CHANGING THE CONTOURS OF THE LEGAL LANDSCAPE:
THE JABMI ACT 2003

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Justice being the primary source of peace…and reaffirming the noble goal in pursuit of justice and recognising the importance of the assistance of Jabmi to protect and establish rights in all stages of proceedings, we hereby, amend and consolidate the Law relating to Jabmis and law societies established in respect of the profession of legal practitioners of Bhutan and to provide for matters connected therewith.

(Jabmi Act 2003: Preamble)

As part of the wider process of modernisation and transformation of Bhutan, the creation and establishment of an independent judiciary marks one of the principal achievements of the Bhutanese government. However, as Simoni notes, “some components of the legal system have started to move very fast from the model of the ‘rule of traditional law’ toward that of the ‘rule of professional law’”.2 As the sources of law and regulations increase in Bhutan, notably the volume and complexity of national legislation, there has been an increasing need for the emergence of a professional category of legal actor outside the formal court system developed in the second half of the twentieth century.3

Accordingly, I examine the role of jabmi4 and the professionalisation of this important category of legal actor. I outline the main features of the Jabmi Act 2003 and examine the implications of the changing contours of the Bhutanese legal landscape. I argue that the Jabmi Act 2003

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2 Simoni 2004: 246. I wish to thank Professor Simoni for making his draft available to me.
3 See Whitecross 2004.
4 Rgyab mi: surety, guarantor, advocate, attorney. Please note all terms are Dzongkha and I use the Roman Dzongkha transcription throughout the main text. The transliteration is in the notes.
marks the transition from a traditional category of representative without formal legal training to a professional category, entry to which is based on established criteria. The Jabmi Tshogdey and Jabmi Thuentshog created by the Act will control entrance to and the conduct of the profession of jabmi, which I argue will be under pressure to gain wider, formal legal education to be able to appear on a par with the formally trained young lawyers and to create and maintain the confidence of the public.

BACKGROUND

References to jabmi can be found as early as the seventeenth century suggesting that this function has a well established history in Bhutanese legal practice. In contrast to barmi who act as mediators, jabmi appear to share the same features as ngotsap who act as legal representatives. Jabmi are similar to barmi in that they possess knowledge of the law. However, there is a subtle, yet important, difference between barmi and jabmi—although both these roles can be played by the same individual, they represent two different approaches. The first, barmi, is based on the assumption that the barmi will act neutrally in negotiating a mediated settlement between the parties, whereas the jabmi acts specifically for a client. At present, there is no formal requirement to have a jabmi to represent a client in court and legal representation is done either by the individual him/herself, a friend or relative acting as a ngotsap or by a jabmi.

EDUCATION AND LICENSING: REGULATING JABMI

Until the early 1990s, the jabmi received no formal legal education. From discussions it is clear that jabmi were literate to some degree and gained their practical knowledge of laws and customs through experi-