the proportion of married couples using contraceptives and women using hospital services for childbirth. The employment of women in the non-agricultural sector was at 44.8 percent, double the rate of 1990. (Government

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<sup>15</sup> The National Women's Commission (NWC) is a constitutional body. It has powers to monitor the government's compliance with its obligations pertaining to the rights of women, investigate cases of violence against women, provide legal aid and advise the government on policy matters related to women's issues. Decisions and recommendations of the NWC are not binding for the Nepali government.

of Nepal National Planning Commission, 2016). Politically, reservation quotas across the public sector require 33% women office-holders. In 2017, 35% of the elected members of parliament were women. In the same year Nepal's president, chief justice and speaker of the House were all women.

Despite the progress, however, there are still significant differences between the attainments of men and women. For example, although female literacy levels have more than trebled from 12% in 1981 to 57% in 2011 they are still significantly lower than the male literacy rate of 71% (Ministry of Education, 2011). Similarly, the Nepal Labour Force Survey (2017-2018) showed that female wages are three-quarters of male wages (Government of Nepal National Planning Commission et al., 2018).

### **2.3 Social roles and the status of women**

The limitation of laws, public policy documents and official statistics is that they offer little insight into how the everyday lived experiences of women have changed. Research in the social sciences that could explain these changes are limited in number. Some anthropological studies that delve deeply into exploring the structure of Nepali society to construct the status and roles of women within it have been conducted between 1960 and 1990. They discuss a Nepali society that was relatively unaffected by globalisation, international migration, technology, access to communication and internal armed conflict. Moreover, such studies discuss societies in rural Nepal, providing little insight into the structures of life in my field location, Kathmandu. Nonetheless, their insights are still important historical accounts of women's social positions.

Bennett's (1983) ethnography conducted in a village outside Kathmandu is perhaps the most significant piece of literature that provides an insight into women's positions and status in Nepali society. Her study found that women were inferior in social status to men from birth. Their identities were linked to male family members, rendering them daughters of fathers, wives of husbands and mothers of sons. She discusses the tenuous position occupied by the daughter-in-law in joint families. On the one hand, the daughter-in-law was seen as a threat to the integration of the joint family as she was deemed to have the power to convince her husband to leave it. On the other hand, she was perceived as indispensable for the continuation of the family (Bennett, 1983).

Bennett (1983) also explains how women were expected to be submissive, obedient and docile, traits deemed instrumental in ensuring that they did not challenge the status-quo within a joint family. She describes the nuanced nature of women's social position, arguing that women were far from powerless: they employed their own strategies to secure their position in the family. For example, women in her study were aware that the respect and security they got in their household depended largely on how their husbands treated them. They were therefore found to use sex as a means not just of having children but also of influencing their husbands in their favour (Bennett, 1983).

Furthermore, Bennett (1983) explains that a woman's power within the family changed through her life course. A newly married daughter-in-law was at the bottom of the hierarchy in her husband's family. Yet in her natal house a newly married daughter had a more affectionate and respectful relationship with her family members. Following the birth of a son a woman was seen less like an outsider in her marital house. By middle age a woman with her children was deeply identified with her affinal group. Her threatening identity as a wife was increasingly overlaid and neutralized by her role as a mother. A son's marriage, for the mother, marked the culmination of her long and difficult transition from a lowly incoming bride to a senior affinal woman (Bennett, 1983).

The evolution of women's status and roles discussed in Bennett's (1983) study was found in a rural village largely unaffected by factors external to family dynamics that would affect families in Kathmandu today, such as education and employment. Moreover, Bennett's (1983) participants were members of the Brahmin/Chettri caste and therefore her findings are not generalisable to communities of other ethnicities and castes. This point is illustrated by Jones' (1976) ethnography of the Limbhu (Janjati) ethnic group in the eastern hills of Nepal. There the social position of women within this ethnic group was very different to that in the Brahmin/Chettri community. For example, after marriage Limbhu women only lived spasmodically in their husband's home. If a newly married woman did not feel well-treated in her husband's home her natal family encouraged her to not move into his house (Jones, 1976).

Similarly, in the Newar<sup>16</sup> community all women are married twice. The first wedding is called *Ihim*. In the *Ihim* pre-pubescent girls are married to a fruit (Aegle Mammelos), which is a symbolic representation of the Hindu god Vishnu. The subsequent marriage to a man is then regarded as being secondary in importance. What this means for women is that they never become widows as they are married to an immortal god (Majupuria, 1982). Newar women are therefore protected from the hardships of widowhood faced by Brahmin and Chettri women.<sup>17</sup>

A general limitation with studies conducted before the 1996 is their inability to include the transformations that the armed conflict (1996–2006) introduced to Nepali society and women's lives within it. The think tank International Centre for Transitional Justice (ICTJ) and a local non-governmental organization, Advocacy Forum, conducted a study in 16 districts of Nepal to examine how the armed conflict had affected the lives of women. They found that the prominent female presence in the Maoist movement, particularly as combatants in the rebel PLA, contributed to eroding the stereotype of women as passive and defenceless victims of armed violence (Advocacy Forum and ICTJ, 2010).

Moreover, the study found that the conflict forced women to deal with the consequences of what happened to their family members. As mothers and wives of the disappeared, the tortured and the dead many were forced to sustain their families in ways beyond their previous experience in a reversal of traditional roles. For instance, in the absence of men in the village women started to plough the land, while traditionally women had been forbidden to even touch a plough. The report

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<sup>16</sup> The Newars are another ethnic group of Tibeto-Burmese descent. They are indigenous to Kathmandu Valley and have participate in mainstream public affairs and decision-making positions alongside the Brahmin and Chettris. As many of them hold high-value real estate in Kathmandu, Newars form a significant proportion of Nepal's wealthy business community.

<sup>17</sup> In Brahmin and Chettri culture a widow is traditionally considered to be extremely impure and prohibited from attending social functions like marriages and worship rituals for fear that she will bring bad luck. After her husband's death she is only allowed to dress in pale colours, and remarriage is socially forbidden. Although adherence to these traditional practices is weakening due to advocacy campaigns like the Red Tika movement single women are recognized as being very vulnerable. The red tika (a red dot on the forehead) is the symbol of marriage for a woman. When her husband dies his family members wipe the red tika from her forehead. A widow is not allowed to wear red as this is an auspicious colour. After the end of the armed conflict, many women had become widows. 100s of widows therefore staged a campaign in front of the ministries in Kathmandu wearing the red tika. This demonstration, and continuous campaigns across villages by women's rights organizations, have slowly changed the manner in which women observe widowhood. More and more widows are rejecting the traditional standards of austerity.

argued that in some cases these challenges served to empower women (Advocacy Forum and ICTJ, 2010).

Similarly, a study by Valente (2013) reported that districts that experienced greater conflict violence had the highest increase in educational attainment for girls and health improvements for women. For example, the increase in educational attainment of girls was higher than that of boys in the same districts. Moreover, between 1996 and 2006 Nepal's maternal mortality rate fell by 47%, and neo-natal mortality and under-five mortality also improved (Engel et al., 2013).

There are limitations to what can be extrapolated about women's positions in Nepali society from conflict-era research that documents women's status in locations outside Kathmandu. In comparison to the rest of the country Kathmandu was relatively sheltered during the conflict. Very little fighting or recruitment into the PLA took place in the city. In many ways there was greater scope to oppose and reject the idealisms of the rebel forces in the city as it always remained under state control. The evolution of women's status during the 10-year conflict in Kathmandu probably has its own distinctive character. Yet, in the absence of research investigating this, very little can be assumed.

### **2.3.1 Social effects of labour migration**

Following the armed conflict one of the most significant social phenomena affecting Nepali society is labour migration. Almost one-third of Nepal's 29 million population is living and working abroad. However only one-third of the migrant population is accounted for, with 3.5 million documented migrant workers in Malaysia and the nations of the Middle East Gulf Cooperation Council. The rest of the unaccounted-for migrant workers mostly migrate to or work in India (Ministry of Labour and Employment, 2018). Official data report that about 1.8 million Nepali women are working abroad. Owing to numerous reports of the exploitation and abuse of female migrant workers the Nepali government has experimented with policies to address this issue. For example, in 2012 and 2015 the government issued temporary bans on women's labour migration: the ban was lifted in 2016. Currently, Nepal has the lowest age restriction for women migrants in South Asia - 18 years (Gioli, Maharjan and Gurung, 2017). The economic value of migration is evident in its remittance contributing an estimated 28% to the country's annual gross domestic product (World Bank, 2018).

There is very little research on the social consequence of labour migration. An exception is Gioli, Maharjan and Gurung's (2017) study exploring the effects of women's migration on their lives and communities through case study analysis and in-depth interviews with returnee migrant workers. The study showed that migration contributed to investment in education, particularly girl's education, women's financial independence and mobility, and averted early marriage. Moreover, it boosted women's decision-making power in the family as women reported learning 'strategic thinking' to influence decisions by avoiding family conflict (p. 11). Although Gioli, Maharjan and Gurung's (2017) study provides valuable insight into the influence of migration on improving women's status in Nepal, larger scale studies are needed to confirm its findings.

## **2.4 Conclusion**

In order to situate the Kathmandu study within Nepal's historical and social context this chapter provided an introduction to the relevant political, legal and social developments affecting the lives of Nepali people, particularly Nepali women. The chapter began by chronicling the political changes in Nepali history to illustrate the tumult that state mechanisms have undergone. It then discussed the changing roles of women in Nepali society to illustrate the background factors that surround individual instances of spousal violence. In this analysis progress in women's status was illustrated primarily through what is written in laws and policies. Although progress has been made there are still significant differences between the status of Nepali men and women. In addition to laws and policy factors like family structures, women's employment, their marital status and migration appear to be important in determining their position in society. In the absence of research, particularly pertaining to women in Kathmandu, the factors affecting women's roles and positions in society can be recognised but it is difficult to draw conclusions about how they affect women's everyday lives.

## **Chapter 3**

### **Domestic Violence Law and Policing in Nepal**

#### **Introduction**

Following a broad overview of Nepal's history and politics, alongside a description of social structures for men and women in, Chapter Two, this chapter will discuss the policing of domestic violence and the law governing it. The discussion will be presented in three parts. Part One (3.1) will explain the major provisions of the Domestic Violence Act 2009, highlighting its conciliatory as opposed to punitive focus. It will also describe why the law is in its current form. Part Two (3.2) will describe the role of the Nepal Police as it evolved over time. Part Three (3.3) will discuss how members of the public view the police. Through this discussion this chapter aims to familiarise the reader with the nature of Nepal's criminal justice system, the place of domestic violence law and policing within it.

#### **3.1 Domestic violence law within Nepal's criminal justice system**

The formal criminal justice system of Nepal comprises the police force, Office of the Attorney General (Public Prosecutor's Office) and courts. There are three tiers of courts in Nepal: 75 district courts, which have first jurisdiction over most cases, seven high courts above the district courts, and a Supreme Court as the final court of appeal. The legal system of Nepal is a mixed legal system that draws on the common law tradition, civil law tradition and Hindu legal tradition (Shrestha, 1998). The Nepali state has ratified most human rights treaties, such as the International Covenant on Civil and Political Rights and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment and Punishment (for full list see OHCHR, 2019), and adopted their provisions into its 2015 constitution.

Within Nepal's criminal justice framework the Domestic Violence Act 2009 is a distinctive piece of legislation<sup>18</sup> for several reasons. Firstly, unlike most Nepali criminal laws that require reports of crime to be made to the police, the Act allows complaints of violence to be reported to any of

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<sup>18</sup> This legislation is not part of the Muluki Ain 1963 or Muluki Ain 2018

four state agencies: the police, the National Women's Commission, a local authority or a district court (Domestic Violence Act 2009).

Secondly, it curtails the basic police authority normally exercised during crime investigation: the power to remand suspects. Domestic violence law states that the suspect must be released on bail while his/her case is being investigated or litigated in court. The judge can, however, issue any order in the best interest of victims (Domestic Violence Act 2009). In practice it is rare for courts to order a suspect to be detained in a case where the maximum punishment is under three years of imprisonment.

Thirdly, the police, as well as the local administration, are given authority by the law to reconcile the victim and perpetrator for a period of one month if an officer:

finds reason to believe that an act of domestic violence has been committed and the victim so desires, he/she may, within thirty days from the date of registration of the complaint, conduct reconciliation between the parties (Domestic Violence Act 2066, section. 4(8)).

This provision is an exception to the general principle governing the administration of criminal justice in Nepal: that criminal cases cannot be settled by the police and prosecutors outside court (Acharya and Bhandari, 2006).<sup>19</sup> In fact, an analysis of provisions in this Act and other laws suggests the legislature's emphasis on reconciliation as opposed to prosecution. The primary indicator of this is the relegation of the offence of domestic violence to Schedule 2, as opposed to Schedule 1, of the Government Cases Act 1992. While offences under Schedule 1 are prosecuted by the state, crimes under Schedule 2 are treated as private matters by the court. In other words, a state prosecutor will not represent a spousal violence victim: rather she will need to arrange her own legal representation in court. For many Nepali women this poses a significant barrier to accessing the court as lawyers are unaffordable.

Even qualifying for legal aid provided by the government is a difficult task for women as it requires the complainant to submit documentary evidence that proves she earns less than a specified level of income (Legal Aid Act 2054; Legal Aid Rules 2055). The process of getting letters and

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<sup>19</sup> In South Asia Bhutan is the only other country that permits police reconciliation. However, unlike in Nepal, where the law sets no limits on what types of cases can be reconciled, in Bhutan reconciliation is only permitted if the violence constitutes a misdemeanour offence and the offender is not a recidivist (Domestic Violence Prevention Act of Bhutan 2013).

certificates, for proof, from several government offices can be a daunting undertaking for victims unfamiliar with Nepal's complex bureaucratic procedures. It can also spark greater personal difficulty when women negotiate permission from violent families to leave the house and do this work or take time away from employment and sacrifice income.

Secondly, the punishment for committing spousal violence is lenient. The maximum sentence for committing spousal violence is six months imprisonment and/or a NR 25,000 (GBP 150) fine. A public official is liable for a prison term and/or fine that is 10 percent higher whilst a recidivist will be liable for double this punishment every time he/she is convicted for this offence. The court, at its discretion, can award victims compensation from the perpetrator. However, there is a consistent precedent of judges awarding nominal amounts even in grave crimes like rape and torture (see CVICT, 2007). There is, therefore, very little reason to believe that the scale of the award will change for a crime like spousal violence. Furthermore, if the perpetrator refuses to pay compensation the victim must bring another privately funded suit to court to enforce the compensation order. The consequence of failing to pay compensation is a punishment of four months imprisonment (Muluki Ain 1963). Although, the judge can also award victims compensation from the Service Fund if the perpetrator lacks the wherewithal, until such an award is made by the court the victim cannot rely on it.

Overall, domestic violence law, by construct, makes it difficult to incite formal legal processes. In this context it becomes important to understand why it is this way. The rationale of the legislature enacting the law is thus discussed below.

### **3.2 Legislative history of the Domestic Violence Act 2009**

In constructing the legislative history of domestic violence law it is important to consider what I found along with what I did not find. My starting point in investigating why the law emphasises reconciliation was to examine the verbatim transcriptions of parliamentary proceedings pertaining to the enactment of domestic violence law. This record indicated that as soon as the Domestic Violence Bill was tabled in Parliament it was sent to a specialised nine-member sub-committee of legislators for discussion. It was this sub-committee, as opposed to the full house of 601 legislators, that discussed all amendments proposed to the Bill. The Full House simply passed the Bill

presented to it by the sub-committee without discussing it.<sup>20</sup> Even though all discussion of provisions in domestic violence law was held in the sub-committee no records have been maintained of these sessions.<sup>21</sup>

Nonetheless, from the limited parliamentary records I could find I gathered that that a Domestic Violence Bill was first tabled in Parliament on 22 February 2002. This Bill was passed by the House of Representatives and was awaiting discussion in the Upper House. When King Gyanendra Shah dissolved Parliament in May 2002 the Bill was repealed. I could not find any record of the content of this Bill. I was, however, able to obtain a copy of the Domestic Violence Bill tabled in Parliament on 6<sup>th</sup> April 2006, which was passed as the Domestic Violence Act 2009. In this Bill reconciliation between victim and perpetrator was mandatory, as section 4(3(b)) stated:

if the local agency or police, after recording statements, has reason to believe that a domestic violence had been perpetrated against the victim, they must convince the parties and reconcile the victim and perpetrator.

### **3.2.1 Legislators' accounts**

In the absence of written records to explain why reconciliation was emphasised in the law, my next recourse to gaining answers was talking to the members of the parliamentary sub-committee who discussed and finalised the law. I was able to establish contact with four members of the committee who belonged to three major political parties: the Nepali Congress, the United Marxist Leninist Party (UML), and the Communist Party of Nepal-Maoist. One former member of parliament (MP), who was the chief orchestrator of this domestic violence law, is a current Supreme Court judge who agreed to speak to me under the condition that her statements are not deemed to be the opinions of a serving judge.

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<sup>20</sup> The procedure followed in Parliament to pass this domestic violence law is similar to the legislative process followed for enacting other laws in Nepal (Constituent Assembly (Conduct of Business of Legislature – Parliament) Rules, 2013).

<sup>21</sup> The Parliament Secretariat library and archives are severely under-resourced: there are only a handful of shelves to store all of Nepal's parliamentary records. Files containing parliamentary records of laws enacted more than three years ago, such as the Domestic Violence Act 2009, are bundled in cloth and stored in different places across the building that no one keeps track of. Since no rule governs document keeping and archiving in Nepal many parliamentary records are thrown away or 'borrowed' by people and never returned.

The former legislators all identified three major reasons why the law emphasised reconciliation. Firstly, they described the law as a significant achievement at a time when ‘men believed it was their right to beat their wives’. Their objective was to criminalise domestic violence first. They were aware that the law was ‘imperfect’ but believed it would be a ‘blueprint’ that future legislators could improve through necessary amendments.

Secondly, they spoke of the ‘limitations of state services’ that compelled them to emphasise reconciliation. A former MP explained:

We considered the economic condition of Nepali women. Their financial dependence on their husbands and families. The Nepali state had no provisions to support single women. If the woman left her household, how would the government help her? It had nothing to offer her. In Nepali society it is almost impossible for a separated woman to get married again. Re-marriage is very easy for a man but impossible for a woman. We had to consider the reality that without external support from the government, and the social stigma attached to single women, a woman’s position was better inside the family. This is why we provisioned for reconciliation. We also wanted to give the perpetrator a chance to correct his behaviour. We wanted to keep the family intact (former MP, September 2017).

Thirdly, one former legislator spoke about the lobbying, particularly from non-governmental organisations, to make the law ‘victim-friendly’. This effort culminated in amending the provisions in the original Bill that made reconciliation mandatory to the current provision where reconciliation can only be undertaken with the victim’s consent (Domestic Violence Act 2009).

Following a description of the reasons why the Domestic Violence Act 2009 stresses reconciliation, the next section will discuss the role of the Nepal Police in society.

### **3.3 Policing in Nepal**

Although no legislator spoke about the role of policing in addressing spousal violence, for the purposes of my research on policing it is important to understand the position of the police in Nepali society. This section will provide an introduction to the Nepal Police.

There is very little documented history on the establishment of the Nepal Police. Study of historical archives shows that there were three police stations during the onset of the Rana regime (1846) in Southern Nepal. During the Rana period (1846-1851) scattered groups of militias, separate from the army but under the command of military lieutenants, were in charge of maintaining law and

order across Nepal. Between 1908 and 1909 the British envoys in India proposed a tri-state collaboration to control crime on the Nepal-India border. This provided the impetus for training personnel to discharge functions related to law and order maintenance and crime control. Little is known about how these trained men were managed and deployed by the Rana regime (Nepal Police Academy, 1999)

After the Rana regime was toppled in 1951 efforts were made to unify the scattered group of security personnel. A police headquarters was thus established, with Toran Shamsheer becoming the first inspector general of police. In 1955 King Mahendra Shah established a Police Reform Commission. A commission report recommended unifying the scattered police groups, implementing screening procedures to admit people into the police, and a security policy. It envisioned the police as a force responsible for law and order maintenance, crime control and helping citizens. The modern Nepal Police as a unified force was formed under this Commission's recommendations. It is governed by the Nepal Police Act 1955 and the Nepal Police Regulations 2015 (Nepal Police, 2019; Nepal Police Academy, 1999).

Currently, the Nepal Police is one of the four security agencies of Nepal, the others being the Nepal Army, the Armed Police Force and the National Intelligence Department. It is the second-largest security organisation after the Nepal Army with 67,416 personnel under the command of one inspector general of police (Nepal Police, 2019). With the formation of provincial governments in 2017 the Nepal Police has been divided into the federal police and seven state police forces. There is ongoing discussion about how power should be devolved from the centre to the state police. Two Bills have been tabled in Parliament to define the authority and function of the state police (Kathmandu Post, 2019),

Under the Nepal Police Act 1955 the primary purpose of the police is to prevent and investigate crime, and maintain law and order. Police activity, however, has historically been targeted towards controlling political dissent. During the Panchayat era the police suppressed dissident democrats. Later it fought against the Maoists for the duration of the armed conflict (OCHR, 2012).<sup>22</sup> Adhikari

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<sup>22</sup> The Nepal Police was the only security agency that fought the Maoists from 1996-2008. In 2001, refusing to let his army fight his own Nepal, King Birendra Shah formed the paramilitary organisation the Armed Police force to fight the Maoist rebels. In 2002 King Gyanendra Shah declared a state of emergency and deployed the Nepal Army to fight against the rebel group (Adhikari, 2014).

(2014) observes that, due to the widespread human rights violations committed by security forces<sup>23</sup> during the conflict, the Nepal Police have been generally less trusted by people in both urban and rural Nepal. Following the signing of the Comprehensive Peace Agreement the Nepali Police has sought to change its image through reform measures. Under its policy to democratize and professionalise its operations it has adopted community policing measures, introduced technology into investigation, and increased training for its personnel. Attempts to improve relations with members of the public have resulted in police chiefs introducing organisational mottoes like ‘service with a smile’, ‘the police are my friend’ and an app called ‘Our Police’ (Nepal Police 2019). Despite reform efforts, however, structural issues such as political interference, corruption, resource deficits and unskilled personnel continuously hold back progress.

### **3.3.1 Public perception of the Nepal Police**

The perception of the Nepal Police by members of the public is mixed. This is reflected in perception surveys conducted by three agencies in Nepal. Between 2007 and 2008 Saferworld (Saferworld, 2008; Saferworld and Interdisciplinary Analysts, 2009) conducted two surveys on people’s attitudes, expectations and concerns regarding policing and security in Nepal. A sample of 3,010 respondents was surveyed across the country, including Kathmandu Valley. In-depth interviews and focus group discussions were also carried out. The findings showed that about two-thirds of Nepalis had at least some trust in the Nepal Police. However, most of these responses indicated that people had only ‘a little’ rather than ‘very much’ trust. There also appeared to be little public respect for the police. Several reasons were cited for disrespecting the police, including poor manners and a lack of respect shown by officers towards members of the public, particularly women, corruption and the perception that the police are more interested in their own security than that of the public (Saferworld, 2008; Saferworld and Interdisciplinary Analysts, 2009).

Methodologically, one of the concerns about the results is that many of the survey questions were answered as ‘do not know/cannot say’. The reports do not disaggregate the percentage of such answers for each theme of their findings. Therefore, the findings may reflect the opinions of a

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<sup>23</sup> The security forces that fought in Nepal’s armed conflict included the Nepal Police, the Royal Nepal Army and the paramilitary organization the Armed Police Force (APF). From 2001 the three security forces operated under ‘unified command’. Although the Nepal Police and APF functioned as separate institutions they came under the RNA command at field operations level (Adhikari, 2014).

much smaller group of people than the study sample of 3,010 (Saferworld, 2008; Saferworld and Interdisciplinary Analysts, 2009).

In 2011 the United States Institute for Peace released a report about people's attitudes toward the police, justice and rule of law in Nepal. A survey was conducted in 21 districts of Nepal with a total of 12,607 respondents. Of those, 4,597 respondents were from six targeted groups: the Nepal Police, civil society, government ministries, political parties, the business and industrialist community, and lawyers and judges. Furthermore, 15 focus-group discussions involving 364 participants were held, and interviews were conducted with 118 high-level government officials, political party leaders, and civil society leaders (Budhathoki, 2011).

The reported findings of the study are not disaggregated by group. The study found that overall slightly more than half the respondents believed that the performance of the Nepal Police had improved in the period between 2007 and 2009 in comparison to previous years. The three factors most commonly cited as contributing to this enhanced performance were an improvement in the Nepal Police's behaviour and attitude, an improvement in general security, and increased patrolling by the police. However, more than half of the respondents thought that there was unequal access to protection and other services provided by the Nepal Police. Poor people, *Dalits* (the untouchable caste) and women were identified by respondents as the groups most likely to suffer from unequal access. (Budhathoki, 2011).

A key finding from all the surveys was that, although people perceived the police as being under-resourced and corrupt, they blamed this on political interference in areas like police recruitment, promotions, transfers and crime investigations. Despite criticisms of the police, the majority of all respondents indicated that the Nepal Police should continue to be the lead law enforcement agency in charge of ensuring civilian security (Saferworld, 2008; Saferworld and Interdisciplinary Analysts, 2009; Budhathoki, 2011). In fact, USIP's survey showed that about half of the respondents identified the presence of police in their villages and towns as being among the most important factors that allowed them to feel safe in their communities (Budhathoki, 2011).

### **3.4 Conclusion**

This chapter began by introducing the Nepali criminal justice system as a mixed legal system. It explained how the provisions of domestic violence law are constructed to facilitate reconciliation

as opposed to adversarial proceedings. It then described reasons why the law takes this conciliatory position. As records of parliamentary proceedings are missing/never extant in Nepal the intent of legislators was gathered by interviewing some of those most closely involved with the passing of the law. Through their accounts it was established that the reconciliatory provision of the law was seen as an amendable measure. It was put in place to accommodate the oppressed position of Nepali women and the state's inability to support them.

This chapter also outlined the history of the Nepal Police, noting how little is officially known about it. Established in 1955, the Nepal Police is a relatively new security organisation. Its role is to prevent and investigate crime and maintain law and order. Although since 2010 successive police chiefs have attempted to increase its likeability and accessibility to people, perception surveys show that members of the public still largely mistrust the police.

## **Chapter 4**

### **Methodology**

#### **Introduction**

This chapter will detail the methodological elements of the Kathmandu study. My aim is to take the reader ‘backstage’ (Tunnel, 1998, p. 231) to explain the methodological approach used in the study and to describe the issues faced during the course of research, so as to contextualise the data. In doing this I will discuss methodological vulnerabilities, problems encountered and the way they were addressed in order to allow the reader to assess the rigour of this study (Brewer, 1990).

The methodological discussion will be organized into seven parts. Part One (4.1) and Two (4.2) will discuss the overall research design, sampling and generalisability. It will explain why particular methods were chosen. Part Three (4.3) will describe the preparation phase for fieldwork including justification for research site selection, development of interview instruments, gaining access to conduct the study and the pilot phase of the research. Part Four (4.4) will include a description of the fieldwork with my reflections on conducting participant observations at a Women and Children Service Centre (WCSC) and interviewing participants. Part Five (4.5) will discuss the ethical dimensions of this research. Part Six (4.6) will describe how collected data were analysed. Finally, Part Seven (4.7) will summarise the chapter.

#### **4.1 The research design**

This research investigating victims’ and perpetrators’ perceptions of police conflict resolution (PCR) of spousal violence was an exploratory study. An inductive approach was chosen because, as Stebbins (2001) posits, when a group, process, activity or situation has received little or no systematic empirical scrutiny an inductive approach allows for the uncovering of new ideas and observations. Conversely, a deductive approach was unsuitable for the aims of this study because testing existing theories that are ‘inevitably limited in scope have a way of more narrowly channeling data collection than is desirable at a time when discovery is the main goal’ (Stebbins, 2001, p. 9). As most criminological theories have been developed in western countries their

assumptions are derived from a social context that is very different to that found in Nepal. Imposing such a conceptual framework risked the exclusion of situational realities and processes that are important to the phenomenon because existing theoretical models have never taken such assumptions into account. This argument, however, did not preclude all theoretical engagement from this research. As Bachman and Schutt (2014) suggest, existing theoretical frameworks are helpful in analysing and interpreting exploratory data. The theoretical position of grounding the study within the framework of procedural justice theory was determined through an iterative analysis of the research findings.

The study explores perceptions of PCR among victims and perpetrators of spousal violence, in which the wife was the victim of the husband, through two methods: participant observations and in-depth interviews. I firstly observed the mediations of reported cases at a WCSC. Then I interviewed victims and perpetrators separately about their perceptions of the mediation process. One month after each victim's mediation I conducted a second follow-up telephone interview with her about whether she had gone back to the WCSC and if the perpetrator had subsequently complied with the decision made during PCR.

Participant observation was chosen as a method for several reasons. Firstly, as DeWalt and DeWalt (2002) claim, it offers a scope of understanding for a phenomenon in a depth that is seldom allowed through other means like surveys or official records. As very little research has been done on WCSC PCR it was imperative for me to understand the programme itself. Observation over a period of 11 months provided an opportunity to construct a holistic view of PCR within its organisational and situational context.

Participant observation was also essential for the interview phase. Logistically, being present at a WCSC allowed me to introduce both myself and the purpose of the study to victims and perpetrators. This was the first step in building rapport, which was vital for retaining participants' willingness to talk to me. Otherwise, I would have had to contact participants through their details in police records. It would have been tremendously difficult to convince victims and perpetrators to give interviews about their personal lives to a researcher they had never seen before.

In tandem with participant observation the interview was the most suitable instrument of data collection for my study on several grounds. Firstly, there is a strong oral culture in Nepal. The best

method of obtaining information within this cultural context was use of a style that was conversational in its nature. Secondly, the oral style of the interviews enabled my research to capture accounts of illiterate participants, whose voices would otherwise have been impossible to capture if data collection instruments required written responses. Thirdly, as research is not widespread in Nepal people are not familiar with practices of answering written questionnaires. Administering written surveys would have alienated many people. It is possible that a focus group discussion might have elicited greater comfort for participants, with group discussions organically probing their thoughts. However, my limitations in being a lone researcher made it difficult to simultaneously observe cases and arrange times when groups of people, unknown to each other, could come together for a focus group.

The use of two methods, participant observation and interviews, was an attempt to introduce ‘methodological pluralism’ (Walklate, 2000, p. 193). This, on the one hand, enabled triangulation of data: addressing some of the intrinsic bias that is inherent to data gathered from only one source (Denzin, 1970; Hammersley and Atkinson, 1995). On the other hand, the dual method allowed me to report multiple versions of a complex reality (Hammersley and Atkinson, 1995). In so far as qualitative research rejects the pursuit of a singular truth, but seeks to report all conflicts in findings so that the reader may form their own judgment (King, 2000), data gathered from multiple sources allow the reader to assess the validity of these research findings.

The overall research design of the Kathmandu study attempted to ‘marry’ elements of quantitative research with qualitative data. Sherman and Strang (2004) in advocating for an ethnographic dimension to experimental studies argue that this will allow for an understanding of not just ‘what’ the effects of a social programme are but ‘why’ the effects are produced. This Kathmandu study has therefore sought to explore not just how victims and perpetrators experience the PCR programme but also gage into why they have these perceptions (see chapter 6) and why the police deliver the programme in its current form (see chapter 5).

#### **4.2 Sampling and generalisability**

Morse (1994) points out that in qualitative research there is no single criterion or formula to use to calculate the number of people to interview. Sample selection is determined by the content of the context, experiences and values the research seeks to investigate. Luboursky and Rubinstein

(1995) argue that in such research the analogue to statistical power in quantitative research is qualitative clarity: making explicit how the sample was assembled, the theoretical assumptions, and the pragmatic constraints that influenced the sampling process. Following this approach the sampling process in the Kathmandu was determined by the practical considerations discussed below.

The number of cases to be observed in this study depended on the number of spousal violence cases reported to the WCSC. I curtailed my case observation to 100 cases because prolonging fieldwork would make it difficult to complete my PhD within the stipulated timeframe. Moreover, Noaks and Wincup (2005) suggest that an appropriate time to end fieldwork is when the phenomenon being observed and studied becomes repetitive. In observing 100 cases, on the one hand I saw variety in the cases histories and participants' socio-demographic characteristics, and I observed all officers facilitate PCR. On the other hand, the case handling patterns and subsequent responses emerging from participant interviews became repetitive.

To recruit participants for interviews I approached the victim and perpetrator separately at the end of each PCR. In this interaction I briefly introduced myself as a university student who was gathering information on how husbands and wives experienced PCR. Out of 100 cases observed using convenience sampling (Platt, 1992) I was able to approach 97 victims and ask them for interviews. I could not approach victims in three cases (that involved allegations of physical violence as opposed to psychological, sexual or economic violence) because the police chased the victims and perpetrators out of the WCSC and explicitly asked me to not stop them for interviews.

I interviewed 82 victims in total. I could not interview 15 other victims for various reasons: victims refused to be interviewed (N=3), victims could not be contacted because they did not pick up their phones (N=6), victims who answered their phones asked me to call them back/told me they would call me back but did not answer my subsequent calls (N=5), and I could not conduct an interview for reasons of my personal safety (N=1). Overall, out of the total 82 victim interviews 39 were conducted over the telephone and 43 were conducted face-to-face.

In terms of perpetrators, out of the 100 cases observed, using convenience sampling (Platt, 1992), I approached 93 perpetrators for interviews. I could not approach the perpetrator in seven cases because: the police chased the parties out of the WCSC and asked me not to stop the perpetrators

for interviews (N=3), perpetrators were based in the Middle East and the police had engaged them in PCR over telephone (N=2), and perpetrators were too inebriated during PCR to comprehend my request for interviews and did not have a phone number for later contact (N=2).

Overall, I interviewed 73 perpetrators. I could not interview 20 other perpetrators for a variety of reasons: perpetrators refused to be interviewed (N=9), perpetrators did not answer my phone calls and therefore could not be contacted (N=8), perpetrators initially answered my phone call and asked me to call them back but then did not answer my phone call (N=2), and an interview had to be stopped because of threats to my personal safety (N=1) (this will be described in Part 4). Overall, out of the total 73 interviews 51 were conducted face to face and 22 were conducted over the telephone

There was no pattern in terms of type of violence, demographic characteristics and PCR outcomes represented in participants who could not be interviewed either because they declined interview requests or could not be contacted. While exploration as opposed to generalisability was the goal of this study, the nature of a sample enlisted from populations who have undergone police processes raises questions about the extent to which the findings are applicable to victims and perpetrators who did not come to police stations or those who refused to give interviews. Nevertheless, the Kathmandu study's construction of PCR and participants' perceptions of it may well apply elsewhere in Nepal if the conditions are the same as those in this study (Becker, 2005)

Following an overview of the research approach and design the chapter will now turn to chronicling the research process and reflect on decisions made at its various stages.

### **4.3 Preparing for fieldwork**

Before discussing the various stages of the research process, it is useful to lay out my own background and intellectual progression to the discovery of the research topic. This autobiographical information will enable the reader to gaze critically into the filters, strengths and biases that I as a researcher brought into the research process.

I believe I was in a advantageous position to study policing of spousal violence in Nepal because elements of my upbringing and professional career, prior to my PhD, had given me a nuanced understanding of Nepal's culture and criminal justice institutions as well as a Western lens from

which to view them. My comprehension of the local culture of Kathmandu was inevitably a product of being born and raised in the same city. My Western perspective on Nepal then emerged after I spent four years undertaking my undergraduate degree in human rights and law from Canada. There I gained the distance from Nepal to reflect on its culture, institutions and processes as well as the intellectual tools to critically examine them.

Following my return from Canada I spent five years in Nepal before studying at the University of Cambridge. During this period, I consolidated knowledge about the country through three years of legal education in a local university in Kathmandu and several employment opportunities. My critical understanding of Nepal's criminal justice system was shaped primarily by the post law-school training I received at the Attorney General's Office (equivalent of Crown Prosecution Services in the UK). There when I researched arguments to be presented in Nepal's Supreme Court to convict suspects, I learnt how the courts routinely subverted criminal procedure. For example, Nepal's evidence law requires witness statements to be recorded verbatim and judges to preside over witness examinations. In practice however, judges rarely listen to witness examinations but sign witness examination transcripts confirming that they have done so. Moreover, witness accounts are not recorded verbatim: rather court staff recording them summarise witness accounts in their own words. Essentially, the criminal trial appeared to only fulfil broad constitutional requirements of administering justice. Whether justice was experienced by the suspect or victim seemed to be an irrelevant concern.

My learnings from the prosecutors' office and courts was further confirmed by my two years of work with the Nepal Police under a project jointly commissioned by the University of Sydney and Kathmandu School of Law. In researching policing environment and culture during this period, I discovered two things. Firstly, that members of the public came to the police looking for justice as opposed to the courts. Secondly, all police officers I worked with expressed grave concern about the magnitude of the problem of spousal violence and their inability to tackle it.

My work within criminal justice institutions of Nepal had eroded the naïve belief I had developed in law school: that laws can fix all social problems. In order to think more critically and holistically about the criminal justice system in Nepal, I began an MPhil in criminology at the University of Cambridge. There I was mentored to investigate policing of spousal violence in Nepal. In my master's thesis, I therefore explored police perspectives of spousal violence in Nepal. This research

exposed the complexity of the Police Conflict Resolutions (PCR) and the need to understand them further.

In choosing to research PCR in Nepal for my PhD, both out of interest as well as practical concerns (discussed in the sections below), I believe I had a unique vantage point as a researcher. On the one hand, I was a native researcher with experience and understanding of not just broader Nepali culture but of the country's laws and criminal justice institutions. On the other hand, in spending about nine years in western universities, I had developed some understanding of western values and inevitably absorbed them. This gave me the anthropological distance from people and processes I researched in the field in Kathmandu between 2016- 2017.

#### **4.3.1 Choosing the research location and police force**

The current gap in knowledge about policing of spousal violence in South Asia meant that such research from any location in the region could potentially be a salient contribution to knowledge in criminology. Site selection of research, in this context, was then an outcome of several practical concerns such as viability of obtaining permission for research, time constraints and funding limitations.

Obtaining permission to do research on policing in South Asia is a difficult and precarious undertaking. I had learnt this from my previous professional work researching police use of force in Nepal and Sri Lanka between 2012 and 2014. In the context of the time limitations imposed by the three-year PhD I assessed that I was most likely to be given timely access to conduct fieldwork by the Nepal Police, where I already had existing relationships, as opposed to any other police force in South Asia. Therefore, the Nepal Police became the chosen organisation for research.

Within Nepal, Kathmandu stood out as the best research location considering its socio-demographic character and its practical accessibility for me. In terms of the former, Kathmandu is the capital city<sup>24</sup>, the seat of the Federal Nepali government, including the Nepal Police

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<sup>24</sup> Kathmandu is in the northwestern part of the Kathmandu Valley. Sitting at an elevation of 1,400 meters above sea level, it covers an area of 50.7 km<sup>2</sup>. Other neighbouring municipalities within Kathmandu valley include: Lalitpur Sub-Metropolitan City (Patan), Kirtipur Municipality, Madhyapur Thimi Municipality (Bhaktapur). There are several villages that are still identified as rural areas and therefore administratively governed by Village Development Committees on the boundaries of these municipalities- all forming Kathmandu Valley (Government of Nepal Kathmandu Metropolitan City, 2019).

Headquarters. With a population of 985,000 in 2019, and a population density of 20,288 residents per square kilometre, it is the most ethnically diverse location in the country (Government of Nepal Kathmandu Metropolitan City, 2019). This population heterogeneity is largely a result of the armed conflict (see chapter 2), when people from across the country migrated to Kathmandu in search of security, better income, employment and educational opportunities. The population in Kathmandu is also diverse in terms of wealth and income. Home to the wealthiest people in the country, it also has a sizeable population of poor people and a burgeoning middle class (Government of Nepal Kathmandu Metropolitan City, 2019).

Moreover, Kathmandu is home to me, the researcher. Undertaking research in Kathmandu saved me costs of travel to another location and accommodation, making my research financially viable under the PhD allowance. Furthermore, I grew-up in Kathmandu. I was familiar with the city's landscape (the importance of this will be discussed in Part 4). I spoke Nepali, the city's official language, as my mother-tongue. I was also familiar with the broad cultural norms of life within the urban space. Had I conducted research in any other parts of Nepal I would have had to spend time familiarizing myself with the local culture of the area. In Kathmandu I was able to use this 'familiarisation period' to think more deeply about the nuances of the situational context in which my findings have been grounded.

Within Kathmandu I chose the Kalimati WCSC as my research site because it was the main WCSC of Kathmandu. There are currently 18 WCSCs in the city. The central WCSC is the Metropolitan Women and Children's Service Centre (Kalimati WCSC), which sits above the Circle Level Women and Children's Service Centre and the Range Level Women and Children's Service Centres. Unlike the other 17 WCSCs, which can only admit cases from their local area, the Kalimati WCSC has jurisdiction over spousal violence cases from across Kathmandu.

#### **4.3.2 Negotiating access**

Obtaining access to undertake my study was arguably one of the easier elements of my research journey. The process of getting permission to conduct research with the Nepal Police started with the Ministry of Home Affairs. I submitted my research proposal, a letter seeking permission and my MPhil dissertation to the Office of the Joint Secretary of the Policing Division within the

Ministry. After reviewing my proposal and dissertation the Division sent a letter recommending authorisation to conduct this research to the home secretary's office. The home secretary forwarded my file to the inspector general of police's (IGP) Secretariat to seek police opinion on this matter.

After three days I received a call from the inspector general's secretary. By a stroke of luck this officer happened to be a former classmate from law school. He called me because he had recognised my name on the file. This officer was the 'gate-keeper' (Minlechello et al., 1997) as his role in 'putting in a good word' for my intention and work was indispensable in securing the IGP's authorisation to conduct my study. Thereafter, it took 10 days for the IGP's Secretariat to consult with the Research and Development Division of the Nepal Police and approve my request for access.

When I went to collect a final authorization letter from the Ministry of Home Affairs, I was turned back by Ministry officials for five consecutive days on the grounds that they had not heard back from the IGP's Secretariat. On the sixth day, because the IGP's secretary assured me that an authorizing letter had been dispatched from his office a week ago, I asked a Ministry official if we could review the register of correspondences received together. We found that not only had the letter from the police been received but the home secretary had already issued a final letter authorizing access to do my research. The only stipulated condition on the letter was that I submit copies of my final thesis to the Ministry of Home Affairs and the Nepal Police.

I took the home secretary's letter to the IGP's Secretariat. This office sent correspondence to the Women and Children's Service Directorate (WCSD) to allocate my research location. Upon my request the WCSD authorised my research to be undertaken in the Kalimati WCSC. It took about a month (21<sup>st</sup> July – 17<sup>th</sup> August) to get permission from the Ministry of Home Affairs and Police Headquarters to conduct my research. Although this period was slightly longer than I anticipated I was granted access to conduct field research over a period of 18 months (between July 2016 and December 2018).

The relative ease with which permission to conduct research was granted in Kathmandu invokes Lee's (1993) argument that reasons for access need to be considered not just when permission is denied but also when it is granted. My conversations with ministry officials and police during the

process of seeking permission points to three primary reasons. Firstly, my track record of previous research relating to my master's degree within the police was reasonable. I had caused no damage to organisational relationships. I had never leaked sensitive information to the press and had abided by their terms in submitting final reports and dissertation. Secondly, policing in the WCSC is viewed as 'soft policing', an area that is more open to international aid, non-governmental organisation work and by extension research by universities. Thirdly, and perhaps most importantly, every official I met reiterated a need for more research into the police. As one police officer stated:

The Nepal Police is open to research now and we welcome it. It's not like in the past where the top wouldn't want to hear any criticisms. Now we want to know where our weaknesses are (Officer # 51).

#### **4.3.3 The pilot phase**

Prior knowledge about WCSC policing in Kathmandu indicated that policing practices are unstable and change according to who heads the station. It was therefore difficult to finalise a research design without testing it on the ground. A 28-day pilot phase between August and September 2016 proved invaluable in determining the feasibility of the research design, amending interview instruments and beginning my immersion into participant observation. In this period I observed 18 PCRs and subsequently interviewed 12 victims and five perpetrators.

My initial research design envisioned a brief baseline survey with victims who came in to file a complaint of spousal violence. These victims would be asked about the nature of the violence they had suffered and their expectations of the police. PCR of these reported spousal violence cases would then be observed. Two weeks later the PCR victims and perpetrators would be interviewed (face-to-face) about their experiences. A short-term follow-up telephone interview would then be conducted with victims to find out about their views on the process and any subsequent violence they might have suffered after PCR.

##### **i) Baseline and follow-up interviews**

Field-testing of this research design highlighted its shortcomings. The baseline interviews were impossible to conduct. Victims who came to the WCSC tended to be distraught and were unwilling

to talk to anyone except the police. Moreover, until a victim started to talk to an officer it was impossible to understand the nature of the case. Since the WCSC has jurisdiction over different crimes committed against women if I spoke to victims before the police I risked spending time talking to people in cases that were not spousal violence. Yet, if I spoke to victims after the police it disrupted the police's case-handling procedures. Since one of my aims, as the researcher, was to minimise disruption to the normal policing environment, I decided the effect of collecting baseline data was too significant a factor to introduce into policing. Baseline interviews were therefore removed from the research design.

The plan to interview participants two weeks after mediation resulted in sample attrition. The primary cause of this was the nature of the research location. In Kathmandu the only viable method of contacting a person is by telephone. Unlike other cities around the world, Kathmandu does not have street addresses or house numbers. Residential addresses provide a semblance of certainty in communication as people do not relocate quickly. This did not exist in Kathmandu. The next alternative was to ask for workplace addresses. However, I quickly learnt that this was another non-option, particularly for participants who did blue-collar manual jobs such as construction work as they frequently changed their work location. Therefore, I could only establish subsequent contact for interviews through mobile phones.<sup>25</sup> This was a precarious mode of communication since people changed their phone numbers, switched off their phones, were unreachable due to network problems or did not answer my calls. As a result, I lost participants who were willing to be interviewed right after PCR but could not be contacted after two weeks. I was also unable to interview participants who did not have a mobile phone.

The attempt to conduct face-to-face interviews also brought an unanticipated challenge. The family members of participants, who had not met me, were suspicious of 'who I was' and 'why I was trying to set-up a face-to-face interview after a police case'. As an example, I was organising a meeting with a victim when, mid-way through our conversation, her brother took her phone and said:

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<sup>25</sup> Landline telephones are usually only available to homeowners or wealthier tenants who live in certain locations for longer time periods. Landlines are more difficult to obtain than mobile phones and SIM cards. To obtain them, one has to complete a whole application process and pay a minimum monthly charge while SIM cards are available in street-corner shops and are easily accessible to all members of public.

You can talk to her all you like on the phone... why do you want to meet her? I wonder who you are... Her husband is in police detention in remand right now and you want to talk to her in person?... are you somebody from his side, trying to intimidate her? She will do this interview.

In order to minimise the loss of such participants I trialled conducting interviews over the telephone. In interviewing five victims and two perpetrators over the phone I found that their responses were similar to those obtained in the other 10 face-to-face interviews.

As a result of these lessons learnt about the feasibility of research design I modified it to suit the local context. The baseline interview was omitted altogether. As a major objective of the research was to gain insight into the perceptions of participants about PCR it was deemed more important to obtain substantive information than to standardise when and how it was obtained. Therefore, the two-week waiting period between PCR and participant interviews was changed. Participants would be interviewed at any time that suited them - including immediately after PCR. Owing to the practical difficulties of contacting participants in Kathmandu the second follow-up interview with victims would be conducted after one month instead of three months. Finally, given that face-to-face interviews and telephone interviews had elicited similar levels of information in the pilot study, I decided to give the participants the option of choosing the interview mode. This measure had the additional advantage of allowing participants to stay within their comfort zones while divulging sensitive personal information to me.

#### ii) Developing and testing interview questions

The design of the interview instrument was guided by the exploratory approach of the study. I had the option of administering either unstructured interviews or semi-structured interviews. My previous experience with interviewing victims about their perceptions of policing in Kathmandu had taught me that, if victims were given full control of their narrative through an unstructured interview, they would say very little about policing. They were instead more likely to focus on the various dimensions of their family problems. The semi-structured interview format therefore allowed for some consistency in the information gathered whilst, at the same time, permitting participants to speak about what they thought was most important (Noaks and Wincup, 2004).

Since there were no interview instruments that have been tested for validity that could be used for my study in Kathmandu I constructed the interview schedules based on my knowledge of policing

procedures in the WCSC. The interview schedules were first developed in English and then translated into Nepali. This exercise uncovered the challenges in transporting concepts between different cultures. A particular problem arose when I realised that the word ‘fairness’, understood widely by people in English-speaking jurisdictions, did not have a colloquially equivalent term in Nepal. I therefore undertook several steps to translate this word. First, I explored whether there was a word for fairness in Hindi, hoping that the linguistic similarities between Nepali and Hindi would uncover a word that I might have overlooked. I found that in both languages ‘fairness’ translates to esoteric words like *Nyayauchit*<sup>26</sup> and *Nispakchya*<sup>27</sup>. These words could not be included in my interview schedule as most participants would not be familiar with these words.

Recognising that translation across languages involves more than just a literal transfer of information (Simon, 1996; 1992; Temple, 1997), I then sought to navigate what fairness as a concept means within Nepali society. Simon (1996) posits that the meanings of terms are not located in static cultural inscriptions: rather they have to be continuously reactivated in social realities through a process of negotiation (pp. 137-138). I found that, unlike in English-speaking countries where fairness can be used in a variety of situations, in Nepal the word for fairness has to be negotiated in the context within which it is used. Thus, several different words may be used to denote fairness, such as judiciousness, justice, rightness and impartiality. Which word is most apt has to be determined through a context-by-context assessment. For my research I determined that the concept of ‘fairness’ in policing is most accurately captured by the term ‘right’. Therefore, the interview question on fairness was constructed as ‘Do you think the outcome was right?’ (See Appendix 2 and 3 for interview schedules).

### iii) Testing the interview schedules

My interview schedules were tested in several steps. The preliminary test-run was conducted in Cambridge amongst peers. I asked six friends to role play as victims or perpetrators and let me interview them using the schedule. I conducted three interviews in English and three in Nepali. This exercise was useful in clarifying the language in the questions as well as ironing out any

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<sup>26</sup> *Nyayachit* in literal terms means judicious.

<sup>27</sup> *Nispakchya* translates to impartiality.

jumps in their flow. Moreover, it helped me memorise the schedule, a task that I later learnt was imperative to conducting interviews in the field.

During the pilot phase in Kathmandu I interviewed 12 victims and five perpetrators. Several amendments were made to the schedule because participants did not understand some of the questions. Five questions were removed from the schedule because all participants were confused about what they meant: 1. Did the police show concern towards you? 2. Did you think that the police were honest in what they said during mediation? 3. Did you understand what was going on at all times? 4. Did you feel like you could ask the police questions about what you did not understand? 5. Did the police answer your questions? Surprisingly the question ‘Do you think the police did anything improper?’ was grasped by victims but perpetrators struggled to comprehend it. Despite this experience in the pilot phase I initially retained this question on the grounds that the five interviewed perpetrators may have been exceptional in their lack of understanding. However, five other interviews with perpetrators elicited similar responses:

What do you mean the police did something improper? Improper as in? I don’t understand (Perpetrator #202).

I therefore struck this question out from the perpetrators’ interview schedules but retained it for victim interviews. The final interview schedules (appendix 2 and 3) constituted interview questions and tentative coding options. The coding options were predictions of the most common responses from victims and perpetrators based on answers received during the pilot interviews. The coding options were used for several reasons. Firstly, when interview notes had to be taken by hand the ability to tick answers made note taking easier. Secondly, the interview schedule was long and detailed. Coded answers which allowed for the quantification of common responses was a useful method of managing the data (Gibbs, 2007). The coding option, however, was used to facilitate data gathering and analysis as opposed to limiting the responses of participants. In other words, any response that was different from the coding options was recorded and analysed.

#### iv) Settling into the field

Fox and Lundman (1974) posit that there are ‘two gates’ (p.54) within police organisations that affect access: the first is approval by senior management; the second is acceptance by field-level officers who are the subject matter of the research. Thus, once official access to conduct fieldwork was gained I had to negotiate entry into the actual organisational life of the WCSC. Participant

observation conducted for 16 days (100 hours) during the pilot phase allowed me to ‘settle in’ to the WCSC. In this period I had a chance to introduce myself to all officers and familiarise myself with the physical space of the police station. I also assessed the case volume of mediation to determine whether I could conduct research in a single site or had to travel to multiple WCSCs in Kathmandu Valley. I noted 25 incidents of spousal violence reported during the 16-day period with 18 cases undergoing PCR. This volume of case reporting indicated that a single-site study was feasible.

#### **4.4 Conducting fieldwork**

##### **4.4.1 Participant observation at the WCSC**

I conducted 1,200 hours of participant observation inside the WCSC between November 2016 and September 2017.<sup>28</sup> I went to the WCSC approximately four days a week during the official working hours of 10 am-6pm. Sustained presence in the field was invaluable for the purposes of this research as it took months to comprehend the organisational dynamics within which PCR was delivered. Conversely, shorter fieldwork spanning a few months in the WCSC was unlikely to have captured the nuances of organisational dynamics and officers’ lives that were instrumental to detailed understanding of PCR. Henceforward, my reflections on participant observation will illustrate my experiences of surviving in the field: how I built and sustained relationships with police officers and measures I took to minimise my own observer effects on the policing environment.

The persona of a researcher as an insider or outsider is a useful lens through which to discuss participant observation. Merton (1972) defines an ‘insider’ as an individual who possesses intimate a priori knowledge of the community being researched. An outsider, according to Burges (1982), is an individual who is not already familiar with the setting he/she is researching. My identity within the WCSC constituted both insider and outsider dimensions co-existing in a ‘nonstatic, permeable, and dialectic nature. (Ergun and Erdemir, 2010 p. 34; Labaree, 2002).

My ‘insider’ identity emerged from the commonalities I shared with the police officers and my participants: my Nepali citizenship, ethnic, linguistic, gender and cultural affinities (Ergun and Erdemir, 2010). My command of Nepali and my cultural understanding helped me grasp sarcasm,

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<sup>28</sup> The 100 hours of participant observation conducted during the pilot phase are excluded from this count.

humour, respect/disrespect and silence used during PCR that would have escaped foreign researchers. For example, officers constantly used creative wordplay to make their point by asking perpetrators questions such as ‘Do you need medicine and water?’. This phrase was a euphemism for ‘treatment’ in the form of physical punishment.

As an observer, I was always conscious of how my presence could distort the environment and thus compromise the validity of my findings. While observer effects cannot be completely obliterated in participant observation (Noaks and Wincup, 2004), I believe my ‘insiderness’ helped to reduce the effects of my presence on victims and perpetrators. As a female researcher who wore similar clothes (trousers and shirt or the traditional *kurta suruwal*<sup>29</sup>) to the female police officers<sup>30</sup> and victims I blended into the WCSC environment. I observed most cases sitting beside police officers. My seating location during PCR was determined by the availability of space, which tended to be empty chairs of officers. Since all seating was arranged in a circular set-up (see Chapter 5 for details) seats in any part of the room allowed me to see all officers, victims and perpetrators in a PCR session. During the pilot phase, perhaps owing to my proximity to police officers, two interviewees asked me whether I was a police officer. This query prompted some thinking about whether I needed to wear a shirt with the university logo to set myself apart from the police. However, I decided against this measure for two reasons. Firstly, it would create a different set of confusions as I would resemble the undergraduate university students from Kathmandu who did field placements in the WCSC. Secondly, this confusion would be compounded by the fact that four undergraduate students wore the shirt of an institution called the ‘Cambridge International College’. Fortunately, inquiry into my identity was confined to the pilot phase. During the 11 months of participant observation no victim or perpetrator proactively asked who I was. In fact, when I introduced myself as a researcher none expressed suspicion.

While my appearance helped minimise observer effects on victims and perpetrators, I believe my prolonged presence in the field was instrumental in minimising my reactive effects on police

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<sup>29</sup> The *Kurta suruwal* is a traditional dress worn in Nepal, India, Pakistan and Bangladesh. It consists of a tunic (kurta), trousers and a scarf.

<sup>30</sup> Officers at the WCSC had the option of dressing in police uniform or civilian attire. The basis for making uniforms optional was that officers who looked like ordinary citizens would be less menacing and thus more approachable to vulnerable service seekers like women and children. The other police units where officers are not required to wear uniform include the crime investigation departments (to facilitate undercover work) and community policing centres.

officers (Richardson et al., 1965). Moreover, as Reiss (1968) argues, it is difficult for officers being observed to change their behaviour when they become immersed in policing encounters. I had reason to believe this to be true as officers made no attempts at hiding anything from me: they answered their private phones, confided in each other in my presence and never asked me to leave a PCR session. This was a contrast to the way they treated undergraduate students at the WCSC. The students were only allowed to observe some PCR sessions and on numerous occasions officers asked them abruptly to leave the room.

While sustained presence in the field had its merits, the ability to remain an observer for 11 months required ceaseless negotiation of relationships with officers and exercise of restraint to maintain my role as a researcher (Devault and Devault, 2011; Johnson, 1975). This balancing act demanded that, on the one hand, I maintained cordial relationships with every officer in the WCSC (most of whom were women) as all of them participated in PCR delivery (see Chapter 5). Within the context of Nepali culture this entailed building ‘friendships’. The multiple demarcations in relationships in Western culture such as acquaintances and professional colleagues are not as clear in Nepal. Relationships when built in any environment are automatically considered friendships. In fact, there is no word or concept in Nepali for an acquaintance. Friends are perceived as akin to family members.<sup>31</sup> Juxtaposed against this relationship formation was my researcher role, which required me to maintain a certain level of distance from all officers. Malinowski (1961), considered the pioneer of participant observation, explained that a sense of detachment can provide a bird’s-eye view of a situation, where the researcher is not closely tied to the context and thus can grasp their etic insights. To perform this balancing act I devised and employed strategies that are discussed below.

During the first two months of fieldwork I noticed some friendships and tensions between officers. However, I was unsure of which officers participated in which alliance. In order to ensure I had equal access to ‘conflicting power factions’ (Ergun and Erdemir, 2010, p. 25) in the field, I refrained from engaging in activity that could portray me as being close to any single officer. For

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<sup>31</sup> As an example, the blurred lines between friends and family relationships are depicted in a widely practised customs that anthropologists call ‘fictive friendships’ (*Miteri*) that are created through a formal religious ceremony (Okada, 1957; Prindle, 1975; Hofer, 1976). As Adam (1936) explains, ‘...A key factor about *Miteri*, [is] that by means of a formal ceremony two unrelated people of the same sex are bound together by social ceremony as if they were real kin, as brother to brother or sister to sister, and that thereafter the two individuals involved must observe all obligations of consanguines’ (p.544).

instance, I declined invitations to eat lunch with police, under the pretext that I was not hungry, for fear that it might signal a flourishing friendship outside the office space. While officers expressed surprise and concern that I did not eat they accepted my reasoning. Eating around the erratic lunch breaks of officers meant that I either ate very early at around 11am or only after 4pm each day.

As the initial two months progressed I observed that officers grew comfortable with my constant presence at the WCSC. This was evidenced by them engaging in 'small talk' with me and expressing curiosity about my personal life. I took this as a cue to begin building individual relationships with them. From the beginning of fieldwork I maintained fieldnotes on the interactions that officers had with each other outside PCR. While these provided valuable insights into the organisational dynamics of the WCSC they also helped me identify each officer's interests, aspirations and struggles. I used these identified areas as talking points to leverage the construction of relationships with individual officers. As officers had a variety of interests I traversed topics like diets, skincare, weight-loss, childcare, university education, pregnancy, national politics, poetry and films.

Brewer (1990), in his reflection on conducting sensitive research into policing in Northern Ireland states that the '...fieldworker's legitimacy had to be earned continuously and skilfully...' (p.585). I felt that officers routinely tested the strength of my relationships with them, as illustrated by the following example. Several officers, who were reticent in their interactions with me, noted my English language proficiency. They asked if I could assist them with preparing for English language exams required for their promotion within the Nepal Police. Most of these officers were already taking private English language classes. Moreover, even during office hours, these officers would interrupt my case observation to ask for help with their English assignments. While I did not doubt their genuine need for extra tutoring to pass the language exam, I assessed these requests as their way of testing my value to them. I judged that denying help could inject discomfort into relationships not just with the individual officers but their friends too. Therefore, I started to come an hour early in the morning for about one month to conduct English lessons. Notably, some officers who had shown keen interest in attending my classes never attended them, even though they always inquired whether I conducted lessons every morning. I also left 10 case observations mid-way to help officers with English assignments. I discarded these cases from my sample.

With the English classes officers began to note my presence as ‘a benefit [they] needed to make the best of’. They, therefore, diversified the areas of my input into legal advice, marriage advice during PCR and database management. In answering legal questions I always cited what the statutes stated (to the best of my knowledge). During PCR one officer always insisted that I ‘talk the victims and perpetrators into reconciliation’ and ordered the parties to listen to me. As arguing with this officer, or defining the neutrality of my role as researcher, would aggravate her temper, I always sat quietly, not uttering a word. Fortunately, the officer would resume her facilitation and never held me accountable for my silence.

Queries on database management gave me detailed insight into police data-keeping practices and competencies. The incident described below will serve as an example.

*The officer in charge of data-keeping at the WCSC asked if I could fix a formatting problem on an Excel datasheet. Through my interaction with him I learnt that the Kalimati WCSC was in charge of assimilating data it received in Word files (both electronically and in print) from its 17 subordinate WCSCs in Kathmandu. The Women and Children’s Directorate at headquarters had instructed the Kalimati WCSC to send accumulated data in Excel format. In Kalimati, instead of copying and pasting the electronic data from the 17 WCSCs, two officers spent six days every month manually entering data into an Excel database from the printed files received. They then manually adjusted the width and height of hundreds of rows and columns on the database. Upon this realisation I grappled with a dilemma. I considered how the disinterested researcher ought to only fix the formatting problem at hand and leave the state of affairs to continue. However, I was plagued by an overwhelming feeling of guilt and dishonesty in holding back information about basic technological ability that officers were prevented from accessing because of lack of training and poor English skills. As honesty was the basic principle under which I operated at the WCSC I informed the officer about the copy and paste function and taught him how to merge data from Word to Excel, including setting up automatic formatting. (February 2017).*

As I proved my worth to individual officers they reciprocated by assisting my research. Some of the officers I tutored in English were in charge of drafting and maintaining case files on spousal violence that were sent to the district court. No civilian could read these files but these officers gave me full access to them. I was also given full access to copy 12 months of police data. Most importantly, all officers welcomed me to observe PCR sessions that they facilitated. As PCR did not always begin and end in one room, but rather moved into waiting areas and car parks (see Chapter 5), I felt comfortable tailing officers in these different spaces due to my relationship with

them. In fact, when there were no vacant seats in a room an officer who was not involved directly in a PCR session would always get up and leave his/her chair so that I could sit and observe the case.

As months passed in the field my presentation of myself as a researcher who mostly sat quietly and listened gained appreciation from officers. Some commented, ‘She shows so much patience, sits calmly and listens. Sometimes I watch her, and I think I need to be like her’. Such comments reinforced my need to maintain an even temperament in the field at all times. This was not always easy as the subject matter of violence that I researched was inherently distressing. Spousal violence impacted the lives of families, including children; I saw the faces of those who were affected and heard accounts of violence and its consequences first-hand. Participants who came to the WCSC were often in desperate need of help. While there were officers who put in an effort to handle cases some bullied victims and perpetrators or dismissed cases prematurely (see Chapter 5). Witnessing the latter was particularly disheartening and sometimes enraging. Moreover, ‘observing everything’ was inherent to the unstructured participant observation I was conducting (Noaks and Wincup, 2004). This meant that I saw police handling of not just 100 spousal violence cases but other reported crimes like rape, human trafficking and child abuse. As a researcher I was not only powerless to assist or intervene but had to actively maintain this powerlessness so I could understand processes in their un-interfered-with natural setting.

I believe my non-interference and exterior of neutrality was instrumental in officers trusting me. This trust manifested in several ways. Firstly, officers confided in me about their personal lives and their grievances with their colleagues. For instance, after staff meetings (which I never attended) officers always briefed me about what they had discussed. Furthermore, two female officers told me about their own ‘painful history’ of being victims of spousal violence: experiences they went to great lengths to hide from their colleagues. For example, one officer always spoke about fictitious activities with her child and husband even though she was living separately and was not in contact with either of them. She often reflected on PCR and expressed how each case handled ‘confused’ her about how to address her own circumstance at home.

One of the difficulties that arose when officers confided confidential information to me was whether I needed to reciprocate by giving them sensitive information. I worried that if I quietly listened all the time they might think I did not trust them and would stop being honest with me.

Therefore, in instances where I felt compelled to contribute, I described private anecdotes from my family life.

I was careful to ensure that in my communication with individual officers I refrained from expressing my own opinions and judgments. At times this was difficult, particularly when they said things that offended my own belief systems. For example, female officers espoused sexist comments like ‘These women these days, they come here even when their husband raises their voice at them. My husband hasn’t ever done this but if he happened to slap me once I should tolerate it, not go running to report it’. Or officers expressed beliefs in religious superstition, such as ‘They [victims and perpetrators] should seek the advice of a priest/astrologers before separating... you have to believe in them. The one I go to is accurate, so I’ve given her [victim] his [astrologer/fortune-teller] contact details’.

In exercising restraint over passing judgment on officers’ opinions Armstrong and Maruna’s (2016) concept of the ‘normalisation thesis’ (p.150) proved applicable. The ‘normalisation thesis’, conceptualised around interaction with offenders, posits that ‘when people become familiar with stigmatised individuals, stigmatising attitudes decrease’ (Armstrong and Maruna, 2016, p. 150). Normalisation grows out of engaging with offenders on fronts that are beyond their criminality, such that these individuals are much more than a product of their offending histories (Hirshfield and Piquero, 2010). Within the context of the WCSC, because I interacted extensively with each officer, I understood factors beyond policing that shaped their lives and beliefs. I understood that they did not have the same access to information, through education, training or travel, that I did. In addition to comprehending the nature of the backgrounds that gave birth to their opinions I also saw many good facets of their individual characters which were not completely negated by some of the beliefs and opinions they expressed. This normalisation in effect made me more receptive to listening to officers’ views and less judgmental about them.

As I reflected on opinions and outlooks expressed by officers, particularly those that were different from my own beliefs, I found myself to be an outsider. I meditated on how our respective individual backgrounds had shaped us. Unlike most officers I grew up in a home and school environment that was more egalitarian for men and women. In the years I had spent in western universities I had acquired skills to critically assess Nepal’s cultural practices, stereotypes and religious influence on everyday life. While I had become sceptical of beliefs that did not stem from

scientific inquiry my participants knew little about scientific methods or research. This sense of outsidership had its own advantage as I believe it mitigated the risks of me adopting the views of officers and ‘going native’ (Johnson, 1975) in the field. Overall, while my insider identity allowed me to grasp the nuances of the phenomena I observed, my outsidership helped me maintain a distance. As I carried both identities within a single person they interplayed continuously with each other.

#### **4.4.2 Recording observations**

I recorded my observations by hand in a notebook. I carried this notebook with me at all times. Officers approved of this and reprimanded other university students if they did not see them with pen and paper. Carrying a notebook was invaluable as it helped me record observations in real time: I was able to write down verbatim quotes from PCR sessions and record my feelings and reflections alongside each event. However, as Brewer (1990) notes, ‘methodologically [...] it is impossible to know the reactive effects of this obtrusive form of recording data’ (p. 190).

In order to minimise the risk of officers reading notes about themselves I referred to them by code numbers. As most officers did not read English I took all notes in English and wrote down verbatim Nepali quotes in roman letters. In one incident these measures saved me from ‘researcher jeopardy’ (Lee and Renzetti, 1990 p. 521). I had left my notebook to use the toilet; a small cubicle that had no surface like a sink or flush tank<sup>32</sup> where it could be placed. Upon my return I found an officer flipping absentmindedly through each page of the notebook. I held my breath and waited for her to finish flipping through it. I believe that the notes in English and numerical codes prevented any written observation from catching her eye. Following that incident I carried the notebook with me at all time, including into the toilet.

I often elaborated the notes I took at the WCSC into detailed fieldnotes at the end of each day. However, on quiet days, when there was no PCR and officers were not interacting with each other, I wrote up my fieldnotes in the WCSC.

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<sup>32</sup> The toilet was flushed by manually pouring a bucket of water into it.

#### **4.4.3 Conducting interviews with victims and perpetrators**

The practical realities of conducting interviews with victims and perpetrators after PCR in Kathmandu rendered many strategies outlined in research methods literature inapplicable. In this section I will reflect on my experiences of the interview process: the scheduling of interviews, tracking interviewees, the nature of interview locations and the actual interviews.

In the first round of interviews conducted for this research I interviewed 82 victims and 73 perpetrators. About 60 percent (N=94) of the total interviews (N=155) were conducted face-to-face, while about 40 percent (N=61) were conducted over the telephone; 43 victims and 51 perpetrators were interviewed face-to-face and 39 victims and 22 perpetrators were interviewed over the telephone. The second round of follow-up interviews (victims only) was conducted with 77 victims (about 94% sample retention rate) over telephone. Owing to amendments made in the interview schedule, and many missing variables in interviews conducted during the pilot phase, the pilot interviews were excluded from the final sample. The practicalities of each interview relative to time location and format (face-to-face or telephone) were governed by participant comfort and convenience. Therefore, when I approached a participant for an interview I had to be ready for four possibilities: refusal, agreement to be interviewed right away, agreement to be interviewed on a specified location at a future date or agreement to discuss interview arrangements over telephone. Many researchers schedule their interviews in advance: this was a luxury I could not afford. I had to develop a resilience to constant uncertainty in my daily schedule as it revolved around interviews that could take place at any time in any location.

#### **4.4.4 Face-to-face interviews**

##### **i) Tracking participants in Kathmandu**

I conducted 51 out of 94 face-to-face interviews in a variety of different locations across Kathmandu Valley. Tracking down people in a city without addresses was an arduous and time-consuming undertaking. I used public transport for travel. In order to reach the location of participants I first tracked the nearest landmarks, such as schools, temples or houses of prominence in the area. Then I followed directions they gave me on the phone to arrive at meeting points convenient for them. Oddly, tracking people became an adventure I enjoyed. The challenge I revelled in the most was locating participants who could not be contacted on their phones after

PCR. I relied on the rough location notes they gave me at the WCSC to find them. An excerpt from my fieldnotes illustrates an example:

This perpetrator's phone had been off for 15 days. At the WCSC he had invited me to conduct an interview at his workplace. He worked in a fruit market, behind a temple in [...], stall no [...]. I took a bus to the temple and found the fruit market. No stall had numbers. I asked a local vendor for my perpetrator's stall number. He said I needed to count the stalls till I got to the number. However, it was not clear whether I had to start counting stalls from east to west or vice versa. I decided to try both ways. On my first attempt I reached the perpetrator's stall number. There I asked a vendor whether my perpetrator worked there... he did... I found him! (July 2017).

However, there were instances like the incident described below when I failed to find participants:

It has been 18 days since the victim's phone was switched off. At the WCSC the victim's sister described the location where the victim vended food. She told me that behind [...] bus-stop there are a few bulldozers parked. The victim vends her food opposite the bulldozers. I went there today. On the side of a busy, dusty highway there was a junkyard with seven bulldozers strewn around. I did not see my victim. Across the street there were several vendors who sold fruit out of baskets on their bicycles. I asked them whether they knew of a lady who sold a particular food item next to the bulldozers. They told me the lady had gone to collect her child from school and would be back in one-and-a-half hours. The child's age matched the age of my victim's child. Hopeful that I would find this victim, I sat by a bench beside the bulldozers and waited. In the sweltering summer heat I watched the roaring traffic on the road ahead; the buses, trucks, cars, pumping exhaust, wind blowing dust from roadside construction and the despair of the junkyard in front of me. I thought this is what hell must look like. Two hours later I saw the lady pushing a food cart towards where I stood. A small child was walking beside her. When I made out her face, hope drained. It was not my victim but another woman [May 2017].

I made every effort to make the relationship between myself and interviewees collaborative as opposed to hierarchal (Oakley, 1981; Reinharz, 1992). My starting point for this was showing sensitivity to my participants' life circumstances by conducting interviews in ways that were least disruptive to their schedules (Rubin and Rubin, 2012). As many of my interviewees relied on daily-wage income to support their livelihoods I realized it was impossible for them to break their workday to sit for an interview with me. I therefore conducted interviews at their respective workplaces. As examples, one victim ran a small shop on a footpath of a busy street in Kathmandu. On a large, flat bamboo-woven tray she displayed items for sale: cigarettes, chewing gum, sweets and chewing tobacco. She stood all day behind her shop and made sales to customers. Similarly,

another victim ran a small tea shop under an open bus stop beside a busy highway intersection. All day she brewed tea on a paraffin stove and sold cups of it to people. I interviewed these victims standing beside them on dusty, noisy roadsides<sup>33</sup>. The interview was paused every time a customer had to be served. Furthermore, roadside interviews made it difficult to leaf through interview schedules or write down notes. Having memorized the interview questions, I asked them from memory and audio-recorded (with participant permission) the interviews.

## ii) Interviews immediately after PCR

I interviewed 31 perpetrators and 12 victims immediately after PCR. Amongst these participants I interviewed 10 victims and 10 perpetrators in nearby tea shops outside the WCSC. Most perpetrators, however, asked for the interview to be conducted inside the premises of the WCSC. I did not ask for reasons for their location preference as such probing might have increased their discomfort. However, I considered whether some perpetrators wanted to be interviewed inside WCSC premises because they did not want to be seen sitting alone with another woman in a tea shop or whether some wanted to save the expenditure of paying for tea because they were short of money. My research budget covered the cost of tea and snacks incurred during interviews. However, to avoid incentivising interviews, I never disclosed this information while requesting an interview.

Within the WCSC I did not have access to a specific interview location like an office space. As a result, before each interview I had to scan the premises quickly and find a quiet space where I could interview my participants. Often, I conducted these interviews in the police waiting area if it was empty or sitting on the edges of pathways leading to buildings inside the premises or behind large trucks in the car park (see chapter 5 for description of WCSC premises). One perpetrator I interviewed was in remand for 24 days. Unlike other participants who were free to move around the premises this perpetrator could not be let out of sight of the police.<sup>34</sup> When the perpetrator agreed to be interviewed I noticed that he spoke Nepali with a foreign accent. I therefore asked whether he would prefer to be answer questions in Hindi or English as I was fluent in both

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<sup>33</sup> Kathmandu's air pollution level is amongst the worst in the world. In 2014, Yale University's Environment Performance Index ranked Kathmandu's air quality 177<sup>th</sup> out of 178 countries (Lodge, 2014). Rankings publicised by Numero in 2018 ranked Kathmandu the 7<sup>th</sup> most polluted city in the world (Himalayan Times, 2018).

<sup>34</sup> The perpetrator was accused of spousal violence and charged with polygamy. When he was brought from police detention to the WCSC office he had to be escorted by an officer even to use the toilet facilities.

languages. He stated a preference for English. I, then, was able to conduct an interview in a room with several police officers in English. As no officer understood English, I believe neither the perpetrator nor I as the interviewer had to censor our questions and answers.

#### **4.4.5 Telephone Interviews**

Telephone interviews with participants were easier to conduct. While five out of 61 participants interviewed over telephone scheduled a specific time for a telephone interview, 56 telephone interviews were conducted as soon as participants answered their phone. In order to minimise any disruptions to their family time/ personal lives I only called participants between 10am and 7pm. For participants who could not be immediately reached by telephone I had a protocol whereby I called each of them 20 times: once a day for 20 days between 10 am and 7pm before dropping them from my sample.

I approached telephone interviews in the same way that I did face-to-face interviews. I allowed participants to retain as much control over their stories as possible. While responding during the interviews I found that participants often punctuated their narrative with long pauses. In order to let the participants complete their thoughts I had to slow down the pace at which I asked questions. Moreover, as I could not watch body language to read signs of distress, I was particularly attuned to vocal indications of distress such as trembling voice, abrupt silence and sniffing. Upon hearing these signs I would ask participants whether they were having difficulty and would like to continue. No participant ended an interview prematurely.

#### **4.4.6 The interview experiences**

As interviews that resemble normal conversations are deemed to elicit the best data (Bachman and Schutt, 2014) I tried to make each interview process as natural as possible. I asked questions in the same vernacular spoken by participants. I changed the order of the questions on the interview schedule to allow the participants' narratives to flow without much disruption. For instance, after hearing about the aims of my research many participants launched into their thoughts about police treatment. In these instances I would ask about their demographic details towards the end of the interview, as opposed to the beginning.

During interviews in public spaces I noticed that both victims and perpetrators spoke in low voices in order to prevent people nearby from eavesdropping. This was an interesting contrast to how openly they shared their troubles with other victims and perpetrators they did not know inside the WCSC (see Chapter 5). Determined to ensure that the process of data collection was collaborative and participatory (Oakly, 1981), I facilitated participants' efforts to maintain their privacy. For example, I sat in respectfully close proximity to my participants during interviews. In tea shops I would sit in a chair adjacent to the interviewee instead of on the opposite side of the table. In one case I interviewed a victim who worked in a garment factory: a long room with 16 sewing machines lined up in rows, one foot apart from each other. I sat beside the victim behind her sewing machine so she could talk quietly out of the earshot of her colleagues.

#### i) Interviewing 'violent men'

At the onset of my research interviewing perpetrators was a precarious undertaking. As there was very little research on spousal violence that gathered data from perpetrators I had little guidance from the literature on approaching perpetrators. At the same time, there was plenty of scepticism about whether 'violent men' would talk to a researcher. In reality I found that perpetrators agreed to be interviewed just as readily and easily as victims.

There was no substantial difference in my experience of interviewing perpetrators relative to victims. Similarly to victims most perpetrators spoke to me at length about their lives and experiences. Several of them cried as they recounted their thoughts. Some even thanked me for providing them with an opportunity to 'speak about their problems for the first time in [their] life'. Despite this frankness I did wonder whether a male researcher might have gathered views that perpetrators held back from me because I was a woman, or whether I succeeded in getting insights that men would be more comfortable sharing with a woman.

#### ii) Safety during interviews

The few studies that address the issue of safety protocols that ought to be followed when conducting qualitative research on spousal violence emphasise the need to implement context specific measures that protect victims first and then the researcher at each stage of the research process (Sullivan and Cain, 2004; Langford, 2000; Parker, Ulrich, and Nursing Research

Consortium on Violence and Abuse, 1990). The safety protocols and experiences with them in the Kathmandu study will be discussed in this section.

One of the primary safety risks that spousal violence researchers face is inciting suspicion amongst assailants about why a researcher is contacting a victim (Sullivan and Cain, 2004). As I asked both victims and perpetrators (albeit separately) for interviews with similar goals this risk was ameliorated. Moreover, to mitigate the risks of potential harm to victims, perpetrators and myself the safety protocol was to conduct all interviews in public spaces and never in the residences of participants. Furthermore, as timely rescue in cases of harm was difficult in a city without street addresses I did my best to make my interview locations known. Before each interview I texted a family member with details of the interview location. After each interview I called this family member to let him know the interview had ended and that I had exited the interview location. The protocol was that if my family member did not hear back from me after three hours of reaching my interview location he would arrange a search for me. No interview resulted in a situation where a search party had to be sent for either my participants or myself.

However, as is perhaps inevitable in all long-term field research, sometimes events spiralled out of control, leading to questions about whether anything could have been done differently. An excerpt from my fieldnotes demonstrates such an example:

*At the end of the PCR the couple decided to go to court to file a divorce. The victim accused the perpetrator of physical violence and infidelity, the perpetrator denied all allegations. As usual I asked the perpetrator if I could interview him. The victim had rushed out of the WCSC premises. The perpetrator agreed to be interviewed right away, outside the WCSC premises. We went to a café next to the WCSC and I started my interview. As the perpetrator was talking the victim marched in shouting, asking what was happening and who I was sitting with him. I explained that I was conducting research and would be interested to hear her views on how the police handled her case too. As the victim started to speak her husband silenced her, saying he was talking right now. I asked the victim if I could call her, she gave me her number. As she left she barked threats at the perpetrator saying he should not dare come to her workplace or insult her again. As she left the perpetrator resumed his account... he abruptly stopped and stated that he had to move his car parked outside the WCSC or else it would get towed. I told him to move his car and I would wait for him. He signalled me to walk with him. He continued responding to my questions as we walked to his car parked 15 metres from the WCSC gate. He said he needed to park about 50 metres down the street ... I got into the car beside him and opened my notebook to record his response.*

*Suddenly his wife appeared by his window and she slapped him twice. She shouted, "Why are you in my car?". At first, I thought she was asking him but soon realized she was asking me. The perpetrator and I got out of the car...the victim continued to shout at me, calling me of 'loose character', saying that a 'researcher or journalist would not sit in the front seat, my seat' while conducting an interview, they would sit at the back. What sort of person would walk out of a café with her husband and get into his car?' A large crowd of people had gathered around us. Humiliated and shocked I told a member of the crowd that I was only conducting an interview. He told me to leave quietly. I walked back to the WCSC ... The victim soon followed me inside, shouting 'this person, she is not a good person' ... I explained what happened to two officers as the victim continued to shout ... The officers bellowed louder than the victim in my defence. They said, 'Do you know who she is? She is doing a PhD in America ... Why are you assassinating her character? She talks to people everywhere, construction workers, everyone ... Do you even know who you are talking about. She feeds victims here if they come hungry'. I was angry, embarrassed at being the centre of drama and grateful all at once ... the victim calmed down ... she later apologised, 'I hope you didn't mind'. As soon as she left the perpetrator, wiping his bleeding nose [that had resulted from the victim's slaps], walked up to me and said, 'I am very sorry for what happened. I still want to talk to you. But I am glad all this happened with someone like you, finally everyone knows what I have to put up with' ... Even though I told the perpetrator I would contact him I felt that it was too dangerous to contact him or the victim for an interview ... What could I have done differently? Perhaps I should have insisted on waiting in the café but the perpetrator could have driven away. I now have to walk past those shops besides the WCSC every day and all those people heard the lies that victim shouted about me ... is it justified to pay such a high price for research? (June 2017).*

#### **4.4.7 Confidentiality of data**

Safety concerns also extend beyond fieldwork to data management and storage (Noaks and Wincup, 2004; Sullivan and Cain, 2004). I stored all audio recordings and transcript of interviews in a password-protected computer that only I could access. Notebooks containing fieldnotes were stored inside locked bookshelves.

In reporting the research findings the victims and perpetrators are anonymized and therefore referred to with numbers. Any details from their accounts that may lead to their identification have been removed. I have not anonymised the identity of the WCSC because doing so would compel me to remove important insights about policing from this thesis. For example, I would be unable to convey the state of police data keeping without disclosing the fact that the WCSC was manually

entering data received from its subordinate WCSCs. Moreover, when the jurisdiction of the WCSC (which is greater than any other WCSC in Kathmandu) is described or when the number of officers in the WCSC is disclosed (it is the highest in Kathmandu) it is easy to make out the identity of the police station. Nevertheless, I have anonymised officers, referring to them with numbers.

#### **4.5 Ethicality of research**

Ethical questions and dilemmas arose continuously during my fieldwork. In this section I will discuss issues around informed consent and the difficulties I faced in reconciling my role as a researcher with my duties as a member of society in Kathmandu.

##### **4.5.1 Informed consent**

In order to ensure participation in interviews was voluntary I obtained informed consent from all participants (Noaks and Wincup, 2004). As there is little guidance in social sciences literature about obtaining informed consent for research in South Asia I referred to principles highlighted by Bhutta's (2004) biomedical research in Pakistan. The author explains that consent processes should adopt culturally appropriate methods of sharing information. He argues that fulfilling formalities by signing consent forms is not enough: 'it is critically important for participants to understand what is being asked of him/her' (Bhutta, 2004, p.772).

Following Bhutta's (2004) arguments, I sought to convey the key elements of the research very simply in the participant information sheet and informed consent form. My aim was to make the form understandable to a participant whose reading age was 10 years. I therefore avoided using abstract words like 'research' or 'investigation'. Before each interview I either read or recited the information sheet from memory, highlighting that all information obtained would be confidential and participants could stop the interview at any time (see Appendix 4). While literate participants signed the forms, illiterate participants put a small tick. I obtained oral consent during telephone interviews.

Despite my attempts to make information about my research accessible to participants the entire process of getting 'informed consent' felt clumsy. Research is an abstract concept that many of my participants did not grasp. In this context it was difficult to see how participants could really make choices about the implications of research for them. As such I also held the same scepticism

about this process that Bourgois and Schonberg (2009) highlight: that the paperwork for protecting human subjects safeguards institutions from lawsuits as opposed to protecting dignity and socially vulnerable research participants.

Furthermore, in order to tangibly acknowledge the contributions of the interviewees to my research I paid each victim GBP 2 and gave each perpetrator a packet of sweets worth the same monetary value. I paid cash to victims because I assumed a little bit of money might be useful to women who were unemployed (even though not all were unemployed). I did not give cash to perpetrators to avoid providing them with some extra drinking money (even though not all of them drank). All victims initially refused to accept the money. In line with Nepali cultural norms I insisted and eventually they reluctantly accepted my token of gratitude.

#### **4.5.2 Reconciling the roles of researcher and citizen**

I constantly struggled with conflicting responsibilities emerging from my dual status as a researcher and a conscientious member of my society. During PCR sessions there were instances when I felt that the lack of policing response was jeopardizing the life of participants. For instance, one victim spoke of a desire to commit suicide, including her past suicide attempts. Ligation marks from the rope she had used during these attempts were clearly visible. Another victim reported that her HIV-infected husband, who was also an intravenous drug user, was slashing his wrists in rage and spraying her and their two-year old child with his infected blood. When officers ignored these reports I considered whether I had a duty to inform more senior police offices above the WCSC about these incidents. Unable to decide whether reporting higher would help or rather just herald my early exit from the field I said nothing. Yet, when these victims suffer future harms, the question of how much responsibility should be attributed to my silence remains.

Beyond PCR, when I interviewed victims I gave them a referral sheet with information about support services they could access such as NGO shelters, counselling services and legal aid (see Appendix 4). To facilitate victims' access to lawyers I had called in favours from several of my lawyer friends to provide pro-bono services to any victim I referred.

As I heard about the struggles of victims in interviews I realised that the idea of referring them to services was another importation of a Western practice that had much less applicability in a developing country. Unlike in Western jurisdictions there were no social workers, psychologists,

state employment benefits, food banks or housing services that could assist participants in Kathmandu. For many victims and perpetrators I was likely the only person they would encounter with access to the types of information or resources that could assist their lives. Therefore, in several instances I helped my participants. For example, when I heard that a perpetrator had attempted suicide by drinking rat poison I went to visit him in the hospital and gave the victim money to buy food. When I learnt that a victim did not have money to apply for a passport and was about to lose her employment abroad I covered her financial shortfall. When I realized that a victim had not eaten a single meal in three days because of lack of money I bought her food.

Apart from the abovementioned instances where difficulties could be ameliorated by money there were countless other times when participants asked for my support through questions like: Should I leave my spouse? How do I explain matters to the children? Am I compromising the dignity of my family by reporting violence? Will you go to the lawyer's office with me, I am too afraid to go alone? Will you attend my divorce hearing and support me? In my responses I deflected questions that asked for my opinions back to participants, asking for their opinions instead. I also stated that I could not accompany them to various offices. As a researcher my place was not to provide my opinions or become friends with my participants. However, as an educated member of my society in a position to assist those who had nowhere else to go I failed to do my part.

## **4.6 Data Analysis**

### **4.6.1 Fieldnotes, transcription and coding**

Data analysis began in the field (Gibbs, 2007). As I wrote up my observation notes I picked out the gaps I had in understanding and formulated questions that required answering. Sustained presence in the field for 11 months provided opportunities to not only enhance understanding about what I saw but also confirm the absence of phenomena I did not see. The most important element of the latter was the absence of corruption in the WCSC. I neither saw nor heard any accounts of officers asking for/receiving bribes in spousal violence cases.<sup>35</sup>

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<sup>35</sup> Officers told me anecdotes of their colleagues in other WCSCs who took money from perpetrators to dismiss cases where they would be prosecuted.

In tandem with observation notes I had interview notes that were handwritten and audiotaped. Out of the 155 interviews conducted with victims and perpetrators 64 were audiotaped and 91 handwritten. To capture maximum detail I transcribed handwritten interview notes within 48 hours of conducting each interview. The audio recorded interviews were transcribed after I completed my fieldwork.

Almost all interviews were conducted in Nepali. I personally transcribed all interviews directly into English. Ordinarily, having a second person to translate the interviews helps to check reliability. However, I did not use a translator for three reasons. Firstly, the process of transcribing would allow me to read/listen to my data repeatedly. This iterative process was a part of the data analysis (Noaks and Wincup, 2004). Secondly, confidentiality was a core commitment I had made to my participants during interviews. It would have been a breach of trust to hand over their interviews to others to transcribe. Thirdly, it is difficult to find people who have excellent command of both Nepali and English, and I did not have the budget to hire translators of this calibre.

Nevertheless, I have reasons to believe my translations are accurate. Firstly, I am fluent in both Nepali and English, having completed university-level degrees taught in both languages. I have also worked professionally as a translator for the Nepali courts and international agencies. Secondly, translation had to produce the 'conceptual equivalence' (Phillips 1960, p.184) of speech in Nepali to English. For this, as Simon (1996) states, translation requires an understanding of the way language is tied to local realities and carries cultural meaning. As I conducted the interviews myself I felt that I comprehended the spoken word, its underlying tone and the context surrounding it. As I was also familiar with events participants referred to during PCR I believed I could carry all these messages through in English.

The continuum of transcription practices ranges between naturalism and denaturalism (Oliver, Serovich and Mason, 2005); my transcription followed denaturalism. In naturalism transcripts reflect a verbatim depiction of speech where every utterance (e.g. pauses, accents, stutters, involuntary vocalisations) is transcribed in as much detail as possible (Schegloff, 1997). In denaturalism, the focus is on the informational content of the speech as opposed to the nature of the language used (Cameron, 2001; MacLean et al., 2004). As my transcripts were in English it was inevitable that several elements of colloquial speech in Nepali, like grammatical jumps, would

be lost in translation. Moreover, given my time constraints, it would have been impossible for a lone researcher to take the naturalism approach to transcription. Nonetheless, in my transcription I attempted, as far as possible, to produce a verbatim depiction of the spoken word. As my accuracy concerns were with substance of the interview I '[tidied] up' (Gibbs, 2007, p.14) the grammar in the transcript.

#### **4.6.2 Coding data**

The next step of data analysis after transcribing 155 interviews was coding the transcripts. The most common answers were represented by predictive codes (see appendix 2 and 3 for interview schedules with predictive codes). The predictive codes allowed gathered data to be quantified (Driscoll et al., 2007). Each interview question with its predictive codes was entered into SPSS version 23.

In the coded answers the nominal variable 'yes' was ascribed the code 1 and 'no' was coded as 2. All ordinal scales that included options ranging from 'not at all', 'some of it', 'most of it' and 'fully' were prescribed codes 1,2,3 and 4 respectively. In other words, a negative answer on the scale (e.g. police were unhelpful/ impolite/did not understand our problems) was coded 1 and the opposite answer (e.g. all the time/outcome was very right) was coded as 4 with the value representing 'someness' coded as 2 and 'mostly' coded as 3. Ambiguous answers like 'I don't know' or 'not sure' were treated as missing variables. As no individual interview had more than two missing variables, no interview was excluded from data analysis (De Vaus, 1996).

To compare victims' and perpetrators' perceptions of PCR to my views of them as an observer I also quantified and coded my observation notes into SPSS. In my fieldnotes I had answered interview questions below about PCR that were asked of victims and perpetrators. For each question I coded my views about victims' treatment and perpetrators' treatment separately. My observation notes were coded following the same rules used for coding victim and perpetrator interviews described above.

*Questions answered during observation and coded.*

1. Who was present during mediation?
2. How many officers facilitated the PCR session?
3. Gender of officer/s

4. Participants' chance to tell story
5. Did police listen to participants?
6. Did police listen to third parties?
7. Amount of attention paid to participants.
8. Did police scold anyone?
9. Who did they scold?
10. Did police hit anyone?
11. Who did they hit?
12. Did police put anyone in police lock-up?
13. Who did they put into lock-up?
14. Were police polite to participants?
15. Did police do anything improper?
16. What was improper?
17. Were police able to understand the problems between the couple?
18. What decisions were reached?
19. What were the key terms of the decision?
20. Who suggested each decision?

While coding observation notes some decisions needed to be made about how to ascribe values to police behaviour. This was particularly because PCR involved multiple officers moving in and out of rooms, eavesdropping and interjecting their thoughts (see Chapter 5). Amalgamating each officer's behaviour to get a single rating for them would have been difficult as it would involve weighing each officer's degree of involvement in every PCR session. Moreover, it would be also be problematic to compare the complex dynamics of multiple officers between cases across the 100 observed mediations. Therefore, for questions below only the behaviour of the officer/s who assumed primary responsibility in facilitating PCR was rated. This strategy was prompted by findings from the pilot-phase interviews where the victims and perpetrators reflected on their perceptions of the main facilitating officers: if they remembered another non-facilitating officer's intervention they mentioned it separately.

*Questions for which only observed behaviour of primary PCR facilitator was coded*

1. Did police listen to participants?
2. Did police listen to third parties?
3. Amount of attention paid to participants.
4. Were the police polite?
5. Did the police understand the underlying problems between the couple?

The observation code ‘all the time/fully’ was given to the most focused facilitators: entailing that they did not get distracted by their phones and colleagues while PCR parties talked. Officers were rated as polite if they spoke courteously and respectfully to participants throughout PCR. Judgements of lower levels of listening/focus or politeness were accordingly rated as ‘most of the time’, ‘some of the time’ and ‘not at all’.

In coding other questions, below, the behaviour of all officers in the room was taken into account. Therefore, if an officer who was not facilitating a PCR session scolded a participant or acted improperly this was recorded as there being scolding and improper conduct during PCR. This approach was taken because it aligned with how victims and perpetrators reported coercive and improper behaviour. Moreover, in many instances officers who did not facilitate a PCR session engaged in such behaviour and omitting them would depict an incomplete understanding of the PCR process.

*Questions for which observed behaviour of all officers were coded*

1. Did police scold anyone?
2. Who did they scold?
3. Did police hit anyone?
4. Who did they hit?
5. Did police put anyone in police lock-up?
6. Who did they put into lock-up?
7. Were police polite to participants?
8. Did police do anything improper?
9. What was improper?
10. Do you think the police were able to understand the problems between the couple?

#### **4.6.3 Analysing coded data**

The Kathmandu study sought to not only explore victims’ and perpetrators’ experience of PCR in themselves but to compare the participant’s perspectives of the PCR process to my views, as the observer, of the same process. For the latter, the percentage of agreements of my ratings of the PCR processes was tallied with the reports of the victims and perpetrators. In cases where participants answered, “I don’t know”, the report was treated as a disagreement between the views of the participant and observer. This was because these views were not evident during my observations and thus they did not match my ratings.

Furthermore, the Kathmandu sought to explore the associations between victims' and perpetrators' perceptions of PCR and their satisfaction and subsequent compliance by perpetrators with decisions reached within it. The association between PCR process variables (answers to questions listed above) and participants' satisfaction and perpetrators' compliance was tested using Spearman's correlation coefficient. Spearman's correlation test was selected because the variables constituted ordinal and nominal data that were nonparametric (Piquero and Weisburd, 2009). Assessment was also made about how satisfaction levels of victims and perpetrators who were spouses compared to each other. These data were analysed using the Wilcoxon signed rank test (Piquero and Weisburd, 2009).

#### **4.6.4 Thematic analysis**

There were several questions in the interview schedule that did not have predictive codes. Due to variation in the responses quantifying this information into a few categories would result in the loss of valuable insights from participants. Therefore, for questions listed below, I conducted thematic analysis of the answers.

##### *Questions for which thematic analysis was conducted*

1. If the mediation was scheduled for another day, can you tell me how you felt leaving the police station?
2. When you came to the WCSC police what were you hoping the police would do?
3. Can you tell me about the problem between you and your husband/wife?
4. Do you think the police acted rightfully when they scolded anyone there? Why?
5. Do you think the police acted rightfully when they hit anyone there? Why?
6. Do you think the police acted rightfully when they put a person in police custody? Why?
7. Can you tell me what you think was improper about their behaviour?
8. What decision did you want?
9. Why do you think the outcome is right/wrong?
10. When you left the police station after mediation how did you feel?

For each listed question, I coded the answers by hand<sup>36</sup>. As I read the interview notes I wrote down my impressions in the margins. I drew out themes from the patterns that emerged from my notes.

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<sup>36</sup> I decided against using a software package for thematic analysis as the volume of information was small (Noaks and Wincup, 2004).

I then found evidence from the transcripts that would support and refute each theme in an iterative process. Where available, I replayed audio for relevant interview quotes to ensure I captured what was being said accurately (Gibbs, 2007). In Chapter 6 the thematic analysis of answers is reported alongside quantitative findings to lend depth to them with rich data (Sherman and Strang, 2004).

#### **4.7 Conclusion**

This chapter began with a description of the research design, highlighting why the research approach needed to be exploratory. It then discussed the processes before fieldwork including research site selection, the relative ease with which access was negotiated and steps undertaken to develop the interview instruments. The experiences of the pilot phase, particularly the amendments made to the research design following its lessons, were described.

The chapter then discussed the actual fieldwork through a reflexive account. Participant observation in the WCSC was discussed through the insider-outsider lens. Measures undertaken to understand the field environment, PCR sessions and concessions made to stay in the field for 11 months were highlighted.

The interview process was then discussed, reflecting on the challenges of tracking participants in a city without addresses, accommodating the difficult daily lives of participants and eliciting data from them. Within this context the ethicality of conducting research in Kathmandu was discussed. Questions about ethical dilemmas for a researcher with competing responsibilities as a citizen in the community were raised. Finally, the processes by which data gathered in the field were transcribed, coded and analysed were described.

## Chapter 5

### The Police Conflict Resolution Programme

#### Introduction

Between July 2016 and September 2017 police records show that 632 cases of spousal violence were reported to the Women and Children Service Centre (WCSC), I observed. The magnitude of this crime is demonstrated by the comparatively low volume of other crimes reported to this agency in the same time frame: there were 20 cases of polygamy, 15 cases of rape and five cases of human trafficking. Crimes other than spousal violence were investigated by the police and forwarded to the prosecutor's office for indictment. The spousal violence cases were addressed through police conflict resolution (PCR). Through participant observation I observed 100 cases of PCR at one WCSC. The findings from my observation of this police programme will be discussed in this chapter.

The discussion in this chapter will be organized into five parts. Part One (5.1) will provide a general context for PCR by setting out the functions of WCSCs, including the founder's vision. Part Two (5.2) will discuss the WCSCs within which PCR takes place. It will also describe WCSCs' jurisdiction, and complaints, summons and arrest procedures. Part Three (5.3) will discuss PCR and the variability in processes seen within it. Part Four (5.4) will explain the outcomes of PCR and the treatment of returning cases. The Conclusion (5.5) will highlight the main themes raised in this chapter. Throughout the chapter the discussion will be structured around the questions of what is supposed to happen according to formal procedure, what in fact happened and what did not happen.

#### 5.1 Establishment and functions of WCSCs

The organisational structure of the Nepal Police is divided into four major areas: the Operations and Crime Investigation Department, the Human Resources and Development Department, the Administration Department, and the National Police (training) Academy. The Women and Children Directorate (WCSD) that governs all WCSCs falls under the Operations and Crime

Investigation Department. The WCSCs were established to offer an environment in which women and children who are victims of crimes feel safe in filing complaints against offenders (Crime Investigation Department, 2019). The WCSCs have jurisdiction over eight crimes: domestic violence, human trafficking, rape and sexual offences, polygamy, child marriage, illegal abortion, caste-based discrimination and allegations of practising witchcraft. They are tasked with three major responsibilities: to investigate and prosecute the aforementioned crimes, to provide necessary support to victims in coordination with relevant agencies, and to undertake activities for crime prevention like awareness campaigns that target schools.

The question of how the WCSCs were first conceptualised is an important one in the Nepali context. This is because foreign aid shapes Nepal's development priorities, including policies and mechanisms in the justice sector (Pandey, 2011). It is commonplace to have international funding bodies impose models of service delivery developed elsewhere onto Nepal. Such exercises often lead to a mismatch between the realities of a given context and the model introduced, resulting in the model's failure to tackle the problems it sets out to address (Pandey, 2011).

There is no documented history to clarify whether WCSCs were a concept of aid agencies/ international or transnational bodies like the UN or the Nepal Police. A historical account provided on the WCSCs' websites states that WCSCs were established to comply with Nepal's national policies and obligations that emerged from being a signatory to the UN Convention on the Elimination of All Forms of Discrimination against Women and Convention on the Rights of the Child, as well as the recommendations of the Nepal Police Reform Commission 1996. (Crime Investigation Department, 2019). Moreover, since their establishment in 1996 the construction of WCSC buildings has been financed mostly through aid received from the governments of Japan, the United Kingdom and the Asian Development Bank (Asian Development Bank, 2011).

In the absence of historical records I sought to construct an account of WCSC history from the memories of people who participated in their establishment. I asked some senior retired officers who served in the police during the 1990s questions about the inception of the WCSCs. They all stated that one retired Superintendent of Police (SP) was the architect of the WCSCs. In March 2017 I interviewed this former SP. Below is an excerpt from her account of how the WCSCs were established:

The WCSC was my brain-child. I came up with this concept. The international donors entered the picture at a later stage ... The driving concept was that we needed to provide better access to justice for women and children. This centre would allow women to access justice through the police ... In the beginning my idea met with a lot of criticism from other officers. They failed to see why we needed a special response unit for women and children ... I persisted and started to run a women's cell from the Metropolitan Police Crime Division [Kathmandu] with five officers including myself. Only five cases were reported to us in three months. So, I went to my commanding SP to ask for more cases and he asked me, 'What is the women's cell?'. I asked him if I could present the answer to his question at the monthly meeting at the Metropolitan Police Office, Rani Pokhari [Kathmandu]. There all the heads of the Kathmandu-based police stations would be in attendance and I would have a bigger audience to present my case. At this meeting I explained how we now had this policing centre for women, one that was sensitive to their impediments in accessing justice and would help them. I asked my commander if all units in Kathmandu could send cases related to women to us. He okayed this request ... Soon enough, cases from all over Kathmandu started to come to us. Most of these cases involved women working in dance bars [alleged centres of prostitution] in Thamel. There would always be a throng of journalists outside. It became a spectacle ... In another meeting at Rani Pokhari I explained that the cases where women and children were victims of crime should be sent to us. Cases of women in dance bars came under the purview of the Public Office Act and could be dealt by other units ... The practice then was for police stations to send us cases they had given up on or did not want to handle. I took them and we dealt with such cases.

While working we started to realise that we were only mediating cases. When charges had to be pressed women had to go to the Case Section. This section was staffed by men ... they were insensitive to the plight of women - just like the male prosecutors. Women came to me complaining about their perceived mistreatment at the hands of male officers at our Case Sections and prosecutors' office. It became clear that we needed to get the authority to investigate cases too ... I strategized. I went to my SP but this time with a victim. She told him about her harrowing experiences at our Case Sections. I supplemented her concerns with my own observations of how women repeated their stories to male investigators and prosecutors. This was not right. Back then, I did not know about the concept of re-victimisation but I had seen it happen... Our arguments were heard, we were granted investigative powers.

So far, I was operating with a five-member team. All of us were temporarily assigned to this task. [What this meant was that] we could be recalled by the respective units that we were formally assigned to at any time. We needed formal positions for staff of the Women's Cell ... I knew formal positions needed to be sanctioned by the Ministry of Home Affairs and the budget for them allocated by the Ministry of Finance. I was only a deputy senior inspector of police: I didn't have the standing to meet with senior civil servants on my own. So, I gained the confidence of a senior officer, the head of the Research and Policy Division of the

Police. I told him that, if we could get formal positions opened to staff the Women's Cell, the Nepal police would increase the access of women and children to justice. It would send a good message about our work to members of the public, look good for us internationally and would stand as one of his personal career achievements. He was convinced.

We met with the home secretary and finance secretary. They were pleased with our initiative, saying this would be a good step forward for the country. The finance secretary told us that if the Home Ministry applied for funds for additional positions it would ask for money for positions across the police force. Our agenda would be put in a queue and who knew when our request would be considered? A better channel would be to approach the Ministry of Finance through the newly formed Ministry for Women and Children... We met with the secretary of the Ministry for Women and Children and got him onboard. This ministry requested a budget to be allocated for positions in the Women's Cell. The Ministry of Finance approved this request.

I had drawn up the districts of Nepal, in terms of crime volume, into three categories: A, B and C. I wanted women's cells in category A districts, which had the highest crime volumes, to be headed by inspectors ... the cells in other districts could be headed by junior officers. This was long-term planning on my part... With these new positions that had been opened up we could justify recruiting more female inspectors into the police force.

I also suggested that the name of these centres be changed from Women's Cell to WCSC ... a cell could mean a place where you lock-up women, a place for female offenders. We wanted women to report crimes against them. The name could not be intimidating, it had to be welcoming. They proposed calling it the Women and Children's Crime Investigation Centre ... This name would send out messages about how serious things would be in this centre, not a welcoming name at all. So, I proposed calling it the Women and Children's Service Centre. I had written up guidelines that stated that only officers that had training on gender and children-based issues could be deployed to a WCSC. The first WCSC was set up in Lalitpur in 1996.<sup>37</sup>

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<sup>37</sup> It is notable that the instigator of the WCSCs was a female police officer. The Nepal Police only permitted women into the rank of SO in 1986. Socially women who joined the police force were stigmatized. Inside the police force, female officers reported difficulties in being taken seriously by their male subordinates or members of the public (See for example Saferworld, 2017).

## 5.2 Before PCR

This section will discuss the pre-PCR context and processes such as the WCSC setting where I observed, jurisdictions, complaints, summons, arrest procedures and legalities in conducting PCR.

### 5.2.1 The WCSC in 2016 - the police station premises and infrastructure

Kalimati is a crowded and busy area of Kathmandu, traditionally known for its wholesale vegetable and fruit shops. The area is packed with an assortment of private residences, schools, shops selling everything from clothes to furniture, restaurants and gyms. The WCSC is located in a compound housing several police stations along the main road.

An officer in uniform stands guard outside a large black gate with the words ‘Nepal Police’ and its emblem painted across it in white. Inside lies a compound of about 1.2 acres. In this compound there are three police stations: the Kalimati Police Station at the front, the WCSC in the middle and the Kalimati Traffic Police at the back. The single-storey building of the Kalimati Police Station houses offices, living quarters for some of its officers, and a detention centre. The three police stations operate independently from each other: the Kalimati Police Station falls under the Kathmandu Metropolitan Police Range, the Kathmandu Traffic Police falls under the Nepal Police Traffic Division, and the WCSC is a unit of the Metropolitan Police Crime Division (MPCD). Since there was no space to build a WCSC at the original site of the MPCD<sup>38</sup> it was constructed at Kalimati.

During the 11-month period of my observation, between the Kalimati Police Station and WCSC there was single-room tin shack and the police canteen, which catered to officers from all three stations as well as members of the public. It was run by a Non Commissioned Officer<sup>39</sup> (NCO) (see Appendix 1 for police ranks) and his wife, whom all officers addressed as *bhauju* (sister-in-law). By the entrance to the canteen there was a round plastic garden table with an umbrella lodged into it. Several plastic chairs, including one with a broken leg, were strewn around the table. Four

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<sup>38</sup> The MPCD stood in the middle of Kathmandu Durbar Square, a UNESCO world heritage site. Due to damage from the 2015 earthquake the MPCD office moved to Teku, a site that is a 10-minute walk from the Kalimati WCSC.

<sup>39</sup> The ranks in the Nepal Police comprise of three categories: Senior Officers (Inspector and above in rank), Junior Officers (Sub-Inspector and Assistant Sub-Inspector) and Non Commissioned Officers (all other officers such a constables that are below Assistant Sub-Inspector in rank) (See Appendix 1).

toilets, beside the canteen, were shared between the male officers of the WCSC, officers of the Kalimati Police Station and members of public.

The WCSC was a one-storey building, the smallest of the three police stations. On one side of it there was a round open hut. White benches inside it were arranged to mirror the circular structure of the hut and there were two tables in front of the benches. This was the waiting area for the WCSC.

Beside the hut there was a large marquee with the logo of UNICEF on it, a structure put up during the 2015 earthquake as a make-shift shelter for officers living at the Kalimati Police Station. In July 2017, owing to the construction of a new building on the site where the toilets and canteen stood, these facilities were shifted to either side of the marquee. Police patrol cars, motorbikes and towed vehicles were parked in front of each building. Later on, construction material like mounds of sand and rods littered the compound.

The Kalimati Police compound was a bustling site, with police officers, men and women of all ages and children going in and out of the police stations. Officers would freely walk into each building to chat with their colleagues, who they referred to as friends and *byajis* (batchmates: friends recruited into the police in the same year).

One had to climb three cement steps to enter the building of the WCSC. There was a small landing with two offices adjacent to each other on the ground floor. A semi-circular cement seat protruded out of the wall of the landing. This was where the first contact between complainants and officers of the WCSC was made. A steep, narrow cement staircase between the two rooms led to the first floor. On this floor there was an office for the inspector, a playroom for children called the child-friendly room, a small room with a single bed for officers on overnight shifts and a toilet.

The spaces in this building were not all used in the manner intended by the design. The two inspectors who headed the WCSC, during my 11 months there, only used their office upstairs to eat lunch or do personal work like studying for exams. The toilet upstairs could only be used by the inspector while all female staff used the toilet at the back of the building<sup>40</sup>. As the WCSC operated seven days a week on a 10am-5pm schedule under one inspector, and a 10am- 7pm

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<sup>40</sup> This complies with the terms of the Police Gender Policy 2012, which states that there must be at least one separate toilet per 15 female officers at central-level police stations (Nepal Police 2012)

(10am-5pm on Saturdays) schedule under the other, officers did not stay there overnight. The small room was thus used as a changing room by officers; its bed was a place to store their handbags or occasionally take naps during the day. The child-friendly room was the only carpeted room in the building. Seating mats and cushions lined one wall of the room. There were about eight stuffed toys, an old wood and glass bookshelf and a broken fan. No child was allowed to play in this room. My field notes reflect this:

*A little girl, about three years in age, is balancing a ball on her waist with one hand and holding a can of juice with the other hand. She starts climbing the stairs to go upstairs.*

Officer #19: Little one, come down, a big insect is going to come from up there.

*The girl hesitates on the third step, she climbs one more then jumps down each step and runs out of the building. The child-friendly room is off limits to children (January 2018).*

The two rooms downstairs doubled as both offices for the WCSC officers and PCR rooms. Room one had light grey cement walls with whiteboards displaying monthly crime figures. It had the inspector's desk, a large white table with seats for four officers and a computer workstation for one officer. Opposite the white table, and at a 90-degree angle from the inspector's desk, there was a dark brown wooden bench, against the wall. This bench, which could seat up to four adults, was for the parties to a case.

The light grey walls of room two were covered with posters and drawings in Nepali and English with messages about women's and children's rights. There was one workstation with a computer for one officer. Along two walls there were two desks arranged in an L-shape. About five officers sat behind these desks. These desks faced wooden benches lined up in an L-shape, in a mirror image of them. The benches were for the parties to a case and could seat about 13 adults.

When the new inspector took office she ordered all the computer stations to be moved into room two. The set-up of room one remained largely unchanged. However, in room two, workstations replaced benches. The seating space for members of the public shrank from 13 seats to five.

### **5.2.2 Officers of the WCSC**

This WCSC is supposed to have a total of 11 officers and to be headed by an inspector. All officers deployed to the WCSC should have attended training on gender and juvenile justice organized by the police training academy.

During my 11 months of fieldwork the WCSC was usually headed by female inspectors. However, for about two months, after the first inspector was transferred out, a female sub-inspector headed it. The WCSC had between 15 and 17 officers in different months, with officers being transferred.

Demographically, most of the officers in the WCSC were between 25 and 35 years of age. The inspector and five junior officers<sup>41</sup> (JOs) had university degrees. One JO had not completed high school. Only two NCOs had university education, two had completed high school and six had dropped out of secondary education. The majority of the JOs and the inspector were Janjati, while most of the NCOs were Brahmin and Chettri (see chapter 2 for an explanation of Nepal's caste system). There was one male police volunteer who came to the WCSC and assisted in case PCR.<sup>42</sup>

Out of the 17 officers, only two/three<sup>43</sup> were male: the rest were female. In Nepal, socially, it is seen as desirable to have female police officers handling cases of female victimisation. Traditionally, men and women are expected to socialise in their separate gender groups. Women are often shy and reluctant to talk to men about their problems. A police station staffed with female officers fit well within the principles of the popular Nepali aphorism, 'women for women's problems'.

There were several reasons why there were 15-17 officers at the WCSC, more than the prescribed 11. Firstly, the WCSC of the Kalimati Police Station, next door, had merged with this WCSC. As a result, three officers from the Kalimati Police Station worked at the WCSC.

Secondly, female officers saw the WCSC as a desirable place to work and requested temporary assignment there. They described their duties as a 'stress-free job', 'an easy job with fixed 10-5 hours'. The perceived light workload made it the office of choice for pregnant officers and those who had just given birth. An officer described the nature of the job when her colleagues had a vociferous argument over the timings of their shifts:

Our police here, they are fat [alluding to weight gained by being inactive on the job] and spoilt. When you are a NCO in other places you'll be on duty

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<sup>41</sup> In the police ranking system all positions from inspector to the inspector general of police are referred to as senior officers. Sub-inspectors and assistant sub-inspectors are referred to as junior officers. Constables and ranks below are non-commissioned officers.

<sup>42</sup> A police volunteer is a civilian who signs up to volunteer with the police. He/she undergoes a month of training and can be deployed to various units.

<sup>43</sup> One male officer was transferred.

for 24 hours - outdoors, carrying a stick and standing on duty between 10pm and 6am ... look at you complaining about doing a 10am-5pm job! [Officer #3].

Thirdly, it is common practice in the police for officers to be temporarily deployed to certain units. According to the Police Rules 2015 JOs can be transferred once in three years and NCOs once in every five years. These temporary deployments are a method of getting around the problems caused by regulations that allow transfers after several years. Such temporary deployments can be made to accommodate an officer's individual circumstances, like having a family in that particular location, or because the head of a station has asked for specific officers to join his/her team. Among the 17 officers in the WCSC only three officers, the inspector, one JO and one NCO were formally deployed there. The rest of the officers were all there on temporary deployments. Formal deployment units of the latter officers included WCSCs in other police stations, the Central Woman's Prison, the Metropolitan Police Range Kathmandu, the Community Policing Centre and different sections within the Kathmandu Police Crime Division.

The problem with the temporary deployments was that they led to non-compliance with the requirement that WCSC officers have prior training on gender and children's issues. Only the inspector came with prior training. No officer was trained in PCR. In fact, PCR and mediation are not part of the Nepal Police's training modules. When the WCSC had calls to send officers to training organized by Police Headquarters or nongovernmental organisations (NGOS) many officers would be eager to participate. However, this keenness was not incited by a desire to learn content. Rather, training days were seen as a break from work. Particularly, NGO training, which offered a daily stipend to participants, was viewed as an opportunity to earn some extra cash. Officers therefore took turns to go to training. On their return to the WCSC they spoke about their social experiences during it but rarely mentioned the content they had been exposed to.

### **5.2.3 Jurisdiction of the WCSC**

According to the Domestic Violence Act 2009 a complaint of spousal violence can be filed with the police, local authority, National Women's Commission (NWC) or a court. Barring the court<sup>44</sup>,

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<sup>44</sup> If a complaint is filed in more than one agency including the court only the court is required to process the complaint (Domestic Violence Rule 2010).

if a complaint has been filed at more than one agency it needs to be processed by the agency of the victim's choice. The agency investigating the complaint must inform other agencies that it is handling the case (Domestic Violence Rules 2010).

I only observed one case in which complaints had been filed at multiple agencies: the WCSC, NWC and local authority. While the local body had asked the victim to go to the police, the NWC appeared to be investigating the case in parallel with the WCSC. During PCR the perpetrator expressed frustration over being summoned by both bodies for questioning. Evidently, there was no communication between the NWC and the WCSC. Later, when I asked several officers about their impressions of the NWC, they had similar answers, 'I don't really know much about their work. What exactly do they do?', 'They support women don't they? We don't need to deal with them in our work here'.

Furthermore, the domestic violence law authorises any person to submit a complaint of spousal violence to the police (Domestic Violence Act 2009). Although complainants at the WCSC were mostly women, in 12 cases complaints were filed by men. One complaint was filed by a mother-in-law alleging that her daughter-in-law perpetrated violence against family members. During PCR for these cases it was established that all incidents involved spousal violence perpetrated by a husband against his wife.

Jurisdiction over reported cases was assumed on the basis of the WCSC's own unwritten standards, as opposed to the parameters prescribed by law. For example, although the law authorises the police to take complaints of crime committed anywhere, at any time, against anyone (Government Cases Act 1992), this was not the practice at the WCSC. Several types of cases were dismissed on the grounds that the WCSC did not have jurisdiction over them. These included pre-emptive complaints made because victims feared violence in the future, cases where the perpetrators' whereabouts were unknown, and cases where the perpetrator resided outside Kathmandu. An interaction between an officer and victim illustrates an example:

Officer #13: Where is your husband right now?

Victim: Now he has moved back home ... to Butwal [276km West of Kathmandu], his whole family is there ...

Officer #13: Then you must go to Butwal with this complaint ...

Complainant: It's so far. How do I go there? I live here.

Officer #13: Look ma'am, even if your husband lived in Lalitpur or Bhaktapur, inside the [*Kathmandu*] valley, we cannot bring him here. If he comes to Kathmandu, let us know and we will bring him here. Otherwise you have to go to Butwal. There is a Women's Cell there just like here ... you go there.

Complaints involving incumbent officers of the Nepal Police, Armed Police Force and Nepal Army were not accepted by the WCSC and were instead referred to their respective headquarters. Legally, only the military tribunal has jurisdiction over spousal violence cases involving its members (Army Act 2006). No provision in the Armed Police Force Act 2001 or the Nepal Police Act 1955 and Nepal Police Rules 2015 prohibits WCSCs from handling cases involving incumbent officers. As an exception to this practice, one case where the perpetrator was an incumbent officer of the Nepal Police was resolved. Throughout this case handling there was a unanimous understanding between the WCSC officers that cases involving their 'own staff' should not be recorded. This was to prevent 'bad records' from tarnishing performance appraisals and potentially obstructing this officer's career advancement.

#### **5.2.4 Filing complaints at the WCSC**

An unwritten procedure was followed when a complainant walked into the WCSC. Firstly s/he would be met by the first responding officer (usually an NCO). The complainant and his/her companion would be asked to take a seat beside the officer on the protruding cement seats outside the offices. Then the officer would quietly ask what happened. In a notebook called the *Nagarik*<sup>45</sup> the officer would record the details of both the victim and perpetrator, namely their names, ages, address, phone numbers and the nature of the case.

After hearing the complainant's story the responding officer would ask the complainant to follow her inside. This officer would then brief either a JO or the inspector about the case. In the briefing the officer would summarise what the complainant had told her. Once the JO or inspector determined that the WCSC had cause to take action over the case the complainant would be asked to submit a written complaint.

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<sup>45</sup> Naagarik translates to 'citizen' in English.

The Domestic Violence Rules 2010 stipulate that complaints can either be written or oral. Written complaints have to be made in the format of Schedule 1 of the same rules. If an oral complaint is made the responding agency must convert it into the written format of Schedule 1.

The WCSC in practice required complaints to be written in a format that predated the domestic violence law. The complaint had to be written in structured prose with two parts to it, adhering to stylistic and linguistic technicalities seen in letters drafted by Nepali lawyers. This complaint letter first detailed the nature of the violence suffered by the victims, and then it requested police action. The nature of the police action requested was generally uniform in all complaints: summon the perpetrator and conduct PCR. This complaint letter content is a contrast to the complaint format provided by Schedule 1 of the Domestic Violence Act 2009. The latter only requires a description of the facts of the incident, with no mention of PCR. The implications of requesting PCR in writing will be discussed in the next section.

As most complainants did not have the skills to furnish such written complaints officers referred them to private services offered outside the WCSC. For nine months of my research period a retired police officer sat outside the police canteen and wrote complaints. When his service moved to another police station a police volunteer took up this task. Both men charged NR 200-300 (£0.80-£2) for each complaint.

Officers of the WCSC insisted that they were not allowed to write complaints themselves. While this stance is in violation of the law that requires police to draft complaints (Domestic Violence Rules 2010) this is a position taken by the Nepal Police across the country. Exceptions, however, were made. In some cases of spousal violence, when officers viewed a victim as being ‘destitute’, they would hear the oral account of the violence and fill out the complaint in the format provided by the Domestic Violence Rules 2010. In fact, the WCSD had sent hundreds of copies of blank complaint forms in the format prescribed by law to the WCSC. The idea behind this was to have all domestic violence complaints written-up by police in uniform format, free of cost. In practice however, barring the forms used for complaints, the backs of many blank forms were used by officers as rough paper to scribble notes for personal work like their language classes homework. The Police Act 1955 criminalises misuse of government property. It was not clear whether the officers ignored the law or were unaware of it.

Once a written complaint was submitted to the police it would be stamped by the receiving officer in accordance with the law. The Domestic Violence Rules 2010 state that, after a complaint has been filed, the police must give the complainant a written receipt (in the format of Schedule 2 of the Rules) as proof of the complaint being lodged. The complaint must then be logged into a complaint book (Domestic Violence Rule 2010). No receipt was given to any complainant but the complaint log was maintained diligently.

### **5.2.5 Summoning and arresting perpetrators**

The Domestic Violence Act 2009 states that the police have to ensure the presence of the perpetrator at a police station within 24 hours of a complaint being registered. If the perpetrator does not come there voluntarily the police can arrest him (Domestic Violence Act 2009).

At the WCSC officers would ask the complainant about which of the three methods would be best suited to summoning the perpetrator: a phone call by the complainant asking the perpetrator to come to the WCSC, a phone call by the police to summon the perpetrator or arrest. The police would follow the complainant's suggestion.

The practice of giving a perpetrator the chance to come voluntarily to the WCSC was not just simplistic compliance with a legal provision. It was reflective of officers' understanding of the value of an individual's honour - *izzat* in Nepali society. Mchugh (1998) constructs the concept of honour among the Gurung ethnic group in Nepal, which can be extended to wider Nepali society. He states, 'For the Westerner, honour may have an aura of exoticism, suggesting perhaps a coherent set of values and profound commitment to them, for which those in the West feel nostalgia ... For the Gurungs of Nepal honour has a practical dimension that might amend the romantic view. Honour in Gurung society has a powerful moral valence, strong implications for social personhood and great influence on self-worth. In so far as it is related to social regard and therefore one's status in social networks, honour also has profound pragmatic consequences in everyday lives of the Gurung people' (p.158). In Nepali society an arrest for non-political reasons is perceived as a grave embarrassment for arrests, in themselves, are associated with criminal guilt. Officers were aware of this and sought to minimise damage to a person's honour:

[*On the telephone*]: Look sir, you better come here right away... we are showing you respect calling you ... if I have to send a police van to get you, your *izzat* may be put

into a difficult position ... *She hangs up the phone, turns to the complainant and says, 'He said he'll be here in an hour' (Officer #18).*

A perpetrator would only be arrested if the complainant reported that he would flee upon getting a phone call from the police or that he would not comply with the telephone summons. To arrest perpetrators the WCSC would send a letter to the police station located in the area where he could be found, requesting it to arrest the perpetrator and bring him to the WCSC. The letter would have to be taken to the police station by the complainant. An officer described the process that a police station would follow to a complainant:

Give this letter to the police at the Balambu Police Station. A police officer from there will go with you to the location of your husband. Someone needs to show the police who he is ... if you don't want to face him you can stay some distance away from him, just show him to the police ... you don't necessarily have to accompany the police if you don't want to, anyone else who recognises your husband can point him out to the police. They'll arrest him and bring him here (Officer #14).

Even though there was no law or policy that prohibited the officers of the WCSC from going out and arresting perpetrators they never left the WCSC for this purpose. Even arrests within the Kalimati area, including an arrest made outside the gate of the police station, was outsourced to the Kalimati Police Station next door. When a complainant asked why WCSC officers could not accompany her to arrest her husband an officer replied, 'If we go out after perpetrators, who will do all our work here?'. Officers tended to perceive their workload in the WCSC as being very high. However, I observed that, when all officers were in the WCSC, about six officers would always be sitting around with nothing to do at every point in the workday.

Officers were not particularly concerned about the requirement to bring the perpetrator to the WCSC within 24 hours of the complaint. This was more so if a complaint was filed late on a Friday afternoon. Then the complainant and perpetrator would be asked to come to the WCSC on Sunday, even though the WCSC would be open and operational on Saturday, albeit with only three officers. Moreover, during a telephone summons if the perpetrator asked the police for a few extra days to report there he would be granted the extension. Nevertheless, delays were occasional. In 95% of summons made perpetrators came to the police station within the 24 hours of the complaint being filed.

### **5.2.6 Injury tests for victims**

In tandem with summoning the perpetrator, if the victim had sustained physical injury or psychological harm the police were required to send her to the nearest hospital for an injury test (Domestic Violence Act 2009). Police officers did not assess psychological harm sustained by victims.

When victims showed serious physical injury to the police whilst filing the complaint they would be sent with a letter to the nearby government hospital for the test. Only four victims out of 100 in my sample were sent for injury tests. In three of these cases the police asked the perpetrator to accompany the victim to the hospital. In one of these cases, as the victim left the WCSC an officer remarked, 'We're sending her with the perpetrator. I think he'll beat her again'. Putting the victim at such risk is a violation of the police's overarching legal duty to protect citizens from harm (Nepal Police Act 1955). However, the domestic violence law neither prohibits the perpetrator from accompanying a victim during an injury test nor requires a police officer to accompany her.

On the one hand, the lack of explicit provisions regarding protocols for injury tests may be an oversight by the legislature. On the other hand, it may also be the result of practical limitations posed by Nepal's geographical terrain and resource constraints. Unlike in urban centres, hospitals tend to be hours away from villages in Nepal. This distance may have to be covered by foot because there are no roads. Moreover, small police units may have fewer than four officers. There may not be enough officers to accompany victims. Prescribing police accompaniment for injury tests, through the law, may be an impossible task to accomplish across Nepal.

### **5.2.7 Fulfilling legal conditions to undertake PCR**

Once a perpetrator arrives at the police station, either voluntarily or through arrest, the Domestic Violence Act 2009 requires the police to record his statement (Domestic Violence Act, 2009). If the perpetrator confesses to committing the crime the police can reconcile a victim and perpetrator if an officer:

finds reason to believe that an act of domestic violence has been committed and the victim so desires, he/she may, within thirty days from the date of registration of the complaint, conduct reconciliation between the parties (Domestic Violence Act 2009, s. 4(8)).

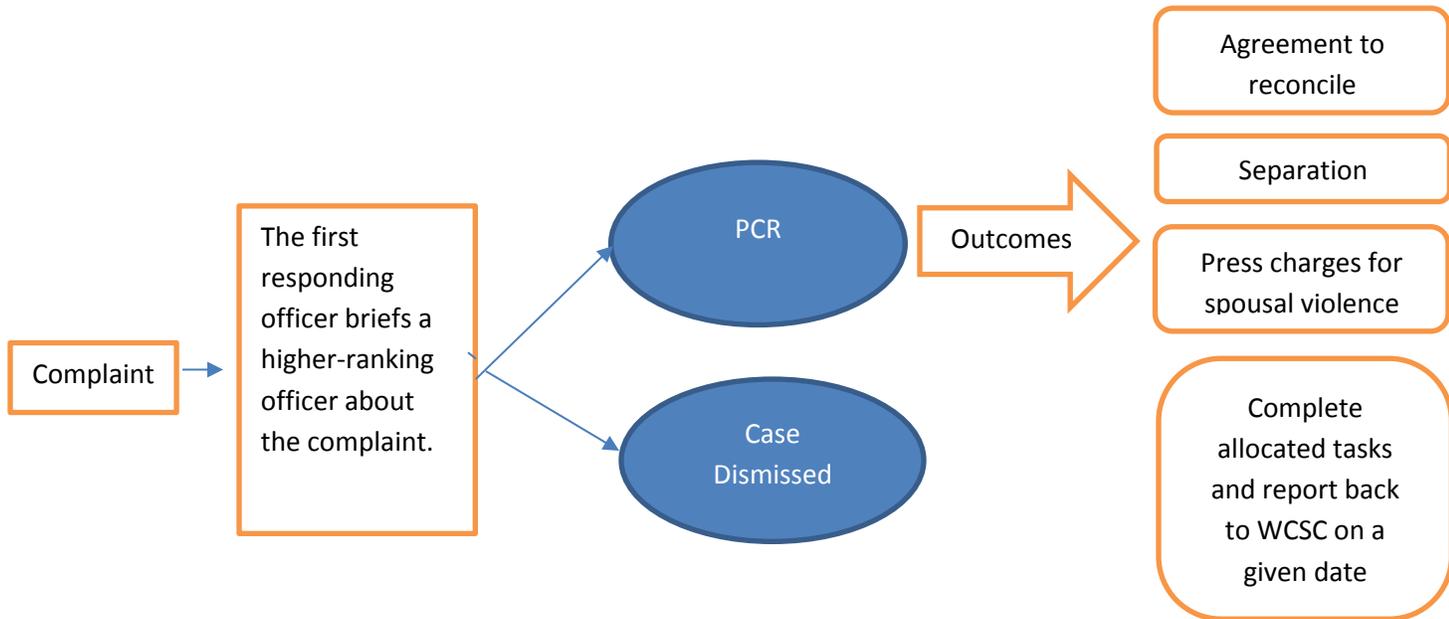
In practice, for the police, the next step after a complaint was filed was PCR. Statements from perpetrators were never taken in the first instance. The question of whether the perpetrator had inflicted violence against the victim was decided during PCR, not before it. As an officer stated, ‘The police are not God. We need to hear what has happened from both parties to determine who did what .... who is victim and who is perpetrator’. As victimhood was ascertained during PCR it was impossible to obtain the victim’s consent prior to PCR, as required by law. At the same time, though, as discussed in the previous section of this chapter, the complaint letters submitted by victims followed a standard practice of requesting PCR. This meant that, in most cases, the police already had the victim’s written consent to conduct PCR.

Following the above description of the context within which WCSC policing is done, and explanation of the procedures followed before the PCR, the chapter will now turn to discussing the actual PCR process.

### **5.3 The PCR Process**

The PCR process, broadly, involved the police inviting the victim and perpetrator to discuss their reasons for the violence with an emphasis on reconciling their differences. The manner in which a case was handled depended on the police officer’s individual style and what s/he judged to be the best course of action for that case. During this process, once the officer (SO or NCO or both) had determined that s/he had understood the case, s/he would ask the victim how she proposed to resolve the dispute. If the victim did not suggest methods of addressing the violence that were acceptable to the police, the officers would prescribe what should be done. If the parties decided to reconcile and stay together an agreement setting out the terms and condition that both sides would be required to fulfil was drafted and signed by the victim and perpetrator. If the victim decided to separate from the perpetrator she was asked to go to court with a divorce petition. If she decided to press charges for spousal violence the formal legal procedure would ensue.

The following chart illustrates the procedure through which cases were processed at the WCSC.



The Domestic Violence Act 2009 only sets broad standards regarding PCR, stating that facilitators have to be very cautious of the psychological and social impact it can have on victims. The Act allows the police to enlist the help of psychologists, sociologists, social workers or any other family members, including witnesses trusted by the victim, while resolving a case. Otherwise, there is no other guideline governing the process of PCR: police have wide discretion in handling a spousal violence case for a period of one month. Legally, officers have the freedom to decide its style, frequency, duration and the quality of service provided. In the 100 cases observed there was wide variability in different elements of PCR, such as the location of the discussion, presence of the perpetrator, number of facilitating officers, conduct of officers, strategies used by them, the privacy of disputing parties, advice given, treatment of perpetrators and victims and decisions/outcomes reached. Each factor will be discussed below.

### 5.3.1 PCR's emphasis on reconciliation

Before discussing the variability observed during PCR it is paramount to understand the sole underlying motive that governed this process for officers – reconciliation. The law gives the police a period of one month to reconcile the disputing couple with the victim's consent (Domestic Violence Act 2009). However, cases involving grievous assault, or any assault using acid or

corrosive substances that lead to the disfigurement of a victim's face or body, cannot be resolved through PCR; they have to be prosecuted (Domestic Violence Act 2009; Government Cases Act 1992). All spousal violence cases, regardless of the severity of violence suffered by the victim, were in the first instance addressed through PCR with the aim of reconciling the victim and perpetrators. An officer's comment provides an example of this:

At this police station you cannot get a divorce, you cannot get your share of family property, you cannot get alimony, our only function is to reconcile you (Officer #5).

The primary reason why officers emphasized reconciliation was that they subscribed to the social belief that a woman's social status, her future and her economic security could only be assured inside the institution of marriage and family. An officer articulated this position while advising a victim, who had been severely beaten, during PCR:

You need your husband ... don't think about leaving him ... This is not Europe or America; we women cannot carry the blame that society will put on us for splitting our families. You need your husband. If you had your own income you could have proceeded to a divorce but you don't earn anything. You need to stay together for your son's future too (Officer #5).

The officer's beliefs conform to broader societal thinking that a woman is more vulnerable outside the family structure. A conversation between a victim, her father and two female 18-24 year-old students of social work from an elite local university illustrates these beliefs, giving further evidence of the situational context in which policing at the WCSC is carried out:

Student 1: Do as your husband says ... we as woman, need to be submissive to our husbands. Your problems are trivial [*the victim has complained of her husband hitting her*].

Student 2: If you get re-married everyone will know that it is you who ended your marriage ... you will have thrown away your marriage over such a small issue. It will be very difficult for you to make a second marriage work ... after people know you have ended your first marriage over such a small thing.

*The victim [20 years-old] stares in silence.*

Victim's father: In our society it is very difficult for a girl to re-marry. She will have to marry an old man.

The beliefs of officers and citizens that women's isolation from society will escalate upon their separation from their husbands is rooted in societal norms. In Nepali society girls are from birth

typecast as ‘the entity that will leave and go to her husband’s house’. Parents tend to feel that they have fulfilled a fundamental duty when they have married off their daughters. Upon marriage the woman’s maternal family almost completely withdraws from their daughter’s life (Benet, 1982). The famous Nepali adage used by women’s parents during weddings, ‘I have given you my daughter. If you take care of her, piety will be on you; if you kill her, it will be your sin’, illustrates the nature of the complete relinquishment of parental duties towards her. Moreover, a broken marriage brings great dishonour to both families, particularly the woman’s side (Des Chenes, 1998). This compounds reluctance among a woman’s maternal family to re-assume responsibility for her once she has broken ties with her husband’s family. An officer pointed this out to a victim:

Don’t set this man free ... you must let him fulfil his responsibilities towards you ...  
So you go to your mom’s [house] ... she’ll look after you for a few months, that’s it  
... then where will you go? [Officer #5].

The importance attributed to the family as an institution within Nepali society is not unfounded. The state provides no support for victims (or any other individual) for basic services like food, housing or employment. The family, by filling this void left by the state’s inaction, becomes the principal source of social and economic support for most Nepalis.

### **5.3.2 Variability in PCR**

#### **i) Location of PCR**

The majority of PCR sessions (95 out of the 100 cases) were conducted in rooms one and two of the WCSC. Five cases were dealt with in the waiting areas of the WCSC because both rooms had ongoing cases. Some PCR sessions would begin inside a room. However, midway the facilitating officer could send the parties outside to consult among themselves. If the waiting area was full the disputing couple, their friends and their family would stand outside the WCSC in a circle and discuss the matter. The officer would sometimes join some of these consultations, to just listen or facilitate them too. The parties would then be called back into the room to continue the discussion or reach an agreement. Paperwork at the end of the PCR could be done either inside the room or outside in the waiting area.

## ii) Participants in the PCR

PCR included a variety of participants. In 98% of them victims and perpetrators were physically present at PCR. In the other two cases the perpetrators were absent because they were migrant workers based in the Middle East. The facilitating officer spoke to these perpetrators on the phone. My fieldnotes describe such a PCR session:

After hearing the accounts of the victim the officer asked the victim to call her husband ... she called him and handed her mobile phone to the officer. Speaking on the phone with the perpetrator the officer summarised the victim's story ... she scolded the perpetrator for neglecting to send money to his family ... she then gently coaxed him to send money home. Upon ending the phone call the officer relayed his side of the story to the victim. Then the victim and officer worked out what the victim needed to do access an income to run her household (December 2016).

In other cases, perpetrators and victims often came to the WCSC with family members and their friends. Sometimes they would be accompanied by landlords, neighbours, members of political parties or members of NGOs. Officers had a general aversion to seeing many people coming to the police for one case, as illustrated by their comments:

*In the open hut, there are about 15 people assembled for one case. Two officers stand on the threshold of room two's door.*

Officer #15: Why are there so many people here? It's like a wedding procession.

Officer #5 [*calls out to the people assembled in the hut*]: Are you here because you think that there is a feast/banquet being prepared for you at the police station?

Officer #15: They're making the police station look like a funfair.

Domestic violence law allows the police to enlist the assistance of any family members or witnesses trusted by the victim in the reconciliation process. Generally, if there was space in the room, anyone accompanying the parties to the case would be allowed to sit in. My observation data show that in 33 cases the PCR session only included the husband and wife. In the other 67 cases third parties such as family members of the victims and perpetrators, their friends, neighbours, members of non-governmental organisations and landlords participated. The police did not consult the victim about whether she trusted the third parties present. In one case a third party supporting the victim, sat outside while those hostile to her participated in the PCR:

*The husband, wife and their two toddlers are sitting on the bench in room one. The victim has ligature marks on her neck from when she attempted to commit suicide. The facilitating officer is listening to the victim, pacing. It is 5 pm on a Friday and she is in a rush to leave. Two women and one man, the neighbours of the couple, crowd the threshold of the room's door.*

Victim: He got so angry, beat me and kicked me in the shop. [Wiping tears] I can't stay with him.

Neighbours: It's nothing ... it's just a fight between a husband and wife ... it's no big deal ... you must stay together with him ... nothing has happened really... she's just saying all of this ... we were at the shop too, we haven't seen anything happen there.

Victim's sister-in-law [sitting outside room one]: He hit her. He'll probably kill her. Last time he hit my husband with a motorbike helmet and broke his head ... there was so much blood.

Later, when I asked one of the neighbours whether there had been no fight between the couple that afternoon, she said, 'Well we weren't in their shop today. But we live right next door and we go there to have tea all the time'.

In most cases the unspoken rule for a third party present during PCR was to speak only when asked to do so by the police. Within the 77 cases in which third parties sat-in the police only listened to them in 29 PCR sessions. When officers identified third parties as members of NGOs and political parties they were always polite to them. This was because the police were conscious that these organisations would be evaluating their work. If dissatisfied they could potentially send out public messages that could damage the police's reputation.

The third parties who spoke during PCR could substantiate the claims of victims or perpetrators. Their input was particularly welcomed and encouraged by officers when they supported reconciliation between the couple. If officers perceived their speeches to be too long they would silence them. Moreover, if officers viewed third parties as sabotaging reconciliation efforts they could be asked to leave the room. Third parties were also sent out if they endorsed violence against the victim:

Mother-in-law: So what ... husbands beat their wives ... mine would beat us till we peed a little.

Officer #5 (Bellows): This is not your old days mother! Just because you were beaten doesn't mean your daughter-in-law should be beaten too ... Does it!!!! Get out ...

Come on, let's go [*signalling her to stand, as the woman stands and walks out of the room*], go outside and stay outside!

iii) Officers who facilitated PCR

The pool of officers who could conduct PCR was picked by the inspector during staff meetings. The selected officers included one constable (NCO) and three JOs (including a male JO). However, this pool was not exclusive and any other officer who wished to conduct PCR was allowed to do so. If parties to a case stated that they would like to 'discuss matters' with a specific officer, he/she would handle the case. Otherwise, there was no system of allocating cases to officers: cases would be taken up by whoever was free.

The involvement of the inspector in cases changed dramatically from one officer to another. The first inspector was usually not at the WCSC for several hours each day. She did not conduct any PCR session that I observed. However, sometimes, before signing the final agreement at the end of PCR, the facilitating officer would take the disputing couple to the inspector's office and report the decision reached. The inspector would ask the parties some questions about the decision and then endorse it. In contrast to this, the second inspector conducted PCR for most reported cases. Under her leadership other officers only conducted PCR for cases she did not have time to handle and thus delegated.

Among the 100 PCR cases I observed 34 were facilitated by only one officer. The rest were facilitated by two to four officers while one case was facilitated by six officers. There are a number of reasons that led to multiple officers handling each case.

Firstly, 17 officers used the two PCR rooms as their office space. There would always be a number of officers sitting at their desks when cases were brought in for PCR. As discussion began it was accepted culture within the WCSC for any interested officer to participate as facilitator, offering their views and asking questions. This led to several officers becoming co-facilitators in a case:

*Six people who are parties to a case are in the room. There are three officers - officers #12, #5, #10.*

Victim: My son took a video of him beating me. I fell unconscious. And now this. I can't stay with him.

Officer #12: Don't consider divorce right away ... for your children's sake.

Officer#5 [*who has been listening silently so far*]: Sir<sup>46</sup> [to officer #12], What do you think the children go through when they take a video of their father beating their mother to a bloody pulp?

Officer #12 [to perpetrator]: Why did you beat her like that?

Perpetrator: I was very drunk. I don't know what happened. I don't drink like that.

Officer #5: Did someone force you to drink?

Perpetrator: No

Officer#5: Are you a child then? Do you have to be taught how much you need to drink?

Officer #10 [*who has been typing on the computer*]: He must be a habitual drunk ...

Perpetrator: No, no, I don't even drink much after that day.

Officer #12: [to victim] Sister, can you excuse this as a one-time incident?

More commonly, though, there were a number of facilitators in the same case because a facilitating officer would abruptly leave the case he/she was handling and another officer would take over. This would happen when facilitators walked out of a room to take a phone call or got distracted by reports from their subordinates. There would be no handover of a case from one officer to another. An available officer would just step into the role of facilitator. Moreover, the officer who had left, in many instances, would return to the room and continue to facilitate/co-facilitate. For example:

*Three officers, Officer #18, Officer#1 and Officer #14, are in room one. The victim and perpetrator are sitting on the bench.*

Officer #18 [to the victim]: I'll listen to you, then to him and then reach a conclusion.

*After about five minutes of the victim telling her story the officer gets a phone call. She gets up from her chair and leaves the room as the victim speaks. Officer #1 goes around her table, stands in front of it and listens to the victim. The perpetrator starts telling his story. Officer #14 gets up and walks out. Officer #1 is by herself in the room listening to the couple arguing. Officer #18, who has finished her call, walks into the room and sits behind her desk. She types on her phone. Officer #13 walks in with a new complainant. They walk past the disputing couple and stand beside Officer #18. She briefs Officer #18, in a lowered voice, about this complaint. The latter officer asks the lady to bring a complaint letter. Officer #13 walks out with the lady.*

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<sup>46</sup> In the Nepal Police all officers refer to officers senior in rank to themselves as 'sir'. Notably, sir is used to address both male and female officers.

*Meanwhile Officer #1 continues to facilitate the case in the room. Officer #18 looks at the couple:*

Officer #18: Listen sister, you take your child with you. If he tries to stop you I'll charge him with marital rape.

Perpetrator: On what grounds, madam, can she separate from me?

Officer #18: The torture that she has talked about.

Perpetrator: I absolutely have not tortured her.

The tendency for discussions to be broken and interrupted by phone calls and other tasks is not unique to policing. This phenomenon is widespread across all government offices in Nepal. Even in court it is common for a judge hearing a case to be interrupted by court staff to sign documents. While this could be argued as being an obstruction of justice in Western jurisdictions, Nepali lawyers take no notice and continue pleading.

### *Strategies used during PCR*

Two major strategies were routinely used by officers during most PCR. The first one was sending the couple out to the car park to have a private discussion for 10 minutes to half an hour. According to officers this measure allowed the couple to 'communicate directly with each other' and 'sort out' their differences without the interference of third parties like family and friends. Officers also repeatedly told parties that, 'The police are not in charge of your family disputes' and the 'Government of Nepal does not authorise us to make decisions about your lives'. Having couples decide the outcome of the case by themselves aligned with this narrative.

The second strategy was to placate parties and then mediate the case. In instances where arguments between couples showed no signs of cessation PCR was suspended for several hours to 'allow them to fight [between themselves] all afternoon and then deal with them once they have exhausted themselves'. Officers waylaid interruptions by third parties on the grounds that this was the couple's chance 'to vent out all their hostility'.

Beyond routine strategy, the assistance of psychological counsellors was used in two cases, which stood as outliers for case handling. The basis for drawing on the services of counsellors is found in the Domestic Violence Act 2009, which allows the police to seek necessary assistance from psychologists and social workers during PCR. The first case I observed involved the family

members of a senior retired police officer. After the first meeting with the inspector the perpetrator complained about her behaviour to an additional inspector general of police. Through top-down orders two officers who had counselling training were sent from Police Headquarters to facilitate the case.

The second case was what officers described as ‘something [they] had never seen in their careers’. The victim accepted all allegations against her made by her husband including charges of prostitution. The JO, who was in-charge of the WCSC, concluded that the victim was too psychologically distressed to participate in PCR. Therefore, she was asked to speak to non-certified trainee counsellors<sup>47</sup> for several hours each day.

During PCR when officers suspected that victims and perpetrators might be suffering from mental illness they made wistful remarks like ‘we would really benefit from an in-house counsellor here’. However, JOs and NCOs did not know which agency could provide such services, nor did any officer take the initiative to find out about available services.

#### iv) Officers’ treatment of victims and perpetrators

During PCRs a spectrum of treatment was meted out to victims and perpetrators from giving advice, reassurance and support to scolding, physical violence and detention.

#### v) Taking sides

During PCR police supported either the victims or the perpetrator. Officers, however, did not take sides automatically. They first heard what each party had to say. They then made a moral judgement about which party was at fault. They consequently sided with the party they believed to be morally right. Herbert’s (1996) fieldwork with the patrol division of the Los Angeles Police showed that the use of morality is central to police decision making. Herbert postulates that there are three dilemmas faced by police in their everyday work which morality helps to ameliorate. These include (1) the contradiction between the stated police aims to prevent crime and the impossibility of doing so, (2) the inherent ambiguity in most situations that police encounter, and

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<sup>47</sup> Four individuals who were training to be certified counsellors spent a week observing case handling at the WCSC.

(3) the need to act against one party's interests. Herbert suggests that the recourse to morality by officers helps to provide a rationale for their every disputable and ultimately ineffective action.

These three dilemmas were evident in the cases of spousal violence that the WCSC police had to resolve. The police maintained a very pessimistic view about their intervention in spousal violence cases. They believed that they were only 'exposing the private life of a couple, unable to help victims and sending perpetrators home without consequences ...'. Cases presented before the officers would be rife with ambiguity as spouses made 'loud and complicated claims and counterclaims' (Herbert, 1996, p. 807). Officers then had to quickly untangle this web of information, process it and make a decision that would often favour one party more than another. In making this judgment the police of the WCSC also used their sense of morality.

An officer's moral compass was governed by his/her beliefs about the positions of men and women within marriages and wider society. For example, an officer who believed that 'women must tolerate a slap or two from her husband sometimes, instead of reporting him' would scold the victim if she transgressed the cultural norms of respecting the husband:

I have been listening to you [victim] ... how does a woman speak to her husband calling him *ta*<sup>48</sup>? I think he fights with you because you nag him too much ... look at how you speak to your husband ... (Officer #14).

In contrast, others, who did not perceive the hierarchy of husband over wife within marriages as a permanent status, supported the victim:

Your wife is more mature than you. She is more educated. In this day and age there is no shame in letting your wife be the head of the house ... (Officer #5).

This officer was subsequently dismissive of the perpetrator's complaints of disrespectful language used by the wife:

Perpetrator: She calls me son of a bitch, loser.

Officer #5: So what, she calls you all of that? Don't you have responsibilities towards your family?

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<sup>48</sup> In Nepali *ta* is the least respectful pronoun. It cannot be used to address anyone who is supposed to be respected. A husband can use *ta* to address his wife. However, as he is considered to be of higher status than the wife in the social hierarchy it is not acceptable for her to address him as *ta*.

Furthermore, officers who had a more conservative outlook on interactions between a married woman and other men would warn victims saying, ‘When your husband is not around make sure you don’t leave the house. You must not associate with men. Or else they will question your character’. Yet officers with a more liberal outlook on women’s freedoms defended such allegations against women:

So if she meets a guy for lunch or coffee does that mean she’s sleeping with him? ... Just because she was in someone else’s car? We also associate with men, we laugh, we talk with them, so what? ... She is allowed to sit with a man at the same table and eat with him ... (Officer #2).

Although officers generally supported women they consistently sided with a perpetrator if he claimed that the wife had squandered earnings he had sent home in his capacity of a migrant worker:

Perpetrators: I sent her 2.7 million in seven years.

Victim: I have so many expenses, had loans to repay, children’s fees ... he still beats me.

Officer #6: Come on sister, look at you, piling on fat because you’re doing nothing, and the money was coming in ...

This disdain for victims’ alleged misuse of remittance appeared to stem from officers’ own consciousness of their limited income and their struggles to make ends meet. Officers frequently lamented about running out of cash. They ran a credit system at the canteen because they could not afford to pay after every meal. A group of five officers even started a savings and credit group to help each other through their ‘constant financial crisis’.

vi) Advising victims and perpetrators

Officers generally advised couples on three issues: femininity and attraction, financial claims, and legal recourse for the case. In terms of femininity female officers drew inferences about perpetrators’ taste in women and gave light-hearted advice to victims to cater to this as a strategy to facilitate reconciliation. For example:

My dear, he wants a woman who wears shorts and here you are wearing a *kurta*.<sup>49</sup>  
Lose some weight, wear trousers [*officer and victim laugh together*] (Officer #5).

In terms of financial advising the WCSC is governed by a policy that prohibits financial transactions between disputing parties inside police premises. By extension, officers are not allowed to advise on finance and property-related matters. This policy is grounded in the jurisdiction of the police: only over criminal, and not civil, cases (Nepal Police Act 1955). Moreover, the policy is also intended to prevent any allegations of officers taking bribes or cuts for negotiating financial settlements between parties. Although officers were aware of this policy those who had legal knowledge often advised parties, as they believed it was morally right to assist them:

Officer #5: If the WCSC is to really do justice we must put pressure on this man ... Then tell the victim to assert her rights over his assets and property and money ... she is so naive and gullible. Everyone takes advantage of such people ... The lawyers will turn her into a milking cow.

Officer #12: We cannot teach them all of this. We do not have the authority to do that at the WCSC.

Officer #5: If he makes me angry and says stupid things ... I will teach her all kinds of methods ... [laughs] ... I wonder how I have all this knowledge [laughs] ...

On the one hand, while advice was given illegally by officers in financial matters they withheld advice that they are legally required to give on criminal matters. I observed such instances during PCR when victims reported different types of violence in addition to beatings, such as polygamy, strangling, sexual coercion, broken limbs, blackmail by telephone and forced abortions. These acts constitute serious crimes under Nepali law that the police are obligated to investigate and report to prosecutors (Acharya and Bhandari, 2006). Perhaps because officers saw their function as just PCR facilitators they never mentioned the option of pressing charges for such crimes. Notably, officers also took a moral stance against inciting criminal charges against perpetrators. They viewed incarceration as damaging for the wellbeing of all parties and therefore actively dissuaded victims from pressing charges. As a result, they always gave inaccurate advice about criminal proceedings. This was particularly evident in cases where perpetrators had committed both spousal violence and polygamy:

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<sup>49</sup> A *kurta suruwal* is a traditional dress comprising a tunic, trousers and a shawl.

What will happen by sending him to jail? He will stay there for three years and come out a free man. He will have no responsibility towards you after that. Let's make him commit to giving you financial support. NR 10,000 a month and he pays your rent; it'll help you take care of your children. Let's see how that goes first. If he doesn't do this you come back here anytime, even after ten years, and you file charges for polygamy. Right now, in our paperwork, he won't mention he has a wife. The law says you have a couple of months to press charges after you've found out that he's taken another wife. When you come here again to file charges we'll make it appear like you just found out (Officer #18).

This victim came back to the WCSC within a month of PCR. She reported that her husband had threatened her and only given her half the sum they had agreed to during PCR. Moreover, he had changed his phone number and address so that he could no longer be contacted. The police, instead of pressing charges for polygamy as they had promised, told her, 'There is not much we can do for you now'.

vii) Police scolding and insults

The Police Act 1955 stipulates that the police must behave decently with members of the public and treat women and children politely with full respect. Moreover, in 2012 the inspector general's policing motto was 'service with a smile'. In violation of this law and internal policy I observed that 50 perpetrators and 24 victims were scolded during PCR. In western jurisdictions scolding is generally used in the context of reprimanding children. In Nepal scolding can take place between adults. The similarity between scolding in western contexts and Nepal is that both assume a power differential between the party who is scolding and the party who is being scolded. The former is considered more powerful than the latter.

Perpetrators were routinely scolded for inflicting violence against their wives. Direct reprimand was one method used:

Console your wife, tell her you will never do this again ... tell her you are sorry. You talk to us with such respect; can't you talk to your wife nicely?! Beating her like that ... [*raising voice*] How do you beat your wife like you're beating a buffalo?! Has the Government of Nepal given you a licence to beat your wife?! (Officer #13).

From time-to-time officers taunted perpetrators with names like 'fool', 'idiot', 'silly', 'useless bastard' and 'incestuous fucker'. Moreover, female officers belittled those they perceived to be wrongdoers through sarcasm. They devised spontaneous insults during PCR; a multi-layered attack on the person, his physical appearance and his actions. While the question of how victims

and perpetrators viewed this will be discussed in the next chapter, for officers such insults often served as comic relief.

Officer #2: Who's she?

Officer # 10: She's his girlfriend

Officer #2: You've decided to get with her when you have such a fair beautiful wife? [*referring to the girlfriend*] What sort of ugly dark woman have you chosen? .... Huh ... Chitwan [*calls perpetrator by name of the district he comes from instead of his first name*] ... [*sweetly*] you've selected a woman of your own colour?

*All officers in the room laugh.*

Female officers also freely used sexual innuendoes. In Nepali society sex is viewed as an extremely private affair that should not be discussed in public. Any discussion of it is expected to be done only between people of the same gender. Female officers, unlike most Nepali women, were unabashed about using sexual euphemisms. The example below illustrates this.

*Officers #10, #15 and #2 are in the room.*

Officer #18 [to perpetrator]: You bring your first wife to Kathmandu. You have to find her a room, pay rent, give her monthly expenses ... how will she look after the children without it? Your wives are to live separately. Spend four days at your first wife's and three days at your second wife's.

Officer #15: Will he need a day of rest?

*All officers burst out laughing.*

Officer #18: Rest at your first wife's place.

Officer #15 [*to wife 2*]: Why don't you leave him? What he has, everyone else has.

*All officers laugh, wife 1 and wife 2 laugh, the perpetrator stares at the ground and looks up occasionally.*

Wife 1: Why did you sleep with my husband when you already had your own?

Officer #15: This banana [*euphemism for penis*] must taste better than that one.

*Everyone except the perpetrator roars with laughter.*

Similarly to perpetrators, victims were scolded and insulted for many reasons. These included not reporting the case sooner, irking officers by 'talking too much', demanding too much money from the husband, neglecting a child, making a child a hapless victim by fighting, using foul language,

drinking and defending the perpetrator. Unlike the tacit approval that witnessing police gave to misbehaviour against men, insults against victims sometimes led to disagreements between officers. For instance:

Victim [crying]: He beats me. He beats our child ... I didn't bring him here to have him beaten.

*Officer #4 and #5 walk in and listen to the PCR. Officer #5 laughs.*

Officer #12 [PCR facilitator]: Why are you laughing? [*he is annoyed?*]

Officer #5: It's been all day, she has been crying and shouting. [*scolding victim*] Why are you crying!?

Officer #4 [*shouting*]: Don't shout at a victim who is crying. They have come to the doors of justice hoping that something will be done for them. Only she knows her pain, you can't say such things. Members of the public are watching us, what will they think?!

Officer #5: All I am saying is stop crying.

Officer #4 [*shouting*]: You can't say that. When a person is in pain they can't stop!

Officer #5: Then why are you telling her to reconcile ... she says she wants to separate and she's being forced to reconcile.

*Officer #4 walks out.*

#### viii) Physical violence by officers

Nepal is party to all the major international human rights conventions including the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment and Punishment. The 2015 Constitution includes a prohibition against torture (Article 22). While the legislation criminalising torture remains in draft form there is a Compensation Relating to Torture Act 1996, which prohibits torture and enables courts to award compensation to victims provided they file a complaint within 35 days of either being tortured or being released from detention. Section. 5 of the Act also provides that courts may order that disciplinary action be taken against the accused perpetrator, although this is a discretionary power (Compensation Relating to Torture Act 1996).

The officers of the WCSC were well-versed in the prohibition against using physical force against civilians. Yet there was general defiance of such rules as they were seen as impractical:

The inspector has ordered us ... no hitting, slapping. But that's not possible. We have to hit them at times, they make us so angry [Officer #9].

My observation data show that police used violence against 14 perpetrators and 4 victims. Acts of violence included pulling hair, slapping, pulling ears and occasionally kicking.

The use of violence depended mostly on an officer's anger during PCR. A host of situational factors relating to the perpetrator could anger officers such as the perception of violence inflicted on the victim, the neglect of his children, his clothing and hairstyle, his level of intoxication during PCR and his demeanour during PCR. Moreover, any act perceived as being disrespectful towards the police was swiftly met with violence. Even victims were not spared for this transgression as two victims were hit for using foul language in the WCSC and one for inciting a physical fight with her husband's girlfriend inside police premises.<sup>50</sup>

The paper 'Human Rights in the Nepali Law Enforcement and Security Sector' discusses the findings of research conducted between 2012-2013 on the factors that lead the Nepal Police to use violence against civilians. Some of factors identified, such as the need to gain confessions because of lack of resources for investigations, stress caused by long duty hours and lack of holidays, and deplorable living standards in police barracks (Enhancing Human Rights Protection in the Security Sector, 2014), do not apply to the officers of the WCSC. However, as identified by this research, the 'rough justice' attitude of WCSC officers was linked to their belief that physical punishment was just desserts for violence inflicted on a victim. Two examples demonstrate this:

Officer #17: He has been crying ever since he got here. His eyes are swollen.

Officer # 12: He drinks and beats his wife, sir.

Officer #17: He must feel the police will hit him harder than he hits his wife then ... he's terrified ... that's why he started crying from the minute he got here.

*Officer #5 walks up to the perpetrator, who is sitting on the bench. She slaps him across the face, then kicks him on his shoulder. She takes off her belt and pelts him twice and asks, "How dare you beat your pregnant wife."*

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<sup>50</sup> The violent reprisals meted out for any acts that were perceived by WCSC officers as disrespectful align with findings from studies in the U.S. Research shows that when citizens behaved disrespectfully, exhibiting reduced self-control and antagonism towards officers, they were more likely to be the recipients of coercive authority (e.g. verbal threats and physical force; Smith, 1986). These behaviours are perceived as threats to officer authority and public order (Mastrofski, Snipes and Supina, 1996).

Perpetrator: I have not done anything wrong.

*Officer #5 [slaps him across the face]* He'll understand how his wife feels when he hits a pregnant woman.

In another case:

Officer #1 [*to perpetrator*]: What happened?

Perpetrator: We had a small disagreement.

Officer #1: This was a small fight for you [*She slaps him across the face*]. *She is called from the next room as she has a phone call. She leaves. Everyone in the room sits in silence. She returns after one minute.*

Officer #1 [softly]: Did you hit her?

Perpetrator: Yes

Officer #1: How many times?

Perpetrator: Twice

Officer #1: But you hit her so hard that her parents came to get her.

Perpetrator: No, no, her parents come to take her away from me over any excuse.

Officer #1 [*slaps him very hard on his right cheek*]: A small disagreement for you!

In the 100 PCR cases observed the inspectors never used physical violence. However, they passively watched their subordinates use it. A reason for this may be that any allegations of human rights violations could disqualify them from lucrative deployments to the United Nations Police (UNPOL). While the senior officers saw UNPOL as an attainable career milestone most JOs and NCOs believed they could not pass the qualifying exams for it. Furthermore, JCOs and NCOs generally did not interfere when their colleagues used violence. In fact, there was a general belief that scolding, insulting and physical violence were rightful and necessary, as demonstrated by a conversation between officers:

Officer #7: There is a circular from Headquarters ... send the names of any officers against whom service seekers have filed a complaint ... for using indecent behaviour and bad language.

Officer #2: It's not applicable to us here. We don't misbehave.

#### ix) Imprisoning perpetrators

The Domestic Violence Act 2009 does not give the police explicit permission to imprison a perpetrator. In fact, that law states that the perpetrator has to be released on bail while his case is being investigated or litigated in court. This general provision can be circumvented by another subsection that allows the court to issue any order that it perceives to be in the best interest of victims (Domestic Violence Act 2009). However, it is rare for courts to order an offender to be detained in a domestic violence case during trial. Constitutionally, a person cannot be kept in detention for more than 24 hours without the permission of a judge (Constitution of Nepal 2015). The police in practice saw these 24 hours as a window of time in which they could imprison a perpetrator without needing to be accountable for it. My observation data show that eight perpetrators were detained. Amongst them four were incarcerated, before PCR, because they were arrested at night for allegedly perpetrating violence against their wives. Four other perpetrators were imprisoned because they came into the WCSC drunk. Officers saw the few hours of such detention as both punishment and an opportunity for the men to ‘sober up for PCR’.

Imprisonment practices were not consistent and thus changed according to who headed the WCSC. The first inspector refused to imprison any person under the influence of alcohol or drugs on the grounds that, ‘If something happens to him in our custody it will become an issue for the human rights people’. The JO (who headed the WCSC) and second inspector always imprisoned drunk men for a few hours. The Prison Act 1963 prescribes that a person must be given a detention slip that records the time of his/her incarceration. However, perpetrators were neither given such slips nor were the imprisonments recorded.

#### x) Privacy during PCR

The Supreme Court of Nepal has deliberated on the scope of the state’s obligations to protect the privacy of women who engage with its justice system (*Sapana Pradhan Malla v. Government of Nepal, 2006*). A principle laid down by the court is that all state agencies have to assess and protect a woman’s privacy, of person and identity, to ensure that she faces ‘no fear’ and re-victimisation when accessing remedies for the injustice she has faced.

The WCSC addressed privacy at two levels: confidentiality of files/records and the privacy of the person. As a rule, no civilian was allowed to access any file or record held by the WCSC without

letters of authorization from Police Headquarters or courts. Even victims and perpetrators were barred from looking at their own complaints and agreement letters without a court order. Officers, however, did not understand the rationale behind this prohibition and viewed it as a ‘rule that [they could] not violate’.

The privacy of the person was treated very differently from documents. Out of the 100 PCR sessions observed 97 were conducted in open conditions like waiting areas or in rooms one or two with the doors wide open. Anybody sitting outside the rooms could easily eavesdrop on ongoing cases. Moreover, in four of these 97 cases perpetrators or victims from different cases sat inside the same room quietly listening to the PCR. The legalities of protecting the privacy of the person held little significance for officers. This was highlighted by a PCR session that was conducted, in the same room, alongside officers interviewing victims and perpetrators in a rape case. In light of how officers even transgressed clear legal guidelines about protecting the identity of rape victims, it seemed logical for them to be unconcerned about the privacy of parties in a less serious crime like spousal violence.

However, the practice had exceptions. In one case, when the victim and perpetrator showed discomfort by constantly looking outside before speaking and lowering their voices, the facilitating officer shut the door. In another case family members were asked to leave the room so that the victim and perpetrator could be asked about a recent abortion.

There is a broader social context to privacy within which the officers’ treatment merits understanding. Hall’s (1969) proxemics theory postulated that space is a culturally relative phenomenon. The intimate space and social space proposed by Hall have expanded horizontal distances in Nepal. In other words, these spaces conflate and overlap. For example, in Kathmandu it is common for most individuals to share living spaces. In fact, the majority of participants in this research, including officers, lived with families of three or more members in single rooms that functioned both as bedrooms and kitchens. Inside houses there is an expectation that all members will maintain openness about their lives. As a consequence of this norm all the doors of rooms inside the house (barring toilets) are left wide open during the day: doors are shut at night for reasons of security as opposed to privacy. The perception is that one only shuts the door if one has something to hide. In similarity to the norms of society the barriers that prevented people from entering PCR spaces were kept low at the WCSC. What is striking is that the open environment in

which cases were facilitated appeared to provide support and a sense of community for victims. The interaction below illustrates this:

*There are 10 people sitting under the open hut. They are party to three separate cases of spousal violence and polygamy.*

Victim [*from case 1*]: He disappeared for five years. How could I take care of a family without an income, my children's education ...?

Man [*from case 2*]: Where was he?

Perpetrator [*from case 1*]: I was in [country].

Victim [*from case 1*]: He probably lived with a girlfriend and now something has happened he has come back.

Man [*from case 3*]: My father has done the same ... they're the same.

Woman [*from case 2, to perpetrator in case 1*]: Brother I hope you don't mind me saying this but you ... you are a horrible crook of a man.

Victim [*from case 2*]: I thought I was the only one. But after seeing all this here, I see others also go through the same.

This interaction is a contrast to a PCR session which involved a non-Nepali victim, thereby indicating the differences in how privacy is viewed within and outside Nepal. This foreign victim was very conscious of maintaining privacy as she stopped talking as soon as anyone who was not a party to her case entered the room. She also repeatedly shut the door to prevent strangers from eavesdropping on her case.

### **5.3.3 Organisational culture of the WCSC**

The various facets of the PCR process have been described above. At this juncture it is important to discuss the organisational culture within the WCSC, particularly in terms of how standards were set by officers for what constituted proper and improper police conduct during PCR.

Felkenes (1984), in his study of police attitudes towards professional ethics, states that 'the law is the standard that police must enforce, However, it does not specifically spell out and guide their behaviour in every case' (p. 211). Consistently with this observation the Nepal Police Rules 2015, without elaborating what each term means, prescribes that all officers must 'behave and maintain

discipline' (Rule 66(a)). The Nepali Police do not have a code of ethics to govern daily behaviour. While discipline about uniform and conduct towards superiors is drilled into officers during police training they are not instructed about the norms of behaviour during service delivery.

In the absence of official guidelines about conduct, the inspector and JOs set the parameters of acceptable behaviour in the office. For example, when the first inspector allowed make-up to be put on her publicly other officers followed suit:

Victim: He keeps beating me. No one had ever laid hands on me before, not my grandfather, father or mother. He also lied to me about this first wife, about his caste ... I found out a year after we were married that he already had a wife and two children. He drinks heavily, beats his wife all night and then sleeps all day.

Perpetrator: Do you have a witness who's seen all this?

Victim: I don't want to stay with him.

Perpetrator: So, what shall we do? Lock me up here?

Victim: No, I just want us to go our separate ways.

Perpetrator: I won't sign any papers till your family comes here.

*A middle-aged man walks in carrying a vanity case. I can smell the scent of the vanilla perfume he wears and carries. He walks to Officer #5, who has been facilitating the case, opens his box, draws out his brush and puts eyeliner on her. After he finishes,*

Officer #5: You still seem to love your wife. Why don't you apologise to her ... own up to your mistakes?

*Officer #13 walks in the door and sits on the bench. The make-up man walks over to her and puts eyeliner on her. As he is doing this Officer #14 walks in, sits beside her colleague and waits her turn for her eye make-up. As the officers are putting on eyeliner,*

Perpetrator: I don't want to leave her ... what, just drop a wife?

Officer #5 [*to the victim*]: Would you like some water, your throat must be dry.

Victim: No, no that's fine [*she has been crying and is hoarse*].

Officer # 5: [*to perpetrator*]: Buy her water, she may not want to drink water offered to her by the police.

Victim [*to perpetrator*]: It's not necessary.

*Meanwhile, Officer #1 has walked in and is having eyeliner put on her.*

Officer #5 [while the makeup is being up on Officer #1]: She cooks for you, two meals a day ... washes your dirty clothes. She stands by you, eats and sleeps with you. What more do you want?

The JOs stretched the parameters of acceptable behaviour set by the inspector. Their relative independence in handling cases as PCR facilitators in room two, out of sight of the inspector, allowed them to engage in a variety of activities. The JOs appeared to operate two realities simultaneously in the office: as facilitators or co-facilitators of PCR juxtaposed against their engagement in personal activities during case handling. Their participation in activities that were non-police work created a culture that was permissive of infusing non-police work into daily policing. Below are four examples from my field notes of this:

*Officer #15 is napping on the desk as her subordinate facilitates a case ... Now she is up, she's smiling and looking at photos on her Facebook<sup>51</sup>. The officer conducting PCR is distracted by the photos and frequently turns her attention to them instead of listening to the people assembled in the room (January 2017).*

*There are 9 people in a case in this room. Officer #5 is conducting PCR. Officer #15, who is sitting beside her, takes out clear nail polish, puts it on her desk and starts painting her nails ... she seems to have forgotten that she is inside a police station, amidst PCR being handled by her deputy (March 2017).*

*Four officers are sitting in the room. One of them is conducting PCR. All officers, including the facilitator, have plates of spicy snacks in front of them. The officer eats and facilitates. All of them click their tongues in reaction to the spicy snack ... this is not lunchtime either (May 2017).*

*Two officers are sitting beside each other in room two. A mobile phone is on the desk in front of them. They are sharing each side of an earphone plugged into the phone. Officer #2 has music playing through the earphone plugged in her left ear. She is conducting PCR (June 2017).*

This office culture was not irredeemable, though, as its tone was set by the head. When the second inspector took office she sent out messages stating that 'she did not like makeup and accessorizing'. As a result, NCOs completely stopped having their make-up and nails done publicly. Some JOs touched-up their lipstick at their desk discreetly.

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<sup>51</sup> Using Facebook during office hours was discouraged by Police Headquarters. This was particularly evident when Headquarters put in a firewall that blocked Facebook and YouTube access on office desktops between 10am and 5pm.

## 5.4 PCR outcomes and returning cases

In this chapter, so far, the various facets of the PCR process have been discussed. The primary goal of PCR, for officers, was ‘to identify where problems lie and try to settle differences’. Thus, reconciliation was the preferred outcome for officers. However, PCR also led to other outcomes like separation and pressing charges for spousal violence, *tarikh* (explained below) and case dismissals. Each outcome will be discussed below.

### 5.4.1 Reconciliation

The Domestic Violence Act 2009 states that victims have to (i.e. may withhold their) consent to reconciliation. On the one hand, officers abided by this legal provision and told victims that the ‘police cannot force [them] to reconcile’. On the other hand, this mention of choice seemed to be little more than lip service as officers always attempted to persuade victims to reconcile and became irritable when victims rejected their advice.

Officers put forth three arguments to convince victims to reconcile. The first one was holding domestic violence law as a dagger over the perpetrator’s head:

If he does anything to you, madam, you bring a FIR<sup>52</sup> for domestic violence and we know what to do with him then. [*To perpetrator*] Have you ever been beaten by the police? It will be brutal. We will break your back (Officer #8).

Secondly, officers pleaded with victims to have faith in their judgement and policing in general. If victims resisted they were reminded of their vulnerable status as women in Nepali society. At the same time, officers highlighted the perpetrator’s redeemable qualities and portrayed him as being worthy of a second chance. They also argued that the best interest of the couple’s children was served by reconciliation. Finally, officers advocated for a trial reconciliation, a period in which the victim would assess the perpetrator’s behaviour and ‘think about whether the marriage had a future’. For example:

Officer #5: Give him a chance. You have come here to the police for the first time. If he does this again, then we know what to do with him ... Give him a chance to correct his behaviour. We will scare him, bring him here every 15 days. If things don’t work

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<sup>52</sup> A First Information Report (FIR) is a formal complaint of a crime made to the Nepal Police. The law (Government Cases Act 1990; Muluki Ain 1963) permits FIRs to be oral or written. The law prescribes a format for written FIRs.

out, then you can separate. What will society say about you when you leave your husband? ... when you have a 4-month-old child? He loves your child like you do. It is the same love. He doesn't know how to express his love. We will teach him.

Officer #12: We will call him here every week, question him ... ask him how he is behaving.

Victim: When I was pregnant, he choked me.

Officer #5: If he even utters a bad word against you, you come here or dial 100, we'll come get him.

Oddly, once the victim agreed to reconcile, the case was closed. The police did not monitor the behaviour of the perpetrator as they had promised the victim.

Out of 100 PCR cases, 33 ended in reconciliations. Once the parties agreed to reconcile a reconciliation deed was drafted by an officer: usually an NCO who was not a PCR facilitator. This agreement paper was written in a standard format that acknowledged the PCR at the WCSC and expressed a commitment from both parties to 'not fight, threaten or coerce one another'. This paper did not include the specific terms of agreement reached between parties during PCR. While some officers read out the text of this agreement paper before calling on parties to sign it, others asked for signatures first and then read it aloud. Furthermore, officers read the text out at such high speed that words were often incomprehensible

#### **5.4.2 Separation**

In contrast to reconciliation agreements, 35 PCR cases resulted in agreements to separate. Officers only permitted separation if victims asked for it. Perpetrators who asked for it, unilaterally, in three cases, were ignored. These cases still resulted in separation agreements because victims eventually agreed with the perpetrator. Guided by the goal of reconciling through PCR, officers also advocated for temporary separation:

For three months, stay apart. You will get time away from each other. You may also miss each other. Let's see how you feel after this time. You may reconcile.(Officer #5).

Like the reconciliation deed, officers drafted a paper in a standard format indicating that the parties could not be reconciled through PCR at the WCSC and were therefore directed to take their case

to a relevant agency. Officers drafting this paper always explained that ‘This paperwork does not result in divorce. You can reconcile anytime’.

### **5.4.3 Tarikh**

In 27 cases final paperwork was suspended until certain conditions were fulfilled. Such cases were described as being on *tarikh*. *Tarikh* was a date, allotted by the police, by which certain tasks had to be fulfilled by the perpetrator or the couple. These included obtaining documents like the victim’s citizenship certificate, marriage certificate and child’s birth registration certificate or finding a flat for the victim. In cases where victims asked for financial support from their husbands the perpetrators were asked to deposit money in their wives’ accounts, the logic being that bank statements could provide proof to quell any dispute about payments. Two cases were called back on *tarikh* because PCR had to be scheduled for another day as perpetrators were too drunk to make decisions. A *tarikh* was also issued when couples agreed to trial reconciliation or separation. The time periods for completing said tasks were suggested by the police and negotiated by perpetrators and victims. The timeframe tended to be between one and three weeks. When parties were put on *tarikh* the names of the perpetrators and allotted dates were recorded in the *tarikh* book. When perpetrators came to the WCSC on their *tarikh* they signed in their attendance on this book and answered a casual inquiry by the police about how they were behaving.

Officers viewed the *tarikh* as ‘something only for cases where the couple will reconcile’. Otherwise, they sought to ‘finish the case and avoid *tarikh*.’ As a result, very little effort was invested by officers in ensuring compliance with the conditions of the *tarikh*. For instance, officers only followed up on whether a perpetrator kept his *tarikh* if the victim came to the WCSC on the day and made an inquiry. If a perpetrator did not show up and could not be contacted by telephone the police referred the victim to court and/or dismissed the case. Perpetrators faced no consequences for showing up hours after than the designated time on their *tarikh*. In three cases, where the couple reported subsequent violence and disagreements, officers conducted PCR for the case again. However, two cases, of a similar nature, were dismissed as officers ignored reports of repeated violence:

*The couple is here on the perpetrator’s tarikh.*

Victim: He doesn't stay together with me like he agreed to last week.

Victim's sister: Why did you hit her?

Perpetrator: I have never touched her. I was asking her to get off my motorbike ... she wasn't listening, so I pushed her.

Victim: My ears still hurt from that fall.

Officer #5: Did you bring the birth registration?

*The perpetrator hands it to the officer.*

Officer #5 [to victim]: Isn't that what you wanted? He's made your document ... now you want alimony. Go to court.

[Turning to colleague] End his *tarikh* on that book. The police are not responsible for settling every single one of your domestic disputes. Now go!

#### **5.4.4 Case Dismissal**

In three cases observed NCOs mediated a dispute. When parties became agitated and disagreed loudly a higher-ranking NCO dismissed the case. The following example illustrates this.

*There are 10 people here for this case, which is being mediated in the waiting area. I identify the perpetrator, victim, their 3-year-old child, the perpetrator's brother, the victim's father... The case has been mediated for 30 minutes. The perpetrator has talked about how heartbroken he was when his wife attempted to poison him. The victim is accusing her husband of beating her often. The mediating officer is listening quietly as everyone is shouting and arguing.*

Perpetrator: Look dad, I didn't beat her or chase her out this time. She's lying. If she doesn't want to stay with me, she can do what she wants.

*Officer #12 walks over and sits beside Officer #6 who is mediating the case.*

*The argument gets louder. An officer stands outside room two and shouts, "Officer #12, send them away! [To victim] If he doesn't look after you, your upkeep, you want alimony, go to court. If he doesn't look after your child, don't come back here again. Right now, you go home with your husband. If anything happens to you, the WCSC will take responsibility. Now get out ... all of you leave right now'.*

*The parties leave in silence.*

The conversation that Officer #12 had with me following this dismissal highlighted questions about how the police treat cases involving parties of lower castes and classes, as well as the positions of officers within the police ranks. She said:

The complaint should have been taken seriously. They have been here the whole day. The victim came here at 10 this morning. I called her husband and initially he said he wouldn't come. Later he called me and told me he'd be here. These people of lower caste are so oppressed. Had this case involved a *Newar* family from Kathmandu they would have raised hell here. This sister [*referring to the officer who dismissed the case*] sends people away empty-handed. But some of them in there [*pointing to the officers*] are like that. If a rich person comes here with a case, they buy them tea with their own money. A poor person will get support nowhere ... Personally I like to help such people. But I am only a low ranking NCO, I can't say anything (Officer #12).

The officer, in her comment, referred to the continuation of historic discrimination against people of lower caste in Nepal (Gellner, 2016). However, my observation data do not show that there was disproportionate ill-treatment of the *Dalit* caste. In fact, only officers who read the complaint filed would know the caste of the parties as it can be discerned through surnames. Most officers, like the one in the example above, would not necessarily be aware of to which caste the parties belonged. To take the case of physical violence inflicted by the police, as an example, among 14 perpetrators who were hit, only one belonged to the *Dalit* caste, nine were Janjatis and four Brahmin/Chettri.

The perceived powerlessness of a low-ranking officer operated at two levels. On the one hand, the relationship between the NCOs and JOs was familial as opposed to professional. Officers not only used brother/sister and sir interchangeably to address each other<sup>53</sup> but NCOs showed relatively little deference towards JOs in comparison to the inspector. This was particularly evident in staff meetings (without the inspector) conducted for allocating shifts to officers. In such meetings JOs and NCOs shouted angrily at each other, making it impossible to differentiate the hierarchy of their ranks. Senior JOs at times confided in me that junior JOs and NCOs 'step all over [them]' and while they could assert their power and be strict, they 'let things slide because they are like siblings'.

While the authority of ranks was ignored during informal interactions, during case handling lower-ranked JOs and NCOs were very mindful of their respective authorities. They exercised very little

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<sup>53</sup> This practice violates section 34 of the Police Act, which criminalises the use of informal addresses in the workplace.

agency and sought permission for all action from officers of higher rank. An example illustrates this relationship:

*A victim is bleeding from her head, from an injury inflicted by her husband. One of the senior JOs is at an official meeting. The other senior JO has gone out of the WCSC to alter her clothes. The junior JO refuses to sign forms that refer the victim to the hospital for an injury test, saying, 'The senior JO will scold me if a more senior officer does not sign this paper'. The bleeding victim waits for 40 minutes for the JO to return from the tailor and sign the forms. It's strange that the officer speaks about being fearful as the senior JOs have complained about her lack of respect for their orders (Observation August 2017).*

#### **5.4.5 Pressing charges for spousal violence**

The police did not perceive spousal violence as a serious crime but rather as 'an ordinary case, one between a husband and wife, which is neither a civil case nor a criminal case'. As a result of such views three victims were successfully dissuaded by the police from pressing charges for spousal violence. Officers justified this on several grounds. Firstly, they defined the legal process, which entailed the victim and perpetrator reporting to the WCSC four times in a month for PCR, as a hassle for the victim. Secondly, they identified that pressing charges would not meet the practical demands of the victim, like financial support from her husband or an improved married life. Thirdly, officers were dismissive of the retributive effects of pressing criminal charges in the absence of their own authority to imprison perpetrators. Some officers even suggested that victims should press charges next door at the Kalimati Police Station under the Public Offences Act 1970 so that the perpetrator could be imprisoned for at least 20 days.

In three cases efforts to reconcile the couple failed and the victims filed FIRs: two for spousal violence and one for polygamy. Criminal procedure in Nepal requires the police to undertake an investigation after a FIR has been filed (Muluki Ain 1963). There is no guidance provided by the Domestic Violence Act 2009 or the Domestic Violence Regulations 2010 on how investigations should be undertaken. This gap was filled by the WCSC's internal standardised procedure for investigating a spousal violence complaint. The steps involved recording a statement from the perpetrator, victim and four witnesses, identified by her. This legal process was juxtaposed against continuous PCR: four PCR sessions were scheduled once a week, for 30 days, to try to reconcile the couple.

The statement-taking process at the WCSC mirrored testimonial recordings at the public prosecutor's office and the courts. The police asked a question and the individual answered. The police then summarised the answer in his/her own words. The individual could negotiate his/her answer as recorded by the officer. Police officers recorded statements by victims and witnesses with great disinterest and carelessness:

*Officer #9 is recording the account of a witness. As she is writing she pipes into the conversation between Officer #2 and Officer #8 and says, 'I took classes for those exams. I was unsuccessful'. As the officer keeps getting distracted and converses with her colleague, the witness asks, 'Can you please do your work, I have to go soon'.*

Officer #9: Don't rush me, you have to be patient about these things. It takes time.

*The witness finished stating her account in seven minutes. She was not asked any probing questions. She has been held back for four hours as this is how long Officer #9 took to record her statement.*

The 2015 Constitution of Nepal states that each Nepali has a right to consult with a lawyer after arrest (Article 20). Instead of informing perpetrators of their rights officers dismissed the need for lawyers on grounds that they 'wouldn't write anything that'll put [him] in a bad light'. In fact, while recording their statements officers guided perpetrators with their own set of legal advice:

Officer #10: Why do you think she made these allegations against you?

Perpetrator: Because she doesn't want to stay with me.

Officer #10: Don't say that. You can't really know her reason. Say I don't know. Then speculate. Did she come home late? Was she acting suspiciously?

Perpetrator: I didn't know all of this. Ok, I mean ... she came home late sometimes ... but I don't know.

Officer #10: I'll put down a few such reasons anyway.

#### **5.4.6 Returning cases**

After PCR some cases returned to the WCSC. My records show that out of 100 cases observed, four victims returned to the WCSC to report that the perpetrator had not complied with the agreement reached during PCR. These cases returned within the period of two-six months after PCR.

The WCSC maintained an electronic database of the all reported cases. Police records included detailed demographic data on the victim and perpetrator (excluding photographs), including their name, age, address, religion, education, occupation and caste. However, description of the actual case was confined to a few words under each subheading: nature of violence, reason for violence and action taken (by police). The generic descriptions rendered it impossible to comprehend the nature of the case by reading them. What is more, repeat offending was not recorded. Therefore, when cases that had once been mediated came back to the WCSC either the parties would have to inform the police that they had come there before or officers who have to remember the case.

The treatment of cases that returned to the WCSC due to repeated violence demonstrated a disjuncture between the commitments made by officers and their actions. The warnings given by police to perpetrators never materialised: none of these men were legally charged for committing spousal violence. However, the underlying approach seen during PCR of emphasising reconciliation shifted. In instances where repeat offending was reported by victims officers recommended separation and consultation with lawyers. The only referral made by the police was to a legal aid NGO called the Legal Aid and Consultancy Centre.

## **5.5 Conclusion**

This chapter has examined the PCR programme in terms of how it adheres to and departs from formal legal procedures. It started by outlining the founding vision for WCSCs in which PCR works as a policing unit established to increase women's access to justice. It then discussed WCSC jurisdiction, complaints procedures, how they summon/arrest perpetrators, and how they establish grounds for conducting PCR.

Legally, the police must obtain the victim's consent to conduct PCR to reconcile victims and perpetrators. However, the WCSC practice of requiring victims to submit a standardised complaint where they ask for PCR subverted the legal requirement, for the police did not ask for the victims' consent but got it in writing without the victims' knowledge.

PCR involved the gathering of victims, perpetrators, their friends and their family for a discussion at a WCSC. The singular goal of officers conducting PCR was to reconcile the victim and perpetrator. This programme was found to be unstable in its character because so many elements of it could vary, including who attends, how many officers facilitate it, police use of scolding,

physical violence or imprisonment against parties, the type of advice given to couples and the privacy of parties. The organisational culture within which PCRs took place was seen to be set by the head of the WCSC and permitted (for the most part) police's improper conduct during PCR.

Ultimately, PCRs resulted in five major outcomes: reconciliation, separation, pressing charges for spousal violence, recall for attendance/*tarikh* or case dismissal. While there is very little guidance from law and policy about the details of PCR procedures, the WCSC was found to violate most of the legal provisions that govern policing pertaining to handling of crime reports.

## Chapter 6

### **Findings: Victims', Perpetrators' and Observer's Experience of Police Conflict Resolution**

#### **Introduction**

The previous chapter explored police conflict resolution (PCR), highlighting the points at which this programme adhered to and departed from the prescriptions of the laws governing this process. This chapter will now discuss how victims and perpetrators experienced the PCRs, how their views compared to those of the observer and their subsequent behaviour after PCR. Discussion in this chapter will be divided into four parts. Part One (6.1) will describe the characteristics of participants who used PCRs. This includes: their socio-demographic attributes; their history of spousal violence; their expectations they had when reporting the violence to the police and their experience with the Women and Children Service Centre's (WCSC) first responding officer. Part Two (6.2) will discuss the police PCR from three different perspectives: independent observer (the author), victim and perpetrator. The similarities and differences between these three perspectives will be highlighted. Part Three (6.3) will explore what happened after PCR. It will describe the relationship between the various facets of the PCR process and its retrospective appraisal by participants in terms of satisfaction. It will describe the relationship between perpetrators' perception of PCR process and their compliance with decisions of the PCR as reported by victims. It will also describe how PCR affected relationships of participants with their families and victims' reporting behaviour. Part Four (6.4) will conclude the chapter by highlighting the main points discussed.

Before starting the discussion, it is useful to recall the basic methodological design of this Kathmandu study. I observed 100 PCRs at the WCSC. From these 100 PCRs, 82 victims and 73 perpetrators were interviewed about their experiences of PCRs. A second interview was conducted with 77 victims, one month after each PCR, to understand how PCRs affected compliance behaviour by the perpetrator in the short-term and victims' subsequent reporting of violence to the police.

## 6.1 Before PCR

### 6.1.1 Demographic Characteristics of the Sample

This section will compare characteristics of this study's sample with relevant findings from research on spousal violence from Nepal and some South Asian countries. Table 1 illustrates the characteristics of the sample. The measures of demographic characteristics are at the individual rather than couple level as all questions were asked individually to victims and perpetrators, including questions about marriage arrangement.

Table 2 Demographic characteristics of victims and perpetrators

Variable	Victim	Victim (%)	Range	Perpetrator	Perpetrator (%)	Range
<b>Age</b>						
Average Age	30.2		18-51	32.8		19-53
Average Age at marriage	20.3		9-34	24.3		14-44
<b>Education</b>						
None- Cannot read or write		7.3			2.7	
Literate but no formal education		6.1			4.1	
Primary		24.4			11.0	
Secondary		34.1			54.8	
Higher Secondary		19.5			9.6	
University		8.5			17.8	
<b>Employment</b>						
Employed		48.8			89.0	
Unemployed		51.2			11.0	
<b>Type of Employment</b>						
Daily wage work		32.5			26.2	
Service- government Job		2.5			1.5	
Service- job is private sector		27.5			36.9	
Own business		37.5			35.4	
<b>Income (GBP)<sup>54</sup></b>						
Average monthly	89			263		
Monthly household income	230		0-1,415	317		0-2,123

<sup>54</sup> The exchange rate used is GBP 1 = NRs 141.3

### i) Participants' age

The spousal violence literature from South Asia, pays attention to the women's age of marriage. Research that analysed data from Demographic Health Surveys administered in India, Pakistan and Bangladesh show that women who got married before the age of 18 were significantly more likely to have faced spousal violence (Raj et al., 2010; Rehman et.al. 2014; Speizer and Pearson, 2011; Nasrullah et al., 2015). Although these studies do not suggest the pathway that links adolescent marriages to spousal violence, Pandey (2016) suggests that early marriages curtail women's educational opportunity, increase their dependence on their husband which in turn subjects them to greater risks of control and violence by him.

In the Kathmandu study, perpetrators, on average were about four years older than victims when they got married. Most victims were married after they were 18 years of age: one third of the victims (34.1%, N= 28) were married before 18. On the one hand, the association between spousal violence and adolescent marriage seen in the literature does not hold as well for this study's sample as most victims were adults when they got married. On the other hand, there are no official data about the age at which men and women get married in Kathmandu. Therefore, it is difficult to suggest whether the sample represents a general trend in the city's population or whether it differs from it.

### ii) Participants' level of education

The education categories represent various levels of non-formal and formal education in Nepal. Formal education consists of primary education (year one to seven), secondary education (year eight to 10), higher secondary (year 10-12) and university. The highest level of educational attainment reported by each participant was recorded.

The evidence is mixed concerning the relationship between spousal violence and educational attainment. Research from Nepal shows that incidence of spousal violence is much higher among couples with no education or only primary education: in fact, higher educational attainment among men is found to mitigate the risks of violence against their spouses (Ministry of Health, New Era and DHS Program, 2017; Hoelter, Axinn and Ghimire, 2004, Lamichhane, 2011). However,

Sharma's (2016) study that analysed data from the Nepal Demographic Health Survey (NDHS) 2011 shows no significant relationship between levels of education and spousal violence.

In this Kathmandu study, some couples with higher levels of education did report violence. There were more educated women with secondary or higher-level education (62.2% N=51) who reported violence to the police than women with no education or primary education (37.8% N=31). There were also more perpetrators who were educated: 82.2% (N=60) had secondary or higher-level education and 17.8% (N=13) had primary or no education (Table 1). Although violence among couples with higher levels of education is contrary to the findings in the literature described above, this sample is not distinct from the larger population of Kathmandu. According to the census of 2011, 26.3 % women and 22.3 % men in Kathmandu, have no education or only primary education, whereas 73.3 % of women and 77.7 % of men have secondary or higher-level education (Central Bureau of Statistics, 2012). The greatest difference in populations was evident in the underrepresentation of women with secondary or higher-level education in the research sample compared to the larger population of Kathmandu (62.2% as opposed to 73.3% in the population respectively). Nevertheless, the predominance of educated victims in the Kathmandu study is indicative of a biased sample

### iii) Employment of participants

The NDHS 2016 (Ministry of Health, New Era and DHS Program, 2017) found that spousal violence is more common among unemployed women as opposed to employed women. An earlier analysis of the data from the NDHS, 2011, found that there was no statistically significant relationship between women's employment and spousal violence (Sharma, 2016). As there are no studies from South Asia that explain the causal pathways between employment and spousal violence, the nature of this relationship can only be speculated. Women's economic dependence is thought to aggravate the risk of violence against her because the husband is the sole source for food and shelter. In the circumstances where there is an absence of alternative sources to support a livelihood, women cannot extricate themselves from abusive marriages (Minnesota Human rights group, 2009). It is also possible that unemployed women under report violence.

In the Kathmandu study, some stark contrasts between the victims and perpetrators were seen in the areas of employment. Illustrated by Table 1 only 48.8% of victims (N=40) in comparisons to

89% of perpetrators (N=65) were employed. A higher percentage of perpetrators were employed in every sector compared to victims. Perpetrators also had almost three times higher average monthly personal income than victims (GBP 263 and GBP 89 respectively).<sup>55</sup> It is however, difficult to contextualise these figures as there are no data from Kathmandu about the rates of employment and income for either men or women. Therefore, it is impossible to know whether this sample is similar to or different from the population in the city.

#### iv) Marriage and family

Most marriages in Nepal can be broadly categorized into arranged marriage or autonomous/‘love marriages’<sup>56</sup>. At the start of the 20<sup>th</sup> century virtually all marriages in Nepal were arranged (Ghimire, Axinn, Yabiku, and Thornton, 2003). In such marriages respective families assessed the compatibility of the couple by considering factors like caste, ethnicity, religion, economic status and ties between the two families (Puri et al., 2011). Customarily, the bride and groom had little influence in selecting their spouse. In contrast to arranged marriages, autonomous marriages involve a couple choosing their own spouse, on the basis of mutual affection and personal compatibility (Allendorf and Ghimire, 2013).

Empirically, research from Nepal and India has investigated the correlation between marriage type and self-reported spousal violence. The findings are mixed. Hoelter et al., (2004) interviewed married men and women (N=3,724) in Nepal’s Chitwan district to examine the effect of various nonfamily factors such as marriage type, education, ethnicity and exposure to media on different aspects of marriage like expression of love, communication and spousal violence. They found that men in arranged marriages were more likely to be beaten by their wives than vice versa. Babu and Kar’s (2010) study investigating the factors associated with victimisation and perpetration of spousal violence in Eastern India showed that women who had autonomous marriages, as opposed to arranged marriages, were less likely to report psychological violence. Yet Rocco et al.’s (2008)

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<sup>55</sup> The average monthly incomes of both victims and perpetrators are higher than Nepal’s monthly per capita income of GBP 59.59 in the year 2016/2017 (Asian Development Bank, 2018).

<sup>56</sup> There are various types of marriages like abduction marriage practiced by Janjaatis . As all participants interviewed described their marriage as either arranged or autonomous only, discussion of various other forms of marriage is not deemed relevant in this research.

research from South India showed that women in autonomous marriages were three times more likely to report violence.

*Table 2 Marriage and family type*

<b>Variables</b>	<b>Victim (%)</b>	<b>Victims Interviewed (N)</b>	<b>Perpetrator (%)</b>	<b>Perpetrators Interviewed (N)</b>
<b>Caste/Ethnicity/Nationality</b>				
Brahmin/Chettri	40.2	33	38.3	28
Janjati (Newar)	8.5	7	17.8	13
Janjati (Other)	30.4	25	27.3	20
Dalit	17.1	14	12.3	9
Adhivasi	2.4	2	2.7	2
Non-Nepali	1.2	1	1.4	1
<b>Type of Marriage</b>				
Arranged Marriage	31.7	26	35.6	26
Autonomous Marriage	64.6	53	60.3	44
Living together (not married)	3.7	3	4.1	3
Same-Caste Marriage/partnership	73.2	60	69.9	51
Inter-caste Marriage/partnership	26.8	22	30.1	22
<b>Type of Family</b>				
Extended Family	31.7	26	38.4	28
Nuclear Family	58.5	48	43.8	32
Living with partner only	6.1	5	8.2	6
Living Alone	3.7	3	9.6	7

Table 2 shows that in the Kathmandu study's sample there was more violence in autonomous marriages: about two third of the violence reported by victims (64.6% N=53) occurred in autonomous marriages. But lack of data on types of marriages in Nepal means that inference cannot be drawn about whether the proportion of autonomous marriage in this sample is an overrepresentation or underrepresentation of what exists in the general population of Kathmandu. Furthermore, no study from South Asia has investigated the causal linkages between the type of marriage and violence. Nevertheless, lower levels of violence in arranged marriages has been attributed to increased marital satisfaction resulting from approval and support from family members (Batabyal, 2001).

In addition to marriage type, caste and ethnicity are identified as factors that can exacerbate violence within a marriage (Minnesota Advocates for Human Rights, 1998). Marriages between individuals of identical caste/ethnicity are called same-caste marriages while those between individuals of different castes, ethnicity, religion and nationality are called inter-caste marriage. The latter category of marriage is perceived as being particularly vulnerable to spousal violence due to conflicts that develop out of the ‘cultural clash’ between the varying traditions of a husband and wife. A perpetrator described this experience in his interview:

See, I am Tamang [*Janjati*] and she is Newar [*Janjati Newar*]. In Tamang culture our family members will constantly tease you and say things that must be taken light heartedly. She’s Newar, they don’t have this... so she gets very angry with the ways of my Tamang family ... (Perpetrator #30)

Despite assumptions of the precariousness of inter-caste marriages, higher numbers of victims and perpetrators in the Kathmandu study reported to have had same-caste marriages (73.2% victims and 69.9 perpetrators); as opposed to inter-caste marriages (26.8% victims and 30.1% perpetrators) (Table 2).<sup>57</sup>

Moreover, Indian studies show that women from lower castes and scheduled tribes were more likely to experience spousal violence (Leland, 2016; Babu and Kar, 2010). In contrast to these findings, the highest proportion of victims (40.2 %) in this study’s sample were high caste Brahmin/Chettri (Table 2). The equivalent of the Indian lower caste and scheduled tribes in Nepal are *Dalits* and *Adhivasis* who made up 19.5 % of victims (N=16). The caste/ethnicity represented in this study’s sample is different from that seen in the general population of Kathmandu. In comparison to data from the census of 2011 (Central Bureau of Statistics, 2012), there was an overrepresentation of Dalits and Janjatis in this research sample. While the census recorded only about 2% Dalits and 19 % Janjati (others) to be living in Kathmandu, over 17% Dalit victims and 30% Janjati (others) victims reported spousal violence to the WCSC. The Janjati (Newars) who represent 25% of Kathmandu’s population (Central Bureau of Statistics, 2012) were underrepresented in the Kathmandu study as only about 8.5% victims were this ethnicity. The

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<sup>57</sup> This finding may be skewed however, as all marriages between individuals of Janjati (other) ethnicity were computed as same-caste marriages. The Janjati ethnicity comprises of heterogenous groups; the 2011 census includes 63 ethnicities (including Janjati Newar) within it (Central Bureau of Statistics, 2012). Marriages between certain groups, within the Janjati category, can be considered the equivalent of inter-caste marriages. However, this ascertainment requires a nuanced investigation of Janjati marriages that is beyond the scope of this research.

Brahmin/Chhetri proportion of the sample (40.2%) was similar to the 42.5% Brahmin/Chhetri proportions in the larger population of Kathmandu (Central Bureau of Statistics, 2012).

Two caveats, however, must be noted while comparing this research sample to the census data. Firstly, the victims in the sample are being compared to aggregate census figures that have counted the population of both men and women. Secondly, the census data were collected nine years ago. With increasing numbers of migrant workers leaving Kathmandu after 2011 (see Government of Nepal, Ministry of Labour, 2017), there may be changes in the demographics of the city. Nevertheless, the proportions of victims, by caste/ethnicity, who came to the WCSC in comparison to the wider population of Kathmandu still provides a useful benchmark by which to assess the nature of the sample.

Overall, the Kathmandu study sample included a higher percentage of same-caste marriages as opposed to inter-caste marriages, though it is not possible to say how it compared to the larger population of Kathmandu. The sample also showed an over representation of Dalits and Janjati (other) groups reporting spousal violence to the WCSC.

#### v) Family structure

In Nepal, the NDHS 2016 (Ministry of Health, New Era and DHS Program, 2016) found that women's experience of violence increased with the number of children living with them: 18% women reported violence when living without a child as opposed to 32% reporting violence when living with five or more children. In the Kathmandu study, no victim or perpetrator reported having more than four children: most victims (68.3% N=56) and perpetrators (53.4% N=39) had one or two children. Comparatively, the 2011 census found the average household in Kathmandu to have about four people (Central Bureau of Statistics, 2012).

The Kathmandu study defines nuclear families as households comprised of husband, wife and children only. If other extended family members were living in the same household this family unit was considered a joint family. Studies from India assessing the association between family structure and spousal violence show joint families are positively correlated with greater physical, psychological and sexual violence against women (Babu and Kar, 2010, Kaushik, 1990; Shah, 1990). Unlike findings from such research, the majority of participants in the Kathmandu study lived in nuclear families: 58.5% victims (N=48) and 43.4% perpetrators (N=32) (Table 2). In the

absence of data about family types in Kathmandu's population, it is difficult to ascertain how this larger share of nuclear families in the sample compares to the general population.

Moreover, as there are no theories explaining the relationship between family type and spousal violence in South Asia, only speculations about possible reasons can be offered. The first of these is that violence may be higher in nuclear families because such units lack members of the older generation who may mitigate conflict between the couple and help maintain a peaceful household (Minnesota Advocates for Human Rights, 1998). Second is that many of the victims and perpetrators in this study had autonomous marriages. If such marriages took place without permission from family members or in transgression of their wishes, support systems in the form of extended family would be absent. With no family members to seek help from in the first instance, parties may have reported violence to the police more readily.

To summarise the socio-demographic characteristics of the sample in the Kathmandu study, most participants got married when they were adults; perpetrators were more educated, employed and earned greater income than victims. Violence was reported mostly in autonomous marriages and nuclear families as opposed to in arranged marriages and joint families. Although the percentage of victims from lower caste/ethnicity reporting violence to the WCSC was greater than their proportion within the Kathmandu population, the greatest proportion of victims reporting violence in the Kathmandu study sample constituted high caste Brahmin/Chettri victims.

Following the discussion of the socio-demographic characteristics of the sample, the chapter will now turn to discuss the events that led to PCR and how it was experienced by participants.

### **6.1.2 The history of marital problems**

Participants, during their interviews, spoke at great length about the history of their marital problems, explaining the sequence of events that brought them to the WCSC. Both victims and perpetrators recounted what they perceived to be the most harrowing incidence in their marriages. This was juxtaposed against victims consistently downplaying routine everyday violence:

He took me on a bus. I didn't know where we were going. Then we got off, it was on a hill, near a cliff. He tried to push me down the cliff, his friend stopped him. I would have died... [*Does he also beat you at other times*]... Oh that! his anger that's every day, beating me slapping me every day, that's normal...(Victim #21)

### i) Physical violence

The types of physical violence reported by victims and confessed by perpetrators included acts like slapping, punching, beating with sticks, throwing tables, kicking, strangulation, burning with a clothes-iron, forcefully administering psychiatric medication, breaking glass on the spouse's body, scratching, pulling hair and locking up a spouse in a room without food for extended time period.

Among the 82 victims interviewed, 96% (N=78) reported a history of experiencing physical violence, in the years following marriage. Temporally proximate incidences of violence before coming to the WCSC were slightly lower. Among the 82 victims interviewed 60 reported physical and/or sexual violence in conjunction with psychological or economic violence. The other 22 victims reported no physical violence in the last six months but rather psychological violence and economic violence. When physical violence was reported it was a high-level violence as described above.

Among the 73 perpetrators interviewed, approximately 36% (N= 26) admitted physically assaulting their spouse. Within this group, 10 perpetrators stated that they had been physically violent against their wives but made no further elaborations on the nature of violence or reasons for it. Amongst the 16 perpetrators, who spoke in more detail about the violence, four claimed full responsibility for it and expressed remorse saying, 'I have done wrong, I should not have hit her.' The 12 others explained that the violence had been two-way: that their wives were also violent but only they had been reported to the police. To prove their claim, during the interview, perpetrators showed scars and injuries like scratch marks and cuts from sharp objects. Only one out of these 12 perpetrators had shown his injuries to the police. The 11 others explained that 'there was no point in showing injuries when the fault was also mine'. There were only two victims who talked about being physically violent against their husbands. They described this violence as a method of self defense against their husband's initial assault.

In contrast to the perpetrators who admitted to being violent, 33% (N=24) vehemently denied ever being physically violent against their wives. The remaining 31% of perpetrators (N=23) interviewed did not mention physical violence.

## ii) Psychological violence

Psychological violence included insulting the victim at her home or workplace, death threats, constant intimidation, neglect manifested in perpetrators having affairs, coming home late at night every day or not coming home at all for long time periods, alleging that the victim had extra-marital affairs and the perpetrator attempting to commit suicide in front of his children.

Psychological violence in the form of insults and threats were reported by all 82 victims and 73 perpetrators interviewed. About 26.8% of interviewed victims (N=22) and 21.9% of interviewed perpetrators (N=16) accused their husbands and wives respectively of having an affair. Yet, no victim or perpetrator admitted to having an extra-marital affair. Notwithstanding, seven perpetrators who accepted engaging in polygamy and had both their wives present at the WCSC during PCR.

## iii) Sexual violence

Sexual violence included instances of forcing the victim to participate in sexual acts. Only one victim reported sexual violence to the police. However, during the interview, 11 out of 82 victims stated that their husbands had used sexual coercion against them:

He forces me on my stomach and has sex for hours, every night. Once I was emptying his pocket to do laundry and I found some medication. It was an empty packet. I took it to a pharmacist and asked him what the medicine was for. He said it enables men to have sex for long time periods... that's what he was using... when I told my doctor what was happening, he prescribed this medicine to slip in his soup, apparently, he would not be able to get an erection. I was so scared but I slipped the medicine in his food. It worked. For a week we didn't have sex but then I got scared that he will find out what I was doing so I didn't buy any more of that medicine.... He says it's my duty to have sex with him, that no one could stand the sight of my face as it looks like a box that has been crushed. (Victim #20)

During interviews, 7 out of 73 perpetrators also spoke about problems in their sex life:

How do I tell you this? When we have sex, she just lies there still, like a corpse... she's like that with me - her husband but, goes around sleeping with other men. Why? (Perpetrator #50)

Only one perpetrator (#17) told the police that he left his wife because, 'she could not satisfy [him] sexually'. All the wives of these perpetrators were interviewed. Only one of them (who was not the spouse of perpetrator #17 or perpetrator #50) spoke about her sex life during the interview

stating her husband repeatedly forced her to have sex against her will (she did not report this to the police). When asked about sexual violence, all other wives said there was none.

#### iv) Economic violence

Economic violence constituted neglect by husband particularly in depriving the spouse and family of financial means including career opportunities that lead to income generation. There was agreement between victim and perpetrator pairs (those who were a couple) that they faced financial difficulties. During interviews, 36.6% victims (N=30) reported that the husband did not support the family adequately by withholding money for rent, food and their children's upkeep. Corresponding perpetrators who were husbands of these victims explained that they were in financial difficulty as their wives had squandered the remittance they sent from abroad, taken bad loans without consulting them, made poor financial decisions or that they simply had insufficient earnings to meet their wife's demands. Furthermore, 14 perpetrators reported that their wives did not understand the stress they face at their workplace and the pressures of being the breadwinner in the family.

Among interviewed victims, five stated that their husbands convinced them to discontinue their education or quit their jobs. All these victims' husbands were interviewed, and none mentioned their wife's education or career. Similarly, eight perpetrators, lamented in their interviews about the victim's attitude towards their contributions to the latter's career development:

My wife is more educated than I. I worked as a porter, carried heavy loads so I could pay for her education. I thought, I never got to study but I will support her education. She has studied till year 11. I know it isn't very much but I did all I could. She has forgotten all of this...(Perpetrator #51)

None of the corresponding victims interviewed acknowledged the respective perpetrator's claims. In fact, all victims described how they had overcome insurmountable hardship, either alone, or with the help of their parents, to achieve their successes.<sup>58</sup>

#### v) Factors associated with spousal violence

There were several factors commonly identified by the victims and perpetrators as instigating and perpetrating hostility between them. Common ones reported during the interviews have been

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<sup>58</sup>These victims only had high school level education.

grouped and described here. For example, nine victims and seven perpetrators stated that their spouses ‘showed [them] no love or affection’, or that they no longer had ‘meaningful communication with each other’. Five victims and five perpetrators reported anger because their spouse never spent time at home”. Five victims and 13 perpetrators said the ‘rifts between [them] were caused by the interference of extended family members. However, victim and perpetrators pointed out these problems individually. In other words, their corresponding spouses did not mention any of these factors as concerns. This varied reporting is indicative of marital problems emerging due to differing understanding of factors inciting conflict between the spouses.

Following a description of the nature of spousal violence suffered and perpetrated including factors that led to it, the next section will begin to look at participants’ experience with policing of spousal violence.

### 6.1.3 Primary expectations of victims from the PCRs

*Table 3 Expectations of victims*

<b>Victims’ expectations</b>	<b>No of victims interviewed</b>
Scold, threaten and reprimand perpetrator	8
Imprison perpetrator	7
Separation/ divorce the perpetrator	11
Financial support from the perpetrator	17
Press charges against perpetrator	13
Ascertaining perpetrators’ extra marital affair	6
Child custody	3
Property partition and transfer of assets	4
Perpetrators making marriage/citizenship/birth certificates	5
Advice and support from police	3
No expectations	5

The expectations that victims had from the police provides a vantage point from which to understand their perceptions of the processes at the WCSC. As illustrated by Table. 3, the 82 victims interviewed reported an array of expectations. Notably, each victim reported only one of the expectations listed above as opposed to many. The major theme that emerged from this response is discussed below.

### i) Outcome-related expectations

The expectations that victims had from police were mostly instrumental and associated with the outcome of the PCR. Victims did not mention factors related to police procedure such as police listening to them or treating them with respect during PCR. As examples, four victims hoped the police would “jail” their husbands. Imprisonment was perceived as punishment: an end in itself, symbolising the complete breakdown of the marriage with no possibility for reconciliation. Likewise, 11 victims expected to separate from their husbands by going to the WCSC: four of these victims believed mistakenly the WCSC could grant them a divorce. Such victims saw divorce as the only means to stop the violence against them.

About one-fifth, or 17 victims, expected police to put in place financial support from their husbands to run their households, particularly to pay for their children’s expenses. Notably, victims spoke broadly of financial support to include not just the monetary element but also demonstration of affection and care towards their children and themselves by their spouse. About 13 victims hoped the police would press criminal charges against the perpetrator, that the perpetrator would stop future violence, and would prove necessary financial support.

When eight victims mentioned police procedure it was in the context of hoping the police would threaten, scold and reprimand their husbands. The expectation, on the one hand, stemmed from the anger they felt for the violence they had suffered. On the other hand, it was associated with instrumental goal of correcting the perpetrator in order to have a family life without violence. Victims believed that their husbands were malleable and thus the polices’ ‘strict behaviour’ could ‘knock some sense’ into them.

The expectations that victims had from the police warranted addressal of the factors that were causing spousal violence. While some of these expectations could be addressed through policing; others were outside the authority given to officers such as: arranging financial payments to run households, granting a divorce or compelling a perpetrator to show affection towards the family. The mismatch between victim’s expectations and the authority conferred on the police to deliver such outcomes is instructive of victims’ limited knowledge of policing powers.

#### **6.1.4 Participant's interaction with first responding officer**

Participants were asked about their experiences with the first responding officer they encountered at the WCSC. Out of 82 victims interviewed, 75 victims had reported crimes to the police; for seven other victims, the perpetrator or mother-in-law had gone to the police first to make a complaint; the police then summonsed the victims for PCR. Only three out of the 73 perpetrators interviewed had filed a complaint to the WCSC first. All 75 victims and all three perpetrators stated that they told the officers 'the main points' of their story and that the officer listened to them all the time. Moreover, 66% (N=54) of the 82 victims interviewed were accompanied by a third party such as family member, friend, landlord, work colleague, non-governmental organisation (NGO) workers or member of political party to the WCSC. Conversely, 34% of victims (N=28) and all three perpetrators came alone. Only seven victims reported that the third party, who accompanied them to the WCSC, substantiated their story of what had happened to the first responding officer: the officer listened to this account all the time. Only three victims and no perpetrators stated they had to repeat their story twice to two different officers. No participant waited more than 15 minutes for police response. Except in two cases where responding officers were male (complainants were victims), first responding officers were always female.

Case processing began after participants submitted written complaints that asked for PCR (see chapter 5 for details): three victims' PCRs were conducted on the basis of oral complaints alone. All three perpetrators submitted written complaints. About 87% victims (N=71) and all perpetrators reported that the police unilaterally decided that the case would be handled through PCR: three victims stated that they made a joint decision with the police to organize a PCR and one victim stated she asked for PCR. About 89% of interviewed victims (N=73) stated that the police did not give them any information about the PCR process before it began: nine victims however, reported that the police explained what would happen in PCR beforehand. All three perpetrators reported that the police did not explain the PCR process to them.

Furthermore, after complaints were filed perpetrators and victims were summoned to the WCSC. About 81% victims (N=67) reported that the police summoned the perpetrator: about 10% of victims (N=8) stated that either they or the third party called the perpetrator to the WCSC. The police summonsed the victims for all three perpetrators who had filed complaints.

Victims' accounts show that all PCRs were conducted within one week of them filing complaints with almost 51% (N=42) taking place on the same day. All three perpetrators had their PCRs on the same day they filed complaints. For victims (N=33) who went home after filing the complaint because their PCR was scheduled in the coming days, none reported spousal violence in the interim period. Among the victims who went home before PCR only two victims reported feeling relief and hope after speaking to the police. All others reported feeling 'scared', 'anxious', 'lost', 'in pain' or 'regret' for reporting to the WCSC.

In summary, interview reports from participants show that the WCSC's initial response was prompt and first responding officers listened fully to complaints. However, most participants were neither informed of police procedure that would be followed to address their complaint nor did the police demonstrate concern towards the victims, reassure them or make them feel safe. The discussion will now turn to participants' and observer's perspectives of the PCR process.

## **6.2 The PCR processes**

### **6.2.1 Telling the story to the police**

The first step in PCR was the telling of accounts of what happened (see chapter 5 for details). There was a marked difference between how victims and perpetrators relayed 'their side of the story' to the police and later in their interviews. In the latter, details were disclosed about the nature of violence, the individual's life circumstances and factors that led to violence. At the WCSC, personal accounts of what happened were kept brief. This, at first instance, appeared to be because officers constantly reminded participants about the formal nature of their office by implementing rules that have no resemblance in Nepali cultural practices. These included: sitting up straight, not sitting cross-legged or resting their feet on the benches and prohibiting chewing tobacco inside the office. Yet, the interview responses showed that it was not this structure and discipline imposed on them by the police that made participants self-regulate their accounts. Rather, it was the awareness that there were others like themselves waiting for police response and their case should not take up all the police time.

Table 4 shows my observation of the extent to which victims and perpetrators had a chance to tell their stories in the 100 PCRs observed. I found that victims had a greater opportunity to tell their stories than did perpetrators.

Table.4 Observer's perception of participants telling their story during PCR

Extent to which participants told their story during PCR	No. of victims' report (%)	No. of perpetrators' report (%)
Not at all	4	5
Some of it	17	40
Most of it	32	28
Fully	47	27

Table 5 shows a comparison between perspectives of victims and perpetrators on the extent to which they felt they were able to tell their sides of the story during PCR. While 12.2% victims (N=10) out of 82 interviewed reported that they could not tell their story at all, more than twice as many perpetrators – 30.1% (N=22) said they did not have a chance to tell their stories. Eight perpetrators, however, stated that they did not tell their side of the story out of choice:

It wasn't about telling my side of the story. I was in the wrong. It happened because I was so angry...I didn't say this because it was an accident but the injury that resulted from this accident was already enough to show that I was in the wrong. So I didn't think it was necessary to start explaining why it happened... (Perpetrator #35)

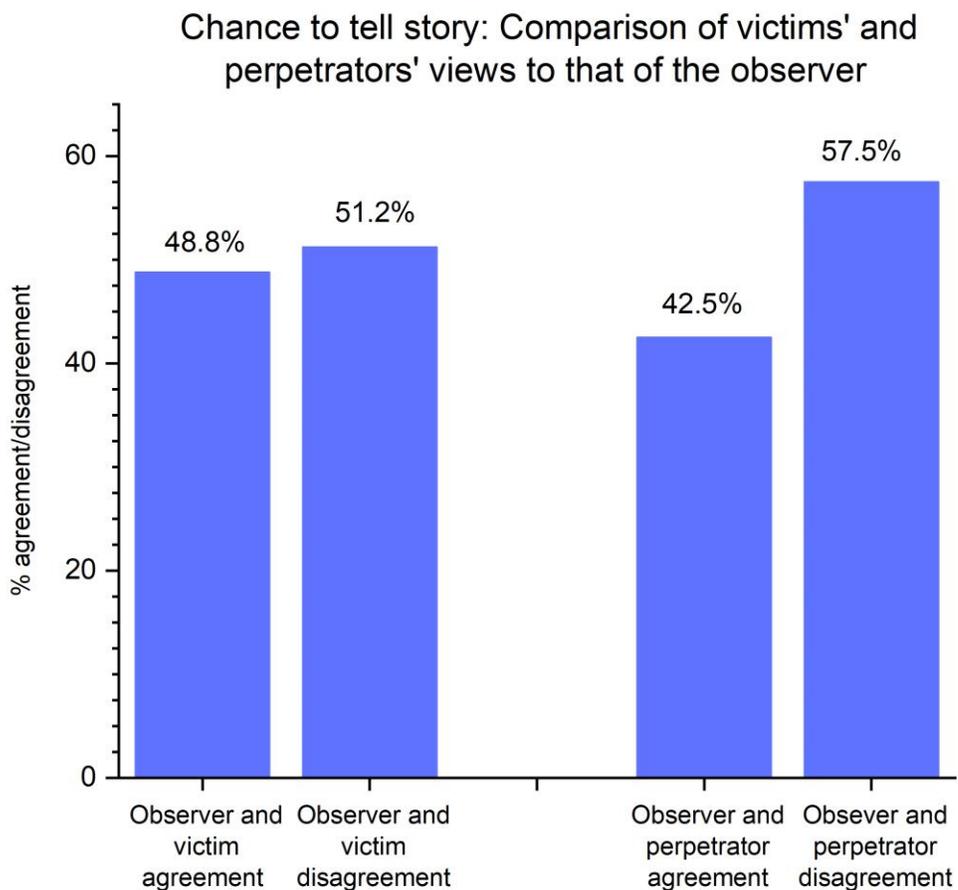
On the other end, almost twice as many victims – 62.2% (N=51), in comparison to perpetrators 32.9% (N=24) believed they had been given a chance to fully recount their stories to the police. Overall, while 87% of interviewed victims (N=72) said they had the chance to tell at least some of their story during PCR, only 58.9% of interviewed perpetrators (N=43) felt they had the same opportunity.

Table.5 Participants telling their story during PCR

Extent to which participants told their story during PCR	No. of victims' report (%)	No. of perpetrators' report (%)
Not at all	12.2	30.1
Some of it	11.0	15.1
Most of it	14.6	11.0
Fully	62.1	32.9
Did not want to say anything	0.0	11.0

The perceptions of the victims' and perpetrators on whether they had a chance to tell their story was compared to how I rated each participant's ability to tell their story during PCR. The eight cases where the perpetrators did not want to say anything were rated as disagreement of views between the observer and perpetrator as I had not understood this sentiment of perpetrators while observing them during the PCR. As shown by Figure. 1 below I disagreed, as opposed to agreed, with the views of more than half the victims (51.2 %) and perpetrators (57.5%) interviewed.

Figure. 3



### 6.2.2 Police listening

Table 6 shows my observation of the extent to which police listened to victims and perpetrators. In all the 100 cases observed, it was my view as the observer that police listened more to victims than perpetrators. Interview data from the 73 perpetrators and 82 victims corroborated my perceptions (Table 7). Almost two

times as many perpetrators (34.2% N=25) compared to victims (14.6% N=12). felt that the police did not listen to them at all. On the other end of the spectrum, more victims (57.3% N=47) than perpetrators (42.5% N=31) thought the police listened to them all the time. Two victims and five perpetrators stated that they did not know whether the police listened:

One cannot say that the police listened, one cannot say that the police didn't listen, I don't know. (Victim #28)

*Table 6 Observer's perception of police listening to participants during PCR*

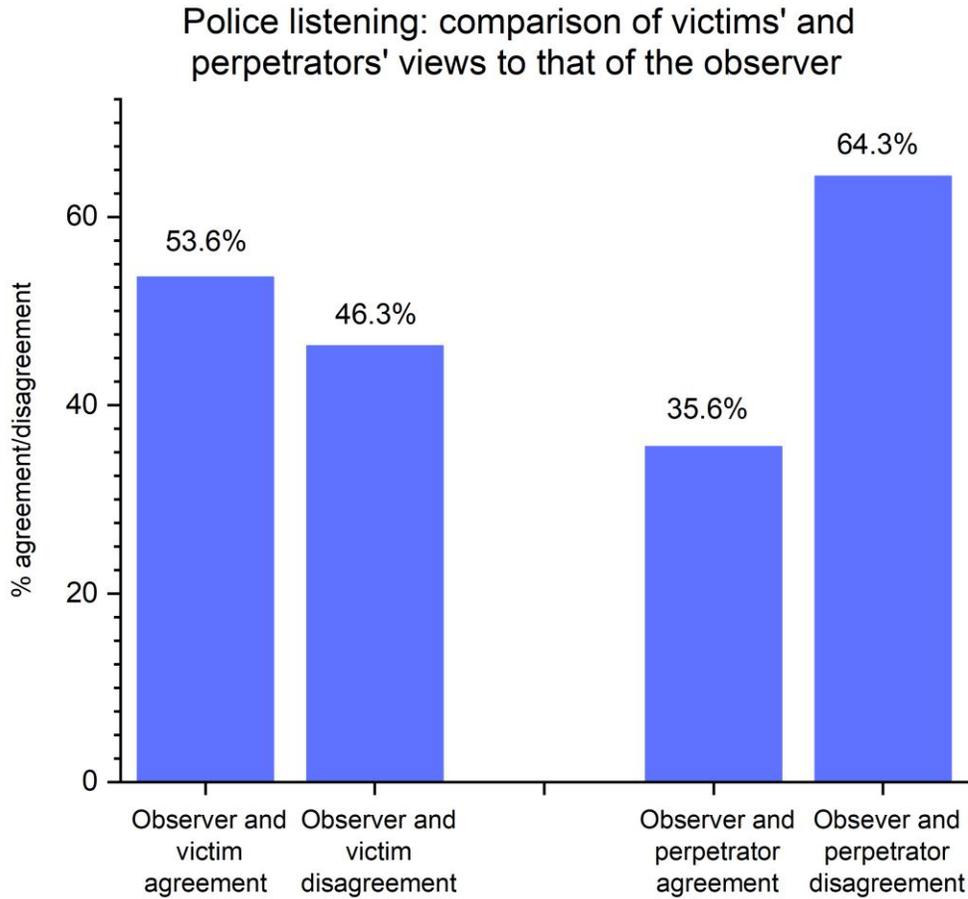
<b>Extent to which police listened to participants</b>	<b>No. of victims (%)</b>	<b>No of perpetrators (%)</b>
Not at all	4	8
Some of the time	6	23
Most of the time	16	21
Fully	74	48

*Table 7 Participants' perspective of police listening to them during PCR*

<b>Extent to which police listened to participant</b>	<b>No of victims' report (%)</b>	<b>No of perpetrators' report (%)</b>
Not at all	14.6	34.2
Some of the time	12.2	8.2
Most of the time	13.4	8.2
Fully	57.3	42.5
I don't know	2.4	6.8

The views of the victims and perpetrators were compared to the perceptions of the observer and shown in Figure 2 below. The cases in which victims (N = 2) and perpetrators (N = 5) reported that they did not know whether the police listened were treated as disagreements between the views of the observer and the participant. This is because during observation I had rated the level of police listening and did not understand that the participants had not noticed whether the officers listened to them. Overall as the observer I disagreed, as opposed to agreed, with the views of the participants. My views were particularly different from those of the perpetrator as we agreed in our ratings of police listening in only in 35.6% of cases and disagreed in 64.3% of them.

Figure 3



Furthermore, when victims and perpetrators judged whether the police listened to their spouse, participants tended to disagree with each other. Victims' perceptions of whether the police listened to their spouse was compared with perpetrators' perspectives of whether they thought the police listened to them. There were 57 pairs (couples) of victims and perpetrators. Among them only the assessment of 34% victims (N=18) matched the answers of perpetrators. Similarly, perpetrators' views of the extent to which police listened to their spouse was compared with views of the victims. Perpetrators had more accurate perceptions of victims' experience as the assessment of 56% perpetrators (N=32) matched the views of the victims.

i) Police attentiveness

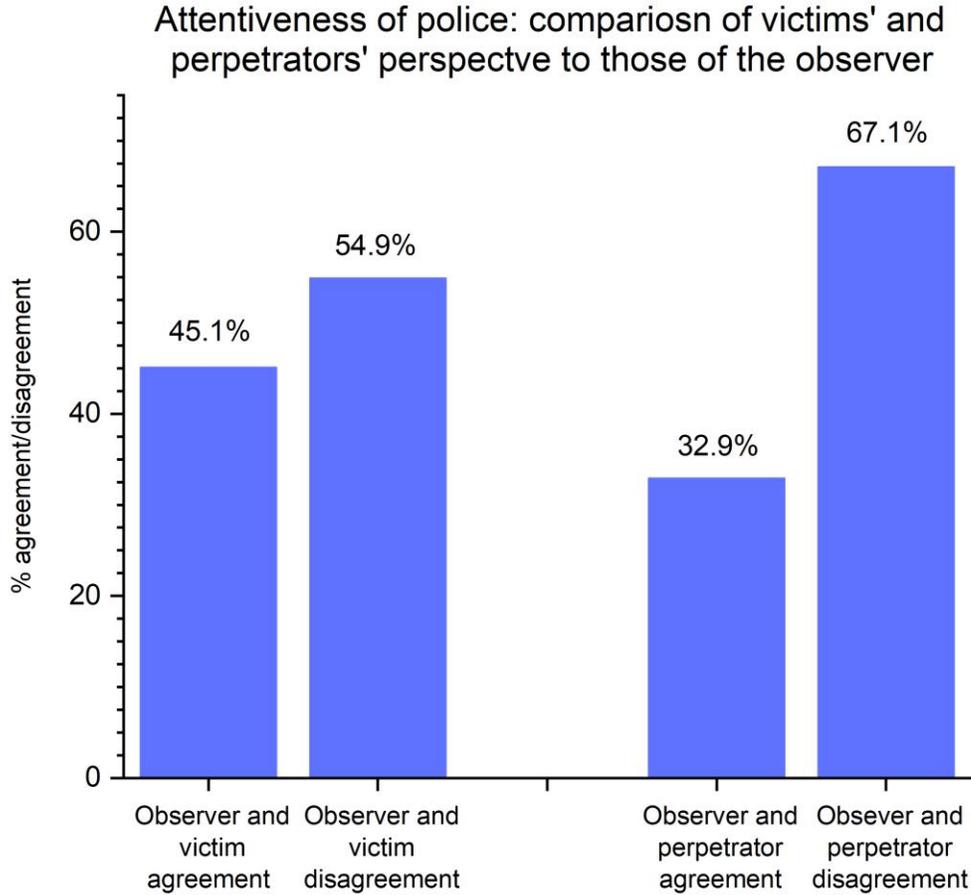
In addition to listening, the level of attention police paid to participants, during PCR, was also examined. As the observer, I perceived the police to have either paid equal attention to victims and perpetrators during PCR (47 PCRs) or paid greater attention to the victim (48 PCRs). Only in five cases did the police pay greater attention to the perpetrator. In concurrence with my observations, about half the perpetrators (53.4%) interviewed (N=39) thought the police paid equal attention to all the parties present and 37% of perpetrators (N=27) thought the police paid greatest attention to the victims. Only five perpetrators believed police paid most attention to them. Yet, many more victims (25.6 %) (N=21) reported, during interview, that they felt the police paid less attention to them than the perpetrator present at PCR (Table 8).

*Table 8 Participants' perceptions of police attentiveness during PCR*

<b>Level of attention paid by police</b>	<b>No of victims' report (%)</b>	<b>No of perpetrators' report (%)</b>
Greater attention paid to victims	22.0	37.0
Greater attention paid to perpetrators	25.6	6.8
Equal attention paid to all participants	45.1	53.4
I don't know	7.3	2.7

Assessment of whether the observer's perspective of whether the police paid attention to the victims and perpetrators matched their own views showed moderate levels of agreement and greater levels of disagreement. As shown by Figure 3, the observer's views matched those of victims (45.1%) more than those of the perpetrator (32.9%). The greatest disagreement was seen between the views of the perpetrator and the observer (67.1%).

Figure 4



### 6.2.3 Police scolding participants

The angry rebukes of officers against the participants, during PCRs, were recorded as scolding. As described in chapter 5 police freely scolded victims and perpetrators. From my perspective as observer, In 67 of the 100 PCRs observed, the police scolded at least one individual present (Table 9)<sup>59</sup>. Twice as many perpetrators (N=50) were scolded as victims (N=24). In nine PCRs, family members of victim and perpetrators such as parents, sister, nephew and the perpetrators' second wife were scolded: no non-family member was ever scolded by the police.

<sup>59</sup> Note Table 9 reports the count of each participant getting scolded. The police only scolded in 67 cases. The total count of scolding is higher than 67 because there were instances when more than once participant was scolded during a single PCR.

*Table 9 Observer's perception of who was scolded by police*

<b>Person scolded by police</b>	<b>No. of people scolded</b>
Victim scolded	24
Perpetrator scolded	50
Third-party scolded	9
Total	83

Table 10 shows victims' and perpetrators' views of who was scolded during PCR. Perpetrators reported far less scolding of victims (8 victims) than the victims themselves (21 victims). Moreover, there were differences between how I as observer recorded police scolding and how participants reported it. In 30% of the 67 cases where I as the observer noted police scolding a victim and/or perpetrator, the participants did not report it during their interviews. Victims and/or perpetrators not only did not report being scolded themselves but also underreported third parties being scolded. For example, victims in only four and perpetrators only three of the nine cases in which third parties were scolded recalled this incident.

*Table 10 Participants' perception of who was scolded by police*

<b>Person scolded by police</b>	<b>No. of people identified by victims</b>	<b>No. of people identified by perpetrators</b>
Victim scolded	21	8
Perpetrator scolded	37	36
Third-party scolded	4	3

During interviews, about 25% (N=21) of victims thought the police had scolded them: I, as the observer, only saw 17 among these 21 victims scolded during PCR. Similarly, approximately half of the 73 perpetrators (N=36), interviewed thought they had been scolded. I recorded only 22 out of these 36 perpetrators being scolded.

i) Participants views of scolding

Thematic analysis was conducted on participants' views of police scolding. Two major themes emerged and are discussed below.

ii) Scolding was fair

During interviews there were participants who reported positive views of police scolding during PCR. The perception of fairness of scolding was associated with not just reasons why it was used but who it was used against. About 41.5 % of interviewed victims (N=34) thought that the police scolded rightfully<sup>60</sup>. Notably, in all these cases, their husbands or their in-laws, as opposed to themselves, were scolded. Similarly, about 26% of perpetrators interviewed (N=19) believed the police scolded rightfully. In contrast to victims, the majority of perpetrators (N=11) stated that it was right that they themselves were scolded.

There were three reasons that induced participants to perceive the scolding as fair and therefore warranted. Firstly, victims and perpetrators perceived the scolding as 'rightful' when they saw it as just deserts for misbehavior against their spouse or impropriety at the WCSC:

After what he had done to me, he had to be scolded... he'll now know how I feel. Everything they [police] said was right... and my sister-law, that's no way to talk in there [at WCSC], she clearly overstepped her limits. (Victim #27)

What I had done was wrong. When a person [police] sees what had happened, it is natural for them to get angry...(Perpetrator #5)

Secondly, few victims (N=4) viewed the scolding as a corrective measure for their husbands.

They scolded him.. but you can't take that in the spirit of scolding. It was for him, it was the police explaining to him that he now needs to mend his ways... it wasn't to insult him, what they said was for his own good. (Victim #6)

Thirdly, four perpetrators perceived the scolding of their wife as rightful. These men agreed with the police's emphasis on reconciliation and reprimand for the victim's desire to separate:

They scolded her because they wanted us to reconcile. She was asking for a divorce. (Perpetrator #70)

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<sup>60</sup> The reader is reminded that the work rightful is used to depict fairness in Nepali (see chapter 4).

### iii) Scolding was wrong

In contrast to those who believed in the fairness of scolding, 17.1% victims (N=14) and 21.9% perpetrators (N=16) thought it was unfair/wrongful. Several overlapping reasons were given by both parties for this perception. Firstly, participants believed that the scolding was misplaced as the police wrongfully blamed them for violence. For example, eight victims and nine perpetrators protested being blamed by the police for instigating violence because the police only listened to their spouse's account of what happened:

I was silenced. They listened to him and his family and then ganged up on me.  
(Victim #55)

Secondly, one victim and four perpetrators demonstrated knowledge of how police ought to behave and questioned the legitimacy of police detracting from such behaviour by scolding them. They emphasized that the singular purpose of reprimand was intimidation.

She was very harsh with me right from the beginning. She said, "Do you know that Nepal's laws favour women?... We have other methods that we can use against you too... threatened me in this fashion... I got upset too. I even banged the table. To show me how powerful she was and intimidate me, she slapped a guy from another case in front of me. He hadn't really done anything wrong, but she wanted to make an example of him to me. I told them that I am also well versed in Nepali law and since my father was in the police, I am well aware of the code of conduct police officers are supposed to abide by. She could not behave that way with me!  
(Perpetrator #33)

### **6.2.4 Police use of physical violence**

I observed the WCSC police using physical violence in 19 out of 100 PCRs observed. Male officers inflicted violence against perpetrators in two PCRs. In the rest of the cases, female officers used violence against participants. About four times more perpetrators (N=14) than victims (N=4) were assaulted. One third-party (the second wife of a perpetrator) was also slapped. There was almost perfect congruence between the perceptions of victims, perpetrators who were interviewed and the observer about the incident of police violence and against whom it was used. One victim, however, reported the police used violence against her although I did not see any violence inflicted on her during PCR (Table 11).

Table 11 Perceptions of police use of physical violence

People against whom violence was used	Observer's report of no. of people assaulted	Victims' report of no. of people assaulted	Perpetrators' report of no. of people assaulted
Violence against victim	4	4	0
Violence against perpetrator	14	12	13
Violence against third party	1	1	0

i) Participants' views on police use of violence

Thematic analysis of participants' views about the fairness of police use of force led to two major themes emerging that are discussed below.

ii) Unfair when violence was used against themselves

All victims and perpetrators who were physically assaulted by the police believed it was 'wrongful' as the punishment was deemed to be an excessive display of police power and an example of 'police bullying'. As a victim explained:

When anyone comes to the police station, they see officers in uniform. That sight is enough for anyone to behave properly. There is no need to hit inside there. They need to ask us nicely about what happened and determine who is right and wrong... I should have never been slapped... This wasn't right. (Victim #55)

However, for perpetrators the perceptions of unfairness of police coercion were qualified: as they believed the act as wrong but behaviour expected from a Nepali police officer<sup>61</sup>:

It wasn't right. I hadn't done anything wrong. But I didn't mind that they asserted themselves. I know they were only doing their duty. When you come to a place like the police station, this sort of things is expected to happen. I didn't mind (Perpetrator #53)

<sup>61</sup> This finding resonates with public perception of police treatment in India gathered in the 1960s. Bayley (1969) administered surveys in India to gauge public perceptions of the Indian Police. The surveys conducted in Northern and Southern India (Kanpur, Bangalore and Tankpur) asked questions about the type of treatment people expected from the police when they encountered them. Respondents stated that they expected rudeness and physical violence from the police even if the individual in question was not a criminal. This 'jaundiced view' (p.200) of the police was more prevalent among North Indian respondents than South Indians (Bayley 1969).

In fact, one perpetrator objected more to who delivered the violence than the violent act in itself:

She slapped me a few times and didn't let me speak at all. Don't take this the wrong way, I don't think it was right. I think a woman should deal with a woman and when it involves a man, it should be a male officer who lays hands on him... (Perpetrator #9)

### iii) Retributive violence was fair

In contrast to how participants receiving police violence thought it was unfair, their spouses believed it was fair. The husbands of the four victims who were assaulted by the police could not be interviewed. However, the majority of victims interviewed, whose husbands were physically punished believed the police acted fairly. They saw the beatings as justified either because the perpetrator had acted disrespectfully towards the responding officers or because it was 'taste of their own medicine' for the regular beatings they, as victims, tolerated:

When she [officer] hit him I felt bliss... when he cried, I felt bliss. When I would cry, he would slap me saying, "You're creating more drama now?" and so when I saw him cry I felt bliss (Victim #67).

Only one victim protested the physical assault of her husband on grounds that she 'had not brought him to the police station to get beaten'.

## 6.2.5 Police imprisoning perpetrators

I observed that eight perpetrators were imprisoned in police custody: no victims or third parties were imprisoned (Table 12). In similarity to the perceptions of the use of physical violence by the police, there was complete agreement between the views of the victims and perpetrators who were interviewed and observer about who was held in police detention.

Table 12 Perceptions of police use of imprisonment

People who were imprisoned	Observer's report of no. of people imprisoned	Victims' report of no. of people imprisoned	Perpetrators' report of no. of people imprisoned
Victims imprisoned	0	0	0
Perpetrators imprisoned	8	7	7

i) Participants' views on police use of imprisonment

Seven out of the eight perpetrators who were imprisoned and all their corresponding victims were interviewed. Participants had mixed feelings about imprisonment. The following theme emerged from the analysis of their reports.

ii) Imprisonment was a fair method of control

When participants believed that their own or their spouse's behaviour 'was out of control', they saw imprisonment as a necessary method of discipline and control at the police's disposal. For example, six victims who were spouses of perpetrators who were locked-up saw imprisonment as the 'only way to contain his uncontrollable behaviour'. Similarly, four perpetrators perceived their own imprisonment as a means of 'immediately stopping violence' they were inflicting at home. They also believed it was just punishment for the assault they had inflicted on their spouses. Conversely, when perpetrators believed they were 'cooperating with police' and did not need control, they described their imprisonment as excessive:

Why did they jail me? I was answering their questions. I went there when they summoned me. Their idea was to decrease my morale. To see if I would apologise and see if I would be afraid enough to accept any crime they alleged me of, I think a person who is unexposed to information would have broken-down. At one point that night [in jail] I thought about committing suicide. (Perpetrator #15)

### **6.2.6 Improper conduct by police**

Victims were asked if they thought the officers engaged in any 'improper conduct' during PCR<sup>62</sup>. The notion of improper was not decided beforehand: rather its meaning was constructed through victims' answers. For victims improper conduct was unacceptable police behaviour directed only at themselves such as: not being listened to, being disrespected and humiliated, police siding with their spouse, lack of police effort to resolve their specific problems or polices' lack of monitoring of perpetrator's compliance with PCR outcomes.

There were some differences between the victims' concept of what constituted improper conduct and what I as observer considered to be improper conduct. I observed improper conduct by police

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<sup>62</sup> The reader is reminded that perpetrators did not understand this question (see chapter 4).

in 55 of the 100 PCRs. However, only 25.6% (N=21) of the 82 victims interviewed reported the police did something improper during PCRs. This section will explore these differences.

Among the 21 victims who reported improper conduct by police, I agreed with 16 of them. In five cases while the victims reported improper conduct, I reported none. Moreover, even within the 16 cases, where the victims and I both cited improper conduct, there were varying degrees of agreements in the details of what was conceived as improper. In five out of 16 cases, the victim and I were in complete agreement and found the same police conduct to be improper:

That officer said, “She is frolicking with her uncle’s son...how should we even write this on record?”...They are there to listen to victims, our pain and suffering. But they were so self-absorbed. If all of them [officers] attentively listened, they would understand all the necessary points.. one is picking up the phone, the other is talking on the side... like crazy women. They didn’t care. (Victim #57)

In three cases, while I agreed with what the victim described as improper conduct, I noted additional instances of misconduct by the police. This difference emerged because victims judged the appropriateness of police behaviour through the lens of how they felt and what they gained from the PCR. I, on the other hand, being uninvested in the consequences of police behaviour noted down all instances of such conduct directed towards even perpetrators and third parties present in the PCRs. Moreover, unlike victims, I recorded police’s condescending comments such as: asking parties to ‘speak up’ when they were audible and officer’s insults of the participants’ articulation and education. The example below is an instance of improper conduct I observed but the victim did not report:

Police [shouting]: You dug your own grave and what do you want the police to do now?..You can’t even answer questions and you say you have a bachelor’s degree.

Perpetrator: They have destroyed my brain. I can no longer think. (May 2017).

In eight cases victims and I both reported that there was improper conduct by the police. However, we cited different police behaviour as being misconduct. The example below shows the contrast between what a victim deemed improper and what I noted as improper police conduct in the same PCR.

*[Victim’s report of improper conduct]* They say that it is a women’s cell. They are supposed to give 70 % of their support to women. But they didn’t. They were so rude to me.. they were supposed to say reassuringly, “What happened, sister? Okay,

we will call him and talk to him.” When the guy says he doesn’t want to stay with his wife, they could say, “okay, if that is what you want... but also consider that she left her home and her parents for you. Even if you can’t stay with her, do certain things for her.” They should have also asked me, “Do you want to stay together or not. What is it that you are thinking and feeling? What is your priority?” Nothing! [They] didn’t say any of that... they said, “Whatever can be done will be done by the court, go away now.” Can you believe this? They didn’t consider that I may not have money to go to court [*as the victim has to pay for her own lawyer*]. For women who have a mother and father, her family, they will have their families give them money. What do I, who has nobody, to do? (Victim #68)

According to my observation of the case above, the police politely suggested to the victim to go to court. In this PCR, I recorded the following improper conduct:

[*My observation of improper conduct by police in the same case*] Victim #68: His problem is he cannot make any decisions by himself. He asks his family members everything.

Officer [*to perpetrator*]: Are you just as indecisive when you have to sleep with your wife too? [*This is inappropriate*] (July 2017)

In the 34 % of cases where I saw improper conduct, but the victims perceived none, I noted misconduct at three levels: officers’ undertaking personal tasks at their desk, unprofessional case management and problematic advising. The first included actions like officers sleeping, eating or putting on makeup (see chapter 5 for detailed accounts of such behaviour). The second constituted instances of the PCR facilitators abruptly leaving cases or terminating them prematurely because they were bored or frustrated with the ‘unending disgruntlement of the couple’. The third involved police giving conflicting advice to participants. For example, officers would advise victims to press charges for spousal violence against the husband. However, disregarding the victim’s agency, they would also tell the corresponding perpetrators (N=5) to dissuade their wives from pressing charges. None of these women consequently pressed charges. Similarly, officers would advise victims about how they could legally proceed to stake claims over the husband’s financial assets, yet, they would immediately disclose this advice to the husband privately. While these conflicting behaviours were motivated by officers’ intention to reconcile the couple, as opposed to adjudicate their dispute, it is unclear how conflicting advice assisted reconciliation.

### i) Good police behaviour

In tandem with improper conduct, in 17 PCRs I observed police put in extra effort to resolve cases. There were no patterns in the character of such cases: officers appeared to select them randomly. Examples of good measures included: officers spending over four hours to listen closely to participants and assisting them in reaching an agreement; working out income and expenditure in the couple's household to assuage financial conflict; successfully convincing perpetrators to transfer property to their wives; singing Bollywood love songs to lighten the mood amongst a fighting couple; defending a couple when their family and friends reprimanded them for their inter-religious (Hindu-Muslim) marriage; taking a couple's distressed child outside of the PCR room and playing football with him; and asking victims whether they were happy with the PCR and outcome. Surprisingly, most of the victims or perpetrators interviewed did not mention any of these measures indicating that they either did not recall them or did not see them as significant enough to be mentioned. One perpetrator, however, discussed the singing:

The singing was a joke... the officer was were trying to patch things up, make the atmosphere lighter, you know... Of course, the seriousness [of the matter] is inside us. (Perpetrator #37)

Notwithstanding the measures that were not noted by victims and perpetrators, legal advice given by officers, in the best interest of the participant, was always recalled with gratitude:

I am so happy that they [officers] suggested that he make my children's birth registration certificate. I hadn't thought of this. My children need them to go to school in a few months and they need this document. (Victim #45)

She [officer] told me to pay my daughter's school fees as this will make my case [for child custody] stronger in court. I didn't know this before... she helped my legal case. (Perpetrator #37)

### ii) Police politeness

Within the ambit of respectful behaviour, the levels of police politeness towards victims and perpetrators were rated. As illustrated by Table 13, in the 100 cases observed, I perceived the police as being mostly polite or always polite to victims in the majority of cases (89% of cases). Conversely police were three times more impolite to perpetrators (21% cases) as opposed to victims (7% cases).

*Table 13 Observer's perception of police politeness*

<b>Extent of police politeness</b>	<b>No. of cases in which police were polite to victims (%)</b>	<b>No. of cases in which police were polite to perpetrators (%)</b>
All the time	71	39
Most of the time	18	29
Some of the time	4	12
Impolite	7	21

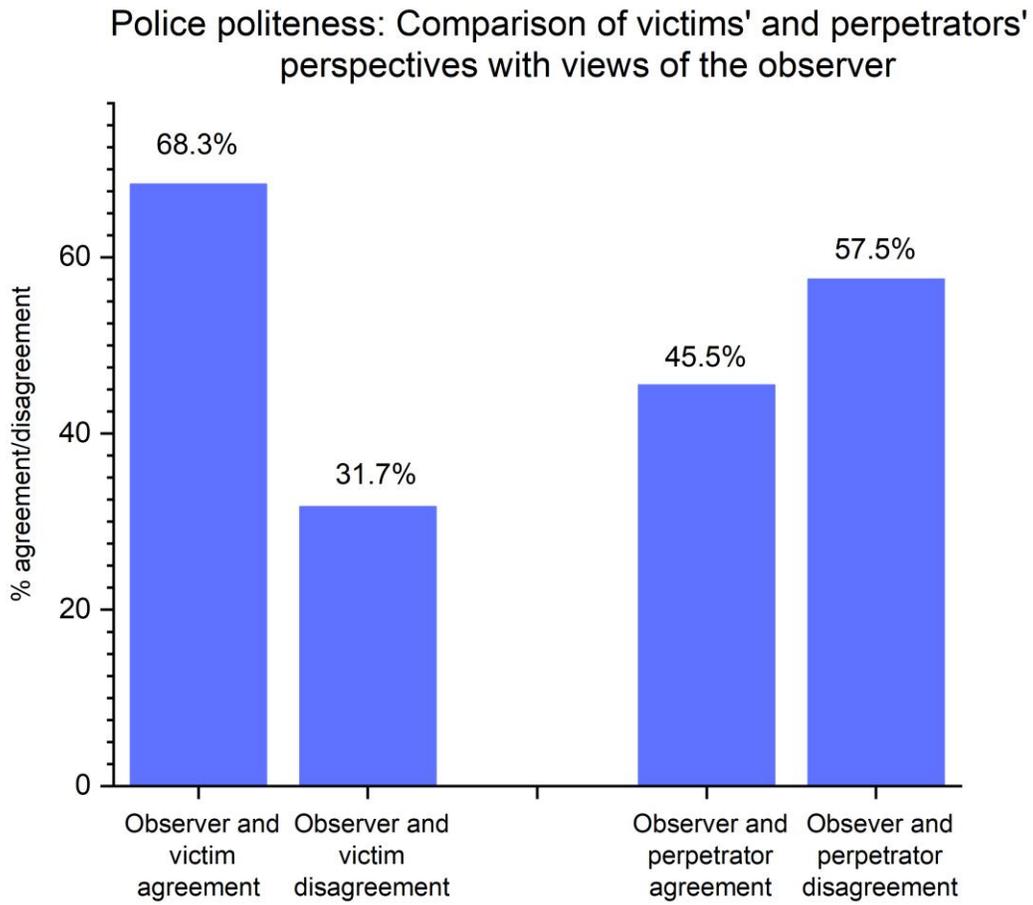
Victims and perpetrators were also asked about their views on whether officers were polite to them. Almost 79.3 % of victims (N= 65) and 68.5% perpetrators interviewed (N=50) felt the police were polite to them most of the time or all the time; although slightly higher number of victims than perpetrators viewed police as being polite to them (Table 14). Correspondingly, about similar number of victims (N=14) and perpetrators (N=17) perceived the police as being impolite to them (Table 14).

*Table 14 Participants' perception of police politeness*

<b>Extent of police politeness</b>	<b>No. of victims' reports (%)</b>	<b>No. of perpetrators' reports (%)</b>
All the time	67.1	46.6
Most of the time	12.2	22.0
Some of the time	3.6	8.2
Impolite	17.1	23.3

The observer's ratings of police politeness towards participants were compared to the perceptions of victims and perpetrators. As shown by Figure 4 there were only moderate levels of agreement between the views. My ratings, as observer, were similar to those of the 82 victims interviewed in 68.3% of cases. Whereas my ratings only matched those of the 73 perpetrators interviewed in 45.5% of cases.

Figure 4



### 6.2.7 Outcomes – decisions reached after PCR

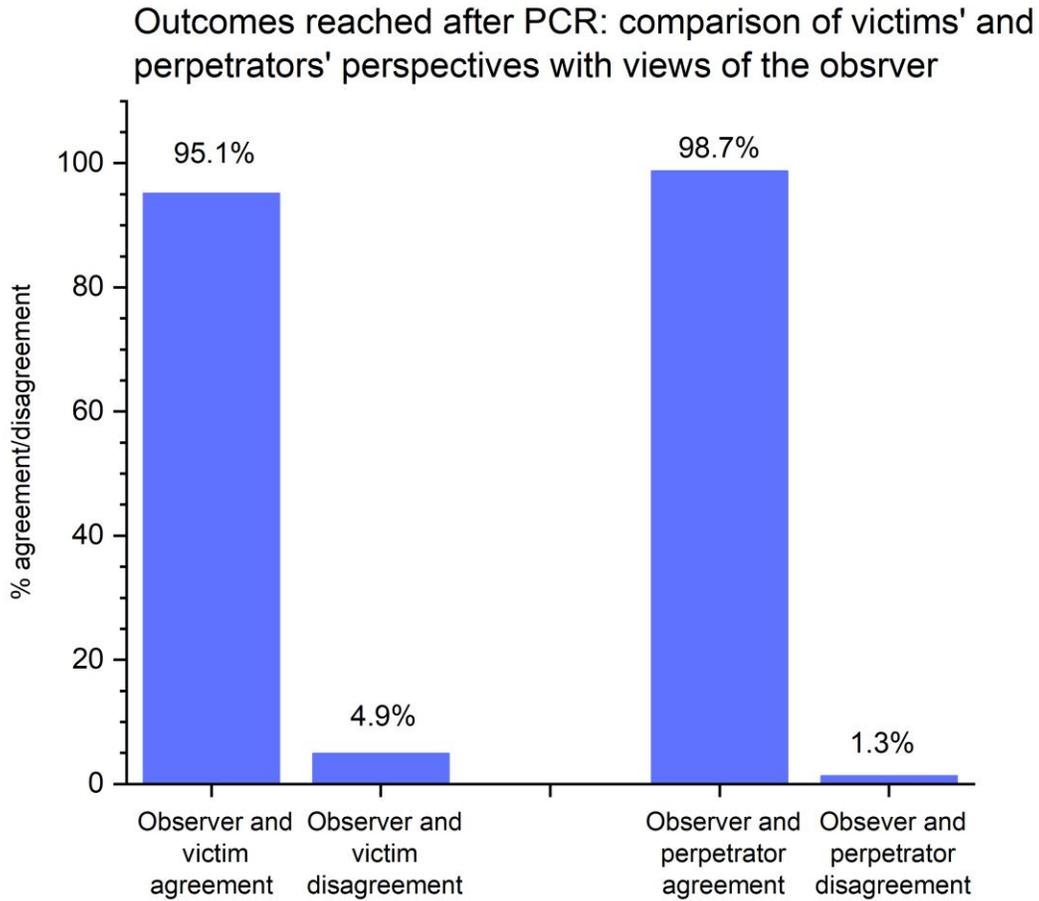
After each PCR, one of five major outcomes was reached: agreement to reconcile, separation, filing charges for spousal violence, recall back to the WCSC to sign attendance (*Tarikh*) and officers prematurely dismissing PCRs.

Table 15 Observer's perception of major outcomes reached at the end of PCR

Type of outcome after PCR	Number of outcomes (%)
Reconciliation	33
Separation	35
Press charges for spousal violence	2
Return to sign attendance ( <i>Tarikh</i> )	27
Case dismissed	3

Table 15 shows the proportion of cases I observed that resulted in the five major possible outcomes. Most victims and perpetrators agreed with the observer on the outcomes reached at the end of each PCR. As shown by Figure 5 only one of the 73 perpetrators interviewed and four of the 82 victims interviewed disagreed with the observer. These participants perceived the opposite outcome to me; in most of these cases if I noted an agreement to reconcile, the victims and perpetrator reported an agreement to separate. This confusion could have ensued because these individuals were already living separately from their spouses when they came to the WCSC. At the end of the PCR, an agreement to reconcile was signed indicating that their dispute had ended. A separation agreement was not drawn up because the couple's living status, of separation, had not altered through PCR. However, the participants may have perceived the continuity of their separation as part of the agreement.

Figure 5



i) Key terms of the outcome

Except for dismissals, major outcomes were supplemented by several key terms or verbal understandings reached during PCR. Key terms were unique to each case and circumstance. Victims and perpetrators accurately remembered these key terms. In other words, there was complete agreement between the perceptions of victims, perpetrators and the observer. Even the participants who did not remember elements of police treatment such as scolding, improper conduct and police listening during PCR, recalled the key terms of decisions.

In the 100 PCRs observed, there were several key terms that recurred in different cases. The first key term broadly sought commitment from the perpetrator to fulfill specific responsibilities. These included: providing income and housing support to their families (21 cases); making legal

documents such as marriage/ birth/ citizenship certificates (nine cases). In five cases, perpetrators explicitly promised to ‘change behaviour and mend [their] ways’. In eight cases perpetrators were prohibited from going into the residence of their wives and children as a measure to stop physical violence. In contrast to conditions imposed on perpetrators, victims had very few terms that they needed to adhere to. Such instances included two cases where police made the victims agree to talk to their husbands politely.

Other examples of key terms were: coming home after work as opposed to staying out late, drinking at home rather than at bars (three cases), stopping the use of personal mobile phones in order to ensure extra-marital affairs were terminated (five cases), child-visitation agreements (four cases), handing over business/ loans to spouse (two cases), allowing spouse to go abroad for work (two cases), not pressing charges for polygamy (three cases) and partitioning family property and transferring assts such as land and gold to spouse (four cases).

## ii) Favourability of outcome

Table 16 and 17 show the percentage of victims and perpetrators who found each major outcome favourable or unfavourable to them. Perpetrators (65.6%) found reconciliation more favourable than victims (57.1%): whereas, victims viewed separation (65.4%) as more favourable than perpetrators (18.5%). The majority of both victims and perpetrators (68%) who got *Tarikh* viewed it as favourable.

*Table 16 Victims’ perception of favourability of outcomes*

Type of Outcome	Favourable (%)	Unfavourable (%)
Reconciliation	57.1	42.9
Separation	65.4	34.6
Press charges for spousal violence	50.0	50.0
Return to sign attendance ( <i>Tarikh</i> )	68.0	32.0

Table 17 Perpetrators' perception of favourability of outcomes

Type of outcome	Favourable (%)	Unfavourable (%)
Reconciliation	65.6	34.4
Separation	18.5	81.5
Press charges for spousal violence	0.0	100.0
Return to sign attendance ( <i>Tarikh</i> )	68.0	32.0

### iii) Alternative outcomes

In instances when participants reported the outcome was undesirable to them, they proposed their preferred alternative outcomes and key terms. For example, three victims wanted the PCR to provide them with an understanding of the reasons for their husbands' behaviour. Three victims explained that they had only wanted the police to validate their experiences and 'tell [the perpetrator] what he did was wrong'. Five victims wanted police to take any type of action against the husband's girlfriend and five victims wanted the key terms of the agreement in to be expressed not just orally but in writing.

Perpetrators largely discussed outcomes within the ambit of reconciliation and separation. Therefore, they did not describe as much variety of alternative decisions as did victims. Amongst the few who gave examples, two perpetrators wanted the police to stop their wife from leaving Nepal; one perpetrator wanted permission to keep two wives in the same accommodation.

### iv) Fairness of outcome

More victims than perpetrators viewed the PCR outcomes as fair. Among the 82 victims interviewed, approximately 65% (N=54), felt the major outcomes reached were either okay or very fair: approximately one third felt it was unfair. On the other hand, among the 73 perpetrators interviewed about 52% (N=38) felt it was okay or very fair while half thought it was unfair.

The Spearman's bivariate correlations was used to examine the link between the participant's desire for an outcome and their assessment of its fairness. A strong correlation was found between

the participants' desired outcome and their perception of it being a fair outcome (for victims  $r_s = .76$   $p < 0.01$ ; for perpetrators  $r_s = .87$   $p < 0.01$ ). Exceptions to this relationship were found among eight victims and three perpetrators. These victims and perpetrators stated that even though the outcome was not what they wanted, it was 'okay'. To disaggregate, all eight victims viewed the outcome of reconciliation, that they did not desire, as being a compromise made in the best interest of their children. The three perpetrators felt that separation was their only choice in the given circumstance.

Furthermore, participants' reasons for viewing outcomes as fair or unfair were thematically analysed. The major theme that emerged is discussed below.

#### vi) Outcomes judged by third party locus

Participants judged the fairness of outcomes on the basis of how they speculated it would affect another party as opposed to themselves. Such parties included their children, broader society and police officers. For example, the outcome to reconcile was deemed fair because it was perceived as being consistent with the social norm that discourages the disintegration of a family unit:

We have to reconcile. It's not good in the eye of society for a family to be broken... She and I have spent so many years together. As we grow old... She will need a companion, I will need one too. Who will she find and who will I find? How will a separation be good for us? (Perpetrator #2)

Victims particularly labelled outcomes as unfair when they felt the police neglected a third-party interest such as their children's welfare:

I don't think it [outcome] was right. How will I pay for my daughter's education? I need to take her to the hospital. She is suffering from glandular tuberculosis. I have no money for her treatment. He wasn't persuaded to send us money for this. (Victim #80)

Participants also described outcomes as fair if they saw them as upholding respect for their family members and/or police officers:

I can't be stubborn in there [at the WCSC] and demand that only my wishes be taken into consideration. I must listen to them [police] too and they advised reconciliation as well, so it [outcome] was okay. (Victim #12)

Conversely, when participants felt policing intervention would negatively affect their social standing, they called the outcomes unfair. For example, perpetrators, who believed that their dispute was a private family affair saw the whole PCR process including its outcomes as ‘wrongful, unnecessary meddling’ that ‘makes it awkward and embarrassing to go back and face family and society again’.

### 6.2.8 Parties involved in decision-making

Table 18 shows my observations of who suggested the decisions at the end of the PCR. In almost half the 100 PCRs observed, the police suggest the outcomes unilaterally. Notably, I did not see any PCR in which the perpetrator suggested the decision alone or the victim and perpetrator exclusively suggested decisions.

*Table 18 Observer’s perception of who suggested decisions/outcomes*

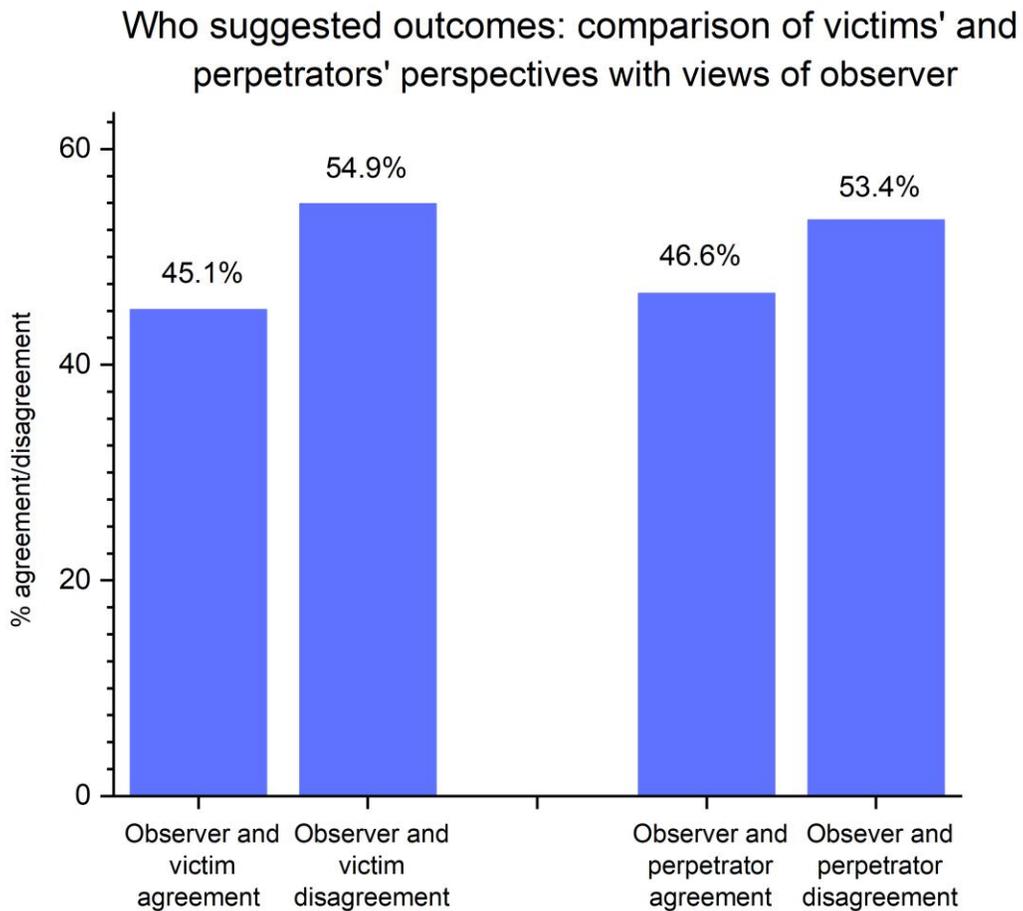
<b>Person/s suggesting decision</b>	<b>No. of cases in which each person/s suggested outcomes (%)</b>
Police only	46.0
Police and Victim	30.0
Police victim and perpetrator	9.0
Victim only	9.0
Police and perpetrator	6.0
Victim and perpetrator	0.0
Perpetrator only	0.0

*Table 19 Participants’ perception of who suggested decisions/outcomes*

<b>Person/s who suggested decisions</b>	<b>No. of victims’ reports (%)</b>	<b>No. of perpetrators’ reports (%)</b>
Police only	43.9	38.4
Victim only	18.3	19.2
Police and Victim	12.2	15.1
Police and perpetrator	12.2	11.0
Perpetrator only	3.7	8.2
Victim and perpetrator	1.2	0.0
Police victim and perpetrator	8.5	8.2

Table 19 shows views of the interviewed victims and perpetrators about who suggested decisions at the end of their PCRs. When the perceptions are compared, victims, perpetrators and observer agree that over one-third of decisions were suggested by the police alone. The three perceptions, however, differ in two areas. Firstly, while three victims and six perpetrators stated that perpetrators suggested decisions alone, I as the observer did not see any perpetrator doing this. Secondly, one victim perceived decisions being suggested by only her and her husband, whereas the perpetrators and I identified no decision being made by just the victim and perpetrator. Overall, as shown by Figure 6, my ratings of who suggested decisions after PCR differed similarly with the views of victims and perpetrators.

Figure 6



## 6.2.9 Police competence

Police competence was measured through how well participants felt that the police understood the underlying problems between the disputing couple.

*Table 20 Observer's perception of police competence*

<b>Extent to which police understood problems</b>	<b>No. of cases (%)</b>
Problem understood fully	20
Problems mostly understood	17
Problem only understood a little	53
Problem not understood at all	10

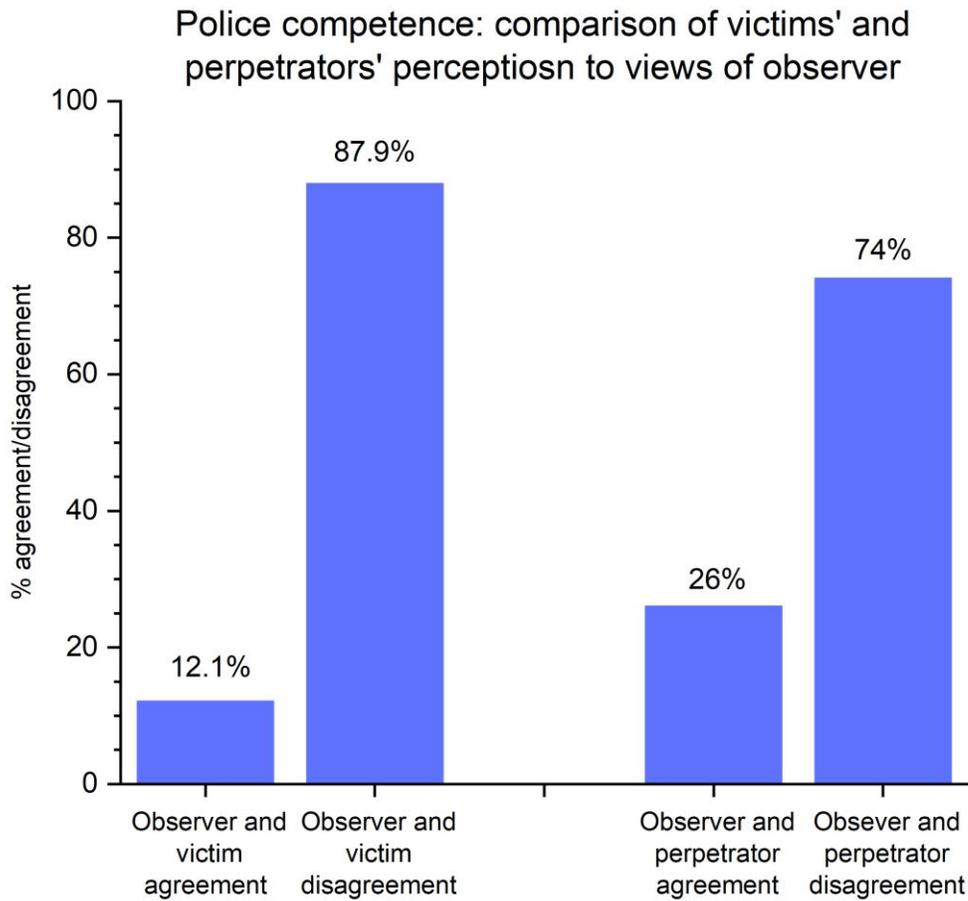
*Table 21 Participants' perception of police competence*

<b>Extent to which police understood problems</b>	<b>No. of victims' reports (%)</b>	<b>No. of perpetrators' reports (%)</b>
Problem understood fully	41.4	22.0
Problems mostly understood	30.5	26.2
Problem only understood a little	6.1	8.2
Problem not understood at all	18.3	39.7
I don't know	3.7	4.1

As shown by Table 20, as the observer I felt that in a majority of PCRs, the police only grasped a little bit of the problem between the couple (53%). Most of the 82 victims interviewed (71.9% N=59) and 48% perpetrators (N=35) out of the 73 interviewed felt the police understood their problems fully or mostly. In contrast over one third (39.7%) of perpetrators (N=29) and 18.3% victims (N=15) felt the police did not understand their underlying problems at all (Table 21).

Figure 7 shows a comparison between the views of the participants and observer. The cases in which three victims and three perpetrators stated that they did not know whether the police understood their problems was rated as disagreements between views of the observer and participants. My ratings of police competence largely differed with the views of the victims and perpetrators.

Figure 7



Following the analysis above of the PCR process in terms of victims' and perpetrators' perceptions of it and the comparison of views between victims, perpetrators and observer, the next part will discuss issues after PCR such as participant satisfaction, perpetrators' compliance, participants' relationship with family members and victims' re-reporting to violence to the police.

### 6.3 After PCR

#### 6.3.1 Satisfaction with PCR

Satisfaction levels have only been assessed using the perceptions of victims and perpetrators. The observer's perspective was deemed irrelevant here as I did not have enough understanding of the life circumstances of the participants to judge whether police intervention was helpful to them or

met their expectations. In the analysis below, unless specified, satisfaction refers to both police helpfulness and overall satisfaction with case handling.

As illustrated by Table 22, during the interview, 56.2% of victims (N=46) and 39.7% of perpetrators (N=29) stated that the police were at least a little helpful to them. In similarity to the participants' perceptions of helpfulness, 53.6% of victims (N=44) and 37% of perpetrators (N=27) felt that police's handling of their case either met or exceeded their expectations (Table 14). Notably, very few victims (N=8) and perpetrators (N=5) felt case handling exceeded expectations. This was a contrast to the 42.7% of victims (N=35) and 56.2% of perpetrators (N=41) who viewed case handling to be below their expectations.

*Table 22 Participants' perception of satisfaction with PCR*

<b>Satisfaction related variables</b>	<b>No. of victims' reports (%)</b>	<b>No. of perpetrators' reports (%)</b>
<b>Extent of police helpfulness</b>		
Unhelpful	43.9	54.8
A little helpful	12.1	8.2
Mostly helpful	22.0	16.4
Very helpful	22.0	15.1
I don't know	0.0	5.5
<b>Extent of overall satisfaction with case handling</b>		
Case handling below expectations	42.7	56.2
Case Handling met expectations	43.9	30.1
Case Handling exceeded expectations	9.8	6.8
I don't know	3.7	6.8

Descriptions of how participants felt once they left the WCSC after PCR provides insight into their sense of satisfaction with policing. It is discussed below.

#### i) Negative feelings after PCR

Most participants described their view of PCR through emotive words and phrases. About 40% of the 82 victims interviewed (N= 33) and half of 73 perpetrators interviewed (N=34) reported being 'unhappy' and 'upset' when they left the WCSC. Their dissatisfaction was grounded in their

anxieties about an uncertain future. Victims reported feelings of ‘fear’, ‘mistrust of their husbands’, ‘hopelessness’ and ‘looming stress’.

I didn’t like what had happened in there. I don’t trust my husband. I went looking for justice but got nothing. (Victim #30)

Similarly, perpetrators described ‘feeling trapped by [the spouse’s] demands, ‘mistrust of her [spouse’s] future behaviour’ and ‘confusion about why she [felt] so resentful’:

I was hurt and crying. I kept telling myself that things will be alright in five-to-six days. (Perpetrator #11)

Moreover, victims’ negative feelings were targeted at their husbands and their circumstances

Who else can I blame but him? He is never going to change, no matter what you do... this is just the way my life will always be... (Victim #61)

In contrast to victims, perpetrators blamed police behaviour during PCR in addition to their spouse’s behaviour and circumstances for their dissatisfaction with the process. For example, about one third of 43 dissatisfied perpetrators (N=12) reported feeling ‘humiliated’, ‘disrespected’ and ‘treated unjustly’ by police officers. Five perpetrators explained that injustice ensured as officers treated their case with bias, without considering the facts of what had happened:

As police officers they should have investigated what happened? Don’t just talk to my wife and I, ask people in the community out family members. With everyone’s account they will know what happened between us. The police should be separating what is right from what is wrong. But they had no interest to do that. They just blamed me, supported women, it is the women’s cell [WCSC] after all, they will support women...(Perpetrator #12)

## ii) Positive feelings after PCR

Approximately, 39% of victims (N=32) and 19% perpetrators (N= 14) stated they ‘felt okay’ or ‘good’ about the PCR. These participants described feeling ‘happy’, ‘relieved’ ‘hopeful’ and ‘unafraid to face their circumstances’:

I told the police everything. I feel safe now. I am no longer afraid. (Victim #15)

Before I came here, I had heard that the police only listen to women. Women come here crying and talk about their suffering and the police side with them fully. I

thought they would hit me and lock me up here. But she [officer] didn't do that. She listened to me. She let me tell my side of the story. She treated me with respect, respected my dignity. I'm happy with how they handled my case I came with different expectations. I hope they treat other people just as well too. (Perpetrator #71)

The views of satisfaction between the 57 interviewed pairs of victims and perpetrators (participants who were each other's spouses) were also examined. Only 18 out of the 57 pairs had similar assessments of police helpfulness. The Wilcoxon sign rank test was further used to test the similarities between the pairs' perception of police helpfulness. It confirmed that victims and perpetrators pairs do not agree in their perceptions of police helpfulness ( $z = -2.07$   $p < 0.05$ ).

Similarly, only 24 out of 57 victim and perpetrator pairs agreed in their views about whether police case handling met their expectations. The Wilcoxon sign rank test also showed that victims and perpetrator pairs do not agree in their perceptions of police case handling ( $z = -2.02$   $p < 0.05$ ).

### **6.3.2 Relationship between views of PCRs and a variety of sequelae**

The chapter, so far, has described how victims and perpetrators experienced the PCR process. The similarities and differences between perceptions of the victims, perpetrators and my views as the observer have been highlighted. The remaining sections will now turn to detail the relationships between the participants' perceptions of the PCR process and their links to their sequelae namely: satisfaction with the process, compliance by perpetrators with terms of decisions made and subsequent spousal violence reported by victims and perpetrators.

#### **i) Perceptions of PCR process and satisfaction**

At the onset of this discussion it must be noted that there was no pattern in terms of individual officers consistently behaving well or improperly. Officers' behaviour changed according to each case. There was also no pattern in participants being satisfied or dissatisfied when a particular officer handled their case.

Figure 8 shows how victims' perceptions of factors in the PCR process such as the chance to tell their stories, police listening to them and third parties and the police paying attention to them, correlates to their views on satisfaction. Figure 9 captures the same relationships as does Figure 8

but for perpetrators. For both victims and perpetrators, the chance to tell their stories was positively correlated with their satisfaction with police response (for victims:  $r_s = .38$   $p < 0.01$ ,  $r_s = .35$   $p < 0.01$ ; for perpetrators:  $r_s = .47$   $p < 0.01$ ,  $r_s = .48$   $p < 0.01$ ). Police listening (for victims:  $r_s = .43$   $p < 0.01$ ,  $r_s = .57$   $p < 0.01$ ; for perpetrators:  $r_s = .42$   $p < 0.01$ ,  $r_s = .51$   $p < 0.01$ ) and paying attention (for victims:  $r_s = .23$   $p < 0.05$ ,  $r_s = .30$   $p < 0.01$ ; for perpetrators:  $r_s = .31$   $p < 0.01$ ,  $r_s = .33$   $p < 0.01$ ) to them was also important for satisfaction. However, whether or not police listened to their spouses (for victims:  $r_s = .06$   $p > 0.05$ ,  $r_s = .21$   $p > 0.05$ ; for perpetrators:  $r_s = .15$   $p > 0.05$ ,  $r_s = .07$   $p > 0.05$ ) or third parties (for victims:  $r_s = .20$   $p > 0.05$ ,  $r_s = .14$   $p > 0.05$ ; for perpetrators:  $r_s = -.03$   $p > 0.05$ ,  $r_s = -.13$   $p > 0.05$ ) did not affect participants' levels of satisfaction.

Figure 8 Bivariate correlations: relationship between victims telling story, police listening and attentiveness with victim satisfaction

		Police helpfulness	Satisfaction with case handling
1	Victim telling her story	.38**	.35**
2	Victim listened to	.43**	.57**
3	Police listened to victim's spouse	.06	.21
4	Police listened to third parties	.20	.14
5	Attention paid to victim	.23*	.30**

\*\* . Correlation is significant at the 0.01 level (2-tailed).

\* . Correlation is significant at the 0.05 level (2-tailed).

Figure 9 Bivariate correlations: relationship between perpetrators telling story, police listening and attentiveness with perpetrator satisfaction

		Police helpfulness	Satisfaction with case handling
1	Perpetrator telling story	.47**	.48**
2	Perpetrator listened to	.42**	.51**
3	Police listened to perpetrator's spouse	.15	.07
4	Police listened to third parties	-.03	-.13
5	Attention paid to perpetrator	.31**	.33**

\*\* . Correlation is significant at the 0.01 level (2-tailed).

\* . Correlation is significant at the 0.05 level (2-tailed).

Figure 10 shows how victims' perceptions of scolding, politeness and improper conduct by police correlates with their views on satisfaction. Figure 11 captures the same relationships as Figure 10, but for perpetrators.

For both victims and perpetrators, views of themselves being scolded during PCR was correlated with decreased satisfaction with overall case handling (for victims:  $r_s = -.30$   $p < 0.01$ ; for perpetrators:  $r_s = -.31$   $p < 0.05$ ). However, being scolded did not affect perceptions of police helpfulness (for victims:  $r_s = -.20$   $p > 0.05$ ; for perpetrators:  $r_s = -.22$   $p > 0.05$ ). Seeing others like their spouse scolded (for victims:  $r_s = .09$   $p > 0.05$ ,  $r_s = .23$   $p > 0.05$ ; for perpetrators:  $r_s = .05$   $p > 0.05$ ,  $r_s = .12$   $p > 0.05$ ) or third-parties scolded during PCR (for victims:  $r_s = -.02$   $p > 0.05$ ,  $r_s = .05$   $p > 0.05$ ; for perpetrators:  $r_s = -.17$   $p > 0.05$ ,  $r_s = -.17$   $p > 0.05$ ) did not affect their levels of satisfaction. Surprisingly, perceptions of use of improper conduct by police was not important for satisfaction amongst victims ( $r_s = -.10$   $p > 0.05$ ;  $r_s = -.19$   $p > 0.05$ ). Yet police politeness was correlated with higher levels of satisfaction for both victims and perpetrators (for victims:  $r_s = .34$   $p < 0.01$ ,  $r_s = .28$   $p < 0.05$ ; for perpetrators:  $r_s = .42$   $p < 0.01$ ,  $r_s = .41$   $p < 0.01$ ). In fact, the relationship between police politeness and satisfaction was slightly stronger for perpetrators than for victims.

Figure 10 Bivariate correlations: relationship between police scolding, politeness, improper conduct and victim satisfaction

		Police helpfulness	Satisfaction with case handling
1	Victim scolded	-.20	-.30**
2	Victim's spouse scolded	.09	.23
3	Third party scolded	-.02	.05
4	Police polite to victim	-.34**	.28*
5	Improper conduct by police	-.10	-.19

\*\* . Correlation is significant at the 0.01 level (2-tailed).

\* . Correlation is significant at the 0.05 level (2-tailed).

Figure 11 Bivariate correlations: relationship between police scolding, politeness and perpetrator satisfaction

		Police helpfulness	Satisfaction with case handling
1	Perpetrator scolded	-.22	-.31*
2	Perpetrators' spouse scolded	.05	.12
3	Third-party scolded	-.17	-.17
4	Police polite to perpetrator	.42**	.41**

\*\* . Correlation is significant at the 0.01 level (2-tailed).

\* . Correlation is significant at the 0.05 level (2-tailed).

Figure 12 shows how victims' perceptions of police using force and imprisonment correlates with their views on satisfaction. Figure 13 captures the same relationships as Figure 12 but for perpetrators. For both victims and perpetrators police using force (for victims:  $r_s = -.03$   $p > 0.05$ ,  $r_s = .11$   $p > 0.05$ ; for perpetrators:  $r_s = -.11$   $p > 0.05$ ,  $r_s = -.12$   $p > 0.05$ ) and imprisoning perpetrators (for victims:  $r_s = .09$   $p > 0.05$ ,  $r_s = -.06$   $p > 0.05$ ; for perpetrators:  $r_s = -.01$   $p > 0.05$ ,  $r_s = -.01$   $p > 0.05$ ) was mostly correlated negatively with satisfaction. However, these associations were not statistically significant.

Figure 12 Bivariate correlations: relationship between police use of force, imprisonment and victim satisfaction

		Police helpfulness	Satisfaction with case handling
1	Police hit victim	-.03	.11
2	Police hit perpetrator	-.09	-.04
3	Police locked-up perpetrator	.09	-.06

\*\* . Correlation is significant at the 0.01 level (2-tailed).

\* . Correlation is significant at the 0.05 level (2-tailed).

Figure 13 Bivariate correlations: relationship between police use of force, imprisonment and perpetrator satisfaction

		Police helpfulness	Satisfaction with case handling
1	Police hit perpetrator	-.11	-.12
3	Perpetrator locked up	-.01	-.01

\*\* . Correlation is significant at the 0.01 level (2-tailed).

\* . Correlation is significant at the 0.05 level (2-tailed).

Figure 14 shows the relationship between the victims' perceptions of police understanding of the problems the couple had (police competence) with their views on satisfaction. Figure 15 captures the same relationships as Figure 14, but for perpetrators. For both victims and perpetrators, the ability of the police to demonstrate an understanding of the case positively correlated with satisfaction. Comparatively, this relationship was stronger for perpetrators than victims (for victims:  $r_s = .51$   $p < 0.01$ ,  $r_s = .39$   $p < 0.01$ ; for perpetrators:  $r_s = .65$   $p < 0.01$ ,  $r_s = .50$   $p < 0.01$ ).

Figure 14 Bivariate correlations: relationship between police competence and victim satisfaction

		Police Helpfulness	Satisfaction with case handling
<b>1</b>	Police understood problems	.51**	.39**

\*\* . Correlation is significant at the 0.01 level (2-tailed).

\* . Correlation is significant at the 0.05 level (2-tailed).

Figure 15 Bivariate correlations: relationship between police competence and perpetrator satisfaction

		Police helpfulness	Satisfaction with case handling
<b>1</b>	Police understood problems	.65**	.50**

\*\* . Correlation is significant at the 0.01 level (2-tailed).

\* . Correlation is significant at the 0.05 level (2-tailed).

Figure 16 shows how victims' perceptions of outcome favourability and fairness of outcome correlate with their views on satisfaction. Figure 17 captures the same relationships as Figure 16 but for perpetrators. For both victims and perpetrators, attaining their desired outcome was linked to greater satisfaction (for victims:  $r_s = .61$   $p < 0.01$ ,  $r_s = .58$   $p < 0.01$ ; for perpetrators:  $r_s = .50$   $p < 0.01$ ,  $r_s = .23$   $p > 0.05$ ). Unsurprisingly, for victims and perpetrators, having an outcome that was perceived to be fair was also positively correlated with satisfaction (for victims:  $r_s = .48$   $p < 0.01$ ,  $r_s = .46$   $p < 0.01$ ; for perpetrators:  $r_s = .56$   $p < 0.01$ ,  $r_s = .37$   $p < 0.01$ ). However, there was a small difference between victims and perpetrators in the strength of the relationship between outcome and satisfaction: for victims the desirability of outcome had stronger correlations with satisfaction, whereas for perpetrators, the perceptions of fairness, as opposed to the desirability of outcome, had a stronger relationship with satisfaction.

Figure 16 Bivariate correlations: relationship between outcome and victim satisfaction

		Police helpfulness	Satisfaction with case handling
1	Outcome desired	.61**	.58**
2	Outcome fair	.48**	.46**

\*\* . Correlation is significant at the 0.01 level (2-tailed).

\* . Correlation is significant at the 0.05 level (2-tailed).

Figure 17 Bivariate correlations: relationship between outcome and perpetrator satisfaction

		Police helpfulness	Satisfaction with case handling
1	Outcome desired	.50**	.23
2	Outcome fair	.56**	.37**

\*\* . Correlation is significant at the 0.01 level (2-tailed).

\* . Correlation is significant at the 0.05 level (2-tailed).

Figure 18 and Figure 19 shows how victims' and perpetrators' perceptions of who decided the outcome correlated to satisfaction. Victims' satisfaction was higher when they were involved in decision-making; either by themselves ( $r_s = .23$   $p < 0.05$ ;  $r_s = .12$   $p > 0.05$ ) or collectively with the police and perpetrator ( $r_s = .33$   $p < 0.01$ ;  $r_s = .37$   $p < 0.01$ ).

Figure 18 Bivariate correlations: relationship between victims' perspective of who decided outcome and their satisfaction

		Police helpfulness	Satisfaction with case handling
1	Decision suggested by police only	-.35**	-.18
2	Decision suggested by victim only	.23*	.12
3	Decision suggested by perpetrator only	-.09	-.10
4	Decision suggested by police and victim	.11	.09
5	Decision suggested by police and perpetrator	-.04	-.18
6	Decision suggested by victim and perpetrator	-.11	-.12
7	Decision suggested by police victim and perpetrator	.33**	.37**

\*\* . Correlation is significant at the 0.01 level (2-tailed).

\* . Correlation is significant at the 0.05 level (2-tailed).

Surprisingly, perpetrators' satisfaction decreased when they were personally involved in decision making, particularly when they made the decision alone ( $r_s = -.09$   $p > 0.05$ ;  $r_s = -.06$   $p = > 0.05$ ). When outcomes were unilaterally decided by the police, they correlated with decreased perception of police helpfulness for victims ( $r_s = -.35$   $p < 0.01$ ) and perpetrators ( $r_s = -.06$   $p = > 0.05$ ). However, the relationship between police-imposed decisions and victims' and perpetrators' overall satisfaction with case handling was not statistically significant (for victims:  $r_s = -.18$   $p > 0.05$ ; for perpetrators:  $r_s = -.06$   $p > 0.05$ ).

Figure 19 Bivariate correlations: relationship between perpetrators' perspective of who decided outcome and their satisfaction

		Police Helpfulness	Satisfaction with case handling
1	Decision suggested by police only	-.06	-.06
2	Decision suggested by victim only	-.16	.02
3	Decision suggested by perpetrator only	-.09	-.06
4	Decision suggested by police and victim	-.03	-.10
5	Decision suggested by police and perpetrator	.18	0.00
7	Decision suggested by police victim and perpetrator	-.26*	.28*

\*\* Correlation is significant at the 0.01 level (2-tailed).

\* Correlation is significant at the 0.05 level (2-tailed).

## ii) Perceptions of PCR process and perpetrator's compliance with decisions

Victims' accounts during interviews were used to examine whether perpetrators complied with the major outcomes and key terms agreed during PCR. As explained in chapter 4, victims in this study were interviewed twice. The first in-depth interview, conducted as soon as practicable after PCR, was conducted to primarily explore victims' experiences of police PCR. The second follow-up interview was conducted between 30-32 days after PCR to see whether PCRs had any influence on subsequent compliance by perpetrators. Out of 82 victims initially interviewed, follow-up interviews were conducted with 77 victims.

During the follow-up interviews, about 48.5 % victims (N=37) reported that perpetrators had fully complied with the terms of the outcome. This meant that there was complete cessation of violence; perpetrators provided the agreed financial support, they adhered to the terms of child visitation and they had gone back to do attendance at the WCSC. Notably, 14 out of the 37 victims reported that,

after PCR, they had decided to live in a separate accommodation from their husband. These victims had not reached an agreement to separate during PCR. Post-PCR separation, therefore, was a decision they made outside the WCSC. Cessation of violence in their cases appeared to be facilitated by this separation.

Approximately 26% of victims (N=20), during the follow-up interviews, reported there was partial compliance with the terms of the decisions reached at PCR. There was no pattern in what terms were complied with and which terms were violated. Victims reported psychological violence, breakdown of verbal communication in the family and lack of financial support:

He hasn't been in contact with me since he left for Bhutan. I feel like he is back in Kathmandu but not coming home again. He has blocked me on Viber [*social media*] too. He gave us some money before he left but there are so many bills to pay. He is probably seeing some woman again and will not come home. (Victim #28)

The remaining 26% of victims (N=20), during the follow-up interview, explained that the perpetrators had not complied with any of the terms of PCR. For example, physical violence and economic violence continued. Despite signing an agreement to reconcile at the WCSC, the perpetrators had left home. Nobody had gone back to do attendance and various legal documents like marriage registration certificates were not provided by the perpetrators.

Figure 20 shows correlations between perpetrator's perceptions of the PCR process and their subsequent compliance with decisions, as reported by victims. Although positively correlated, there is no statistically significant relationship between compliance and the perpetrator telling their story to the police ( $r_s = .04$   $p > 0.05$ .); police listening to perpetrators ( $r_s = .05$   $p > 0.05$ ); attention paid to perpetrators ( $r_s = .09$   $p > 0.05$ ); police politeness ( $r_s = .08$   $p > 0.05$ ); perpetrators' perceptions that the police understood the problems between the couple ( $r_s = .15$   $p > 0.05$ ) and the perpetrator suggesting the PCR decisions ( $r_s = .07$   $p > 0.05$ ). Furthermore, the direction of bivariate correlation, although not statistically significant, suggest that compliance decreased if the police scolded the perpetrators ( $r_s = -.11$   $p > 0.05$ ); police hit the perpetrators ( $r_s = -.18$   $p > 0.05$ ); or locked them up ( $r_s = -.10$   $p > 0.05$ ).

Figure 20 Bivariate correlations: relationship between perceptions of PCR process and perpetrators' compliance

Victim's report – perpetrators' compliance with PCR decisions		
1	Perpetrator told his story	.04
2	Police listened to perpetrator	.05
3	Attention paid to perpetrator	.09
4	Police polite to perpetrator	.08
5	Police understood problems between the couple	.15
6	Perpetrator suggested PCR decision	.07
7	Perpetrator scolded	-.11
8	Perpetrator hit	-.18
9	Perpetrator locked-up	-.10

\*\* . Correlation is significant at the 0.01 level (2-tailed).

\* . Correlation is significant at the 0.05 level (2-tailed).

Figure 21 shows the relationship between perpetrators' perceptions of PCR outcomes and their satisfaction with the police process with their subsequent compliance with PCR decisions as reported by victims. Although positively correlated, there is no statistically significant relationship between compliance and the perpetrators' views of outcomes being desirable ( $r_s = .12$   $p > 0.05$ ); outcomes being fair ( $r_s = .10$   $p > 0.05$ ); and perpetrators' satisfaction with police case handling ( $r_s = .14$   $p > 0.05$ ). In fact, there was no correlation between perpetrators' perception of police helpfulness and their compliance with PCR decisions ( $r_s = .00$   $p = > 0.05$ ).

Figure 21 Bivariate correlations: relationship between perceptions of PCR outcomes and perpetrators' compliance

		Victims' report – perpetrators' compliance with PCR decisions
1	Outcome desirable	.12
2	Outcome fair	.10
3	Police helpfulness	.00
4	Satisfaction with case handling	.14

\*\* . Correlation is significant at the 0.01 level (2-tailed).

\* . Correlation is significant at the 0.05 level (2-tailed).

### iii) Spousal violence after PCR

#### Police data

At the onset, this research was designed to gather data about subsequent violence from three sources: victims' and perpetrators' self-reports and police data of reoffending. A small detour into the realm of police data keeping practices will illustrate why police data were deemed unreliable and therefore was not used in this study.

The WCSC Kalimati, was responsible for collating monthly police data sent from other 17 WCSCs in the Kathmandu Metropolitan area and consequently sending the report to the Women and children Directorate (WCSD) at the police headquarters. A police officer of non-commissioned officer (NCO) rank (see Appendix 4 for police ranks) was in-charge of maintaining this database. The database included records of the demographic characteristics of the victims and perpetrators including details of what happened in each case. The written complaint submitted to the WCSC, in order to initiate PCRs, contained some of this required information like: age of victims and perpetrators, their caste (that could be deduced from their last names), addresses and the brief history of spousal violence. The data-keeping officer used these complaint letters to extract such information. However, the database also required other details like the victims' and perpetrators' religion, profession, education and reason for violence. The officer generally guessed this information and entered it. An example of my conversation with the officer illustrates this:

*[The database requires details like education and occupation of victims and perpetrators, how do you find this out?] I ask the victims and perpetrators this. You know when they are here for PCR. [but sometimes you are not in the office. Many times the PCRs are taking place in the next room] I have been at this job for over*

10 years now. I can just tell by looking at people, their level of education, occupation, most people are Hindu. [*and how do you know the reasons for violence?*] This is usually written in the complaint letter. We don't explain the reasons here, we use simple categories like if its violence between a husband and wife, the reason is usually entered as feud at home, then there are cases of extra marital affairs, these are the most reported reasons for violence. (Officer #10)

Moreover, the police database was not designed to capture information on reoffending and therefore had no columns under which to record it. Officers also found it unnecessary to record any updates on returning cases (see chapter 5). This lax attitude towards data-keeping was explained by the fact that police records were never used in daily policing. Unlike in western police forces where data is used to inform strategies and indicate the effectiveness of police forces (Sherman, 2013; Loveday, 2000; Reiner, 1992), the Nepal Police had little use for police records. This was explained by a senior officer at the WCSD:

[*How do you use the monthly data that is sent to you from the WCSC?*] We don't really use it. It's a record and when people like you who are doing research ask for it, we have at hand to provide. (Officer #30)

#### iv) Reports of subsequent violence by victims and perpetrators

Reports of spousal violence after PCR was disaggregated from overall compliance and the finding are discussed below. Data about subsequent violence was gathered through victims' and perpetrators' self-reports of violence. Table 16 shows the length of time after PCR in which the 73 perpetrators and 82 victims were interviewed. In examining the relationship between the perpetrators' perceptions of process, satisfaction and subsequent violence only reports from the perpetrators interviewed (N=28) one week after PCR were considered. This was for two reasons. Firstly, the reports of subsequent violence were an indicator of whether PCR made violence better, worse or did not change it. In light of this purpose, the 31 interviews conducted on the same day as PCR had to be discounted as these perpetrators gave interviews before they had had a chance to interact with the victims outside the WCSC and they therefore could not comment on subsequent violence. Secondly, the first week period after PCR was deemed too short a time to assess whether

PCR had in fact led to any changes in levels of violence. Therefore, information from these 14 interviews were not considered.<sup>63</sup>

Victims were interviewed twice. While the first interview with each victim [N=82] was conducted over different times in a period of three weeks, the second interview was conducted with all victims who could be contacted [N=77] within 30-32 days of their PCR. A period of one month was seen as a timeframe in which victims would have reasonably settled into routine life. Reports of violence within this time would thus allow for an understanding of whether the changes in violence after PCR could sustain over a longer time period. Moreover, it was also found that, during the second interview, victims recalled the incidents of violence they reported during their first interview. This meant that the second interview captured all reports of subsequent violence suffered by the victims. Therefore, data from this second interview were used in assessing the relationship between perceptions of procedure, satisfaction and subsequent violence.

Table 23 Length of time after PCR at which perpetrators and victims were interviewed

Time after PCR (days)	Victims Interviewed	Perpetrators Interviewed (N)
0	18	31
1-6	10	14
7-14	32	18
15-21	15	5
22-30	7	3
30-40	0	2
<b>Second interview with victims</b>		
30-32	77	

Table 23 shows the comparison of spousal violence reported by victims before and after PCR. Victims found it difficult to quantify violence and described frequencies as ‘all the time’, ‘daily’, ‘a few time’, ‘many times’ and ‘not much.’ Prodding further showed that these quantifications could be rhetorical and unrepresentative of the frequency of violence:

[*How often has he hit you?*] Don’t even ask about hitting, it’s all the time there is no count of how many times he hits me [*so he is hitting you every day?*]. Yes, it’s every so often... I’m at my parents’ house. I came after he beat me last week [three

<sup>63</sup> No perpetrator interviewed within one week of PCR reported any violence.

weeks after PCR] and haven't gone back. I haven't seen him since then. [Victim #60]

Owing to the unreliable nature of frequencies reported they were not considered in the analysis.

Reports from the second interview show a general decrease across all forms of spousal violence after PCRs. The greatest decrease was seen in reports of physical violence which was 10 times lower after PCR. Psychological violence and sexual violence decreased three times while economic violence decreased about two times (Table 24).

*Table 24 Subsequent violence after PCR reported by victims*

Type of Violence	No. of victims interviewed who reported violence before PCR	No. of victims interviewed who reported violence after PCR
Physical violence	60	6
Psychological violence	82	23
Sexual Violence	11	3
Economic violence	30	18

In contrast to victims, only four perpetrators of the 28 interviewed reported spousal violence after PCR. Among these four perpetrators, one admitted to perpetrating physical violence against his wife. The corresponding victim could not be interviewed. One perpetrator said both he and his wife had inflicted psychological violence on each other and the corresponding victim agreed with this claim. The two other perpetrators claimed their wives had abused them psychologically by fighting with them and insulting them. One corresponding victim agreed that there had been psychological violence by both parties. Another victim not only denied inflicting psychological violence on the perpetrator but instead reported that he had physically assaulted her.

v) Relationship between perception of process and subsequent violence

The correlation matrix (Figure 22) illustrates the relationship between perpetrators' perception of the PCR process and subsequent violence inflicted on victims. There were no statistically significant relationships between subsequent violence reported by victims and the perpetrators' chance to tell their story (physical violence:  $r_s = .01$   $p > 0.05$ ; psychological violence:  $r_s = -.06$   $p > 0.05$ ; sexual violence:  $r_s = -.08$   $p > 0.05$ ; economic violence:  $r_s = -.01$   $p > 0.05$ ); police listening to them (physical violence:  $r_s = -.06$   $p > 0.05$ ; psychological violence:  $r_s = -.10$   $p > 0.05$ ; sexual

violence:  $r_s = -.09$   $p > 0.05$ ; economic violence:  $r_s = .05$   $p > 0.05$ ); paying attention to them (physical violence:  $r_s = -.12$   $p > 0.05$ ; psychological violence:  $r_s = -.02$   $p > 0.05$ ; sexual violence:  $r_s = -.17$   $p > 0.05$ ; economic violence:  $r_s = -.03$   $p > 0.05$ ); perpetrators' perception of the police's grasping the problems between the couple (physical violence:  $r_s = -.19$   $p > 0.05$ ; psychological violence:  $r_s = -.15$   $p > 0.05$ ; sexual violence:  $r_s = -.06$   $p > 0.05$ ; economic violence:  $r_s = .05$   $p > 0.05$ ) and police politeness (physical violence:  $r_s = -.24$   $p > 0.05$ ; psychological violence:  $r_s = -.01$   $p > 0.05$ ; sexual violence:  $r_s = .10$   $p > 0.05$ ; economic violence:  $r_s = .07$   $p > 0.05$ ).

Figure 22 Bivariate correlations: relationship between perception of PCR process and subsequent violence

		Victim's report of physical violence	Victim's report of psychological violence	Victim's report of sexual violence	Victim's report of economic violence
1	Perpetrator telling story	.01	-.06	-.08	-.01
2	Police listened to perpetrator	-.06	-.10	-.09	.05
3	Attention paid to perpetrator	-.12	-.02	-.17	-.03
4	Police understood problems between the couple	-.19	-.15	-.06	.05
5	Police politeness	-.24	-.01	.10	.07

The correlation matrix (Figure 23) shows the relationship between subsequent violence reported by victims and perpetrators' experience of police scolding (physical violence:  $r_s = .27$   $p > 0.05$ ; psychological violence:  $r_s = -.12$   $p > 0.05$ ; sexual violence:  $r_s = -.21$   $p > 0.05$ ; economic violence:  $r_s = -.17$   $p > 0.05$ ), physical force used against them (physical violence:  $r_s = .36$   $p > 0.05$ ; psychological violence:  $r_s = .19$   $p > 0.05$ ; sexual violence:  $r_s = -.10$   $p > 0.05$ ; economic violence:  $r_s = -.12$   $p > 0.05$ ) and their imprisonment (physical violence:  $r_s = .10$   $p > 0.05$ ; psychological violence:  $r_s = .03$   $p > 0.05$ ; sexual violence:  $r_s = -.07$   $p > 0.05$ ; economic violence:  $r_s = .27$   $p > 0.05$ ). None of these factors had statistically significant associations with subsequent violence.

Figure 23 Bivariate correlations: relationship between scolding, use of force, imprisonment, decision-making and subsequent violence

		Victim's report of physical violence	Victim's report of psychological violence	Victim's report of sexual violence	Victim's report of economic violence
1	Perpetrator scolded	.27	-.12	-.21	-.17
2	Perpetrator hit	.36	.19	-.10	-.12
3	Perpetrator imprisoned	.10	.03	-.07	.27
4	Perpetrator suggested PCR decision	.00	.00	-.21	.03

\*\* . Correlation is significant at the 0.01 level (2-tailed).

\* . Correlation is significant at the 0.05 level (2-tailed).

Figure 24 shows the association between outcome, satisfaction and subsequent violence. There was no statistically significant relationship between subsequent violence reported by the victims and the perpetrators' perceptions of desirability of outcome (physical violence:  $r_s = .04$   $p > 0.05$ ; psychological violence:  $r_s = .05$   $p > 0.05$ ; sexual violence:  $r_s = .03$   $p > 0.05$ ; economic violence:  $r_s = .01$   $p > 0.05$ ); fairness of outcomes (physical violence:  $r_s = .01$   $p > 0.05$ ; psychological violence:  $r_s = .06$   $p > 0.05$ ; sexual violence:  $r_s = -.04$   $p > 0.05$ ; economic violence:  $r_s = .09$   $p > 0.05$ ) and their satisfaction with the PCR in terms of police helpfulness (physical violence:  $r_s = .02$   $p > 0.05$ ; psychological violence:  $r_s = .05$   $p > 0.05$ ; sexual violence:  $r_s = .01$   $p > 0.05$ ; economic violence:  $r_s = .10$   $p > 0.05$ ) and overall satisfaction with case handling (physical violence:  $r_s = -.09$   $p > 0.05$ ; psychological violence:  $r_s = -.09$   $p > 0.05$ ; sexual violence:  $r_s = .03$   $p > 0.05$ ; economic violence:  $r_s = .06$   $p > 0.05$ ).

Figure 24 Bivariate correlations: relationship between perception of PCR outcome, satisfaction and subsequent violence

		Victims' report of physical violence	Victims' report of psychological violence	Victims' report of sexual violence	Victims' report of economic violence
1	Outcome desirable	.04	.05	.03	.01
2	Outcome fair	.01	.06	-.04	.09
3	Police helpfulness	.02	.05	.01	.10
4	Satisfaction with case handling	-.09	-.09	.03	.06

\*\* . Correlation is significant at the 0.01 level (2-tailed).

\* . Correlation is significant at the 0.05 level (2-tailed).

### **6.3.3 Family dynamics after PCR**

In order to assess whether participating in PCR affected relationships with family members, participants were asked how family members behaved with them after the PCR. Only reports from 54 victims and 28 perpetrators who were interviewed at least one week after PCR were analysed.

The majority (70%) of victims (N=38) and 57% perpetrators (N=16) reported that their relationships with members of the household remained the same as it was before PCR. A larger number of perpetrators (N=5) in comparison to victims (N=3) reported that relationships had improved. More victims (N=7) than perpetrators (N=3) reported that they faced difficulties in relationships within the household: the former with their in-laws and the latter with their children.

Other victims (N=6) and perpetrators (N=4) stated that they had had no contact with members of their household. Interview reports showed that victims' families did not come into contact with participants after PCR. For example, about 93 % of the 28 perpetrators interviewed (N=26) and 87% of the 54 victims interviewed (N=47) stated that the perpetrators had no contact with the victim's family.

### **6.3.4 Re-reporting violence to WCSC**

A total of 65% victims (N=50) reported repeated spousal violence during the second interviews (Table 15). However only eight victims reported this subsequent violence to the police. Among these eight victims, only four went back to the Kalimati WCSC: the rest went to a different police station. The victims who went back to the WCSC had all suffered repeated physical violence, whereas only one out of the four victims who went to the other police stations had suffered physical violence. The three other victims had suffered psychological and economic violence.

## **6.4 Conclusion**

This chapter started by discussing the background of victims and perpetrators who arrived at the WCSC. The victims in this research tended to be adults (as opposed to adolescents) when they got married and had at least secondary or higher levels of education when they came to the WCSC. Couples were generally from low income households where perpetrators were twice as likely to be employed as their wives. Perpetrators also earned more than victims. Most of the violence reported occurred in same-caste autonomous marriages and nuclear families. It is necessary to be

cautious about these findings because few data about the socio-demographic characteristics of the general population were available. It is therefore, difficult to determine the extent to which the sample was representative of the general population of Kathmandu.

When victims reported violence to the WCSC, they had varied expectations from the police. Their expectations emphasized concrete PCR outcomes as opposed to procedural elements of treatment. Some of victims' expectations were outcomes beyond the authority of what the WCSC police were allowed to deliver such as: divorce or arranging for the perpetrator to provide financial support to his family.

During PCRs, in my assessment as the observer, victims as opposed to perpetrators received better police treatment. They had a greater chance to tell their story. They were listened to more and officers were politer to them. Higher numbers of perpetrators, in comparison, were scolded, physically assaulted and imprisoned by police. Victims and perpetrators had mixed feelings about the fairness of use of police coercion like scolding, physical violence and imprisonment.

The PCRs resulted in five major outcomes amongst which almost equal number of cases ended in reconciliation and separation. While victims more often tended to view decisions to separate as favourable, perpetrators more often felt reconciliations were desirable. Overall, about half the victims and perpetrators were not satisfied with police treatment of their cases.

There were several similarities and differences between the perspectives of the victims, perpetrator and the observer of the PCR process. The greatest concurrence of views between the three perspectives were found when police used force against the participants in the form of violence and imprisonment. These three parties also agreed on the type of outcome/decision reached at the end of PCR and its key terms. In fact, participants remembered outcomes and its terms with more clarity than other aspects of police treatment.

My perceptions differed with participants in terms of most procedural elements of PCR including whether participants had a chance to tell their story, police listening, police attentiveness and police competence. There were further disagreements between the observer and the participants in identifying disrespectful behaviour by the police such as scolding and improper conduct. I as the observer noted more use of scolding and improper conduct compared to participants. There were also instances where participants reported scolding and improper conducted that were not

observed. Moreover, what constituted improper conducted involved subjective assessments by the victim and observer.

Bivariate correlations were used to examine the relationship between perceptions of PCR process and satisfaction for participants. For both victims and perpetrators some procedural aspects of police treatment such as a chance to tell their story, police listening, police attentiveness, lack of scolding, police politeness were associated with satisfaction. Perceptions of police competence was also associated with satisfaction. Police use of force and imprisonment and their engagement in improper conduct was not associated with satisfaction. Outcomes, on the other hand, were more strongly correlated with participant satisfaction than procedural elements of police treatment.

Bivariate correlations were also used to assess the relationship between perpetrators' experience of PCR process and their subsequent compliance with its outcomes. Perpetrators' perceptions of police treatment during PCR, the outcomes reached during it and their satisfaction with their case handling were not positively associated with their compliance with decisions reached during PCR.

Finally, interview reports from participants showed that victims were unlikely to report repeat violence to the WCSC. Moreover, the family relationships of victims and perpetrators with their children, members of their households, parents or in-laws remained largely unchanged after PCR.

## Chapter 7

### Participant Satisfaction: The Procedural Justice Lens

#### Introduction

The next three chapters (7, 8 and 9) will use the lens of procedural justice theory to discuss the findings described in Chapter 6. This chapter will discuss the relationship between procedural justice and victims' and perpetrators' satisfaction with policing in Kathmandu. Chapter 8 will discuss the links between perpetrators' experience of PCR and their compliance with the outcomes of their PCR. Chapter 9 will discuss the similarities and differences between perceptions of PCR as reported by the victims, perpetrators and observer through the procedural justice lens.

This chapter will use the framework of Tyler's procedural justice model to discuss victims' and perpetrators' satisfaction with police conflict resolution (PCR) at the Women and Children Service Centre (WCSC). Satisfaction was assessed through three separate measures: 1) perception of police helpfulness, 2) the extent to which overall case handling met participants' expectations, and 3) the emotions participants felt when they left the WCSC after PCR.

The discussion in this chapter will be organized into four parts. Part One (7.1) will outline the procedural justice theory. Part Two (7.2) will review existing research that examines the relationship between procedural justice and satisfaction. Part Three (7.3) will firstly assess how the findings from the Kathmandu study relate to procedural justice theory. Then it will suggest contextual factors beyond this theoretical model that explain participant satisfaction with policing in Kathmandu. The conclusion in Part Four (7.4) will highlight the main discussion points raised in this chapter.

Before the findings are discussed a brief overview of the history of the theory of procedural justice will be outlined.

## **7.1 Background to the theory of procedural justice**

The theory of procedural justice shifts the focus of what justice means to people from justice being linked to evaluation of the instrumentality of outcomes (Heinz, 1985) to it being a normative assessment of whether procedures followed were fair. In research, procedural justice is operationalized as a two-pronged concept: the fairness with which people are treated and the quality of decision-making procedures used by law enforcement officials during encounters with people (Tyler, 1990; Reisig et al., Bratton and Gertz, 2007; Sunshine and Tyler, 2003; Tyler and Fagan, 2008; Bottoms and Tankebe, 2012).

Procedural justice theory has its historical foundations in the work of Thibaut and Walker. In their study examining the effects of case disposition on litigant satisfaction Thibaut and Walker (1975) identified two forms of controls as relevant for satisfaction: process control and decision control. Process control was the opportunity given to individuals to voice their concerns before authorities made decisions. Decision control was the influence people had in determining outcomes when participating in a formal decision-making process. Thibaut and Walker (1975) suggested that decision control was far more important than process control for litigant satisfaction.

Leventhal's (1980) work on procedural justice, published shortly after that of Thibaut and Walker (1975), highlighted the importance of process control. More importantly, Leventhal moved beyond the issue of control and proposed a broader framework for assessing fairness of procedure through six criteria: representation, consistency, suppression of bias, accuracy, correctability and ethicality.

One of the most influential works on procedural justice pertaining to policing was subsequently published by Tyler in 1990. According to Tyler procedural justice theory is premised on the idea that compliance with the law is driven by a normative as opposed to an instrumental perspective: people obey the law because they think it is the right thing to do, not simply because compliance is in their own best interests (Tyler, 1990; Tyler, 2006a; 2006b). Through a sequence of empirical links procedural justice theory postulates that the treatment people receive at the hands of the police predicts the legitimacy they confer on the police. This perception of legitimacy in turn affects people's compliance with the law and satisfaction with authorities (Tyler, 1990; Tyler and Huo, 2002; Sunshine and Tyler, 2003; Jackson et al., 2012; Hough et al., 2013; Mazerolle et al.,

2013; Tyler and Jackson, 2014). It must be noted that this research from Kathmandu does not engage with legitimacy as the study was never designed to measure or test it.

## **7.2 Theoretical and empirical research on procedural justice and satisfaction**

The literature review in this part will be organized into four sections. The first section will outline the conceptual link between the theory of procedural justice and satisfaction. The second part will provide an overview of the empirical research that supports procedural justice theory. As the relevant research here does not pertain to crimes of spousal violence only a cursory overview of studies will be presented. The third section will then describe research evidence on victims' satisfaction with police response to cases of spousal violence. The exclusive focus on victims is due to the sparseness of published studies examining perpetrators' perceptions of spousal violence policing. The discussion in the section will highlight how findings from these victim-based-studies detract from the theory of procedural justice by demonstrating that victim satisfaction is affected by several factors including perceived fairness of the process, outcome favourability, and individual and situational factors. The fourth section will provide a summary of the research discussed in this section.

### **7.2.1 Conceptual link between procedural justice theory and satisfaction**

Tyler's procedural justice theory postulates that in people's encounters with the police normative judgement about procedural fairness is a stronger predictor of people's satisfaction than the outcomes they receive (Sunshine and Tyler, 2003; Tyler, 1990). The logic of this theoretical proposition is underpinned by the group value model (Lind and Tyler, 1988). This model states that people care about their standing and status within groups (Tyler and Lind, 1992; Tyler and Blader, 2000; 2003). When people are listened to, treated respectfully and politely and feel their views are considered they evaluate their standing within a social group as being favourable. This leads to feelings of self-worth and well-being (Tyler & Blader, 2000; 2003; Tyler, DeGoey and Smith, 1996). Procedural fairness, therefore, by inducing and maintaining positive feelings about the self, encourages satisfaction in social settings.

### **7.2.2 Empirical research supporting the procedural justice model**

A volume of empirical research from the U.S. (Tyler and Fagan, 2008; Engel, 2005; Sunshine and Tyler, 2003, Tyler, 2004; 20001; Fitzgerald et al., 2002; Tyler and Huo, 2002; Tyler, 1990) validates Tyler's procedural fairness thesis that people's satisfaction with actions is associated with normative concerns about how fairly they were treated, as opposed to whether they received favourable outcomes. Studies from several other countries, such as the UK (Hough et al., 2010; Jackson et al., 2012), Australia (Mazerolle, et al., 2013; Murphy, 2009; Hinds and Murphy, 2007) and Turkey (Sahin et al., 2017), also affirm the theoretical model.

Methodologically, there is little variety in the design of these studies. Most of them administered structured surveys, with questions about procedural treatment and satisfaction, to general population groups (as opposed to victim or offender samples). The questionnaires used were largely modelled on Tyler's (1990) survey instrument used in his seminal study in Chicago. While most of these studies used cross-sectional data, some have analysed panel data (for example, Tyler, 1990).

Exceptions to the large body of survey-based research in this area are three randomised controlled trials (RCTs). The first RCT, the Queensland Community Engagement Trial (QCET), conducted in Australia, examined the effect of procedurally just policing on a variety of outcomes including public satisfaction with encounters. In this field experiment drivers at routine traffic stops were randomly assigned to either the treatment condition (procedurally fair policing) or the control condition (business-as-usual). Based on survey responses mailed to drivers after the encounter, Mazerolle et al., (2013) found that procedurally fair treatment significantly improved people's satisfaction with police encounters.

Replication of this QCET in Scotland and Turkey showed mixed results. In Turkey procedurally fair treatment was linked to higher driver satisfaction (Sahin et al., 2015). However, in Scotland the treatment backfired as satisfaction was lower in the procedurally fair group than in the control group. It is speculated that the high opinion of Scottish police at the outset of the trial meant that people saw little additional value in procedurally fair treatment. In addition, the longer processing time in the procedurally fair traffic stops could have irritated people (MacQueen and Bradford, 2015).

Moreover, evidence for the strength of Tyler's theoretical model is further supplied by a series of systematic reviews. For example, Donner et al.'s (2015) meta-review analysed procedural fairness in the context of police-citizen encounters in 24 studies. They concluded that perceptions of procedural fairness affected people's views about their satisfaction with police services (Donner et al., 2015).

Similarly, systematic reviews of restorative justice research also show that procedural fairness is important for satisfaction. To elaborate, a systematic review of ten randomised controlled trials of face-to-face restorative justice conferencing (RJC) showed that victim satisfaction with the handling of their cases was higher for victims assigned to RJC than for those whose cases were assigned to criminal justice processing. RJCs were, in turn, rated higher for procedural fairness than adversarial court proceedings (Strang et al., 2013). As this systematic review only included high-quality evaluation designs that met the level five criteria in the Maryland Scientific Methods Scale (Farrington et al., 2003) these findings are robust. Similar findings were seen in an evaluation of RJC programmes that met at least the level three criteria in the Maryland Scientific Methods Scale (Farrington et al., 2003) in Australia (Strang et al., 2011), England (Shapland, Robinson and Sorsby 2011); Sherman and Strang, 2007) and the U.S. (McCold and Wachtel, 1998; McGarrell and Hipple, 2007).

Although the studies described so far suggest that Tyler's procedural fairness model is robust in explaining satisfaction with policing there are several caveats to this conclusion. Firstly, the bulk of the evidence in this area comprises findings from cross-sectional surveys. Such study designs are limited by issues of multicollinearity and endogeneity (Bachman and Paternoster, 2016).

Secondly, the RCTs that indicate a causal relationship between procedural justice and satisfaction are very few and show mixed results. Moreover, as Tankebe (2013) notes, the RCTs do not explore other possible determinants of satisfaction such as effectiveness and lawfulness. Therefore, without more replication of the trials, ideally for another set of crimes in different locations, the current findings have not yet falsified the procedural justice theory.

Thirdly, all the studies discussed so far have looked at crimes other than spousal violence, such as youth offending, adult property crimes, violent crimes and traffic infractions. The generalisability of these studies to spousal violence is limited. This is primarily because spousal violence is not

characteristic of individual incidents of violence like other crimes. It is often repetitive and strategic, reflecting deeply held attitudes and beliefs (Stubbs, 2002). Moreover, unlike in other crimes, it also involves victims and perpetrators who cohabit and have greater opportunities for constant interaction.

Following this discussion of studies on procedural justice and satisfaction that looked at crimes other than spousal violence, the next section will discuss the evidence from studies on policing of spousal violence.

### **7.2.3 Satisfaction in policing of spousal violence**

Although there are numerous studies that assess the correlates of victims' satisfaction with policing of spousal violence only one examines victims' satisfaction through the lens of Tyler's procedural justice model. Hickman and Simpson (2003) investigated the link between victims' perceptions of police treatment, satisfaction and their re-utilisation of police upon re-victimisation. The data for this study was drawn from the Metro-Dade County (Florida) experiment on domestic violence<sup>64</sup> (Pate and Hamilton, 1992). Specifically, 180 victim interviews conducted in two waves (initial interview and follow-up after six months) were examined. The study's findings showed that satisfaction was related to victims' perceptions of procedural fairness in policing (Hickman and Simpson, 2003).<sup>65</sup>

Other studies examining victims' perceptions of policing of spousal violence only identify correlates of satisfaction. Differently from the studies discussed so far in this chapter, empirical findings from this set of research (described below) do not support Tyler's procedural justice model. These studies find an array of correlates for victims' satisfaction beyond procedural justice, such as outcome favourability, and individual and situational factors. Although these studies do not address the temporal issue of whether procedural justice, outcome or individual factors come before satisfaction or whether experiences of satisfaction lead victims to identify these factors afterwards. Nevertheless, some of the key studies will be described below.

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<sup>64</sup> This RCT tested whether arrests by police in domestic violence calls had a deterrent effect on future offending.

<sup>65</sup> Satisfaction, however, had no effect on victims' reporting behaviour. In fact, findings were counter-theoretical as victims who viewed police treatment as unfair were more likely to call the police again, as opposed to victims who thought police treatment was fair. When victims obtained outcomes that they desired from police intervention, on the other hand, they were more likely to report violence to the police. It must, however, be noted that reporting to the police is not a reliable or robust indicator of satisfaction with the policing.

There is only one study from Nepal that reports on victims' satisfaction with police responses to gender-based violence<sup>66</sup> in a WCSC (Jha, 2013). Data for this study were collected through a combination of focus group discussions with women in the community and interviews with victims. The factors associated with satisfaction with police responses included process and outcome-based elements. Examples of the former comprised officers listening to victims, support and concern being shown, respectful attitudes and behaviour from the police and quick decision-making. Instances of the latter included arranging for the perpetrator to pay adequate compensation to the victim and pressing charges against perpetrators. Satisfaction was also higher for victims when responding police officers were female as opposed to male (Jha, 2013).

Although Jha's (2013) study provides information about factors related to victims' satisfaction with WCSC responses it has several methodological flaws that limit the validity and generalisability of its findings. Firstly, this research does not describe details of its methodology such as how the sample for the interviews was drawn or who was eligible for the focus groups. Secondly, as the findings pertain to perceptions of police responses to gender-based violence, which includes an array of crimes in addition to spousal abuse such as rape, polygamy, allegations of practising witchcraft and human trafficking, it is difficult to ascertain to what extent victims' reports were applicable to PCR for spousal violence.

Beyond Nepal, several studies conducted in Canada, the U.S, and the UK have also identified an array of factors associated with victims' satisfaction with police responses. A recent study from Canada (Saxton et al., 2018) surveyed 7,675 people from the general population to gauge their experiences of domestic violence, policing and the justice system. About 33.6% (N=990) of 2,831 respondents identified themselves as victims of domestic violence out of which 941 women reported violence to the police. To date, this is the largest sample used in research exploring satisfaction with domestic violence policing. Victims reported that police responses were inconsistent and varied according to the dispositions of the responding officers. Supportive behaviour from the police was associated with victims' satisfaction. Examples of such behaviour included showing sympathy and care towards the victim, prompt responses, removal of offenders/victims from the crime scene and providing information about support services. In addition to identifying officers' conduct as factors

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<sup>66</sup> Gender-based violence, in this study, includes all crimes under the jurisdiction of WCSCs, including rape, human trafficking, polygamy, child marriage and persecution of women for practising witchcraft.

for satisfaction, victims saw their own ‘luck’ (Saxton et al., 2018, p. 20) as being key to the satisfactory/unsatisfactory treatment they received from responding police officers.

Research from the UK includes Cornelius’ (2013) study on factors affecting victim satisfaction with three types of police responses to a spousal violence case: conditional caution, simple caution and no response. Survey responses from 216 ‘low-level domestic abuse victims’ (Cornelius, 2013, p. 20) showed that victim satisfaction was affected more by police treatment than the outcome of the case. Furthermore, an evaluation report on domestic violence policing in England and Wales was released by the oversight body Her Majesty’s Inspectorate of Constabulary (HMIC). A sample of 70 victims was interviewed in focus groups and 500 responded to an online survey. Victims’ reports showed that their satisfaction with policing was associated with factors such as being taken seriously by the responding officers, swift responses, displays of empathy by police, receiving information about support services, and officers making provisions to ensure the safety of victims and their children (HMIC, 2014).

Amongst U.S.-based studies looking at victims’ satisfaction with policing, Fleury (2002) interviewed 178 victims whose assailants had been charged for committing crimes against them. She found that victims’ satisfaction with policing was associated with perceptions of the supportiveness of police, the victim’s race, the assailant’s history of drug and alcohol abuse and the responding officer’s gender.

Stephens and Sinden’s (2000) study examined the influence of victims’ perceptions of police demeanour on their satisfaction. Views were explored through in-depth interviews with 25 victims. The authors found that victims’ positive experiences of policing were associated with officers listening, showing care, demonstrating a willingness to help victims, and complying with their desires to have the offender arrested. Negative experiences were in turn linked to police minimizing the violence, disbelieving the victim and arrogant demeanours among officers (Stephens and Sinden, 2000).

Moreover, a handful of U.S.-based studies, conducted by interviewing victims, show that victim satisfaction is significantly related to outcomes. Examples of outcome measures include receiving referrals to relevant support agencies (Yegidis and Renzy, 1994; Erez and Belknap 1998) and police complying with the desires of victims, for example by arresting the perpetrators (Russell and Light,

2006; Buzawa and Austin, 1993). Similarly, a few studies have also shown that not adhering to victims' preference through police inaction (i.e. not charging an assailant) is associated with victims' dissatisfaction with the police (Russell and Light, 2006; Wolf et al., 2003).

Overall, the literature on victims' satisfaction with policing of spousal violence is scant. Most studies involve small-scale exploratory research. On the one hand, these studies provide rich data directly from victims' first-hand experiences of policing. This overcomes the risk inherent in general population surveys where respondents may report imagined or vicarious experiences of police encounters (Noaks and Wincup, 2004). On the other hand, however, self-selection bias is inherent to most of these studies as they use convenience sampling. This makes it difficult to ascertain whether the views of victims who participated in the study are generalizable to the perceptions of other victims from the same population who did not participate (Apsler, Cummins and Carl, 2003).

#### **7.2.4 Summary**

The first section began by describing the concept of Tyler's procedural justice model: that in encounters with the police it is people's perceptions of fair treatment, rather than their concerns about the favourability of outcomes, that determines their satisfaction with policing. The evidence testing this theory, mostly from developed countries, was then summarized: survey-based research and a few experimental studies show support for procedural justice theory. However, none of these studies examined satisfaction with policing in cases of spousal violence.

The next section described findings from studies specifically examining factors affecting victims' satisfaction with the policing of spousal violence. In contrast to the empirical studies discussed earlier, these studies were mostly qualitative and small-scale in design. They gathered data directly from victims of spousal violence who had encounters with the police. Moreover, only one study engaged with procedural justice theory and found it to be positively associated with victim satisfaction. The remainder of the studies identified a variety of factors that affected their satisfaction. These included process-based factors like police concern, empathy, respect and care, as well as outcome-based factors such as arranging for financial support from the husband, receiving referrals to support services or the police arresting and charging perpetrators. They also included situational factors like the gender of the responding officer and individual factors including luck. Notably, the factors

affecting satisfaction identified by victims in Nepal and Western countries were similar. Most importantly, in the identification by victims that factors beyond procedural fairness are important to satisfaction the limitations of Tyler's theory in explaining satisfaction in different types of crimes are highlighted.

The review of the existing literature showed that there is a gap in knowledge about perpetrators' perspectives on the policing of spousal violence.

Following the discussion of the existing state of knowledge on procedural justice and satisfaction, this chapter will now turn to examining the applicability of Tyler's theoretical model to findings in Kathmandu.

### **7.3 Procedural justice and satisfaction in Kathmandu**

In this section the discussion of research findings from Kathmandu pertaining to victims' and perpetrators' satisfaction will be organized into six sections. The first section will provide a summary of this study's findings. The second section will position the findings relative to procedural justice theory, explaining how the theory does not fully account for satisfaction. The third section will describe a relational model of procedural justice that argues for the consideration of contextual realities of policing in Nepal to explain perceptions of PCR. The fourth and fifth sections will discuss the socio-political context in which policing takes place in Nepal. The sixth section will then ground the findings of perceptions of procedural fairness, decision control and outcomes within it.

#### **7.3.1 Summary of findings from Kathmandu**

The Kathmandu study measured the satisfaction of victims and perpetrators through three separate measures: 1) perceptions of police helpfulness, 2) the extent to which overall case handling met participants' expectations, and 3) the emotions participants felt when they left the WCSC after PCR. The current research, in contrast to the majority of studies on procedural fairness, did not combine the four constructs of voice, respectfulness, neutrality and trustworthiness into a single scale of procedural fairness. Each element was correlated separately to the first two dimensions of participant satisfaction. Themes were drawn from reports about feelings (the third dimension) in order to add richness to the data on participants' experiences. The term 'satisfaction' used in these sections encapsulates all three measured components of it.

The findings from Kathmandu showed that, overall, about 50 percent of victims and 40 percent of perpetrators were satisfied with the PCR for their cases. Victims and perpetrators largely reported similar factors as affecting their satisfaction with WCSC policing. The most important correlates of satisfaction for participants were outcomes (both desirability of outcome and fairness of outcome). Elements relating to procedural fairness were also noted as being important for satisfaction. However, there were some contradictions that emerged in this assessment which will be discussed below.

To elaborate, on the procedural justice front Blader and Tyler (2000) identify four conceptual components that constitute procedural fairness: voice, respectfulness, neutrality and trustworthiness. Voice refers to the individual's ability to make a full representation of one's views to the police prior to decision-making. Respectfulness is the quality of interpersonal treatment: that police are polite and respectful towards individuals. Neutrality suggests that police are transparent and make decisions based on facts as opposed to their personal views. Trustworthiness occurs when individuals believe the police are genuinely concerned about their well-being and are putting their best efforts into their case (Sunshine and Tyler, 2003).

In the Kathmandu study voice (chance to tell their stories; police listening to them) and respectfulness (police politeness) were significantly correlated with satisfaction. Moreover scolding (belittling, shouting and reprimanding), which essentially impeded respectfulness, was associated with decreased satisfaction.

Neutrality and trustworthiness had to be inferred from participants' answers. This is because questions relating to neutrality were struck from the interview schedule as participants did not understand them. These questions included 'Did you understand what was going on at all times?'. 'Did you feel like you could ask the police questions about what you did not understand?' 'Did the police answer your questions?' 'Did you think that the police were honest in what they said during PCR?'. Likewise, questions about trustworthiness such as 'Did the police show concern towards you?' were also removed from the interview schedule as participants did not understand them (see Chapter 4 for details). Neutrality was identified as something that affected satisfaction by only four out of 73 interviewed perpetrators. These perpetrators reported that they were unhappy when they left the WCSC after PCR because the police had not 'investigated' what had actually happened and reached outcomes without considering facts. Moreover, before PCR began most victims reported that the police had not explained the procedure they would follow to address the complaints filed at the

WCSC (see chapter 6 for details). This is indicative of lack of transparency, a key element of neutrality in policing.

Trustworthiness was identified by only 5 out of 82 interviewed victims (and no perpetrators) as being related to satisfaction. These victims expressed their frustration at the police ‘not caring’ about them. Furthermore, lack of concern for victims’ wellbeing was often demonstrated by officers at the onset of PCR. When victims went home after filing complaints at the WCSC almost all reported anxiety, fear and stress (see chapter 6 for details). Trustworthiness should have elicited reports from victims that suggested they were reassured by police and had faith that officers were serious about their case. The absence of such reactions thus suggested a general lack of trustworthiness.

Moreover, there were more some notable discrepancies in participants’ reports about procedural justice elements on two fronts. Firstly, while being personally scolded by the police decreased satisfaction for participants: in their interviews participants did not mention improper conduct I saw as the observer during PCR, such as officers painting their nails, putting on make-up, falling asleep or listening to music. Participants also did not recall extra efforts or good behaviour by the police that I saw, unless it met instrumental ends for them (for example, legal advice about gaining property rights).

Beyond procedural fairness, police competence (for example, an ability to understand underlying problems between the couple) and control over decision making were associated with participants’ satisfaction. Notably, for victims their involvement in final decision making increased their satisfaction, while for perpetrators personal involvement in decision making decreased their satisfaction. Surprisingly, being physically punished or detained had no statistically significant correlation with participant satisfaction. This finding may have been caused by the fact that the numbers were too small to detect statistical significance (Field, 2018).

Finally, there were some differences between the perceptions of victims and perpetrators. Firstly, satisfaction amongst victims and perpetrators who were couples differed: there was no pattern between the satisfaction of either parties. Secondly, although outcome measures were the most important factor associated with satisfaction for victims and perpetrators, the relative importance placed on procedural justice and outcomes differed depending on the participant’s role as either victim or perpetrator.

### **7.3.2 Findings and procedural justice theory**

Tyler's theory of procedural justice states that normative concerns about procedural fairness are more important than outcomes in people's evaluations of satisfaction with authorities (Tyler, 1990; Tyler and Huo, 2002; Tyler and Sunshine, 2003). The findings from Kathmandu showed that victims' and perpetrators' satisfaction with policing was associated with several factors, and the strongest relationship was with outcomes rather than procedures. However, satisfaction was also linked to some elements of procedural fairness, police competence and personal control over decision making. These findings resonate with the literature on satisfaction with policing of spousal violence - that multiple factors are associated with satisfaction - but do not support procedural justice theory, falsifying it in the context of Nepal.

One of the most striking findings of this study, as mentioned above, is that many instances of improper conduct by the police during PCR, including putting on makeup, having personal telephone conversations or giving conflicting advice to victims and perpetrators, went unnoticed by victims and perpetrators. Only I, as the observer, noted them. According to the framework of procedural justice theory experiencing such improper conduct would imply that the police are not taking the case seriously, that victims and perpetrator are not valued. The group-value model states that the manner in which group members are treated by authorities (i.e. police) communicates information to individuals about their status within the group (Lind and Tyler, 1988; Tyler, 1990; Smith et al., 1998). This theory would predict that experiences of procedural unfairness during PCR would harm people's self-worth, their connection with police and, by extension, their satisfaction with policing. However, this association between procedural unfairness and participant satisfaction was not seen in Nepal. The next section will suggest possible explanations for this finding.

### **7.3.3 Relational model of justice**

One of the central messages of the procedural justice literature is that fairness in individual encounters with the police shapes people's perception of this authority. Research in this area has focused on individual attitudes towards the police. However, there is little attention paid to the broader cultural context in which relations between people and police unfold. Meyerson and McKenzie (2018), in their philosophical exploration of procedural justice theory, propose that relational theory provides a

valuable method of expanding the purview of procedural justice out from just individual encounters. Relational theory posits that ‘individuals are social creatures whose identities are constructed through interpersonal relationships and in the context of broader social and political environment in which [they] live’ (p. 10). Applied to procedural justice, this means that an individual’s encounter with authority cannot be looked at in isolation. The broader social context in which these encounters occur and direct the dynamic of interaction between people and police must be taken into account.

Empirical research by Bell (2016), although outside the realm of spousal violence, lends credence to the idea of understanding procedural justice through a relational lens. In her study of why African-American mothers with legal cynicism call the police for assistance she highlights the value of using a situational approach. This involves considering the ‘context of characteristics of particular events ... to [consider] how culture works in relation to law enforcement’ (p. 316).

For findings in Kathmandu the relational lens allows for the examination of the broader social context within which policing is done in Nepal. Using this approach the situational context of policing in Nepal will be discussed in the next section.

#### i) Situational context of policing in Nepal and perceptions

This section will discuss policing in the Nepali context. It will firstly describe the notion of service delivery by the state and how it may shape participants’ conceptions of what constitutes proper conduct. This context will be further used to build the case for why policing in Kathmandu is seen as a substitute for family authority as opposed to a state service. Analogies between the dynamics inside family relationships and experiences at the WCSC will be drawn to explain how procedural and non-procedural factors affect satisfaction in Kathmandu. Furthermore, the importance of outcomes in the context of Kathmandu will also be discussed.

#### ii) The culture of state service delivery in Nepal

The findings from Kathmandu suggest that the norms of professional conduct in Western countries, that would deem police conduct like putting on makeup during PCR unprofessional, may be unknown to Nepali participants. There are several reasons for this. Firstly, owing to the almost two-decade-long absence of local state services in Nepal people have had limited chances to develop standards of acceptable official behaviour. To elaborate, the Nepali state has historically catered services to the people through its local government. In 1999 efforts to decentralise state

power resulted in the enactment of the Local Self Governance Act 1999. This law devolved service delivery powers from the central government to bodies at the levels of villages and municipalities. The last local government elections were held in 1997 with a mandate of a five-year term. However, with the onset of the armed conflict in 1996 local elections could not be held in 2002 (Byrne and Shrestha, 2014). In 2006 the former King Gyanendra Shah called elections in 56 municipalities but they were delegitimised through a boycott by political parties and low voter turnout (Pettigrew, 2013). The next local elections were held after 20 years in 2017 (Khalid and Chugta, 2017). In the context of the current research the average age of participants is the early-30s (see chapter 6). This means that most individuals grew up without state service institutions. They have therefore had little opportunity for exposure to service agencies that could help them construct standards by which to assess the professionalism of conduct at the WCSC.

Secondly, the broader culture of civilian government offices, which participants may have accessed prior to PCR, would have normalised behaviour considered to be improper/unprofessional by Western standards. Office culture in the Nepali civil service has historically blurred the lines between personal and professional conduct. For instance, it used to be common to see female civil servants knitting and shelling peas in their offices. At present, government employees routinely use free office telephones to make long personal phone-calls in the presence of service seekers. During winter months civil servants spend hours basking in the sunshine, reading newspapers or chatting with each other. Turning service seekers away without justification or unexplained delays are common features of the Nepali government's service delivery pattern. In this context, for those participants who had experienced state services in other agencies improper conduct by WCSC officers would only mimic the routine behaviour patterns seen elsewhere. Therefore, improper conduct during PCR may have been perceived as normal office behaviour that need not be noticed.

Thirdly, on the one hand, it is undeniable that, unlike local governments, the Nepal Police has been the only consistent state presence throughout the country since 1955. On the other hand, policing historically did not focus on service delivery to people. For about 40 years the Nepal Police was an inaccessible institution. The police of the Panchayat era (1960-1990), and their remnants carried over into the 90s, were reputed to be a brutal force: poorly trained, poorly paid and unaccountable to the people (Nepal Police Academy, 1999). During the armed conflict between 1996 and 2006,

the police were the primary target of Maoist attacks (see Office of the High Commission of Human Rights, 2012). As an institution fighting an armed insurgency on the frontlines the police had a more militaristic character, as opposed to that of a professional service delivery organisation. In addition to its organizational approach, the deep-seated stigma in Nepali society towards any respectable person entering a police station has rendered police unapproachable. This means that participants were also unlikely to have much information, even vicariously, about what to expect from police behaviour in the WCSC.

In addition to the transposition of the office culture image from other state agencies to the WCSC, perceptions of policing may have been affected by how Nepali participants viewed the role of the police. This will be discussed in the next section.

### iii) Perceptions of the police as family elders

For participants in Kathmandu<sup>67</sup>, on the one hand there was a vacuum in the idea of the state providing services. On the other hand, as participants were in an urban environment they were not privy to traditional mechanisms of dispute resolution<sup>68</sup> found in Nepali villages. The deference to

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<sup>67</sup> It is possible that some participants had only recently moved to Kathmandu. An examination of their permanent addresses on police records shows that about 58 percent of all participants said they came from outside Kathmandu. However, the address alone does not make it clear how long they lived in Kathmandu. It is common for many people to have been born and raised in one place but still maintain the location of their ancestral home as their permanent address. The interview did not include how long participants had lived in Kathmandu. Therefore, no assumptions can be made about the extent to which they may have been exposed to traditional/informal dispute resolution mechanisms in rural areas.

<sup>68</sup> A review of literature on Nepal's criminal justice system shows that its systems of dispute resolution and justice delivery have historically been pluralistic. The state has seldom interfered in the affairs of the traditional justice system (Shrestha, 1998). Different ethnic groups have their own traditional approaches to resolving disputes. Generally, the process followed in these approaches is to let disputants stake their claims, collect witnesses, see the past character of the disputants, pool knowledge through public discussion, uphold the socially sanctioned local norms and interpret legal and religious treatises (Coyle and Dalrymple, 2011). Examples of traditional justice systems include the *Pancha Bhaladmi* (a fixed council of five male elders from the community) and *Mijan Dewan* (two caste leaders). Between 1996 and 2006 traditional dispute resolution mechanisms were disrupted significantly by the armed conflict as the Maoists prohibited the practice of any traditional justice mechanism they perceived as 'counter revolutionary' (United Nations, Office of the High Commissioner for Human Rights, 2012; Coyle and Dalrymple, 2011). The Maoists set up parallel People's Governments across rural Nepal with their own local administration and People's Courts (Braithwaite, 2015). Set up in defiance of the 'discriminatory' and 'elitist' formal judicial system, these courts convened regularly and issued decisions quickly. The Maoist legal code was used to punish and sentence convicted perpetrators. A variety of punishments could be given including fines, corporal punishment and/or work in Maoist labour camps. A distinctive feature of these courts was that one-third of judges were women (Braithwaite, 2015). This was a contrast to formal and traditional justice mechanisms that had historically been presided over by men.

police authority to substitute for traditional mechanisms of social control is explained by Black in his book *The Behaviour of the Law*. Black (1976) theorises that there is an inverse relationship between the law and other forms of social control. The central premise of Black's (1976) theory is that in a society, social control for deviant acts in forms such as prohibitions, accusations and sanctions are exercised by not just the law but other societal mechanisms. These include: families, friendships, neighbourhoods, villages, occupations and organisations. When the quantity of social control exercised outside the law decreases, the quantity of law applied to a given situation increases (Black, 1976). Within the context of the Kathmandu study, there is the decrease in quantity of social control outside the law as evidenced by the lack of traditional justice mechanisms for dispute resolutions in the city. Moreover, community and neighbourhood level social controls are also likely to be decreased within the urban space because people have less chances to know one another owing to constant movement of people across neighbourhoods. This phenomenon is particularly likely to be pronounced among socio economically disadvantaged populations who migrated to Kathmandu as their choice of residence is affected by rent and employment factors. In such circumstances, Black's (1976) theory would suggest that the role of the law, in this case the role of the police, would increase in people's lives.

Whereas, Black's (1976) theory explains the increased role of the law when other forms of social controls decrease, it does not envision my proposition of perceptions of police in Kathmandu. I conceptualise that for the victims and perpetrators who went to the police the point of reference for an authority figure would be absent as they would have had limited/no interaction with state mechanisms and/or village heads. For them the only available reference to authority figures to draw form would be the elders of families and households.

Family units in Nepal evolved from the structure of large joint families headed by the eldest patriarch (Goldstein and Beall, 1986). Their values have an enduring influence on societal thinking. As Benet (1983) explained, even nuclear family units seek to replicate the power structures of a joint family. Within these joint families the head of the household is the ultimate arbiter of disputes. Traditionally, he wielded absolute power over the younger members of the family (Rowe, 1979). Mandelbaum (1970) describes the nature of these relationships:

Children owe permanent deference to both parents. Parental authority is unceasing as an ideal and is sustained in fact, though the actual duration and degree of this authority are

affected by economic circumstances and *jati* [caste] tradition. Within a household a son or daughter must not flout a parent's will, especially not the father's. If grown sons do not wish to follow a parental mandate, they usually find ways to circumvent rather than to contradict it .... The ideal of deference to parents is rarely questioned, and in practice it endows the elders with an authority that is not lightly ignored by their children (p.39).

The viewing of police through the framework of family elders would account for several assessments of policing by participants. Firstly, police conduct such as putting on make-up, eating, listening to music and falling asleep, that would be deemed improper under Western standards of professionalism, would be seen through the optics of activities within a family-home environment. In this setting such informal behaviour and the undertaking of personal tasks are commonplace.

Secondly, the police's position as analogous to family elders would vest large amounts of power in them. Even though in the WCSC it was usually female instead of male officers exercising authority, gender by itself is unlikely to diminish perceptions of power. This is because, on the one hand, people are familiar with showing reverence to women as senior members of a household.<sup>69</sup> On the other hand, the institution of the police is seen as powerful (see Saferworld, 2008) and so its members, regardless of their gender, enjoy this status. In this context, when people view officers as family heads them exercising coercive power by scolding or using physical force against participants would be seen as a corrective measure well within the police's rights. Moreover, the moral imperative of younger members (in this case the participants) to unquestioningly acquiesce to the methods and decisions of elders (police) would explain why there was acceptance, particularly by perpetrators, of outcomes imposed by the police. The following comment made by a perpetrator after he was slapped five times during PCR illustrates an example:

I don't have older sisters. You have hit me today and I will think of this as the older sister I never had hitting me [Perpetrator #66].

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<sup>69</sup> Although traditional structures are led by a patriarch senior women of the households are also treated with reverence. In the absence of the patriarchs the eldest son's decision-making status is elevated. However, he does not enjoy full authority like his father while his mother- the senior woman of the household - is alive. He is expected to elicit her approval in household decisions. It must also be noted that, owing to the changes in Nepali society brought about by the armed conflict and labour migration, it is becoming more commonplace to have female heads of households (ICTJ and Advocacy Forum, 2010; ILO, 2016).

Within Nepali culture people who appear to be older than oneself, but within the same generation, are referred to as elder sister (*didi*) or elder brother (*dai*) Referring to them as older members of the household such as mother/father or grandmother/grandfather is deemed inappropriate. Perpetrator #66 is thus referring to the authority that an elder in the family has the right to exercise over him but demonstrates cognisance of the officer's age in addressing her as a sister.

Thirdly, the police in the role of elders would be expected to listen to the accounts of younger members (participants), as done in family-level discussions. Their demonstration of understanding of the underlying problems would be important because they might furnish solutions and impose decisions. An ability to comprehend underlying issues between a couple would also demonstrate the wisdom and capability of an elder (analogous to police competence), affirming why they ought to be revered in the household.

Fourthly, elders are seldom independent arbiters in families as they have their own relationships with each younger member. When police are seen as elders, their giving advice to both victims and perpetrators, even if conflicting in nature, would be deemed a playing-out of their own relationship with each party to maintain loyalty. While this behaviour might look unprofessional through a Western lens, within the Nepali context it would be a familiar facet of family dynamics.

At this point it must be noted that the authoritarian joint family structure discussed by researchers in the 1970s has not remained static in Nepal. As Goldstein et al. (1983) argue, changes in economic structures and education have transformed the 'asymmetrical power and authority relationships favouring the father' (p. 719). Their study examining the position of the elderly within families in Kathmandu showed that adoption of Western values like individualism, independence and secularism has increased the bargaining power of younger members (Goldstein et al., 1983). Translated into the policing setting, the empowerment of participants through modernity, including the proliferation of women's rights, has made them more assertive. This greater bargaining power juxtaposed with the eroding authority of the elder (police) might explain why some victims and perpetrators also criticized behaviour and decisions taken by officers during PCR. This was evident in reports where participants noted police behaviour as illegal, intimidation tactics and 'bullying' (see chapter 6 for details).

Furthermore, it was interesting that there was some indication from the police of their own supposition of their role as a family elder. For example, upon meeting participants, if officers learnt that they shared similar last names or place of origin, they would immediately declare kinship ties and suggest that they would provide ‘guidance’ through PCR:

[speaking to victim# 21] You are from [place] I am from there too. I feel like you are my sister. That’s why I felt I could scold you... once you go home, if you have a problem, come here and talk to me. Sister, you come here and see me every 10-15 days. You’re from my locality. Sometimes I will come to your house and visit you, I won’t come inside, just outside, see how you are faring... Don’t come back with this poisonous issue [marital problems] but if you need advice come here. One sister has to support another sister. If it’s awkward for you to come here [WCSC] tell me and we will meet elsewhere. (Officer #5)

Bayley (1976) in his comparative study of the Japanese and American police suggested that Japanese police officers not only saw their police force as a family but also approach suspects in a manner that is analogous to how a parent treats a child who has misbehaved. Japanese officers emphasise warmth and care as opposed to strict law enforcement (Bayley, 1976). Moreover, Braithwaite (1989) in discussing Reintegrative Shaming Theory argues that an environment akin to that of a family where bond of respect are maintained even while punishing and shaming offenders is the best form of social control. Findings from the Kathmandu study indicate that the police may not just be akin to a family member for the participants but officers may also perceive themselves as family elders. The family framework may be the parameters within which officers exert social control. Future research needs to explore these ideas further.

Following this discussion of how situational contexts may explain perceptions of improper conduct, police competence and decision making by the police, the next section will elaborate on the contextual realities to explain why the outcomes of PCR might have been so vital for Nepali participants compared to procedures.

#### **7.3.4 Importance of outcomes over procedural justice in Kathmandu**

Within the broader conception of justice, outcomes fall under the purview of distributive justice: the idea that authorities fairly distribute services across people and communities (Rawls, 1971). It is a concept designed to measure instrumental concerns which comprise an assessment of perceived fairness of outcomes and the degree to which they are equitable (Adams, 1965;

Leventhal, 1976). Interestingly, when victims and perpetrators spoke about outcomes they only assessed them in terms of whether they addressed their circumstances. They did not compare their outcomes to those received by anyone else, including their spouse.

There are several reasons why outcomes may be particularly important for participants in Kathmandu. The first possibility is linked to the Nepali state's character. Nepal is not a welfare state and therefore does not provide much support for employment, education or healthcare. There are no social workers or their equivalents to assist victims and perpetrators with identifying their needs and supporting them in reaching requisite services. Even legal services are expensive and difficult to access (United Nations Office on Drugs and Crime and United Nations Development Programme, 2016). Ordinarily the strongest support system for Nepali people is the family. However, in cases of spousal violence, when this structure is either broken or strained, the police become the only institution that can assist them. The lack of alternative avenues for support is particularly pronounced for perpetrators in Nepal. For victims, although the government has made some provisions for assistance, they are largely inadequate. The discussion below will explain why.

There are two Nepali government trust funds that are authorised to provide small sums of money to support victims. These trusts are the 'Single Women's Security Trust' and the 'Gender-Based Violence Elimination Trust'. Victims can either directly apply for financial assistance to these trusts or other agencies like local non-governmental organisations or the WCSC can submit applications on behalf of the victim. The application process, however, is lengthy and cumbersome. It requires submissions of documents that victims may not be able to obtain such as their citizenship certificates and a letter from the local authority verifying their economic status. The approval process is equally difficult. Each application needs to be approved by the trust committees, comprising senior members of ministries, police, local authorities and civil society representatives (Single Women Security Trust (Operations) Regulations, 2013; Gender-Based Violence Elimination Trust (Operations Regulations), 2011). The seniority and diversity of the committee means that meetings that reach quorum are difficult to convene frequently. Thus, applications may be stalled for long periods of time.

Moreover, the sums awarded by these trusts are minimal since the trust regulations stipulate a ceiling on amounts. For example, under the Gender-Based Violence Elimination Trust the maximum award for medical expenses is GBP 20, education - GBP 35, Legal aid and psychological counselling - GBP

40. In exceptional emergency cases a victim can receive up to GBP 340 (Gender-Based Violence Elimination Trust (Operations Regulations), 2011).

In addition to trusts the WCSC also has an annual budget of GBP 340 that could be used at the inspector's discretion to provide assistance to victims. During the 11 months of my fieldwork no victim of spousal abuse was provided with monetary support through the WCSC or other government trust funds.

Apart from monetary assistance the Domestic Violence Act 2009 looks to address the absence of social-workers in Nepal by creating the position of a protection officer. This officer is supposed to act as the liaison between the police and service agencies for victims. The law directs each Women's Development Office at the district level to appoint a protection officer. However, there is no protection officer in the Kathmandu Women's Development Office. This role is, instead, undertaken by a civil servant in the Ministry of Women and Children. There is no contact between the WCSC and this ministry.

The overall effect of the lack of services for both victims and perpetrators is that the police become the only viable institution the people can turn to for help. In Western societies, where there are multiple support agencies in place, people may not expect the police to furnish all the solutions to their problems. This, in turn, may shift people's attention away from outcomes to procedural fairness. However, in Kathmandu, where people go to the police because other institutions that can assist them are either non-existent or more inaccessible, they may value the results they get over how fairly they are treated.

#### i). Caveat

There is one possible caveat to the analysis above. There is a chance that victims and perpetrators in Kathmandu may not have drawn a conceptual distinction between procedural fairness and distributive justice. This issue is highlighted by two studies conducted in China that found that people conflated procedure-based trust and outcome-based trust (Michelson and Reed, 2011; Sun and Hu et al., 2013). This finding suggested that drawing distinctions between procedural fairness and outcomes may not be as clear to non-Westerners as it is to Westerners (Michelson and Reed, 2011). Therefore, participants in Kathmandu may have been reflecting on outcomes when they recalled procedural experiences and vice versa.

Although outcomes were important there were some differences in the values that victims and perpetrators assigned to them. The next section will discuss this dissimilarity.

### **7.3.5 Differences in emphasis placed on outcomes and procedures by victims and perpetrators**

The findings from the Kathmandu study show that, although outcomes were most strongly related to satisfaction for both victims and perpetrators, there were some differences between the two in the relative importance they placed on procedural justice and outcomes. In evaluating their experiences at the WCSC victims were more concerned with outcomes: their outlook was prospective as they thought about their experiences at the WCSC in light of their husband's future conduct. Perpetrators, on the other hand, reported procedural fairness more than victims: they reflected on their experience of PCR retrospectively, paying attention to how police behaved with them.

There are several reasons why victims and perpetrators may have differed in the relative importance they placed on distributive justice and procedural fairness. Firstly, victims and perpetrators were likely to have different safety concerns. Victims, by virtue of being recipients of abuse, were more likely to be worried about their physical or emotional safety. This may have drawn their focus to the PCR outcomes that addressed issues of their protection. In contrast, men's position as perpetrators was less precarious than that of victims. The most eminent threat to their security was police action against them. This realisation may have influenced perpetrators to focus more on police behaviour during PCR.

Secondly, in Nepali society men have a higher social standing than women: they wield more power and command greater respect (Acharya, 2005; Bennet, 1983). Socialisation within this patriarchal structure may have led perpetrators to be more attuned to cues of respect/disrespect shown towards them within the WCSC. Moreover, the disjuncture between the realities of daily life, where men are perceived to be socially superior to women, and the dynamics inside PCR, where female officers occupied an authoritative role, may have created dissonance for some perpetrators. This may have led to a more lasting impression on perpetrators' memories.

Furthermore, there is also a chance that the differences between the relative importance of procedural justice and outcomes for victims and perpetrators reflects a gendered element in how experiences are judged. Kitzmann and Emery's (1993) study suggests this angle. They examined parents' perceptions of child custody mediation and litigation in the U.S. A sample of 71 couples

was randomly assigned to mediation or litigation for child custody. For men procedural fairness, particularly decision control, was more important, whereas for women outcome favourability was crucial (Kitzmann and Emeryt, 1993). In Nepal men were perpetrators and women were victims. It is not possible to tell whether their roles of victims and perpetrators affected their relative preference for procedure or outcome, or whether it was their gender. Exploring the gendered element of procedural justice is an avenue for future research.

#### **7.4 Conclusion**

Following a review of the broader literature that looked at the relationship between procedural justice and satisfaction Part Three sought to analyse this theory in light of the findings from Kathmandu. For participants in Kathmandu satisfaction was related most strongly to outcomes, followed by some elements of procedure, police competence and personal control over decision making. Although perpetrators' relative preference for procedural justice was greater than those of victims' this correlation was not stronger than the links between satisfaction and outcome. Tyler's theory of procedural justice (1990) was thus found not to explain satisfaction in Kathmandu in this particular setting.

Procedural justice theory's focus on individual encounters with the police, in isolation, appeared to be a major shortcoming in this context. A relational theory of justice, which emphasizes consideration of the broader social context in understanding policing and perceptions of it, was found to be a more useful framework within which to explain the findings in Kathmandu.

Participants' perceptions of policing have been discussed here within the context of a society where people have had different exposures to policing than is usually the case in the West. Unlike in the West, where the police are seen as a service/ force or department of the state, in Kathmandu they are viewed as more analogous to elders of families. Norms of professional conduct that would be seemingly commonplace in Western countries do not exist in Nepal owing to its political history and cultural context. The conduct of WCSC police, and satisfaction with it, is thus perceived by participants according to their situational realities.

## Chapter 8

# Perpetrators' Compliance with Police Conflict Resolution Outcomes: Procedural Justice Lens

### Introduction

In the Kathmandu study data were gathered from victims and perpetrators on the extent to which perpetrators complied with the outcomes reached and imposed during police conflict resolution (PCR). The concept of compliance in this Kathmandu research relates primarily to the perpetrators' adherence to the key terms of the decisions reached/imposed during PCR, including the cessation of violence against victims. Although this study was not designed to test the theory of procedural justice, it is still useful to retrospectively consider what the available data show about the relationship between procedure and compliance in Kathmandu. The discussion of findings that show that there were no statistically significant correlations between perpetrators' experience of procedural fairness and their subsequent compliance behaviour are not attempts to falsify the procedural justice theory. Rather, this discussion is presented as a starting point to suggest that compliance in Kathmandu may need to be understood as behaviour influenced by factors beyond individual encounters with the police during PCRs.

The discussion in this chapter will be organised into three parts. The first part (8.1) will be a review of the existing studies that examine the relationship between procedural justice and compliance. The second part (8.2) will discuss how the findings from Kathmandu relate to procedural justice theory and suggest other explanations for compliance in Kathmandu. The conclusion in the third part (8.3) will summarise the analysis, reiterating the major themes that were discussed.

### 8.1 Theoretical and empirical research on procedural justice and compliance

This review will be organized into three sections. The first section will outline the conceptual linkages between the theory of procedural justice and compliance. The second section will provide an overview of the empirical research that supports procedural justice theory. It will also describe research that highlights caveats to the procedural justice model and propose alternative

explanations for compliance behaviour. The third section will discuss research that has specifically investigated the relationship between procedural fairness and compliance in the policing of spousal violence. The fourth section will provide a summary of the research discussed in this section.

### **8.1.1 Conceptual linkages between procedural fairness and compliance**

The theory of procedural justice posits that adherence to fair procedures by authorities leads to compliance with decisions made by them. The position of this theory in criminology is situated as an alternative explanation about compliance behaviour relative to arguments advanced by traditional theories like rational choice theory and deterrence theory. Rational choice theory suggests that individuals comply with the law only if the benefits of doing so are greater than the costs of disobedience. This model advocates for inducing compliance by increasing the risks/costs of non-compliance (Becker, 1968). Deterrence theory proposes that rule-breaking can be deterred by increasing the probability of detection and severity of sanctions (Becker, 1968). Empirical research, however, shows that consistency in detecting criminal behaviour is more effective in deterring crime than increasing the severity of punishment (Nagin, 2013; Doob and Webster, 2003). Both rational choice theory and deterrence theory suggest compliance is a choice of behaviour guided by instrumental considerations. In contrast, the procedural justice model is premised on the idea that people will comply with the law provided procedures are seen as fair, even if there is little actual or perceived chance of being detected breaking the law (Nagin and Telep, 2017; Sunshine and Tyler, 2003; Tyler and Fagan, 2008).

Historically, procedural justice theorists Thibaut and Walker state that the adoption of fair procedures facilitates fair outcomes. Individuals thus comply with the law when they receive favourable outcomes (Thibaut and Walker, 1975). Their instrumentalist position is, however, overshadowed by subsequent theorising and empirical work, particularly by Tyler.

Tyler argues that fair process affects compliance independently of favourability of outcome. In his seminal work, *Why People Obey the Law* (1990), he posits that perceived fairness of treatment by legal authorities predicts the legitimacy people confer on them. This perception of legitimacy in turn affects people's compliance with the law. The mechanism that ties procedural treatment, legitimacy and compliance is embedded in the social psychological concept of the group-value model (Lind and Tyler, 1988). According to this model, when people are heard and treated

respectfully their dignity of person is affirmed and their status and social identification within their group (including the police) is promoted. Identification affects law-abiding behaviour because members of a social group are motivated to act in ways that fulfil expectations from other group members (such as police) as they draw status and self-worth from these roles and relationships (Tajfel and Turner, 2001). Therefore, people obey the law out of a sense of duty that emerges from this morality irrespective of decisions made by authorities (Tyler, 1990). Notably, the salience of Tyler's (1990) procedural justice model lies in his claim that every encounter the public has with the police is a 'teachable moment' (Tyler, 2011 p. 257) in which people learn about the law and legal authorities: it is a socialising experience that builds or undermines legitimacy.

### **8.1.2 Empirical tests of procedural justice theory**

#### **i) Evidence confirming the theory**

A volume of empirical studies affirms Tyler's (1990) proposition that procedural fairness affects compliance with the law through legitimacy. Some of the key studies will be described below<sup>70</sup>. Tyler's (1990) seminal study conducted in Chicago employed a two-wave panel survey to gauge how people who had direct encounters with police and courts experienced them. The first wave of 1,575 interviews demonstrated a linear relationship between people's perceptions of procedural fairness, the legitimacy they conferred on the police and their subsequent compliance with the law. The second wave of follow-up interviews (conducted after one year), with 804 participants, confirmed findings from the first wave but also showed that people's perceptions of police legitimacy, as opposed to their views of police effectiveness, predicted compliance with the law. This relationship between legitimacy and likelihood of compliance held when controlling for a variety of individual factors like race, sex, income and personal morality.

Tyler and Huo's (2002) study carried out in Oakland and Los Angeles by administering surveys to 1,656 residents showed that citizens' assessments of procedural fairness strongly predicted their willingness to accept decisions made by the police. Similarly, Sunshine and Tyler's (2003)

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<sup>70</sup>There is some research that examines the linkages between procedural justice and cooperation with the police to solve and prevent crime (see, for example, Sun et al., 2017; Huq, Tyler, and Schulhofer, 2011; Murphy and Cherney, 2012; Reisig, 2007; Tankebe and Mesko 2012; Reisig and Lloyd, 2009; Tankebe, 2009). These include studies from developing countries such as Ghana (Tankebe, 2009) and China (Sun et al., 2017). However, the issue of cooperation with the police is beyond the scope of this thesis and therefore is not addressed.

research with residents of New York City examined the factors that shaped public support for police and policing activities. Perceptions of procedural fairness and police legitimacy, as opposed to effectiveness, were found to predict compliance (self-reported) with police decisions. Similar evidence that confirms Tyler's procedural justice thesis has been reported by a multitude of survey-based quantitative studies conducted in developed countries like the U.S (National Research Council, 2004; Tyler, 2011; Tyler et al., 2007; Tyler et al., 2015; Fagan and Tyler, 2005), the UK (Jackson et al., 2012; Tyler, Bradford et al., 2015), and Australia (Higginson and Mazerolle, 2014; Mazerolle et al., 2012). Moreover, meta-reviews of evidence on procedural justice (Donner et al., 2015; Jackson et al., 2015) consistently show that procedural fairness is the primary antecedent of perceptions of legitimacy. The latter, in turn, is strongly associated with legal compliance.

Methodologically, very few studies examining the relationship between procedural justice and compliance have used tools other than surveys asking people to report impressions of their recalled or imagined encounters with police. When cross-sectional data analysis is added to the survey design the generalisability of research becomes limited (Bachman and Schutt, 2014). Moreover, it is impossible to establish causality through surveys (Bachman and Schutt, 2014). What this means is that the finding is also subject to reverse causality: that when people comply with the law they retrospectively attribute greater legitimacy and procedural fairness to police behaviour. Alternatively, research results may be better explained by factors outside the procedural justice theoretical model. Even panel studies (e.g. Sunshine and Tyler, 200e 2003; Tyler, 1990), which are more robust tests than cross-sectional data analysis, fall short of establishing causality. This is because they use methods like multivariate regression for data analysis. Such statistical modelling techniques do not fully mitigate the possibility that third factors not entered into the regression model may be affecting the relationship between variables (Nagin and Telep, 2017; Jonathan-Zamir and Weisburd, 2013).

Randomised controlled trials (RCTs) remedy the problem of causality, at least in part. There are currently three natural RCTs testing the effects of procedural fair policing, out of which one suggests a causal relationship between procedural justice and compliance<sup>71</sup>. The first RCT was the

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<sup>71</sup> The other RCTs that replicated the Queensland Community Engagement Trials in Turkey (Sabin et al., 2016) did not use compliance as an outcome measure as it was deemed unfeasible to ask such questions in the country's political climate. Similarly, the RCT in Scotland only looked at the relationship between procedural fairness and citizens' trust, satisfaction and sense of legitimacy in officers (MacQueen and Bradford 2015).

Queensland Community Engagement Trial in Australia, where drivers were stopped for random breath tests (Mazarolle et al., 2013). In the experimental conditions officers implemented a script on procedural justice. In the control condition drivers were treated according to normal police procedure. The results showed that individuals who received procedurally fair treatment in the experimental group indicated a small but higher likelihood of compliance with police directives than those in the control group. However, these findings were generated from a low response rates of only 13%, indicating that the conclusiveness of the findings was limited.

#### ii) Durability of the effect of procedural justice on compliance

While Tyler's original position on the procedural justice model claims that every encounter with the police potentially results in long-term behaviour altering socialising experience, evidence supporting this proposition is mixed. A handful of observational studies of people's encounters with police in the U.S. (see Dai, Frank, and Sun, 2011; Mastrofski, Snipes and Supina, 1996; McCluskey, Mastrofski and Parks, 1999) showed that procedurally fair treatment led to a greater likelihood of compliance with immediate decisions made by the police. However, these studies did not investigate compliance behaviour in the long term.

Several other studies suggest an affirmation of Tyler's theoretical claim. For example, an earlier study by Pruitt, et al., (1993) examined the impact of procedural justice on compliance with outcomes of mediations. Cases mediated concerned disputes involving property, money or behaviour between neighbours, relatives, former spouses, former lovers, landlords and tenants. The cases were referred to mediation by the city or courts or self-referred. Reports from two waves of interviews with the disputants showed that perceptions of procedural fairness during mediated sessions impacted the extent to which individuals complied with their mediation agreements four and eight months later. Similarly, Paternoster et al., (1997) tracked compliance, measured through re-arrest of offenders for repeat spousal violence following officers' first call to a domestic assault scene. Their findings suggested that fair treatment predicted re-arrest for spousal violence within 14 months.

#### iii) Evidence of caveats to the theory

In contrast to the studies described above that support procedural justice theory, other research suggests that the theory does not explain compliance in all circumstances. These studies highlight

factors beyond procedural justice and legitimacy that may account for compliant behaviour. Key examples of such research will be described below.

Two studies illustrate limitations to the ‘explanatory breadth’ (Reisig, Tankebe and Mesko, 2014, p. 269) of the procedural justice model, showing that the procedural fairness theory does not explain compliance for all types of crimes. For example, one of the studies tested the linkages between procedural justice, legitimacy and compliance for six types of self-reported crimes among young adults in Slovenia (Reisig, Tankebe and Mesko, 2014). The authors found general support for the procedural justice/police legitimacy/compliance link but when known correlates of criminality were introduced into the equation the effects of legitimacy on compliance were more modest than those found by prior studies. However, disaggregated examination of the effects of legitimacy on specific crimes showed that it only affected two out of the six crimes - littering and making loud noises (Reisig, Tankebe and Mesko, 2014). It did not affect compliance reports for other crimes like buying stolen property, using drugs, and alcohol and traffic offences, indicating that the effects of procedural justice vary according to how it is operationalised.

Similarly, Papachristos et al.,’s (2012) survey of 141 offenders who were either on probation or parole in Chicago found that those respondents who viewed the police as procedurally fair and legitimate were less likely to carry a gun. However, legitimacy did not affect the likelihood of the offenders getting into a fight. Moreover, there is the difficulty of knowing the direction of the effect from the findings: whether perceptions of procedural fairness reduced the likelihood of carrying a gun or whether individuals who are less likely to carry a gun view the police as procedurally fair. The authors concluded that the findings imply that ‘people might be more influenced by their perceptions of the law for crimes that require active thinking, as opposed to reactive situations such as fights, which tend to happen out of unplanned situational factors’ (Papachristos et al., 2012, p. 437).

Other studies show that situational contexts may explain compliance beyond the procedural justice model. For instance, Tankebe, Reisig and Wang (2016) looked at survey responses from university students in Ghana and the U.S. They found that although procedural justice affected perceptions of police legitimacy the latter affected compliance with the law differently in the two countries. Unlike in the U.S., legitimacy was irrelevant to explaining compliance in Ghana (Tankebe Reisig and Wang, 2016). The authors speculated that factors like self-interested calculations, habit or

fear (Bottoms, 2002; Reisig & Lloyd, 2009; Tankebe, 2013) might be greater motivators of behaviour in Ghana.

Such findings from research outside the U.S. draw attention to the impact that socio-cultural contexts wield on procedural justice (see Chapter 7 for additional discussion). As Tonry (2004) explains, Americans may be especially sensitive to the way they are treated by the police because of their 'political culture that emphasizes notions of small government and the need to protect citizens from an over-powerful state' (p. 4). Whereas in a different political contexts like Ghana (see Tankebe 2009), where people perceive the relationship with their state differently, Tyler's procedural justice theory becomes less effective.

Moreover, several studies researching adolescent offender samples have shown that individual-level factors may also affect compliance. For example, Augustyn (2015) found that the relevance of the procedural justice model varies by age. While procedural justice and legitimacy affected recidivism in adolescent-onset offenders they had no effect for early-onset offenders.

Cavanagh and Coffman (2015) showed that youth offenders' attitudes towards the criminal justice system affected their recidivism. These attitudes were in turn shaped not just by their encounters with the police but by their mother's attitude towards the justice system. The study demonstrated that family context is an important factor to consider in compliance.

Another longitudinal study conducted by Slocum, Wiley and Esbensen (2016) showed that police contact in itself has a significant effect on reoffending and this is not mitigated by perceptions of procedural fairness. However, as the authors only partially operationalised procedural justice (quality of treatment and not quality of decision making), the findings might have been different if the full construct of procedural fairness was tested.

Following this discussion of the broader literature on procedural justice and compliance, the next section will discuss spousal violence research.

### **8.1.3 Procedural justice-compliance relationship in spousal violence**

Only one study to date has examined the effect of procedural justice on compliance in the case of spousal violence.<sup>72</sup> This study, by Paternoster et al., (1997), used data from the Milwaukee domestic violence experiment (Sherman et al., 1992), in which police responding to a misdemeanour domestic violence call randomly assigned the suspect to either an arrest or a non-arrest condition. Paternoster et al., (1997) used interview data from 479 domestic violence suspects assigned to the mandatory arrest condition. The results showed that those individuals who had higher levels of procedurally fair treatment during arrests reported recidivism rates that were similar to the non-arrest groups. Procedural justice therefore appeared to mitigate the criminogenic impact of arrest via a direct link between procedural fairness and compliance with the law.

### **8.1.4 Summary**

This section began by describing Tyler's procedural justice model: that perceptions of fair treatment by police, as opposed to instrumental sanctions, affect people's compliance behaviour. The relationship between procedural justice and compliance is, in turn, moderated by legitimacy. The evidence testing Tyler's procedural justice model was then discussed. On the one hand, a number of quantitative studies from the developed world support Tyler's theory. On the other hand, methodological scrutiny of research that supports the procedural justice model indicates that causal linkages between procedural fair treatment and compliance with the law are so far not well-established (Nagin and Telep, 2017). Evidence indicates that the procedural justice-compliance link may be moderated by factors such as political contexts, family socialisation, age and pre-existing attitudes towards the police. Moreover, Reisig et al., Tankebe and Mesko (2014) point out that procedural justice studies have failed to 'adequately account for the direct effects of known correlates of criminal activity' (p.8), which increases the threats to the internal validity of observed

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<sup>72</sup> Hickman and Simpson's (2003) study used data from the Metro-Dade County (Florida) experiment (Pate and Hamilton, 1992) on domestic violence to test Tyler's procedural justice model. They measured whether perceptions of procedural justice affected victim's reporting behaviour. Their findings were counter-theoretical as victims who viewed police treatment as fair were less likely to report crimes, as opposed to victims who believed police treatment was unfair. As reporting crime to the police is cooperation and not compliance (Kochel, Parks and Mastrofski, 2013; Tankebe, 2009) this study is not included in this review. Another qualitative study on policing of spousal violence conducted by Rajah et al., (2006) in the US explored victims' perceptions of mandatory arrest practices in New York. One of their findings aligned with the procedural justice thesis - victims who felt they had more power over their case were more likely to cooperate with the police. This study was also excluded because it did not address compliance.

findings (Reisig, Tankebe and Mesko, 2014)<sup>73</sup>. This in turn makes it difficult to disentangle the effects of procedural justice from other explanations of law-abiding behaviour (Tankebe, 2008).

Finally, the bulk of evidence both confirming and refuting procedural justice theory is derived from crimes that are not spousal violence. The one study on spousal violence (Paternoster et al., 1997) shows that procedural justice may directly lower recidivism. However, given the demonstrated sensitivity of procedural justice to social-political contexts, the generalisability of this study's findings to policing of spousal violence globally appears to be limited.

Following this discussion of the existing state of knowledge on procedural justice and compliance, this chapter will now turn to examining the applicability of Tyler's theoretical model to findings from Kathmandu.

## **8.2 Procedural justice and compliance in Kathmandu**

In this part the discussion of the compliance-related research findings from Kathmandu will be organized into two sections. The first section will provide a summary of this study's findings. The second section will then discuss how the findings appear to detract from the postulation of the procedural justice theory. Finally, it will suggest alternative explanations of factors that may affect compliance in Kathmandu.

### **8.2.1 Summary of findings from Kathmandu**

Compliance by perpetrators in Kathmandu was measured by the extent to which they abided by outcomes reached at the end of their PCR, including victims' reports of repeat spousal violence. The research review in Part One (8.1) shows that prior studies measured outcomes through three methods: 1) self-reports of offending, 2) predictions by respondents about their likelihood of complying with the law in the future, and 3) official crime/arrest data. Differently from existing studies, this Kathmandu study measured compliance through victims' accounts of perpetrators' compliance behaviour, and perpetrators' self-reports of reoffending, in terms of inflicting physical, psychological, sexual and/or economic violence against their spouse.

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<sup>73</sup> There is no scientific consensus on which correlates of crime to include.

The findings from this study show that there was no statistically significant association between perpetrators' compliance behaviour and their perceptions of different elements of procedural justice: voice, respectfulness and neutrality. Here, the reader is reminded that a structured question relating to the trustworthiness of the police (the fourth element of procedural justice) was struck out of the interview schedule after the pilot phase as participants did not understand the question (see Chapter 4 for more detail). Later, as perpetrators did not mention trustworthiness during their interviews it could not be correlated with compliance behaviour. Moreover, even when victim-reported and perpetrator self-reported reoffending was disaggregated from overall compliance and examined separately, although violence had decreased it had no statistically significant relationship with perpetrators' perceptions of procedural justice in their PCR.

There was also no significant relationship between perpetrators' compliance behaviour and outcomes of PCR (in terms of the perpetrator's perceptions of the desirability and fairness of outcomes), the use of force or detention by the police or their overall satisfaction with how police handed their cases (i.e. perpetrators' perceptions of police helpfulness and whether case handling met their expectations). These findings indicate that there were third factors beyond police processes that affected perpetrators' compliance behaviour.

Following this summary of research findings, the next section will discuss them in light of procedural justice theory.

### **8.2.2 Explaining compliance beyond procedural justice theory**

The Kathmandu study finds that perceptions of procedural fairness in PCR had no influence on the compliance behaviour of perpetrators. In other words, the procedural justice theory does not appear to account for compliance behaviour in Kathmandu.

It was not within the scope of the Kathmandu study to investigate the various reasons for compliance/non-compliance after PCR. Nonetheless, several factors affecting compliance are speculated about and suggested here.

The primary reasoning is drawn from Nagin and Telep's (2017) critique of procedural justice theory. The authors argue that it is still unclear under what circumstances procedurally fair treatment will erode the deep-rooted social and cultural taboos that underlie violent behaviour. In

this they highlight that Tyler's central premise that every encounter that a member of the public has with the police is a 'teachable moment' (Tyler, 1990; 2011, p. 257), one that alters attitudes and behaviour, is too simplistic. They assert that in the theory's emphasis on individual encounters 'larger societal influences are left to the background' (Nagin and Telep, 2017, p. 22). When this argument is extended to the context of Kathmandu we can say that procedural justice did not affect compliance because the individual encounters with police procedures, whether just or unjust, during PCR did not touch upon the larger web of cultural norms and family relationships that may underpin spousal violence in Kathmandu.<sup>74</sup>

The societal structures that create conditions conducive to the perpetration of spousal violence in Nepal are systemic. Feminist theorists suggest that culturally sanctioned male domination over women is one of the key factors leading to spousal violence (Dillon et al., 2013; Vanderende et al., 2012; Yodanis, 2004; Dobash and Dobash, 1979). In Nepal the social structure is hierarchal: women have always occupied a lower status than men (Acharya, 2005; Majupuria, 1982; Thapa, 1985). The institution of marriage in particular is governed by pervasive patriarchal beliefs that, on the one hand, deem wives as subordinate to their husbands and, on the other hand, instil a sense of entitlement amongst men to use violence to maintain their authority over their wives. Beyond cultural beliefs, such hierarchies between men and women are also reinforced by other macro-structures like access to income and education, and women's treatment by the state administration. For example, women tend to be less educated than men, financially dependent on their breadwinner husbands, and Nepali government administrators still require husbands or fathers to endorse women's applications to become citizens of the country (see Chapter 2 for detailed discussion of these issues).

Nonetheless, women's position in society is steadily changing. As a result of factors such as education, modernisation, the armed conflict, the labour migration of young men and amendments in law and policy (see Chapter 2 for detailed discussion) more women are income earners and decision makers in their capacity as heads of households. Yet, these changes are inadequate to dismantle the status quo. Within such a social context spousal violence is a consequence of factors beyond just the individual pathologies of perpetrators. PCR that engages with perpetrators for a

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<sup>74</sup> In his response to Nagin and Telep's (2017) criticism Tyler, in his paper *Procedural Justice and Policing, a Rush to Judgment* (2018), agrees with their views. He states, '... it is unrealistic to expect a single encounter with the police to substantially influence views that have developed over a lifetime'. (p.36)

short time period is unlikely to change behaviour rooted in situational factors. Therefore, regardless of how the police treat perpetrators, it is likely that the larger social narrative of how men should treat their wives has the greater impact on what shapes their compliance behaviour.

In addition to the societal and cultural dimension, the dynamics within the participants' family relationships may also affect compliance behaviour. For example, in cases where physical violence had stopped the Kathmandu study found that the living conditions of the couple had usually changed: perpetrators and victims no longer lived together. Overall, however, most participants reported that their relationships with family members, such as their children, in-laws and parents, remained the same before and after PCR (see Chapter 6 for details). In this context continuing exposure to many of the same family dynamics that impacted prior violence may have shaped post-PCR behaviour.

Lastly, research from South Asia has identified many factors that lead to spousal violence. These include the educational attainments of spouses, employment status and resource availability, pregnancy, length of marriage, substance abuse, self-image of victims, pregnancy and men's perceptions of women amongst others (see, for example: Pandey, 2016; Puri et al., , Shah and Tamang, 2010; Ministry of Health, New Era and DHS Program, 2017); Borah, Kundu and Mahanta, 2017; Murshid, 2017; Peedicayil et al., 2004;). Future research is needed to investigate in greater depth which factors lead to spousal violence in Nepal and how policing interacts with them.

### **8.3 Conclusion**

This chapter began with a review of the empirical literature that establishes a link between procedural justice and compliance with the law. Part Two examined this theory in light of findings from Kathmandu. Perpetrators' compliance with decisions reached/imposed at the end of PCR was measured using victims' accounts. The findings showed that perpetrators' experiences of procedural justice during PCR, their experience of outcomes of the PCR process and their satisfaction with PCR were not associated with their subsequent compliance behaviour. Tyler's theory of procedural justice (1990) therefore seemed unable to account for compliance in Kathmandu. Compliance behaviour looked to be influenced by factors beyond the individual

encounters with police during PCR. Such contextual factors include unchanged family dynamics among the participants and the socially accepted of oppression of women in society.

The primary shortfall of this study is that it was never designed to test the linkage between perceptions of procedural justice and compliance. The findings discussed in this chapter are correlations between perpetrators' experience of procedural fairness, outcomes and their compliance with PCR decisions. Insofar as the study is not a randomised control trial, on the basis of correlations alone, it is difficult to rule out the influence of procedural justice on compliance. Further studies are thus needed to test the procedural justice – compliance link in Kathmandu.

## Chapter 9

### Differences and Similarities between Views of Victims, Perpetrators and Observer: The Procedural Justice Lens

#### Introduction

In the Kathmandu study police conflict resolution (PCR) was viewed from three vantage points: those of victims, perpetrators and an independent observer (the author). In each case, although all three parties were subject to the same phenomenon of policing, there were differences between how procedural justice elements and non-procedural justice aspects of the PCR were perceived from each vantage point. The differing views resonate with the concept of the Rashomon effect popularised by Kurosawa's (1950) film *Rashomon*. The Rashomon effect entails situations where differing accounts of the same phenomenon are given by witnesses. This chapter will discuss the three perspectives of PCR, highlighting how the greatest differences in views pertained to procedural justice and the greatest similarities related to non-procedural justice dimensions such as police use of force and PCR outcomes.

The discussion in this chapter will be organised into three parts. The first part (9.1) will describe the existing state of knowledge in perceptions of procedural justice by reviewing the handful of extant studies that look at single encounters with authorities from multiple participant perspectives. The second part (9.2) will first describe the findings from Kathmandu, highlighting areas of similarities and differences in perceptions between victims, perpetrators and me as the observer, before describing differences and similarities between the perceptions of victim and perpetrator pairs. In light of the lack of research on what leads to similarities and differences in people's perceptions of policing encounters possible explanations and avenues for future research will be suggested. The conclusion (9.3) will summarise the main points discussed.

## 9.1 Theoretical and empirical research on procedural justice

There is a paucity of studies on procedural justice that look at policing and justice-related processes from multiple perspectives. Most of the existing studies assess the fairness of treatment by authorities through single methods such as surveys (see chapters 7 and 8 for a summary of such studies) and observation. On the one hand, surveys depict first-hand experiences and, as Jonathan Zamir, Mastrofski and Moyal (2015) state ‘... how citizens actually felt is far better captured through asking citizens themselves’ (p. 866). On the other hand, views expressed in surveys or observations alone are subjective opinions which, by themselves, cannot ascertain whether authorities acted fairly. The concern with the accuracy of reported perceptions of procedural justice and the actual behaviour of an authority is particularly tenable considering research findings that consistently show a discrepancy between the two. Two key studies illustrate these variations in views.

The first of these concerns a component of Worden and Mclean’s (2014) study, conducted in the U.S., comparing citizens’ perceptions of procedural justice in policing encounters with independent observers’ perceptions of the same incidents.<sup>75</sup> Methodologically, the study involved systematic social observation of police camera footage. Observers rated procedural justice dimensions in 411 police-citizen interactions. These observation ratings were then correlated with the self-reports of procedural fairness in the same encounters provided by citizens through surveys. In this study assessments of procedural justice by citizens did not often coincide with the observers’ ratings. The greatest asymmetries, of more than 50%, between self-reports and observed behaviour was demonstrated when citizens rated procedural justice to be quite high regardless of how unfairly officers were perceived to behave by observers. Conversely, there was more congruence between the views of observers and citizens (arrestees) who gave high procedural injustice ratings to the police (Worden and Mclean, 2014).

In the second study Hollander-Blumnoff (2017) again focused on the extent to which behaviour that is observable by a disinterested third party predicts assessments of procedural fairness. Although the study was conducted in a laboratory setting its findings are still indicative of how perceptions of the same phenomenon vary according to the vantage point from which it is viewed.

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<sup>75</sup> The study’s primary objective was to learn about whether/how police managers would use information about their officers’ performances in terms of procedural justice (Worden and Mclean, 2014).

In this research first-year law students participated in a negotiation simulation exercise. Two observers coded videos of the negotiations. The observations were correlated to the participating students' self-reported perceptions of procedural justice in the negotiation process. The findings showed that there was greater agreement between observers and participants in judgements of courtesy and respect than in voice and neutrality. Moreover, individuals were more accurate, according to the observers, in assessing their own behaviour than in assessing the behaviour of the another negotiating party (Hollander-Blumnoff, 2017).

The findings of these two studies are corroborated by results from four randomised control trials (RCT) on procedural justice. These experiments involved direct manipulation of police behaviour through scripts. In three experiments, conducted in Australia (Mazerolle et al., 2013), Turkey (Sahin et al., 2015) and Scotland (MacQueen and Bradford, 2015), drivers at routine traffic stops were randomly assigned to either procedurally fair policing orchestrated through experimental protocols or to 'business as usual' treatment. In England the traffic stop protocol developed for the Australian trial was adapted for airport security (Langley, 2014). Passengers were randomly assigned to receive either procedural justice-based treatment or 'experienced utility' treatment. In the former group the traffic stop scripts were modified for the airport setting and in the latter group passengers were provided with incentives such as fast-track security or an escort to gates (there was no control group receiving standard security processing) (Langley, 2014). A finding common to all four trials was that there was no substantial difference between treatment delivered which varied in subtle ways and people's perceptions of it. In other words, actual change in police behaviour did not always reflect in people's subjective ratings of it.

It is possible that this finding from the RCTs was a consequence of their methodological shortcomings. For instance, the response rates to surveys sent out to people to gauge their views on their encounters with police was very low in Australia (13%) and Scotland (about 6%) (Mazarolle et al., 2013; MacQueen and Bradford, 2015). The larger share of participants who did not respond may have accurately perceived police behaviour. Furthermore, treatment contamination is an endemic problem in policing trials: officers may not have delivered the requisite treatment conditions so the seemingly inaccurate perceptions of participants may in fact have been a reflection of the reality they experienced.

Nevertheless, these studies demonstrate that it is challenging to connect objectively rated police behaviour (i.e., actions as rated by observers) to perceptions of procedural justice as reported by people dealing with police officers (Nagin and Telep, 2017). While none of these studies investigate reasons for the differences in views, authors commonly speculate that perceptions of policing are an outcome of past life experiences with authorities that are unlikely to be changed in single encounters (Hollander-Blumhoff, 2016 2017; Sahin et al., 2015; Nagin and Telep, 2017). As Augustyn (2016) explains, ‘... past experiences with authorities whether good or bad do not disappear from one’s memory. They serve as foundations for subsequent evaluations and are the strongest predictor of subsequent judgments of procedural justice’ (p.273). For instance, a number of studies have shown correlations between perceptions of procedural justice and life experiences such as vicarious contact with the police (Augustyn, 2016; Gau and Brunson, 2010; Rosenbaum, et al., 2005; Tankebe, 2010), structural disadvantage (Jackson, 2012 et al., 2013; Kirk and Papachristos, 2011), legal socialisation (Cavanagh and Cauffman, 2017 2015; Sindall, McCarthy and Brunton-Smith, 2016; Trinkner and Tyler, 2016), and the effects of the media (Desmond, Papachristos and Kirk, 2016; Graziano and Gauthier et al., 2018; Hohl, Bradford and Stanko, 2010).

The limited research looking at the same encounter from multiple perspectives suggests that procedural justice is a subjective experience, reports on which may not accurately reflect police behaviour. This chapter will now turn to findings on the subject from the Kathmandu study of the perceptions of PCR participants.

## **9.2 Findings from Kathmandu**

In the Kathmandu study 82 victims and 73 perpetrators were interviewed about their experiences of PCR. Participants’ reports in interviews were compared to my ratings, as an independent observer, of procedure justice-based, outcome-based and lawful dimensions of PCR. The perceptions of victim and perpetrator pairs were also compared to each other.

A conceptual distinction is drawn between procedural justice, outcome measures and lawfulness (Bottoms and Tankebe, 2012; Tankebe, 2013; Tankebe et al., 2016). Outcomes are instrumental concerns that constitute distributive justice as opposed to procedural justice (Tyler, 1990). Bottoms

and Tankebe (2012) refer to Weber's theorisation of legality to explain that lawfulness includes 'the compliance with enactments which are formally correct...' (Weber, 1974,1978 p. 34). In other words, lawfulness requires police action to adhere to existing legislation <sup>76</sup>, whereas procedural justice is a normative assessment of fairness of treatment (Tyler, 1990). As an example, the use of force and detention by police in Nepal is governed by law (See Chapter 5 for details). Jonathan-Zamir et al. (2015) argue that police use of force needs to be excluded from procedural justice measurement. They explain that 'force [is] an inappropriate indicator of dignity or any other procedural justice element. Force is an action that may aggravate or provoke a citizen, but the character of the social status it signals to those at the scene is not inherently clear simply by knowing that some degree of coercion was applied' (Jonathan-Zamir, Mastrofski and Moyal, 2015 p. 871). The use of force is therefore an element of lawfulness as opposed to procedural justice. As it is beyond the aims of this study to explore the scope of the constituent elements of procedural justice police actions expressly governed by Nepali law, such as use of force and imprisonment, are described as non-procedural justice factors.

### **9.2.1 Comparison of three perspectives**

The differences between the three perspectives of victims, perpetrators and observer were found principally in their perceptions of two procedural justice elements: voice and respectfulness of treatment. The voice component had moderate agreements but greater disagreements. In other words, the observer's views did not align with the perceptions of victims and perpetrators on questions of whether participants had a chance to tell their stories, and whether police listened and paid attention to them.

In terms of respectful treatment, which encompassed police politeness, their use of scolding and their engagement in improper conduct, there were differences between views of the observer and participants. There was some agreement, but largely disagreement, between victims, perpetrators and the observer on whether the police were polite and if they had scolded anyone during PCR. Similarly, there was little match between the victims' and observer's views about the frequency of

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<sup>76</sup> A discussion of the normative and moral basis of legislation that guides policing is beyond the scope of this research.

improper conduct and its nature.<sup>77</sup> There were further differences in views between victim and perpetrator pairs. The pairs disagreed over whether police listened to or scolded their respective spouses.

Contrary to the disagreements in views seen for procedural justice elements of PCR, there was almost complete concordance between the three perspectives on non-procedural justice facets such as police use of force, imprisonment, outcomes and the key terms of PCR outcomes (see Chapter 6 for detailed discussion).

In summary, prior studies described in Part I of this chapter have focused on comparing the views that participants and the observer had about the procedural justice element of encounters. The Kathmandu study, however, went beyond just procedural justice factors to explore views about non-procedural justice elements like lawfulness and outcomes. The findings from Kathmandu suggest that the differences between subjective and objective views of police encounters may be limited to assessments of procedural justice elements within these incidents. These discrepancies between perceptions may disappear when considering non-procedural justice factors. The reasons for these differences require an investigation that is beyond the scope of the current research. Nonetheless, some explanations are speculated on in the section below.

#### 1) Differences in perceptions of procedural justice elements

The differences between victims', perpetrators' and the observer's perspectives of procedural justice may be attributable to factors beyond the PCR encounter. Pickett et al., Nix and Roche (2018) theorise that people's 'perceptions of police procedural justice are anchored in a broader relational justice schema which develops from early life and frequent interpersonal experiences with non-legal actors' (p. 113). A relational justice schema is the assumption that people in society are fair and respectful. It is constructed from people's experiences of interactions with parents, teachers and neighbours. The authors explain that encounters that are short in duration and made in later stages of life, like those with police, are grounded in schematic assessments as opposed to being tied to the actual quality of treatment received (Pickett, Nix and Roche, 2018). Applied to Kathmandu, this model would suggest that participants' perceptions of police treatment may

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<sup>77</sup> The reader is reminded that the question about police improper conduct was struck from the perpetrators' interview schedule as interviewees did not grasp the question (see Chapter 4 for details).

include ‘spill over’ (Casper, Tyler and Fisher, 1988, p. 498) effects from their prior interactions with justice sector actors (Casper, Tyler and Fisher, 1988), parents, teachers and neighbours (Dodge, 2006; Pickett, Nix and Roche, 2018). Therefore, the differences in victims’ and perpetrators’ schemas formed by their individual histories of interactions may account for the discrepancies in their perspectives of procedural justice in PCR.

Furthermore, Pickett, Nix and Roche (2018) posit that when individuals have frequent contact with the justice system their assessment of treatment is grounded more in the reality of what happens as they rely less on their relational justice schema. In this respect I, as the independent observer, had spent 11 months in the WCSC. The ability to familiarise myself with the policing process, including officers’ temperaments, may have lessened the influence of my relational justice schema on my views and enabled me to report what happened. For example, in one case the victim believed the officer had shouted at her because she spoke loudly. I, being familiar with the officer’s behaviour pattern, knew that it was not shouting but rather that the officer’s voice tended to automatically crescendo as she spoke. In such instances my perception was different from those of victims and perpetrators, who interpreted PCR through their own background and experiential filters.

In tandem with the logic of how relational justice schemas may have affected perspectives it is also worth considering the nature of roles that the three parties had and their influence on views. The victims and perpetrators came to the WCSC to resolve a very serious domestic dispute. Case handling and outcomes directly impacted their lives. I, as the researcher/observer, had no vested interest in any case and therefore had no need to focus attention on one aspect of case handling over another.

Moreover, in formulating judgements about police behaviour like improper conduct I drew on my own morality. This was influenced by not just my socialisation and upbringing in Nepali culture but also by my experience of living in Western countries for nine years. My standards of service delivery and professional conduct were largely influenced by norms in the West. This was a contrast to most of the study participants, who may have viewed the police as fulfilling the role of a family elder as opposed to providing policing as a state service (see Chapter 7 for detailed discussion).

In addition to differing life experiences that prompted varying judgements I drew up ratings of police treatment from my detailed in situ notes. Participants, on the other hand, relied on their memories, which are susceptible to recall bias. In fact, the whole interview process called on participants to engage in a task that is uncommon in Nepal: thinking about and reporting opinions on about service delivery. Therefore, the combination of socialisation differences, selective recall and the novelty of the exercise of reflecting on police treatment may also explain why participants' and the observer's views of procedural justice elements differed.

#### ii) Mismatching views of spouses

A notable finding was that victim and perpetrator pairs generally disagreed about how police treated their respective spouses. This disagreement may on the one hand be attributable to similar heightened awarenesses of self, as opposed to other parties, as was detected in Hollander-Blumhoff's (2017) study described in Part 1.

On the other hand, it may reflect a continuation of the underlying disagreements between the spouses during PCR. A major theme that emerged from the analysis of participants' reports of their history of marital problems was that spouses identified different factors as being troublesome in their marriage (see Chapter 6 for discussion). PCR may have failed to reconcile the biases that spouses had against each other. Although her study did not cover spousal violence, Strang (2002) compared victims' and perpetrators' reactions to each other and the way they were treated in restorative justice conferences carried out in Australia. She found that victims and offenders only influenced each other in the dimensions of emotional restoration and harm: the chance to interact with each other created opportunities for synergy of emotions. However, no synergy was found in perceptions of procedural justice as victims and offenders rated these experiences independently (Strang, 2002). Similarly, in Kathmandu PCR may have failed to generate synergy that might have induced victims and perpetrators to agree in their perceptions of how their spouses were treated by the WCSC police.

While Strang (2002) extrapolated findings about synergy from proxy measures, Collins' (2014) interaction ritual chain theory provides a theoretical model for directly observing and analysing emotions and energy in micro-level interactions. The interaction ritual chain theory postulates that in settings where two or more people are gathered there are interaction rituals. The interaction

ritual is a process in which people focus their attention on a common activity or object. The shared focus and the awareness of it, created through communication among the people gathered, engenders a common mood or experience. According to Collins (2014), this mutual entrainment of emotions and attention produces a shared emotional and cognitive experience. In effect, high levels of focus and emotionally shared attention can lead to people feeling solidarity with the group and feelings of rightness in adhering to the group. Future research applying interaction ritual chain theory to investigate whether interactions in PCR successfully achieved mutual entrainment of emotion may provide more concrete reasons for why spouses disagreed about each other's treatment by the police.

### iii) Similarities in perceptions of non-procedural justice elements

In contrast to the differences in views there were agreements between all three parties about when/if non-procedural justice factors such as police use of force and imprisonment were used and the type of outcomes and its key terms reached at the end of the PCR. Coercive measures like physical force and imprisonment were concrete, infrequent and tangible, unlike procedural justice elements. They may therefore have been easy to remember and report.

Similarly, PCR outcomes and their key terms were also tangible concepts: the decisions were what each party took away from a case. The PCR process may in itself have also facilitated clarity and recall about outcomes and key terms as at the end decisions were reiterated either in the final paperwork and/or verbally by police. Moreover, an assessment of the nature of victims' expectations of the police demonstrates that they were mostly linked to outcomes as opposed to process (see Chapter 6 for details). As victims came to the WCSC looking for outcomes they may have paid greater attention to them. Since perpetrators' expectations were not canvassed it is difficult to speculate whether their prior expectations had any role in their accurate recall of outcomes and their key terms.

## **9.3 Conclusion**

This chapter started with a review of the handful of studies from Western jurisdictions that broadly indicate that procedural justice is a subjective experience. In Kathmandu the findings resonate with this wider literature, showing that experiences of procedural justice are subjective for both victims and perpetrators. On the other hand, participants' views on non-procedural justice elements of PCR

such as use of force and outcomes were objective and accurate. Several explanations for these differences and similarities in perceptions have been suggested, the primary one being that perceptions of policing are probably shaped by factors beyond the single interaction during PCR. They might be linked to social and cultural aspects of participants' and researchers' backgrounds and how policing is perceived in the Nepali context.

## Chapter 10

### Conclusion

#### Introduction

The Kathmandu study explored victims' and perpetrators' perceptions of police conflict resolution (PCR) and examined the findings within the framework of procedural justice theory. In this concluding chapter I will outline what I set out to investigate (10.1). I will then summarise the main findings (10.2). Finally, I will draw out implications of the findings for police practice and identify areas for future research (10.3).

#### 10.1 The Kathmandu study

Spousal violence inflicted by a husband on a wife is the largest reported crime problem in Nepal (Nepal Police, 2019). In 2009, with the enactment of the Domestic Violence Act 2009, Nepal became the third South Asian country to criminalise violence within the household. A specialised unit of the Nepal Police called the Women and Children Service Centre (WCSC) has been responding to reports of spousal violence since 1996. Nepal's method of policing spousal violence is particularly interesting because it is done by bringing together victims, perpetrators, their friends and their family for a discussion facilitated by police. As this discussion is neither a restorative justice measure nor mediation I call this process a PCR programme. This policing measure, mandated by Nepal's domestic violence law, is a contrast to the arrest and prosecution measures used in many Western jurisdictions

In contrast to what is known about policing of spousal violence in the West, there is no systematic study of policing of spousal violence in Nepal. This study therefore sought to address this gap in knowledge by exploring how the WCSC responds to spousal violence through its PCR programme and how this police response is perceived by victims and perpetrators. A single site study in the Kalimati WCSC in Kathmandu was undertaken to understand the following issues. Firstly, the nature of the police response, particularly the PCR programme. Secondly, victims' and perpetrators' experiences of PCR, particularly in terms of its process and outcomes. Thirdly, how

the views of the victims and perpetrators in PCR differ from my own observations of the PCR process. Fourthly, the association between victims' and perpetrators' perceptions of the PCR process and their satisfaction. Fifthly, and the relationship between perpetrators' views of PCR and their compliance behaviour one month afterwards.

This exploration of perceptions of police treatment and their association with satisfaction and compliance made the theory of procedural justice an appropriate framework within which to view the findings. The procedural justice thesis states that people evaluate the actions of the police mainly not in terms of favourable outcomes but rather according to the fairness of the processes that the police employ to deal with their cases (Tyler, 1990; Tyler, 2003). In the Kathmandu study I examined several things. Firstly, whether procedural justice is an objective experience insofar as it being identified similarly by all parties privy to a police encounter. Secondly, whether procedural justice theory could explain the links between participants' experience of police processes during PCR and their satisfaction with policing. Thirdly, whether perpetrators' experiences of processes during PCR had links with their subsequent compliance with decisions reached during PCR.

Methodologically, most research on procedural fairness uses a procedural justice scale that amalgamates the four components of procedural justice: voice, respectfulness, neutrality and trustworthiness. In my study I did not create a single procedural justice scale. Instead, I looked at the association between individual facets of police behaviour and satisfaction and compliance separately.

## **10.2 Findings**

An important facet of the Kathmandu study was constructing a detailed understanding of the PCR process itself, for it was only through this knowledge that the experiences of victims and perpetrators could be comprehended. Broadly, PCR followed a multi-stage procedure aimed at reconciling disputing parties. The victim (usually) filed an oral complaint. Once officers determined they had jurisdiction over the case they asked for a written complaint. The written complaint was crafted by a paid service provider as opposed to the police. It followed a standard format whereby the violence suffered was first described. Most importantly it asked the police to summon the perpetrator and hold PCR. This appeared to be the police's method of circumventing the legal provision that required them to only conduct PCR with the victims' consent. In other

words, while police rarely asked victims for consent to conduct PCR they obtained consent in writing without victims being aware of what they were agreeing to.

PCR assembled the victim, the perpetrator, their friends and family inside a WCSC office. As there was no guidance from law or policy about its format the method with which each PCR session was conducted depended on the styles of individual officers. There was plenty of variability in PCR processes in terms of their locations, the number of officers facilitating them, police use of scolding, violence and imprisonment against parties, officers advising parties, police displays of unprofessional/improper conduct or extra police effort invested to resolve disputes.

PCR ultimately ended in one of five major outcomes: reconciliation, separation, pressing charges of spousal violence, recalling parties (mainly perpetrators) to the WCSC to sign in attendance or case dismissal. For agreements to reconcile or separate key terms to be fulfilled by parties were set out verbally, whereas if charges were pressed for spousal violence the legal process was triggered. Victims, perpetrators and witnesses identified by them were interviewed by the police and their statements recorded in writing. If parties failed to reconcile in a period of one month their file was sent to the Kathmandu district court.

Through participant observation I observed 100 PCR cases. I investigated the views of the victims and perpetrators of these PCR processes by attempting to approach all of them for interview after PCR and ultimately interviewing 82 victims and 73 perpetrators. Demographically, the participants in my sample had autonomous (rather than arranged) marriages and lived in nuclear (as opposed to joint) families. Perpetrators were more educated, more likely to be employed and had greater income than victims. Due to lack of data about socio-demographic features of the general population in Kathmandu it is not possible to ascertain whether this study's sample is representative of the population in the city.

Interview reports from these participants showed that their overall views were that police treated victims more favourably than perpetrators: victims had a greater chance to tell their story, the police listened to them more, scolded them less, hit them less and never imprisoned them. Around 50% of victims and 40% of perpetrators said they were satisfied with the policing of their cases.

When the association between participants' perceptions of PCR processes and their satisfaction was examined the findings did not support the predictions of Tyler's (1990) procedural justice

theory. I found that while procedure, in terms of voice, respectfulness, neutrality and trustworthiness, mattered, outcomes were the most important correlates of satisfaction. Other factors like police competence were also important for satisfaction. Most strikingly, behaviours that were indicative of procedural injustice, such as improper conduct by the police, and their use of violence and imprisonment against participants, were not associated with satisfaction. Insofar as procedural justice theory postulates that, in encounters with the police fairness of treatment is more important to people than outcomes, the findings from Kathmandu indicated otherwise.

Similarly, the findings on perpetrators' subsequent compliance also detracted from the prediction of procedural justice theory that adherence to fair procedures by police will induce subsequent compliance with the law (Tyler, 1990). After PCR victims reported that fewer than 50% percent of perpetrators had fully complied with PCR decisions, although all forms of physical, sexual, psychological and economic violence perpetrated against them had declined over the following month. Police data could not be used to verify these reports as they did not record reoffending. In terms of relationships between compliance and process, compliance by perpetrators was not found to correlate with any of the experienced procedural fairness elements of voice, respectfulness and neutrality. Moreover, compliance was not correlated to non-procedural justice aspects of police treatment such as police competence, police use of force and imprisonment.

The shortcomings of procedural justice theory in explaining the findings pertaining to participants' satisfaction and perpetrators' compliance in Kathmandu were identified on two interconnected fronts. The first was that the theory places too much emphasis on the significance of single police-citizen encounters. In doing this it ignores the broader situational and cultural contexts within which spousal violence is engendered and policed. Secondly, it overestimates the power of 'teachable moments' (Tyler, 2011, p. 211) in police-public encounters to change behaviour shaped by factors beyond policing.

Within this critique of procedural justice theory I proposed a relational model of justice to better accommodate the findings related to participant satisfaction in Kathmandu. The relational model of justice takes into account the broader socio-political context within which policing is done. The situational context of Kathmandu is that people do not have the same conception of policing as a state service or ideas about professional conduct in service delivery that people may have in the West. As local governments were absent for 20 years from 1997 in Kathmandu many participants

were unlikely to have had much interface with the state's service delivery in offices. Being an urban centre, Kathmandu also did not have traditional dispute resolution mechanisms seen in Nepali villages. In this context I argued that, although people see the police organisation as an authority figure, they equate its authority to the only other powerful figure they can relate to - the family elder.

In this framework of perceiving the police as family elders behaviours deemed procedurally unjust became normalised. For example, improper conduct such as falling asleep behind a desk, putting on make-up during PCR or listening to music may be unprofessional conduct for a professional state service. Yet, if the dispute was being resolved inside a family home these activities would become permissible. Similarly, use of force against parties by officers is illegal according to Nepali law. However, if the police are viewed as family elders then it becomes their prerogative to exercise coercive measure to correct family members (participants) and maintain peace inside a household. I also noted that, owing to modernization, education and employment, the absolute authority of family elders has eroded. This is why many participants, as empowered family members, did in fact voice criticism of the unfairness of police (family elder) conduct.

Although the conceptualisation of police as family elders accounted for some aspects of satisfaction, I argued that factors beyond policing also explained why outcomes were so important to satisfaction. Participants in Kathmandu have no realistic possibility of obtaining support from the state for housing, education, childcare, healthcare or employment. I suggested that in Western jurisdictions, because people know they can access support services outside policing, they may focus on the procedural fairness of police treatment. However, in Kathmandu, where it is difficult to access support services, people may pay more attention to whether the police fixed their problems by delivering outcomes than to whether officers treated them fairly.

I also speculated that there are factors beyond policing that affect compliance behaviour in perpetrators. One element might be lack of change in the participants' family dynamics, for violence was found to have decreased most often for couples who did not stay together. Moreover, research on spousal violence in South Asia identifies a plethora of correlates such as the hierarchical status of men and women in society, education, employment, family size, and women's pregnancy status, amongst others. I argued that the claims of procedural justice theory that single encounters with the police can shape law-abiding behaviour may not hold in Kathmandu

because they cannot affect the family and societal factors that give rise to spousal violence in the first place.

The Kathmandu study is among the few existing studies that used empirical data to examine whether procedural justice is an objective construct. Methodologically, this question was tested by comparing the differences and similarities between how I as the observer viewed PCR processes and how participants perceived them. The findings show that there was full agreement between the three perspectives on non-procedural justice elements of policing like officers' use of force, imprisonment, the outcomes reached after PCR and their key terms. On procedural justice-related aspects of police behaviour, such as police allowing participants to tell their story, listening to them, paying attention and politeness, there were greater disagreement, as opposed to agreement, between the three views. The greatest disagreement between the observers' and participants' views revolved around police scolding parties and their engagement in improper conduct such as sleeping during case handling, putting on make-up and giving wrongful advice, amongst others.

The demonstrated lack of concordance between the views of the three parties present during PCR over how to characterise elements of procedural justice resonates with the Rashomon effect (Kurosawa, 1950). This finding suggest that experiences of procedural justice may not be based on just objective behaviours of the police. Perceptions are likely to be shaped by the disparate backgrounds and expectations of the participants and researcher.

Overall, the Kathmandu study suggests that the observed experiences of policing spousal violence through PCR is as subjective experience of justice. It is better explained through a broader theory of relational justice, that takes into account relationships in Kathmandu within their larger political and historical contexts.

### **10.3 Implications**

The findings indicate some key implications and open avenues for future research that I will discuss below.

Firstly, although the theory of procedural justice did not gain empirical validity in Kathmandu this does not mean that fairness of police treatment is unimportant. The affirmation of human dignity through procedurally just policing is an important goal in itself (Tankebe, 2009; Tyler, 2018).

Secondly, the Kathmandu study was a small-scale single site research. The correlations between perceptions, satisfaction and compliance may not have been statistically significant due to the small sample size (Piquero and Wiesburd, 2011). The small sample size also led to the use of descriptive as opposed to inferential statistics for data analysis. Due to this limitation the findings of this study must be considered suggestive areas of inquiry. Follow-up larger-scale studies in multiple sites are needed to confirm the findings.

Thirdly, the findings about the subjectivity of perceptions of procedural justice have implications for police training. They mean that even if police are trained in procedural justice and act exactly as they are trained, their conduct may not be received equally well by all service seekers. This message may be an important facet of expectation management to communicate to officers on the front line of duty. Moreover, the finding that procedural justice is a subjective experience is not well researched. It thus merits further exploration both philosophically and empirically.

Fourthly, the proposition of the police as family elders in a particular social and cultural world is a new concept put forward in policing. Future research with not just victims and perpetrators but members of the general public and the police themselves is needed to explore this idea. Furthermore, if policing is indeed viewed in the family elder context, as opposed to as a state service, reform efforts need to be envisioned to accommodate this paradigm. In this the tendency to import Western models of policing in efforts to modernise and professionalise the Nepal Police require more critical thought. It may well be that in cultural contexts like Nepal that are markedly different Western styles of policing may prove ineffective.

Fifthly, in terms of interventions for spousal violence the findings show that policing is only one influential factor. Crime reduction models may need to address individual, familial and societal level factors. There may also be benefits in providing services for victims and perpetrators from WCSC premises. For example, if counselling and legal advice services are administered from the WCSC premises participants may more often feel that they have obtained the outcomes that they expect from policing.

Sixthly, this study exposed the shortcomings of police data-keeping practices in Nepal. I discarded police data from my analysis because of the omission of information like reoffending rates and inaccuracies in data-entering practices. Improvements in police data management permitting

reliable analysis of these data could help with devising evidence-based policies and tracking police performance.

Finally, the Kathmandu study is one of the few studies in the world that looks at policing of spousal violence from a procedural justice framework. Unlike prior studies, which have looked at perceptions of policing from either the victims' or general populations' perspective, it attempts to tell the 'full story' by examining the views of victims, perpetrators and an observer. For the Nepal police the study's findings offer detailed insight into its practices and how they are received. For criminologists the findings suggest that the frameworks within which policing is understood in the developing world cannot be assumed: they need to be generated from detailed exploration of local realities.

# Appendix 1

## Nepal Police Ranks

1. Inspector General of Police (IGP)
  2. Additional Inspector General of Police (AIG)
  3. Deputy Inspector General of Police (DIG)
  4. Senior Superintendent of Police (SSP)
  5. Superintendent of Police (SP)
  6. Deputy Superintendent of Police (DSP)
  7. Police Inspector
  8. Sub Inspector of Police (SI)
  9. Assistant Sub Inspector of Police (ASI)
  10. Police Constable
- 
- The diagram uses blue brackets to group the ranks into three categories:
- Senior Officers:** Ranks 1 through 6 (IGP, AIG, DIG, SSP, SP, DSP).
  - Junior Officers:** Ranks 7 through 9 (Police Inspector, SI, ASI).
  - Non-Commissioned Officers:** Rank 10 (Police Constable).

## Appendix 2

### Interview Questions for Victims

#### PART ONE

#### DEMOGRAPHIC DETAILS

*In this first part, I will ask you some questions about who you are and your current circumstances.*

**1. Age:**

**2. Education Level:**

Primary                      Secondary                      Higher Secondary                      University

Literate but no formal education                      None (cannot read/ write)

**3. Employment:**                      Yes                      No

Daily wage work                      Service – Government job                      Service- Job in the Private sector

Own business                      Other:-

**4. Income**

Household income:

Your income:

**5. Length of Marriage:**

\_\_\_\_\_ weeks

\_\_\_\_\_ months

\_\_\_\_\_ years

**6. Members who live in your household:**

Husband                      Son                      Daughter                      Father in-law                      Mother in-law

Brother in-law                      Sister in-law                      Domestic Help                      Others-

**7. Did you have an arranged marriage or an autonomous marriage?**

Arranged Marriage

Autonomous Marriage

**8. Caste/ Ethnicity:**

Your caste/ethnicity

Your Husband's caste/ ethnicity:

**Part TWO**  
**BEFORE POLICE CONFLICT RESOLUTION (PCR)**

**9. Can you tell me about the problem between you and your husband?**

**10. Is this the first time you contacted the police?**

Yes  No

**11. When you came to this WCSC what were you hoping the police would do?**

*I would like to talk to you about what happened when you arrived at the WCSC up until the PCR began.*

**12. Did you come to the police station alone?**

Yes  No

**a. If no, who was with you?**

Father	Mother	Brother	Sister	Daughter	Son
Father-in-law	Mother-in-law	Brother in-law	Sister-in-law	Aunt	
Uncle	Cousin	Neighbour	Friend		
A member of my community		An NGO worker			
A member of a political party		Other (specify relationship)			

**13. How long did you wait until a police officer attended to you?**

- I did not have to wait, an officer attended to me right away
- \_\_\_\_\_ minute/s
- \_\_\_\_\_ hour/s
- Other (describe)

**a. Was this officer female or male?**

Female  Male

**14. Did you describe what happened to you to the first responding officer?**

Yes  No

**a. If yes, how much did you tell him/her?**

- I described everything that had happened to me.
- I described most of what had happened to me.
- I only described some of what had happened to me.
- Other :-

**15. Did the police listen to you?**

- All the time
- Only some of the time
- Most of the time
- Not at all

**16. Did anyone accompanying you tell the police what happened to you on your behalf?**

Yes No

**17. Did the police listen to this person?**

- All the time
- Only some of the time
- Most of the time
- Not at all

**18. Did you/ the person accompanying you describe what happened to you to any other officers?**

Yes No

**a. If yes, to how many officers did you/your spokesperson recount what happened to you?**

\_\_\_\_\_ officers

**19. Who decided that your case should be mediated?**

- Me
- The person accompanying me
- Police
- Other (describe)

**20. Did the police explain what would happen during PCR?**

- Yes, fully
- Not at all
- Yes, mostly

**21. When was the PCR scheduled for?**

- Same day
- Other - how long after this meeting?
- Next Day





**b. Do you think the police acted rightfully when they hit anyone? Why?**

**35. Did the police put any one in a police lock-up?**

Yes

No

**a. If yes, who did they put in the police lock-up?**

Me

Husband

Other (Third party):-

**b. Do you think the police acted rightfully? Why?**

**36. Were the police polite to you?**

- Yes, they were polite all the time
- Yes, they were polite most of the time.
- Yes they were polite some of the time.
- No they were impolite.

**37. Did you think that the police did anything that was improper?**

Yes

No

**a. If, yes can you tell me what you think was improper about their behaviour?**

**38. Were the police helpful to you?**

- They were very helpful.
- They were mostly helpful.
- They were a little helpful.
- They were unhelpful.

**39. Were the police able to understand the problems you and your husband are having?**

- Yes they understood our problems fully
- Yes they mostly understood our problems
- Yes they understood some of our problems
- No, they did not understand our problems.

## **OUTCOME**

*I would now like to talk to you about the outcome of the PCR.*

**40. Can you tell me what decisions were reached at the end of the discussion?**

- Agreement to reconcile
- Separation

- Press charges for spousal violence
- Return to sign attendance (*Tarikh*)
- Case dismissed

**41. Can you tell me the key terms of your agreement?**

**42. Who suggested each decision?**

- Police
- Victim
- Perpetrator
- Police and I
- Police and my husband
- My husband and I
- Police, husband and I

**43. Is this outcome what you wanted?**

- Yes, the outcome included everything I wanted
- Yes, the outcome was partly what I wanted
- No, it is not what I wanted.

**a. If no, what decision did you want?**

**44. Do you think the outcome is right?**

- I think it was very right.
- I think the outcome is okay.
- I don't think the outcome is right.

**a. Can you tell me why?**

**45. Is there anything else you want to say about the way the police handled your case?**

## **PART FOUR**

### **SATISFACTION**

*I would now like to talk to you about what happened after the PCR of your case.*

**46. When you left the police station after PCR, how did you feel?**

**52. Does your husband have to go to the WCSC to sign an attendance sheet?**

Yes

No

I don't know

**47. How often does he go to the police station?**

- Once a day
- One every other day
- Once a week
- Other

**48. Did the police handle your case in a manner that you expected when you went there?**

- The case handling exceeded my expectations
- The case handling was what I had expected.
- The case handling was below my expectation.

**49. How has your husband behaved with you after PCR?**

**50. How is your relationship with members of your household since PCR?**

- I haven't had contact with them
- Same as before
- Other (describe):-

**51. How is your husband's relationship with the members of the household since PCR?**

- They haven't been in contact with each other
- Same as Before
- I don't know
- Other

**52. How is your husband's relationship with members of your family since PCR?**

- They haven't been in contact with each other
- Same as Before
- Other

**53. If you face violence again, will you to go to the police?**

Yes

No

I don't know

**54. Is there anything else you would like to tell me about your experiences after you left the police station?**

### **Short term follow-up Interview**

- 1. In the one month have you been back to the Kalimati WCSC?**
  - Yes
  - No
  - I went to another police station
  
- 2. In the past month, Have you experienced spousal violence?**
  - Yes, Physical Violence
  - Yes, psychological violence,
  - Yes Sexual Violence,
  - Yes, Economic violence
  - No
  
- 3. What was the frequency of violence?**
  
- 4. Has your husband complied with the decisions reached at the WCSC?**

## Appendix 3

### Interview Questions for Husbands (Perpetrators)

#### PART ONE

#### DEMOGRAPHIC DETAILS

*In this first part, I will ask you some questions about who you are and your current circumstances.*

**1. Age:**

**2. Education Level:**

Primary                      Secondary                      Higher Secondary                      University  
Literate but no formal education                      None (cannot read/ write)

**3. Employment:**      Yes                      No

Daily wage work      Service – Government job                      Service- Job in the Private sector  
Own business      Other

**4. Income**

Household income                      Your income

**5. Length of Marriage:**

\_\_\_\_\_weeks                      \_\_\_\_\_months                      \_\_\_\_\_years

**6. Members who live in your household:**

Wife      Son      Daughter      Father      Mother  
Brother      Sister      Brother-in-law      Sister-in-law      Domestic Help      Others-

**7. Did you have an arranged marriage or an autonomous marriage?**

Arranged Marriage                      Autonomous Marriage

**8. Caste/ Ethnicity:**

Your caste/ethnicity                      Your wife's caste/ ethnicity:

**PAERT TWO**  
**BEFORE Police CONFLCIT RESOLUTION (PCR)**

*I would like to talk to you about what happened before the PCR began.*

**9. Can you tell me how you got summoned to the police station?**

**10. How did you come to the police station?**

- Arrested and brought here by the police.
- I came on your own after I was summoned by the police.
- Other (describe)

**11. Did you come to the police station alone?**

Yes No

**a. If no, who was with you?**

Father	Mother	Brother	Sister	Daughter	
Son	Father-in-law	Mother-in-law	Brother in-law	Sister-in-law	
Aunt	Uncle	Cousin	Neighbour	Friend	An NGO worker
A member of my community		A member of a political party		Other	

**PART THREE**

**PCR**

*I would now like to talk to you about what happened during the PCR of your case.*

**12. Can you tell me who was present during the PCR?**

Wife	Son	Daughter	Father	Mother
Father in-law	Mother in-law	Brother in-law	Sister in-law	
Aunt	Uncle	Cousin	Neighbour	
Friend	NGO representative	A member of my community		
Member of a political party		Other (describe)		

**13. How many officers facilitated your case?**

- One
- Two
- Three
- Other

**14. What was the gender of officers facilitating your case?**

Male                      Female                      Male officer and Female officer

**15. Did you get a chance to tell your side of the story?**

- Yes fully
- Yes most of it.
- Yes but only some of it
- Not at all

**16. Did the police listen to you?**

- All the time
- Most of the time
- Only some of the time
- Not at all

**17. Did the police listen when your wife spoke during discussion?**

- All the time
- Most of the time
- Only some of the time
- Not at all

**18. Did the police listen to others (besides your wife) during the discussion?**

Yes                      No                      I don't know

**a. If yes, who did they listen to?**

Son              Daughter              Father in-law              Mother in-law              Brother in-law  
Sister in-law      Neighbour              Husband's friend              My friend              NGO representative  
Member of my community      Member of a political party                      Other (describe)

**19. Did you feel like that the police paid the same amount of attention to what you were saying and what other people present there were saying?**

- They paid more attention
- They paid less attention
- They paid the same amount of attention

**20. Did the police scold anyone?**

Yes                      No

**a. If yes, who did they scold?**

Me

Wife

Other (Third party):-

**b. Do you think the police acted rightfully when they scolded anyone there? Why?**

**21. Did the police hit anyone?**

Yes

No

**a. If yes, who did they hit?**

Me

Wife

Other (Third party):-

**b. Do you think the police acted rightfully when they hit anyone there? Why?**

**22. Did the police put anyone in police lock-up?**

Yes

No

**a. If yes, who did they put in police lock-up?**

Me

Wife

Other (Third party):-

**b. Do you think the police acted rightfully when they put a person in police lock-up? Why?**

**23. Were the police polite to you?**

- Yes, they were polite all the time
- Yes, they were polite most of the time.
- Yes they were polite some of the time.
- No they were impolite.

**24. Were the police helpful to you?**

- They were very helpful.
- They were mostly helpful.
- They were a little helpful.
- They were unhelpful.

**25. Were the police able to understand the problems you and your wife are having?**

- Yes they understood our problems fully
- Yes they mostly understood our problems
- Yes they understood some of our problems
- No, they did not understand our problems.

**26. Can you tell me about the problems between you and your wife?**

## **OUTCOME**

*I would now like to talk to you about the outcome of the PCR.*

**27. Can you tell me what decisions were reached at the end of the discussion?**

- Agreement to reconcile
- Separation
- Press charges for spousal violence
- Return to sign attendance (*Tarikh*)
- Case dismissed

**a. Can you tell me the key terms of your agreement?**

**28. Who suggested each decision?**

- Police
- Victim
- Perpetrator
- Police and I
- Police and my wife
- My wife and I
- Police, wife and I

**29. Is this outcome what you wanted?**

- Yes, the outcome was what I wanted
- Yes, the outcome was partly what I wanted
- No, it is not what I wanted

**a. If no, what decision did you want?**

**30. Do you think the outcome is right?**

- I think it was very right.
- I think the outcome is okay.
- I think the outcome is not right at all.

**a. Can you tell me why?**

**31. Is there anything else you want to say about the way the police handled your case?**

## **PART FOUR**

### **SATISFACTION**

*I would now like to talk to you about what happened after the PCR of your case.*

**32. When you left the police station after PCR, how did you feel?**

**33. Do you have to go to the police station to do attendance?**

Yes

No

**a. How often do you have to sign attendance?**

- Once a day
- One every other day
- Once a week
- Other

**34. Can you tell me what happens at the police station when you go to sign your attendance?**

**35. Have you signed attendance in all the dates the police have given you?**

Yes

No

**36. If no, how many dates have you missed?**

**37. What happened when you missed a date?**

**38. Did the police handle your case in a manner that you expected when you went there?**

- The case handling exceeded my expectations
- The case handling was what I had expected.
- The case handling was below my expectation.

**39. Since PCR, how has your relationship with your wife been?**

**40. Have you and your wife had fights since PCR?**

Yes

No

**a. If yes, can you tell me what happened?**

**41. How has your relationship with other members of your household been since PCR?**

- Same as before
- I have not been in contact with them
- They are supportive
- Difficulties in relationship
- Other

**42. How has your relationship with your wife's family been since PCR?**

- I have not been in contact with them
- We dislike each other
- Other (explain):-

**43. Is there anything else you would like to tell me about your experiences after you left the police station?**

## **Appendix 4**

### **Participant Information Sheet (Victims)**

Last week, you were at the police station. You were at the Women and Children's Service Centre. We met there. On that day, I was not able to tell you detailed reasons of why I wanted to speak to you again. I will tell you the reason now.

Last week, you had gone to the police station with your case. I would like to speak to you now about what happened at the police station. Did the police address your problem? Did you get any help from them? How did they behave with you? What happened after you went home from the police station?

You do not have to remember everything all at once. I will ask you questions and you can answer them. Please do not worry about whether what you have said will be right or wrong. Everything you say here will be right. You can be frank about your opinion.

The conversation that we have today will remain between us. I have to submit a report to the university that I am currently studying in. I may have to include some things that you tell me in that report. When I write down what you have said I will not write your name or address. Nobody who reads this report will know that you have said these things.

You may be thinking "How will I benefit from speaking to you today?" I will be speaking to many other women like you who have gone to the Women and Children's Service Centre with their cases. Hearing many people's opinions will help us learn about what the police are doing right and what they are doing wrong. What you tell me today can help other women who are in similar situations to get better services from the police in the future.

Is there anything thus far that is not entirely clear and you would like me to explain further?

## Participant Consent Form

Before we start our conversation, I wanted to ask you two things.

1. As we talk to one another, if anything makes you uncomfortable just let me know. If at any point you feel like you don't want to talk further then tell me that too. We will stop this conversation. Please don't hesitate to tell me any of this. I will not take it personally. The most important thing for me is that you feel comfortable.

2. This is a recorder. This device will record our conversation today. I will keep this recording safely. No one except me will hear this recording. If you are comfortable I would like to record our conversation. However, if it makes you uncomfortable then I will not record our conversation. I will take notes of what we discuss in my notebook. This will not be a problem either.

If you have understood what I have said so far, can you please sign below or make a mark

Name:

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Signature

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Date

## **Contact Information of Available Services for Victims of Spousal Violence**

There are a number of organisations that may be able provide you with support if you need it. The support may be legal, to make any documents. It may be getting a place to go to if you think you can no longer stay at home. It may be to talk to someone if you are very stressed. You can go to the offices and ask them for support. You may also want to call them first, tell them your problem and they will suggest what can be done. The contact details of the organisations are below:

1. National Women's Commission  
Bhadrakali Plaza  
Kathmandu  
Phone: 4256701, 4259411, 4257582
2. SAATHI  
Dhobighat, Patan,  
Lalitpur  
Phone: 5537103, 5537104
3. Women's Rehabilitation Centre (WOREC)  
Balkumari  
Lalitpur  
Phone: 5006373, 3006374
4. Legal Aid and Consultancy Centre (LACC)  
Jawalakhel,  
Lalitpur  
Phone: 5273 34, 543111
5. Center for Mental Health and Counseling- Nepal (CMC-Nepal)  
Jitjung Marg, Thapathali  
Kathmandu  
Phone: 4102037, 4226041

You can always contact me if you have further questions.

Aastha Dahal  
Bagdole, 4  
Lalitpur  
Phone: 9841 949678      Email: ad733@cam.ac.uk

## **Participant Information Sheet (Perpetrators)**

You were at the Women and Children's Service Centre. We met there. On that day, I was not able to tell you detailed reasons of why I wanted to speak to you again. I will tell you the reason now.

You were at the Women and Children's Service Centre with your case. I would like to speak to you now about what happened at the police station. Did the police address your problem? Did you get any help from them? How did they behave with you? What happened after you went home from the police station?

You do not have to remember everything all at once. I will ask you questions and you can answer them. Please do not worry about whether what you have said will be right or wrong. Everything you say here will be right. You can be frank about your opinion.

The conversation that we have today will remain between us. I have to submit a report to the university that I am currently studying in. I may have to include some things that you tell me in that report. When I write down what you have said I will not write your name or address. Nobody who reads this report will know that you have said these things.

You may be thinking "How will I benefit from speaking to you today?" I will be speaking to many other men like you who have gone to the Women and Children's Service Centre. Hearing many people's opinions will help us learn about what the police are doing right and what they are doing wrong. What you tell me today can help other men who are in similar situations to get better services from the police in the future.

Is there anything thus far that is not entirely clear and you would like me to explain further?

If you have any further questions in the future, you can always contact me at:

Aastha Dahal

Bagdole 4, Lalitpur

Phone: 9841 949678

Email: ad733@cam.ac.uk

## Participant Consent Form

Before we start our conversation, I wanted to ask you two things.

1. As we talk to one another, if anything makes you uncomfortable just let me know. If at any point you feel like you don't want to talk further then tell me that too. We will stop this conversation. Please don't hesitate to tell me any of this. I will not take it personally. The most important thing for me is that you feel comfortable.

2. This is a recorder. This device will record our conversation today. I will keep this recording safely. No one except me will hear this recording. If you are comfortable, I would like to record our conversation. However, if it makes you uncomfortable then I will not record our conversation. I will take notes of what we discuss in my notebook. This will not be a problem either.

If you have understood what I have said so far, can you please sign below or make a mark.

Name:

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Signature

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Date

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