



# CeLRRd

Bi-annual News Letter

July 2009 to January 2010

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# CeLRRd

## Introduction

CeLRRd is a non-profit making, non-governmental organization contributing for over a decade to promote, uphold and respect rule of law, good governance, access to justice, peace and human rights culture through advocacy and trainings to various actors involved in the administration of justice as well as creating widespread understanding of the rule of law and unrestricted access to free and fair justice. CeLRRd aims to achieve its objectives through research, resource development, community mobilization, building legal awareness and conducting legal aid activities.

CeLRRd envisions a peaceful and prosperous Nepal where people enjoy human rights and social justice fully and equally. Its mission is to empower and enable people, both individually and collectively, to have their right to social justice realized in a framework of the rule of law. Specifically, CeLRRd aims to enable the people from disadvantaged and marginalized groups and communities to have an access to justice through informal and formal processes and mechanisms.

Its focus areas are as follows:

- Access to Justice that includes components like Mediation, Criminal Justice System and Legal Aid
- Anti-human trafficking and Gender Justice
- Juvenile Justice
- Democracy, Good-governance and Human Rights
- Legal Education and Professionalism

Recently, CeLRRd has extended its coverage to all five regions (30 districts) through one central, four regional and 12 district offices. Biratnagar regional office manages eastern region, Makwanpur regional office—central region, Butwal regional office –western region and Nepalgunj regional office—mid-western and far-western Regions. Kathmandu central office oversees all the activities of these regional offices and the overall activities of the organization.

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# SUMMARY OF THE MAJOR ACTIVITIES

## 1. ACCESS TO JUSTICE

### 1.A) COMMUNITY MEDIATION

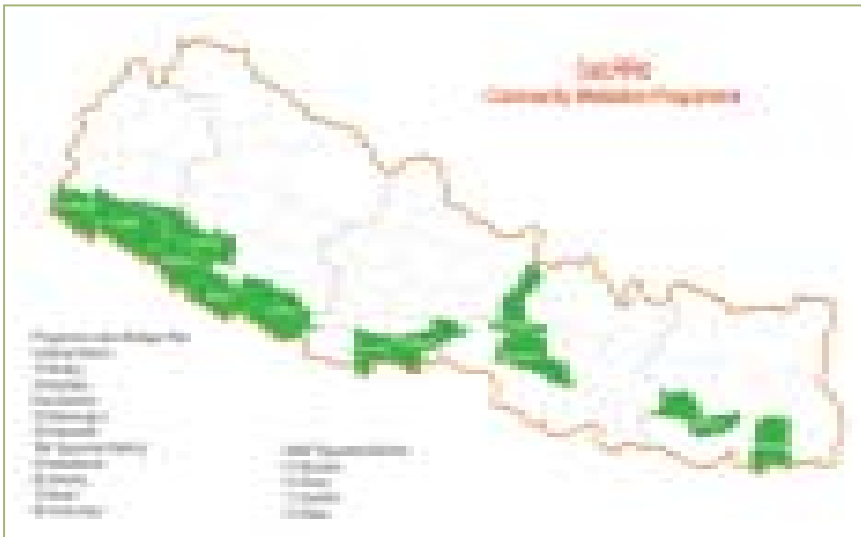
Community mediation is a process of 'devolving the judicial power from the state to the people for meaningful response to the social problems. Mediation process can be taken as a 'democratic approach to settle disputes'. Despite the Nepali judiciary's effort to provide justice, its easy accessibility is a far-fetched goal to many as multitudes of problems plague the courts of Nepal.

Against such a backdrop, CeLRRd has been implementing mediation, an informal justice mechanism which focuses on the reconstruction of relationships rather than the retributive punishment of wrongs, and provides an alternative to a costly, encumbered, and slow-moving formal justice system that is seen by many

Nepalese as corrupt and under the control of legal professionals.

Presently, CeLRRd is implementing community mediation in 11 districts across Nepal: Bardiya, Morang, Makwanpur, Rupandehi, Dang, Surkhet, Kailali, Udayapur, Banke, Kanchanpur and Nawalpasari (Dhading operation is halted for now).

Mediation in Dang, Surkhet, Kailali and Udayapur is being supported by UNDP, A2J programme; Morang, Rupandahi, Bardiya, and Makwanpur are in operation under strategic plan and in rest of the locations, the support is of TAF.



Firstly, 8 Baseline Surveys were done in 8 districts to get acquainted with primarily case load at judicial and quasi-judicial bodies, socio-economic situation and others. On its basis, community mediation programme is launched in 40 locations including 6 municipalities and 34 VDCs.

**Current Programme Locations**

Kailali	Dang	Udayapur	Surkhet	Rupandehi	Makwanpur	Morang	Bardiya
Tikapur	Tulsipur	Triyuga	Birendranagar	Siddharthanagar	Hetauda	Tankisinwari	Bhimmapur
Pahalmanpur	Manpur	Jogidaha	Chhinchu	Tikuligadh	Padampokhari	Sorabhag	Deudakala
Dhurgauli	Bijauri	Beltar	Uttarganga	Makrahar	Basamadi	Dainiya	Manpur Tapara
Patharaiya	Tarigaun	Rampur Thokasila	Latikoili	Dudhrakshya	Churiyamai	Dulari	Rajapur
Sadepani	Duruwa	Bhalayadada	Jarbutta	Devadaha	Hatiya VDCs	Letang	Daulatpur

**Previously undertaken locations wherein mediation centers are still functional**

Banke	Bardiya	Nawalparasi	Morang	Kanchanpur
Rajhena	Gulariya	Ramgram	Biratnagar	Bhimdutta
Kohalpur	Mainapokhar	Sunwal	Tetariya	Suda
Khajurakhurd	Sanoshree	Adarsha	Katahari	Dajji
Samshergunj	Tarataal	Panchanagar	Urlabari	Pipaladi
Bageshwori	Sorahawa	Maakar	Rangeli	Parasan
Puraini	Mohammadpur	Tribeni Susta	Budhanagar	
Manikapur	Kalika	Dumkibaas	Belbari	
Chisapani		Naya Belhani		
Paraspur		Shivamandir		
		Pithauli		
		Gaidakot		
		Devgaun		
		Kusma		
		Jamuniya		
		Ramnagar		

**DISTRICT AND VDC LEVEL INTERACTIONS:**

8 district level interactions and 40 VDC level interactions were held wherein 293 district level stakeholders and 2201 VDC level stakeholders participated. The primary agenda in both the cases was to orient the district and VDC stakeholders including government line agencies, local authorities, non-governmental organizations, community people including women, Dalit, Indigenous, and marginalized, social workers, intellectuals, political parties' representatives and also media personnel about

the benefits and scope of mediation and also build coordination amongst the stakeholders. These programmes were even important to select community mediators. Each VDC orientation selected 27 mediators per location for basic mediation training.

**Trainers' Training** was held in Chitwan from 18-25 June 2009 to generate a pool of 22 Master Trainers for holding basic mediation trainings for local mediators at

▶ *Stakeholders' interaction on mediation in Siddharthanagar Municipality, Rupandehi*





◀  
*Mediation ToT  
programme's  
participants and  
resource  
persons*

the programme locations. Hence, its rationale was to generate skilled human resources required for the programme: 1 district coordinator and 2 district trainers in each district.

### 39 BASIC MEDIATION AND HUMAN RIGHTS TRAINING ACROSS 8 DISTRICTS

CeLRRd held 39 eight-day basic mediation trainings for local mediators with the objectives of sensitizing them on the theoretical and practical approaches to mediation, providing them mediation skills, assigning them roles and responsibilities in mediation processes, and also bringing conceptual clarity in relation to dispute resolution and peace building at community level. The main issues discussed upon were, concept of dispute, its reasons and steps; practices, approaches and strategies of dispute resolution; national and international practices of mediation; legal provisions of mediation and roles of mediators; listening and

facilitative skills and other communication skills; pre and post mediation management; and human rights, fundamental rights and legal rights.

On 25 Nov, 2009, Hon'ble Kesari Raj Pandit, Chief Judge, Appellate Court, Hetauda inaugurated 8-day basic mediation training in Hetauda municipality wherein he highlighted on the long-lasting positive impacts of mediation upon disputants' lives and societies.

Mr Bharat Dhungana, Executive Officer, Hetauda municipality upon chairing the programme said, "In fact, Local Self Governance Act, 2055 has entrusted this responsibility upon the local authorities. As CeLRRd has now started such benevolent programme, the municipality would help its best to make this programme a success".

A very contextual **Community Mediation Manual** is developed and found effective after testing it in all the basic mediation trainings.



◀  
*Basic mediation  
training  
participants  
and resource  
person*

Community  
mediators  
hand book



**ESTABLISHMENT OF MEDIATION CENTERS**

After the completion of basic mediation training, community mediation center is established in each location. Opening ceremonies of the mediation centers were inaugurated by senior mediators or VDC secretaries or reputed personalities in the respective locations. In each opening programme, besides 27 community mediators, CeLRRd local staffs and VDC staffs, there would be a significant presence of representatives from local political parties, civil society, community forest group, local police and local communities

- **Mr. Mohammad Rahim Miya, Nepali Congress Leader**, inaugurating mediation center's opening in Dianiya VDC of Morang on 29 November, 2009 said, "In the presence of conflict, there lacks development, and therefore,

one should try to resolve conflict and this can be achieved better through promoting mediation programme".

- **Similarly, Mr. Geharam Paudel, Secretary of Manpur VDC, Dang** who also acquired 8 days mediation training organized by CeLRRd in that VDC made a commitment to support for establishing and strengthening coordination with other stakeholders.

**PRACTICE SHARING PROGRAMMES IN 38 EXISTING LOCATIONS**

62 one-day practice sharing programmes amongst respective pools of mediators were held in different 38 previously existing locations. The programmes were useful at least to give mediators a platform to come and

▶  
Award  
winning  
mediators  
along with  
Chief Guest  
and Program  
Coordinator  
at  
Nawalparasi





◀  
*Ms. Preeti Thapa, Senior Programme Officer, TAF making her presentation*

share their experiences, achievements and challenges. It could be observed that the programme was a kind of refresher one to the mediators who have been incessantly providing their services voluntarily.

**Best Mediators Awarded:** Mr. Ram Narayan Burma, Ms. Faguni Devi Chaudary and Mr. Than Prasad Adhikari of Nawalparasi district were awarded **Best Mediators** for 2009, based upon their performances in mediation. Mr. Durga Nath Gautam, the Executive Officer of Ramgram municipality, and also the chairperson of the programme rewarded them with Rs. 5000 besides a Best Mediator Certificate. (Photo-here)

#### INTERACTION PROGRAMME WITH JUDICIAL SYSTEM REFORM COMMITTEE'S CA MEMBERS ON LEGALIZING COMMUNITY MEDIATION

CeLRRd held an interaction programme on 12 September 2009 with CA members on legalizing community mediation. Hon'ble Prabhu Shah, President of **Judicial System Reform Committee**, and the chief guest said that the Committee has opened the door of legalizing Alternative Dispute Resolution Methodologies. Amongst them mediation being more scientific because both parties win, its institutionalization is essential. Furthermore, he wished to incorporate some of the best practices identified.

Ms. Preeti Thapa, Programme Manager, TAF in her presentation highlighted on the rationale and achievements of community mediation till the date. She responded to several queries with regards to coordination with other stakeholders, and its

implementation status and mechanism, level of satisfaction, quality control, incorporating traditional dispute resolution methodologies in mediation.

Mr. Raju Man Singh Malla, Joint-Secretary, Law Ministry presented on the probabilities of recognizing community mediation as a constitutional provision. He said, ADR is nowadays called appropriate dispute resolution, and the draft of Mediation Act has incorporated not only community mediation but also commercial mediation, court referred, annexed and other mediations. Moreover, various forms of mediation like evaluative, facilitative and transformative mediations have also been recognized, he said. If all disputes are obligatorily made to settle through community mediation first, and only in case of receiving non-settlement certificate, a case is entered into court jurisdiction, court congestion can be reduced.

Hon'ble Khimlal Devkota expressed that people's participation and jurisdiction in and of mediation should be increased to make mediation a more effective tool to deliver justice. In developed countries, well-off people evade litigation but practice negotiation for example, to pay tax. Hon'ble Abhisekh Pratap Saha opined that mediation even can help reduce violence against women which is generally on the front page of every paper.

Hon'ble Agni Sapkota, Hon'ble Hasina Begum, Hon'ble Khimlal Devkota, Hon'ble Abhisekh Pratap Shah, CA members, Himlal Subedi, Joint Secretary and some other distinguished participants put their views on the increased importance of mediation and its prospects after its legalization. Altogether, 39 participants attended the programme.

▶  
*Bhutanese  
 refugees and  
 resource  
 persons of  
 CeLRRd at  
 Basic  
 Mediation  
 Training*



#### **BASIC MEDIATION TRAININGS FOR BHUTANESE REFUGEES IN THE SUPPORT OF UNHCR**

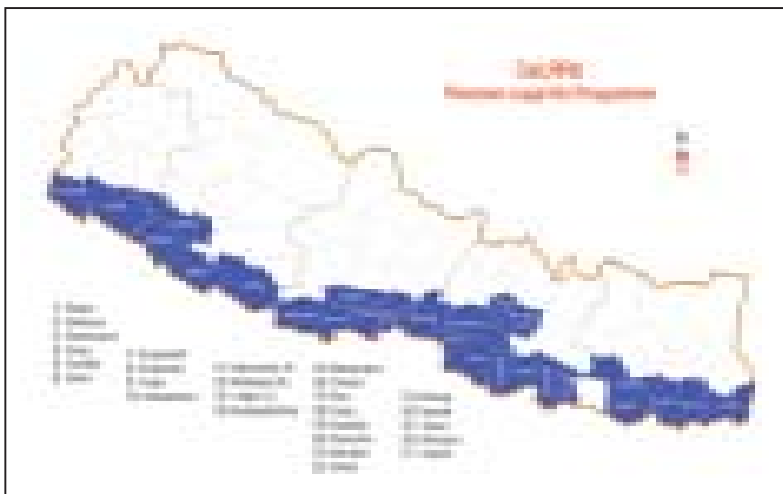
In the support of UNHCR, CeLRRd under **Streamlining Existing Mediation Services in Refugee Camps** expanded mediation in Bhutanese Refugee Camps in eastern Nepal: Sanischhare, Beldangi- 1, Beldangi- 2, Beldangi-2 Extension, Goldhap, Khudunabari and Timai. It was previously acknowledged that mediation is heavily resorted to in many civil and even criminal cases especially SGBV issues and other domestic violence in the Bhutanese Refugee Camps. Mostly male and senior members of the refugee community chosen to serve in the mediation committee (usually 5 member) mediate such cases. Moreover, sector heads and sub sector heads are often requested by refugees to mediate disputes and SGBV incidents. As such personnel are often found subscribing to the patriarchal norms, they instead see victims of such violence as defying societal norms. Perpetrators then escape punishment at all or even if

given, it is very nominal. Yet the survivors themselves often prefer community mediation to formal legal recourse from the Nepali legal system due to cumbersome formal justice system. Still litigation is generally discarded in societies as it attaches stigma on the concern persons.

The primary objectives were to mediate a wide range of conflict (permissible as per UNHCR SOP and national and international law) in Bhutanese Refugee camps; to create sensitization on existing practice of inappropriate / illegal mediation practices on SGBV and other serious criminal cases and also ensure existing justice making process in the community is inclusive and representative of gender age diversity

But prior to holding trainings, CeLRRd revised its mediator's handbook with particular focus on sexual and gender based violence, SGBV, conflict between the interests of different generations and other pertinent cases of the camps. Later, 4 basic mediation trainings were conducted for 103 refugees which also included few representatives from neighbouring communities.

## 1. B) LEGAL AID



Access to justice for all has been a goal of CeLRRd from its inception. An integral part of access to justice is legal aid for those who cannot normally afford to fight their cases in courts. Interim Constitution 2007 also guarantees 'legal aid' as a fundamental right to be provided by legislation. However, the laws are yet to be enacted/amended as per the spirit of the Interim Constitution. So, there are gaps to access to justice for inmates and ordinary people who are unable to hire lawyer in their own cost.

Thus, prisoners' legal aid programme of CeLRRd specifically and directly addresses this issue by providing competent lawyers and paralegals to indigent prisoners. Currently, legal aid programme is being implemented in 26 districts.

- **Feasibility study**, carried out in 16 prisons of 15 districts in July and August 2009 primarily to assess the need of legal aid in the prisons. The feasibility study revealed some awkward findings about those prisons: All of them are overcrowded with poor infrastructures to respond to accommodating them, providing them safe drinking water, and toilets. However, there were no reformatory programmes in place in the prisons to fulfill the objectives of sentence. The female inmates were guarded by male security personnel in most of the prisons; the facilities concerning infrastructure and other services are thus evidently obstructive of the rights to fair trial. All these conditions furthermore deprive the Nepalese prisoners even the basic right of private conversation with lawyers.
- The number of inmates waiting for trial is bigger than those who are convicted by courts. The large number of the inmates are of comparatively lower age having prospects of reform, however, with no such effort in place to do so.

### CASE REPRESENTATION

Legal aid service is provided/being provided to 619 cases from 26 different districts. 124 cases were finalized and 495 remained sub-judiced. 45 of the finalized cases resulted in conviction, 12 resulted in acquittal, and 24 cases resulted in partial conviction. 20 writs were issued and 6 were quashed.

### ADVANCED TRAININGS FOR LEGAL AID LAWYERS

A three-day residential advanced training for legal aid lawyers was held from 8 to 10 November, 2009 at Bhaktapur Guest House, for effective representation in legal aid cases. 21 legal aid lawyers of CeLRRd from 16 various districts of Nepal participated in the training.

Training focused on jurisprudential clarity of criminal law, fair trial including legal aid, introduction of forensic science including autopsy report and examination of DNA.

*Participants  
of Advanced  
training for  
Legal Aid  
Lawyers*



Prof. Madhav Prasad Acharya, Assoc. Prof. Dr. Yubraj Sangroula, Assoc. Professor Geeta Pathak and Assoc. Professor Prakash KC, Asst. Prof. Ganesh Bhattarai, Mr. Sudeep Gautam, Acting Director, CeLRRd, Dr Tulsi Kandel, Forensic Department, Tribhuvan University Teaching Hospital, and Mr. Jiwan Prasad Rijal, Expert, National Forensic Science Laboratory, Khumaltar were the main resource persons in the training. Mr. Maheswor Phuyal, IT expert, Kathmandu School of Law also took a session on database software for legal aid cases.



*Mr. Anjan Kumar Dahal, Executive Secretary and Mr. Ram Prasad Aryal at Coordination meeting*

**LEGAL AID TRAININGS FOR LAWYERS IN BIRATNAGAR AND HETAUDA**

CeLRRd held 2 three-day residential trainings for 48 legal aid lawyers for effective representation in legal aid cases from 12 to 14 Jan, 2009 in Biratnagar, and from 31 Dec 2009 to 2 Jan 2010 in Hetauda. Legal aid lawyers from various districts of the two regions including Chitwan, Bara, Parsa, Makawanpur, Rautahat, Dhanusa, Mahottari, Sarlahi, Morang, Sunsari, Jhapa, Udayapur, Saptari, Illam, Dhankuta, and Tehrathum participated in the programme. .

Such capacity building trainings focused on bringing jurisprudential clarity of criminal law, fair trial including legal aid, independence of judiciary, forensic science, and different methods and techniques of witness examination.

**26 Coordination Meetings** were conducted wherein 273 stakeholders of legal aid participated. Issues entailing legal aid programme, its significance, coordination mechanism, best practices and challenges, and others were discussed amongst representatives of judicial and quasi-judicial bodies.

In each meeting, invitees included appellate and district court judges, bar presidents and other executives, district attorneys, district police, legal professionals, jailor, journalist, social workers and similar others. The agendas were to acknowledge the stakeholders about CeLRRd's PLA programme to be implemented in 2009/2010 and make appeals for establishing and strengthening coordination amongst the stakeholders of legal aid. The focus would be on how to make PLA programme more effective and beneficial to the service seekers and increase its easy accessibility.

*Legal Aid Training Participants in Hetauda*



**Revelations from the coordination meetings:**

There has been duplication of the service in many cases. However, in some cases, there is no any representation. Hence such periodic coordination meeting is needed to share experiences, lessons learned and challenges faced amongst all legal aid providing organizations. It was also realized that legal aid should be provided right from the arrest of the accused till final verdict is laid down.

In many of the programmes, CeLRRd had to clarify rationale and its stance for undertaking and prioritizing prisoners' legal aid programme to victims' legal aid. Victims are not detained and also they receive support from government mechanism whereas, prisoners are detained and if they are not in a position to afford legal representation, injustice is perpetrated upon them

**NATIONAL CONSULTATION MEETING ON LEGAL AID**

A national consultation meeting on legal aid was held in Kathmandu on 24<sup>th</sup> October 2009 with the objectives of bringing conceptual clarity on legal aid, its importance in Nepalese context, and discuss upon challenges of legal aid and then to draw probable solutions.

Sharing his disappointment, Hon'ble Prem Bahadur Singh, Minister of law and Justice and the chief guest said till the date, government has extended legal aid to 62 districts. However, the budget of legal aid is spent in other headings as well; only 10% budget of total budget is spent in legal aid ; and Mr. Bishwo Kant Mainali, the-then President, NBA opined that legal aid is a duty of state in both capitalistic and socialistic country. He also approved to the concept of not renewing licenses unless the lawyers do not provide certain legal aid service.

Dr. Yubaraj Sangroula presented on "Concept of Legal Aid and its Institutional Development" in which he focused that legal aid is directly related with human right and democracy, however, he said that it suffers from several bad influences and cultures like some lawyers engage themselves in legal aid only till they own a law firm. Afterwards, they change it as a means to earn money. Moreover, still the lawyers are indoctrinated with the traditional colonial idealism that they are superior and their clients are inferior.

He emphasized that Nepal Bar Association should use



◀ *Distinguished guests in the National Legal Aid Conference*

legal aid as one of the criteria for the renewal of lawyers' license. He also expressed that NaLAN would make curriculum on legal aid and also implement the code of conduct of legal aid providers.

Dr. Ram Krishna Timalisina, Registrar of Supreme Court inquired if legal aid is a right or aid out of mercy, whether economic status is the only basis to determine the need of legal aid, why people cannot get lawyer of own choice though it is written as fundamental right and if legal aid is only for accused not for victims.

Mr. Prakash K.C, Principal, Kathmandu School of Law, discussing on **"Present Scenario of Legal Aid in Nepal: Its Problems and the Ways to Solve"** said that legal aid in Nepal lacks financial resources, infrastructure, co-operation amongst the stakeholders, conceptual clarity, proper information. Therefore, he outlined some of the majors to be undertaken like the determining factor for legal aid shouldn't be the economical factor only, the traditional role of lawyers should be changed, more budgets should be allocated, professionalism of legal aid lawyer of court should be developed, bringing conceptual clarity should be promoted and compulsory promulgation of code of conduct should be done from state level.

Total number of participants was 52, which included legal aid providers and other relevant stakeholders from government, Bar Council, INGO/ NGOs, and Courts.

### DIHR DELEGATE AND CHINESE LEGAL AID LAWYERS VISITED NEPAL

From 3-11 November, CeLRRd executed the study tour for two Chinese legal aid lawyers and researchers from Beijing Legal Aid Office for Migrant Workers (BLA), Ms. Wang Fang and Ms. Yu Hui, who were accompanied by Mr. Bjarne Andreasen, International Project Manager, DIHR. Its main objectives were to gain information on and insight into the legal aid systems of Nepal ; legal aid services for disadvantaged and vulnerable groups; situation of internal as well as oversees migrant workers and available legal aid assistance for them and their family members, look into court hearings involving practicing legal aid lawyers; visiting relevant authorities responsible for enforcing labour laws and regulation so as to know about labour rights and legal protection for internal migrant workers.

CeLRRd provided them a brief overview of legal aid system: laws and legal aid service providing mechanisms in Nepal; brief presentation on labour laws in Nepal followed by round table discussion; Clinical Legal Education Programme (CLEP) observation and discussion at KSL, visit to Bhaktapur District Court, Labour Court, Nepal Law Commission, Attorney General Office, National Legal Aid Network, Supreme Court, National Human Rights Commission, and Nepal Bar Association Legal Aid Committee and CeLRRd's legal aid centre.



◀ *Study tour delegates' (in the middle) visit to CeLRRd*

## 2) ANTI-HUMAN TRAFFICKING AND GENDER JUSTICE

### 10 CAPACITY BUILDING TRAININGS TO LOCAL STAKEHOLDERS TO FIGHT AGAINST TRAFFICKING

The objectives were to engage local authorities and civil society members to raise awareness at the grassroots level, as these people are influential in convincing common people and they are also the source of information for the common people. The participants included VDC, DDC and WDC officials, District Judge, District Government Attorney, Chief District Officer, Court Registrar, police personnel, lawyers, community leaders and civil society members.

### 6 RIGHTS- BASED SENSITIZATION PROGRAMMES

A rights-based approach is necessary in order to understand and curb trafficking. Hence, CeLRRd implemented 6 three-day rights- based anti-trafficking programmes for law enforcement and foreign service officials so as to sensitize them on several sensitive issues surrounding human trafficking and capacitate them with increased information and skills to handle trafficking cases and thus, protect the rights of victims and witnesses of trafficking; investigators, public prosecutors, defense lawyers, court officials, and other executives in foreign service affairs attended the programme. Morang, Banke, Chitwan, Makwanpur, kailali and Kathmandu were the 6 focused areas.

The training helped clarify emerging dimensions of human trafficking, its multi-faceted purposes and forms and its current situation in Nepal; its differences from human smuggling, illegal migration and prostitution. The strengths of Human Trafficking and Transportation Control Act 2007 and the stakeholders ' roles and responsibilities for strengthening victim and witness

protection and successful prosecution of traffickers were also discussed in the programme.

In one of such programmes organized at Kathmandu School of Law, Bhaktapur from 2-4 August 2009 Brajesh Pyakurel, District Attorney and Rajendra Kharel, District Judge shed light on the problems and challenges faced during registration of complaints, investigation, prosecution, trial, judgment and execution of judgment, and how all the processes of trials are affected by public and political pressures, threats and other influences, thereby denying justice to the victims and witnesses of trafficking. They emphasized that Nepalese laws have largely ignored the victims and therefore, do not follow the spirit of UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

### CONDUCTED MULTIMEDIA CAMPAIGNS

For the purpose of raising public awareness on the TIP Act 2007, CeLRRd enriched the content and reprinted 2, 000 copies of posters and 25,000 copies of brochures and disseminated to community people, local organizations, local authorities (Village Development Office, District Development Office) schools, transportation workers, police stations and other public places.

Various print media covered the programmes' news, and thus the media personnel were made alert on the gravity of crime of human trafficking and their importance in raising mass awareness.

Since 2009, through "Strengthening Victim and Witness Protection for the Successful Prosecution of Traffickers in Nepal" legal aid is provided to 85 cases of victims of trafficking which included both legal representation and psychosocial counselling/ healing.

### 3) PROMOTION OF LEGAL EDUCATION



*Laxmi  
Bakhunchhe*



*Geeta  
Chaudhary*

Considering the situation that Nepal lacks an academically sound and practically feasible legal education wherein women, marginalized and other downtrodden people's access to legal education is very nominal, CeLRRd has conceived to intervene in promoting legal education in order to gradually overcome this situation. CeLRRd made an attempt and has been providing scholarships to students from unprivileged community of Far Western and other remote areas, listed as indigenous, marginalized, minorities, dalits and others. Thus,

5 scholarships including tuition fee and stipend have been provided to 5 disadvantaged and marginalized students, 4 girls and 1 boy: Shanti Maya Moktan, Preetika Kumal, Geeta Chaudhary, Laxmi Bakhunchee, Chewan Rai. 12 PHOTOS small size photographs



*Shanti Maya  
Muktan*



*Pritika Kumal*



*Chewan Rai*

#### CHANGES OCCURED /EFFORTS FOR INSTITUTIONAL STRENGTHENING

During the period, CeLRRd also held its **10<sup>th</sup> Annual General Meeting** on 7<sup>th</sup> November, 2009 amongst its general members, advisors, and well wishers numbering to altogether 56 attendees. The meeting also elected a new Executive Committee headed by Mr. Kumar Ingam. This 7-member newly elected committee replaced the earlier 9-member EC headed by Ms. Geeta Pathak Sangroula:

Mr. Kumar Ingam	President
Ms. Fulmaya Ranabhat	Vice-President
Mr. Anjan Kumar Dahal	Secretary
Mr. Prakash K.C.	Treasurer
Ms. Man Kumari G.M.B.K	Member
Mr. Ganesh Bhattarai	Member
Mr. Baldev Chaudhary	Member

Mr. Ingam, Mr. K.C. and Mr. Bhattarai and Mr. Dahal are academicians; Ms. Ranabhat has been providing

legal aid to victims of all forms of abuses in Chitwan for some years; Ms. Man Kumari B.K. is working at Ministry of Law and Justice; and Mr. Chaudhary heads Community Legal Research Center, CLRC in Udayapur.

Ms. Geeta Pathak replaced Mr. Kishor Silwal as Director of CeLRRd effective from January 20, 2010 followed by his resignation as he shouldered the responsibility of Appellate Court Judge, Pokhara.

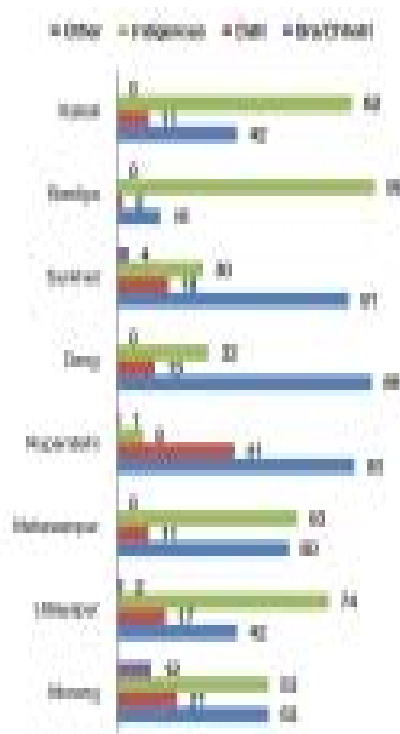
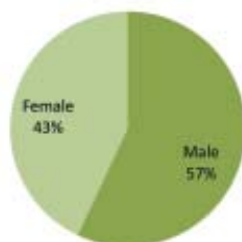
In the second half of 2009, CeLRRd extended its regional offices from 2 to 4, thereby establishing new offices in Butwal of Rupandehi district and Hetauda of Makwanpur district along with strengthening previously established offices at Nepalgunj and Biratnagar. 30 new staffs have been recruited on a competitive basis to undertake various programmes like community mediation, and prisoners legal aid. Moreover, CeLRRd's team of staffs, 83 now seems to be inclusive in terms of caste, gender and ethnicity. The number of general members has reached to 72.



*Newly elected  
members of the  
Executive  
Committee*

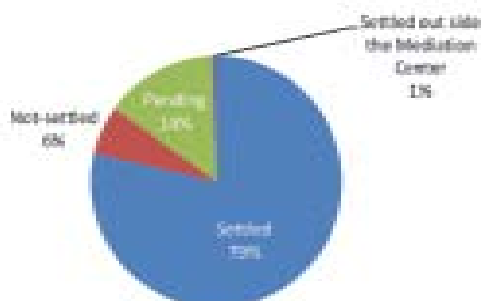
## MAJOR ACHIEVEMENTS

- 39 new mediation centers have been established which are believed to create easy accessibility to justice for a large number of community people irrespective of gender, class, caste, ethnic, religious and political differences.
- To take mediation further, a pool of 22 master trainers inclusive in terms of gender, caste and ethnicity is generated. Amongst the master trainers, 64% is male and 36% is female, and 68% Brahmin/Chhetri, 27% indigenous and 5% Madeshi.
- An additional pool of 1051 mediators is developed through 39 basic mediation trainings in the 8 districts including 601 men and 450 women. It is also inclusive with regards to gender, and caste, with the participation of 134 Dalits, 433 Indigenous and 43% female.

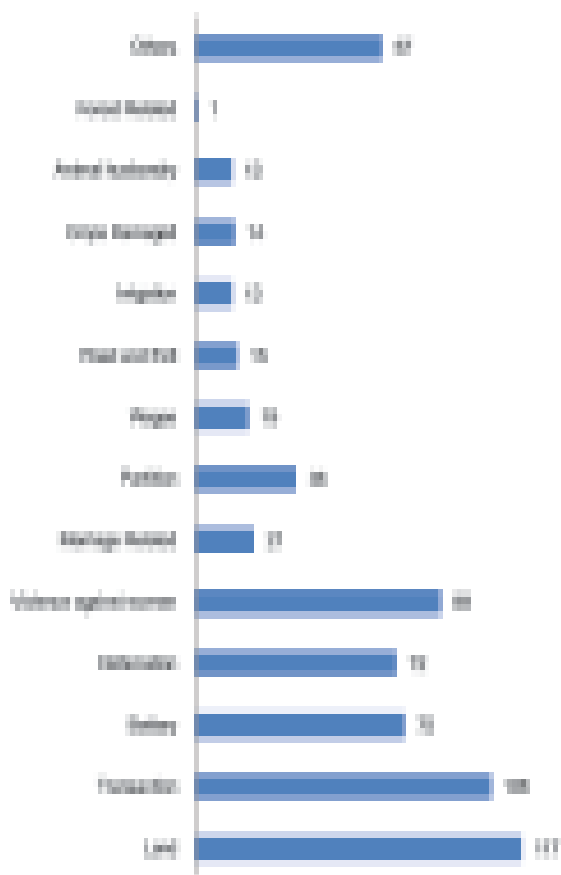


### Statistics of Cases in Mediation Centers

S.N.	District	Registered	Settled	Not-settled	In Process	Settled out side the Mediation Center
1.	Morang (old)	330	308	21	-	1
2.	Morang (new)	75	46	2	26	1
3.	Udayapur	45	43	2	-	-
4.	Makwanpur	31	15	-	14	2
5.	Rupandehi	21	11	3	6	1
6.	Dang	89	59	8	22	-
7.	Surkhet	20	8	1	11	-
8.	Bardiya	20	20	-	-	-
9.	Bardiya (old)	173	120	15	38	-
10.	Kailali	26	23	-	3	-
	<b>Total</b>	<b>830</b>	<b>653</b>	<b>52</b>	<b>120</b>	<b>5</b>



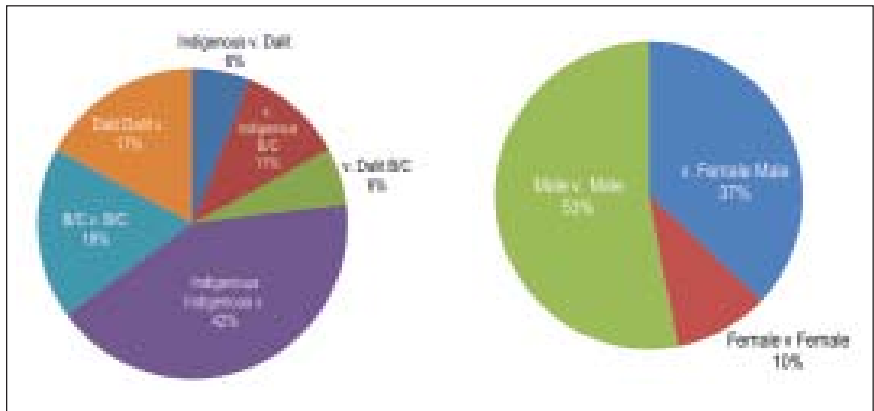
## Nature of Cases



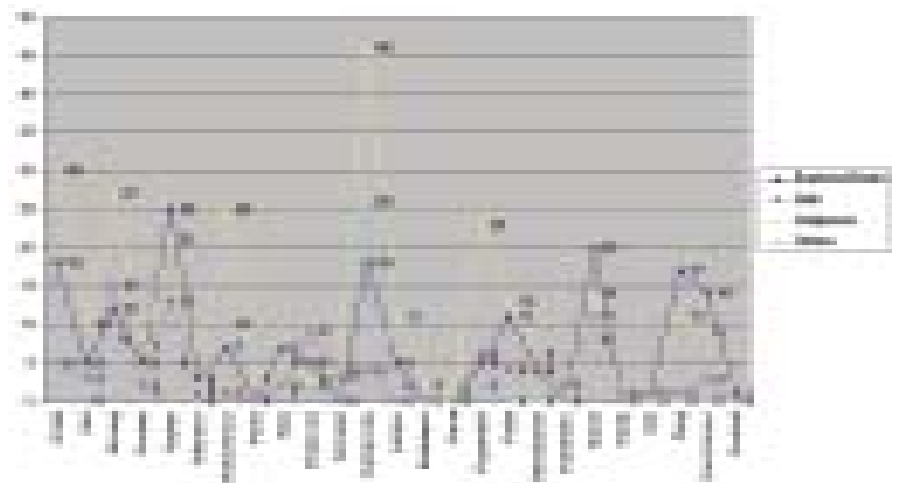
- The programme was able to mediated 705 cases of various natures amongst 830 registered cases. Out of total mediated cases, maximum number i.e. 117 cases are related to land, followed by monetary transactions, violence against women, battery, defamation, and so on.

## Case Parties

SN	Districts	Ethnicity								Gender		
		Bra/ Chhetri		Dalit		Indigenous		Others		F	M	Total
		M	F	M	F	M	F	M	F			
1	Morang (old)	112	45	144	32	228	65	24	8	150	508	658
2	Morang (new)	12	4	12	5	15	10	29	9	28	68	96
3	Udayapur	5	9	2	4	34	28	6	2	43	47	90
4	Makwanpur	11	11	5	2	18	17	-	1	31	34	65
5	Rupandehi	14	8	4	2	9	5	-	-	14	28	42
6	Dang	30	24	20	17	28	15	-	-	56	78	134
7	Surkhet	8	5	6	6	-	2	2	1	14	16	30
8	Bardiya	-	8	4	2	18	8	-	-	18	22	40
9	Kailali	9	6	1	2	28	6	-	-	14	38	52
Total		201	120	198	72	378	156	61	21	369	839	1207



- It can be said that heterogeneous ethnic groups have benefited from mediation programme. More number of Dalits, Indigenous and other marginalized people who otherwise would have less chances of affording justice through formal system have had access to justice. Lots of women who otherwise would have been silent also came forward to register and have their cases mediated.
- Mediation was done mostly in the cases of, and therefore, benefited economically lower class, illiterate or semi-literate people of mostly indigenous and dalit communities.
- 103 Bhutanese refugees have received mediation trainings and they are making efforts to popularize mediation within the camps and also institutionalize it. They will now discourage the traditional practice of mediating SGBV cases as inappropriate for doing mediation. Moreover, 350 major stakeholders including Camp Secretary, Deputy Secretary, Sector Head, Sub Sector Head, YFC, BRWF, CWT, Gender Focal Persons and residents of respective camps, after participating in orientations have committed to help establish mediation centers in their respective camps.
- Legal aid is provided in 619 cases. A significant number of cases of poor and marginalized inmates have been represented. 183 cases were of Brahmin/Chhetri, 93 of Dalits, 273 of Indigenous and 70 others.



- 69 legal aid lawyers were trained (51 were men and 18 were women) for effective representation of legal aid cases.
- 260 local stakeholders and 148 various stakeholders including law enforcement and foreign service officials were sensitized on Human Trafficking and Transportation (Control Act) 2007. During the trainings, it was revealed that approximately 74% of the participants did not know about the promulgation of Human Trafficking and Transportation Act 2007. Hence, the trainings were more focused on sensitizing them on TIP 2007 so as to help proper repatriation of trafficking victims, case representation, prosecution of traffickers, and rehabilitation and reintegration of victims. 85 victims' cases were helped, either by providing psychosocial counselling or legal representation.

- **A Milestone that CoCAS Achieved through CeLRRd**

On behalf of CoCAS, CeLRRd finalized the draft Constitution of Nepal and published it as "*Sanghiya Lokatantrik Ganatantra Nepal Ko Sambhidhan, 2068*" (*Simantakrit, Alpasankhyak tatha Pachadi Pariyeka waa Bahiskaran maa Pareka Barga waa Samudaya ka Hak Adhikaarka Sandharvama Prastabit Sambhidhan ko Masyauda*).

CeLRRd, after holding a series of consultations with CA members of various constitutional committees and political party leaders finalized the Constitution draft thereby, incorporating their feedbacks and comments on the earlier presented draft. The committees interacted with are Fundamental Rights and Directive Principles Committee, Constitutional Committee, Committee for the Protection of the Rights of Marginalized and Minorities, and Committee for State Restructuring and Distribution of State Power. The constitution is significant in the aspect of being able to make exclusive provisions for the protection of the rights of minorities and marginalized. Issues raised by the national manifesto, the findings of the Committee for the Protection of the Rights of Marginalized and Minorities, Interim Constitution 2063 and International Human Rights Instruments to which Nepal is a State Party are provided in the annexes. 3500 copies are published which are largely being disseminated.



◀ *Hon'ble Lal Babu Pandit (Third from the right), Chairperson, Committee for the Protection of Rights of Marginalized and Minorities chairing the interaction program.*

- **Strengthen Rule of Law, SROL**

With the objective of promoting ADR and increase access to justice for poor, women and other disenfranchised masses by expanding public defense system and institutionalizing legal aid, CeLRRd implemented Strengthen Rule of Law programme in the support of TAF in 2008/2009. Under the programme, CeLRRd made the following achievements:

- **Achievements of the SROL Programme**

1. Two comprehensive Basic Mediation Manual and Advance Mediation Manual have been developed. These updated manuals have ensured more uniformity and quality of mediation service.
2. Court-annexed mediation centers have been established in Lalitpur, Dolakha, and Kavre district courts.
3. CeLRRd led other partner NGOs with specialized technical skills and local knowledge to serve on a committee, Legal Aid and Concerned Parties' Coordination Forum dedicated to fostering linkages and coordination between various service providers
4. Legal Aid Code of Conduct is developed and it is being implemented by many stakeholders.
5. 3 mediation compilation awards depicting the experiences of various courts in court-annexed mediation, prospects and best practices, have been published and are being distributed across various levels of courts in Nepal.



►  
*Distinguished  
Guests at the  
Opening  
Ceremony of  
court-annexed  
mediation  
center in  
Kavre District  
Court*



- **Programme Observation By Danida HUGOU**

*Lars Peter Christensen, Programmeme Coordinator and Mr Mukunda Kattel, Adviser, Impunity, Human Rights and Justice, DanidaHUGOU observed district level interaction in Hetauda municipality. Mr Christensen, also the special guest for the programme opined, "Community mediation is an effective tools for bringing peace and stability and enhancing access to justice for poor, marginalized, women, and other backward segments of societies".*



*Mr. Lars Peter Christensen, Programmeme Coordinator, DanidaHUGOU giving his remarks at Makawanpur District Interaction Programme*

## SUCCESS STORIES

### PUBLIC ROAD BLOCKED FOR TWENTY YEARS CAME INTO USE THROUGH MEDIATION

Mediation center of Ramgram municipality of Nawalparasi has been able to clear away the blockage of the public road of Jamuwad, ward no. 11. Since the road was the only way to go to the river nearby and it had been blocked for twenty years, a women's group named *Janajagaran Women's Group* pressurized the encroaching parties to give clearance to the road in many interactions with them. However, they were adamant in their decision to never give up the land as they had been cultivating the land for so long. Finally, the women's group registered a case in the Ramgram mediation center on 8 Oct 2009 for mediation. The case was mediated in two sessions on 11 and 13 Oct as both the parties were very aggressive initially and it took time for the mediators to pacify them. There were huge crowds of stakeholders amongst whom mediation was done. Both the parties had their own stance; women's group claimed that it was a public property and nobody could therefore, own the land and the other party said that they had been cultivating for 20 years and had grown up trees in the land, and therefore, they would not leave it. After long sessions of mediation, it was finally agreed that the public road should now be restored. Later in the presence of local authorities, mediators and common people, measurement of the road was done. Now, the road is made better. Thus, the chronic case which could otherwise be fought in court was successfully mediated amongst the stakeholders.

### MEDIATION PROMOTES SOCIAL HARMONY AND JUSTICE

"I don't have to wait for court trial to get justice now", says Tika Damai (Dalit), 67 after receiving mediation service.

Tika Kumari Damai is a poor woman residing in Manpur VDC of Dang district with her husband and two young children. Tika possesses no land except small cottage as family property. She and her late husband used to labour at a neighbor's (Kamalram Basnet) home which was their chief means of livelihood.

Initially two parties had made an unwritten agreement that Kamalram would give 25 Pathis paddy as an annual wages to Tika and her husband. But, at the end of the year Kamalram denied giving the agreed crops. Then they were advised to take some legal action by their well wishers but they lacked any written document for

evidence. In the meantime, Tika's husband died which added more sorrow in her life.

Afterwards, Tika again requested him to provide the agreed amount of paddy. Despite her incessant requests, Kamalram instead of fulfilling his promise, used abusive language and discriminated her saying untouchable. As Tika knew about mediation service in Manpur VDC, she filed a case there. All concern issues were discussed during long hours of mediation session. As a result, Kamalram understood and realized the seriousness of the trouble he was causing Tika and finally agreed to give as much crops as initially agreed.

"I did not know about mediation process and used to think that justice is provided only by the court which I had no idea. I had decided to withdraw on the ground that it would be a case between a higher caste and lower caste but now after receiving mediation service, I think many people like me will get justice", said Tika shedding tears.

### CELRRD'S ATTEMPT TO RESCUE MINOR AND PROTECT HIS RIGHT

Shankar Kumar Limbu 14 (name changed) was arrested for his alleged involvement in arms and ammunition related crime. He was detained with other adult prisoners with the assumption that he was already 18. While in one of the visits to the Morang jail, CeLRRd's PLA team made such observation and therefore on 23<sup>rd</sup> September, 2009 Habeas corpus was filed by representatives of CeLRRd at Appellate Court Biratnagar, stating that as per the Child Act 2048 Section 2(a), the accused comes under the definition of minor. Similarly, Section 15 of same Act states that minors should not be detained with handcuffs and nails in any case. Moreover, they should not be put together with other adult prisoners. It was said in the writ that the detention of the juvenile was illegal as per Section 42(2) (a) and 50 of Child Act 2048.

CeLRRd could produce the birth certificate of the juvenile with the help of his relatives which clearly showed his age to be 14. So, with all these facts CeLRRd filed the writ petition, and demanded for show cause notice and final hearing. The Appellate Court finally issued directive order to District Administrative Office, Sunsari to authenticate the birth date of the accused alongwith following the procedure as per the Act if the accused was a minor. Thus, CeLRRd could initiate to free a child in conflict with law.

