



CeLRRd

Center for Legal Research and
Resource Development (CeLRRd)

Kathmandu, Nepal

Annual Report **2010/2011**

CeLRRd Annual Report 2010/2011

● Advisory Committee

Prof. Madhav Pd. Acharya
Prof. Yubaraj Sangroula, Ph.D.
Assoc. Prof. Hong Kong Rana

● Executive Committee

President
Mr. Kumar Innam

Vice-President
Ms. Fulmaya Ranabhat

Secretary
Mr. Anjan Kumar Dahal

Treasurer
Mr. Prakash K.C.

Members
Ms. Man Kumari G.M.B.K.
Mr. Ganesh Bhattarai
Mr. Baldev Chaudhary

● Publication Committee

Director
Mr. Sudeep Gautam

Coordinator
Mr. Rammani Gautam

Editorial Board
Mr. Sudeep Gautam
Ms. Sakila Chhetri
Ms. Sandhya Basini Sitoula

Computer
Ms. Sarita Phuyal

Layout/Design
Mr. Maheswor Phuyal

What CeLRRd Stands for?

Since its inception in 1998, the Center for Legal Research and Resource Development, CeLRRd has worked extensively in the areas of rule of law, access to justice, democratization, good governance, and human rights. CeLRRd aims to achieve its objectives through research, resource development, community mobilization, building legal awareness and conducting legal aid activities.

CeLRRd works with a vision of a peaceful and prosperous Nepal where people enjoy human rights and social justice. 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.

The key objectives of CeLRRd are:

1. to expand and promote community mediation as an alternative dispute resolution mechanism;
2. to promote access to justice for all, irrespective of social, ethnic, religious, gender and political differences;
3. to build the capacity of justice sector professionals to deliver on the needs of the poor and marginalized in a transparent and accountable manner; and
4. to provide extended and institutionalized legal aid services to the victims of injustices and human rights violations.

Its areas of intervention are:

1. Access to justice that includes Mediation, Legal aid and Criminal Justice System
2. Anti-trafficking and Gender Justice
3. Democracy, Good-governance and Human Rights
4. Juvenile Justice
5. Legal Education and Professionalism

Foreword

This annual report covers the achievements, challenges and our overall performances in terms of program implementation and institutional strengthening within a period of 17-July 2010 to 16-July 2011. It provides a reflection of the programs that advocate for creating easy access to justice for marginalized communities, fostering human rights of people whose rights are violated, promoting good governance, gender equality, and reforming criminal justice system of Nepal and also contributing to the legal education to some extent.

Since we developed Strategic Plan of CeLRRd (2009-2013) back in 2009, we are making efforts to strictly follow it, which we did in the first year and this being the second year of strategic partnership primarily with DanidaHUGOU has similarly yielded the desired accomplishments. In a situation where there is an absence of elected local bodies for more than a decade and a State that is almost defunct because of heavy politicization of the civil administration, and the fragile law and order situation, creating unrestricted access to justice along with protection of the human rights especially for the poor communities is becoming a daunting task and the people who have no access to power are left in the lurch. In a context such as this, CeLRRd's programme is extremely relevant at the local level where it has not only filled the vacuum of justice but has also created groundwork for peace and social transformation.

Coming to this year, CeLRRd has managed to reach to the most deprived, alienated and isolated communities in the diverse geography of the country, be it through community mediation, consumer rights, anti-trafficking, juvenile justice or even prisoners' legal aid program. 4344 cases were mediated; legal representation was done in 1270 needy prisoners' cases and 56 juveniles' cases. In almost all the programs, over 70% beneficiaries are Indigenous and *Dalits*.

We take this opportunity to acknowledge the support of all our in-house colleagues, and the guidance of funding partners like DanidaHUGOU, TAF, UNDP and Geneva Global for the successful implementation of our program activities. We look forward to receiving similar generous support from all in the upcoming days as well.

Sudeep Gautam
Executive Director

EXECUTIVE SUMMARY

Since its inception in 1998, CeLRRd has worked extensively in the areas of rule of law, access to justice, democratization, good governance, and human rights. For some years, CeLRRd has prioritized more on creating and/or facilitating access to justice both through informal and formal justice mechanisms, for indigents, women, marginalized and others who are systematically made devoid of justice. Thus under the Annual Work Plan and Budget, AWAB 2010/11, legal aid and community mediation activities along with others under promoting good governance and human rights were implemented.

It has proved for one more time that it is a pioneering organization in the field of legal research, and has thus brought forward invaluable and critical observation of juvenile justice system of Nepal in the form of nationwide *Baseline Survey Report of JJ System of Nepal*. On its basis capacity enhancement of JJ stakeholders is ongoing. So far, 6 trainings for 151 JJ stakeholders on Juvenile Justice are already held in Kathmandu, Hetauda, Pokhara, Nepalgunj, Biratnagar and Mahendranagar, and thus, 32 police, 23 Government Attorney, 25 court officials and 71 Nepal Bar members obtained better understanding on diversion and other issues of juvenile justice. 56 cases of juveniles were and are being represented. A workshop on “**Promotion of Juvenile Justice (JJ) System of Nepal**” was jointly organized by the Attorney General Office and CeLRRd, wherein legal experts urged the government to show its serious concern towards developing and expanding JJ in the country.

A new pool of 1012 local mediators inclusive of caste, gender and age is generated to provide mediation service in their respective locations. The community mediation training has become a boon for exerting knowledge and skills like a candle light in the darkness. The women and people from marginalised communities have been trusted for their capability. The learning and experience gained from training and facilitation have been quite useful in other aspects of the mediators’ life i.e. in teaching, school management committee, forest user group, etc.

Indigenous, *Dalits* and other marginalized groups occupy around 60% and women, 38%. 35 new community mediation centers have been established and are actively functioning in 8 districts. Mediation service is provided in 4344 number of cases throughout the year. Success is gained in 92% of cases out of total mediated cases.

Out of the total direct beneficiaries of community mediation, 50% relates to indigenous, and 25% to *Dalit* and other marginalized groups. Moreover,

47% cases relate to the illiterate disputants, and further 69% cases relate to the low economic status disputants. i.e., having less than NRs. 25,000 per year. It reflects that economically and socially backward people are benefiting more from mediation. In 31% cases, women are the first party which means that a significant mass of women at least of the program locations are being empowered to come forward for the peaceful resolution of their disputes. CeLRRd has also contributed, thereby lobbying with the members of parliament to enact the Mediation Act which this year has been passed.

Legal representation is done in 1270 new cases of prisoners along with 585 carried on cases of the previous fiscal year. 17% of total finalized cases (972) resulted to acquittal and 12% of cases to partial conviction.

Under consumer right program, the concept of consumer is redefined and advocated as the user of constitutionally guaranteed human rights that eventually contributes to democracy, and good governance. Over 26000 have directly benefited from the program including higher secondary level and campus students, chairs or managers of community organizations, community forest users groups, mothers' groups, VDC representatives, community mediators, youth club members, women's groups, saving credit groups and cooperative shareholders.

37 cases of trafficking victims have been fought and the understanding of 9519 paralegal women and men of a number of locations of 11 districts has been enhanced not only on the emerging dimensions of trafficking but also on the victim-oriented provisions made by the new TIP Act and the processes to exercise those provisions.

Educational scholarship to 5 students from *Dalit* and marginalized groups for LLB level course is continued and an additional one is provided to a Dalit student for attending LLM course.

Gender equality and social inclusion, the motto of CeLRRd has been reflected in the implementation of programmes where more than 40 percent women, indigenous and *Dalit* communities are represented throughout the activities.



TABLE OF CONTENTS

1. CREATING EASY ACCESS TO JUSTICE THROUGH COMMUNITY MEDIATION	7
1.1. Generating Community Mediators	9
1.2. Cases Handled by Mediation Centers	12
1.3. Mediation Successes	20
1.4. Activities	22
2. PRISONERS LEGAL AID (PLA)	28
2.1. Case Statistics	29
2.2. Success Stories	31
2.3. Activities	32
3. ANTI-TRAFFICKING	35
3.1. Activities	36
3.2. Success Stories	38
4. PROMOTING JUVENILE JUSTICE	40
4.1. Activities	41
4.2. Success Story	50
5. ADVOCACY CAMPAIGNS FOR HUMAN RIGHTS, GOOD GOVERNANCE AND DEMOCRACY	51
6. ENHANCING LEGAL EDUCATION AND PROFESSIONALISM	54
6.1. Legal Professionalism Enhancement Trainings	55
6.2. Educational scholarships	57
6.3. Civic and Legal Education to Students	57
7. INSTITUTIONAL DEVELOPMENT	58
7.1. 11 th Annual General Meeting	59
7.2. International, National Trainings and Exposures	59
8. CHALLENGES AND ACHIEVEMENTS	64
8.1. Achievements	65
8.2. Challenges	67
COVERAGE IN MEDIA	68



1

**Creating Easy Access
to Justice through
Community Mediation**

Since 2002, CeLRRd has been consistently implementing community mediation program in increasing number of locations, and now it believes from its experiences that it is becoming the initial door to knock to seek justice in the rural communities of at least 119 program locations where CeLRRd has fully functional mediation centers. It is a constructive process for resolving disputes between individuals and groups wherein they gain an opportunity to participate in the resolution process, have control of the outcome, and their relationships are restored and strengthened. Over the years, this informal mechanism has been providing speedy, affordable, and meaningful remedies to women and other marginalized people, and the beneficiaries are more poor and illiterate masses. Thus, it has proved as an alternative to avoidance, destructive confrontation, prolonged litigation or violence.

Mediation
centre
under
Butwal
Municipal-
ity



This year CeLRRd extended mediation program in additional 36 locations of Dang, Kailali, Udayapur, Surkhet, Morang, Bardiya, Rupandehi and Makwanpur districts.

CeLRRd has continued its community mediation program in the 83 VDCs and municipalities and launched new

Newly extended Mediation program locations

- **Makwanpur:** Chhatiwan, Handikhola, Mak. Gadhi, Manahari and Harnamaadi
- **Morang:** Kadmaha, Sijuwa, Jhurkiya, Bardanga
- **Rupandehi:** Butwal, Dhakdhai, Haraniya, Gonaha, Dayanagar, Kerwani, Paroha, Basantapur
- **Bardiya:** Nayagau, Manau and Badalpur
- **Dang:** Gorahi municipality, Chaulahi, Gadhawaa, Urahari
- **Kailali:** Malakheta, Chaumala, Masuriya, Chuha
- **Udayapur:** Panchawati, Katari, Hadiya, Rautaha
- **Surkhet:** Mehelkuna, Satakhani, Kunathari, Gadi

35 additional mediation centers have already been established in the 8 districts and are now discharging mediation service smoothly.

programs in additional 36. Technical and/or financial supports were provided in the previous locations and new arrangements of human resources and infrastructures made in the extended locations.

43 locations have already been handed over to the local authorities, which are now forwarding mediation in their respective locations.



More than 80 per cent of the disputes have been settled in the community mediation centres including those cases waiting for the court verdict for over the years. Often the cases relate to disputes between the spouses, money laundering, divorce, polygamy, inter-caste marriage, domestic violence, land dispute, violence against women, partition, manhandling, boundary dispute, battering and others.

The VDCs, municipalities, police and various government line agencies have been referring the cases to the concern mediation centre.

Trainer Umanath Gyawali giving basic mediation training in Manau VDC of Bardiya



With the performance of the community mediation centres, the workload of the quasi-judicial and judicial bodies has been significantly reduced in the project locations. Unlike traditional procedures of dispute settlement, community mediation has provided the disputants a forum for expressing their grievances where they can be open to share their pains and suffering. Once the cases are

settled locally, people would feel win-win not win and lose. This process has helped people save time and money. The quick dispensation of justice has relieved the people from the complicated court procedures taking years. Consequently, it has helped restore social harmony.

1.1. Generating Community Mediators

The training on human rights, conflict management and community mediation has been instrumental in building capacity of the mediators to address differences and pressures calmly and constructively. **A new pool of 1012 local mediators developed the capacity of community mediators. The mediators have learned the basic phenomenon of neutrality and impartiality and the tested value of *do no harm principles* and role of such principles to create congenial and harmonious relationships among the people. To the mediators, the**





▲
Basic
mediation
training at
Mehelkuna
VDC of
Surkhet
district

most important resource of dispute resolution is to give enough opportunity to the disputants to express their grievances, to get to the root of the dispute and involve them in exploring ways to resolve the disputes. In the communities, the mediation processes have brought about significant changes in understanding disputes, analysing their causes and effects and initiating steps to resolve and prevent them.

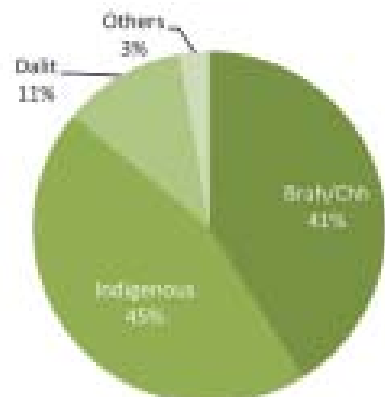
The mediators in their respective locations are inclusive in terms of gender, ethnicity and age. Indigenous, *Dalits* and other marginalized groups occupy around 62% and women, 38%.

For the mediators, the training has become a boon for exerting knowledge and skills. The women and the people from the marginalised communities have been trusted more than in the past for their capability and performance. The training has brought about changes including the enhanced communication skills, personal behaviour and zero

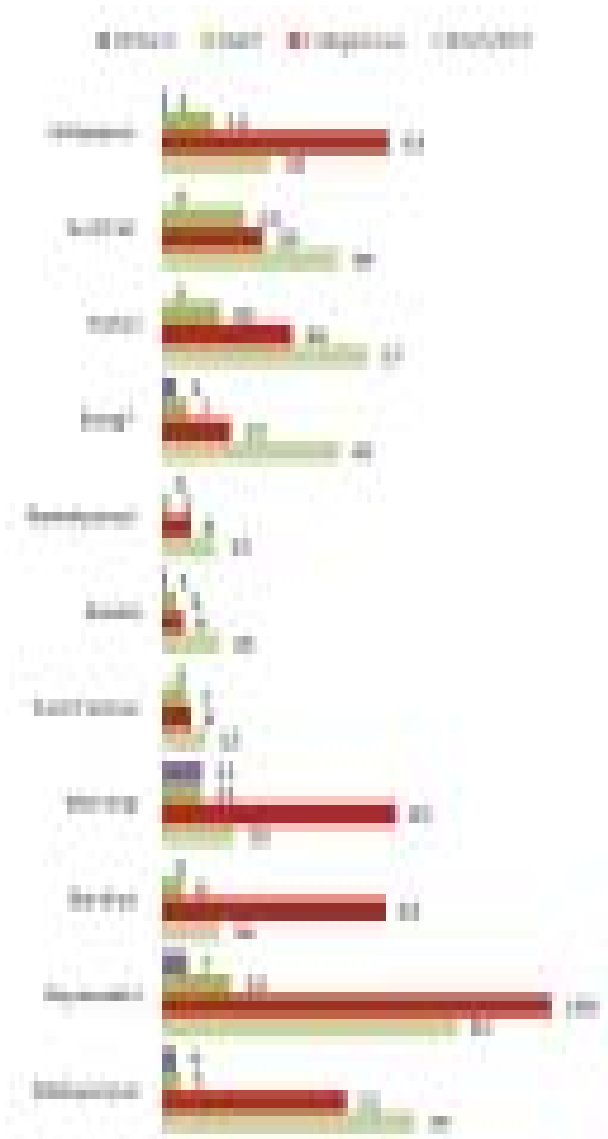
tolerance for any sort of discrimination.

The learning and experience gained from training and facilitation have been quite useful in other aspects of the mediators' life as well. For instance, some of the mediators are in the school management committee and others in the forest user groups. With their increased capacity, they have started using best practices for conducting meetings and taking decisions in a democratic manner.

Basic Mediation Training (2010/2011) -
Ethnic Statistics

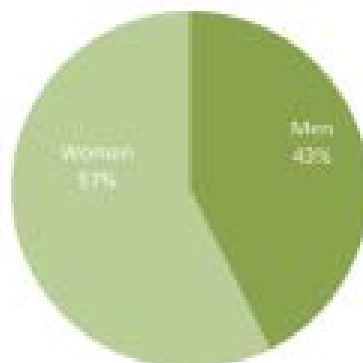


Ethnic Statistics



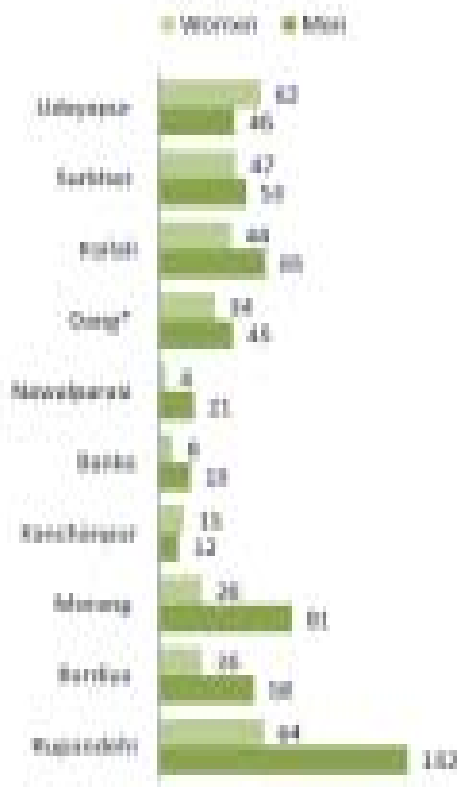
them are inspired for social service from their childhood. Their service will help continue the access to justice to those who otherwise would have no access.

Basic Mediation Training (2010/2011) - Gender Statistics



Furthermore, the trained mediators are also being engaged to train the *Local Peace Committee* members even far away from their localities. The communities also have been respectful to the mediators.

The mediators are ready to volunteer their service for longer terms. Some of



The mediators have realised a big difference between working for financial benefit and social welfare. When they observe the level of satisfaction among the disputants, they could realize the value of such service

The intensive eight-day training provided understandings on the 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; human rights and others.

1.2. Cases Handled by Mediation Centers

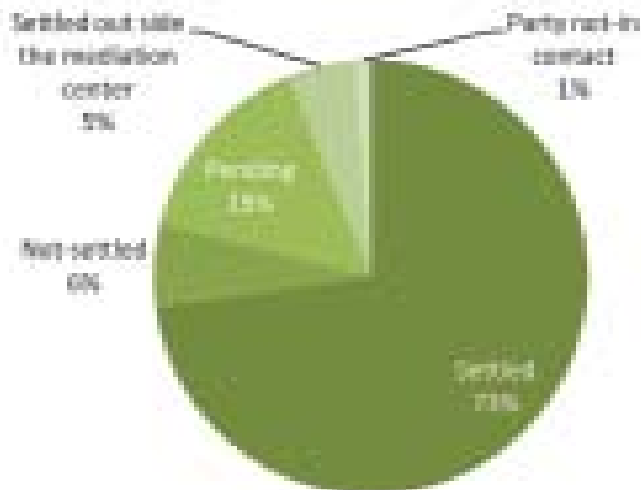
I) NUMBER OF CASES

District	Registered			Settled	Not-settled	Pending	Settled out side the mediation center	Party not-in contact
	Old	New	Total					
Morang	979	381	1360	1250	87	18	0	5
Rupandehi	34	543	577	369	68	109	14	17
Makwanpur	34	367	401	223	56	58	31	33
Udayapur	10	404	414	393	16	4	0	1
Bardiya	243	752	995	655	0	340	0	0
Dang	26	320	346	252	39	12	43	0
Kailali	37	231	268	131	31	92	14	0
Surkhet	9	168	177	110	15	32	20	0
Banke	269	146	415	259	3	30	123	0
Kanchanpur	16	236	252	147	9	82	14	0
Nawalparasi	0	0	299	216	15	40	19	9
Total	1657	3548	5504	4005	339	817	278	65



ASI of police acknowledging police support to mediation program at Basamadi practice sharing in Makwanpur district

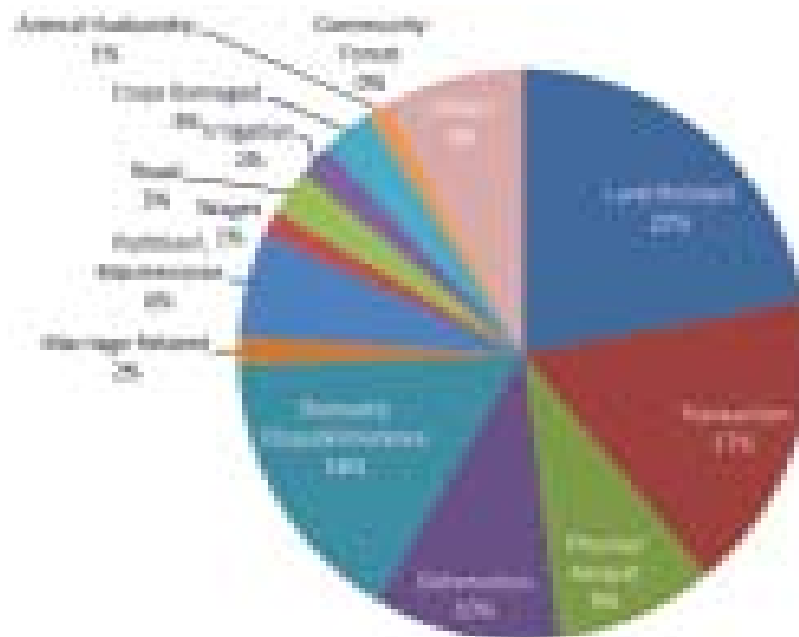
Number of Cases



Mediation service is provided in 4344 number of cases within the reporting period. Success is gained in 92% of cases out of total mediated cases. Police and local authorities have also been referring cases to mediation centers.

II) NATURE OF CASES

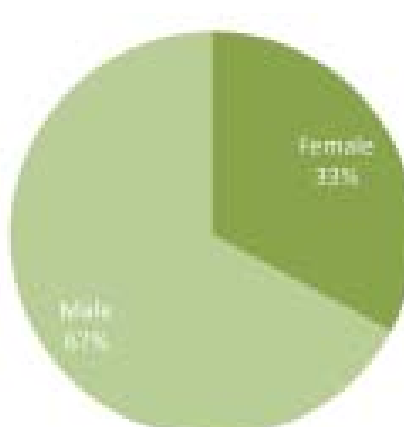
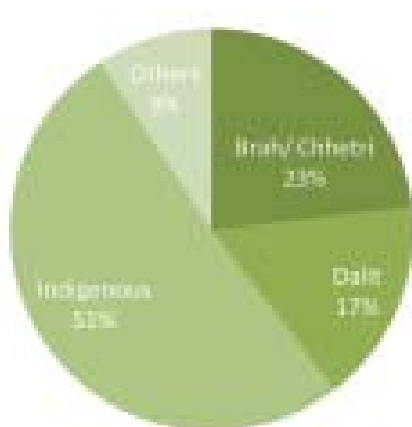
District	Land Related	Transaction	Physical assault	Defamation	Domestic quarrel \ violence	Marriage Related	Partiton\ Maintenance	Wages	Road	Irrigation	Crops Damaged	Animal Husbandry	Community Forest	Others	Total
Morang	231	264	193	192	148	13	60	15	31	15	73	33	1	68	1337
Rupandehi	142	82	18	40	60	3	23	0	22	21	11	4	3	8	437
Makwanpur	66	34	20	27	68	4	34	1	5	8	1	0	0	11	279
Udayapur	59	43	27	60	93	0	7	2	8	3	9	5	0	93	409
Bardiya	154	121	61	48	61	17	52	30	19	10	15	6	4	57	655
Dang	36	52	16	16	67	17	41	7	3	2	3	0	0	31	291
Kailali	33	29	18	9	29	2	5	4	2	0	8	0	1	22	162
Surkhet	22	17	3	17	37	8	3	1	0	3	0	3	0	11	125
Banke	76	40	21	15	52	6	6	0	15	2	6	0	0	23	262
Kanchanpur	45	15	12	17	42	0	4	0	1	12	0	1	0	7	156
Nawalparasi	90	41	5	15	33	1	23	0	8	7	5	1	0	2	231
Total	954	738	394	456	690	71	258	60	114	83	131	53	9	333	4344



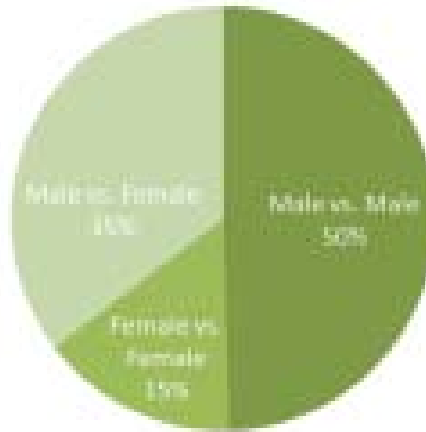
Since most of the communities we work in are agrarian communities, land related cases are huge.

III) ETHNIC AND GENDER STATISTICS

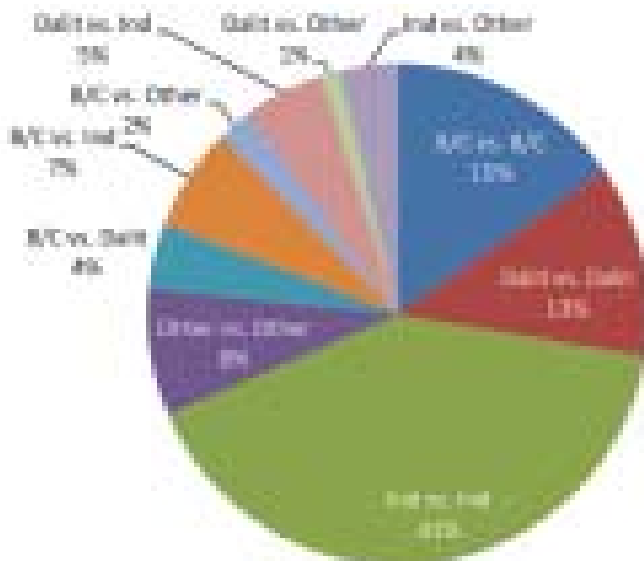
SN	Name of VDC/MC	Ethnicity				Gender		
		Bra/Chhetri	Dalit	Indigenous	Others	Female	Male	Total
1	Morang	262	428	1385	544	657	2023	2680
2	Rupandehi	174	116	517	67	262	612	874
3	Makwanpur	208	35	362	3	229	379	608
4	Udayapur	185	159	447	47	382	457	839
5	Bardiya	290	132	831	76	421	908	1329
6	Dang	311	109	190	6	251	365	616
7	Kailali	104	54	164	2	152	172	324
8	Surkhet	140	60	57	4	109	152	261
9	Banke	93	172	226	40	193	338	531
10	Kanchanpur	152	110	74	7	110	233	343
11	Nawalparasi	119	76	255	22	154	318	472
	Total	2038	1451	4508	818	2920	5957	8877



District	Male vs. Male	Female vs. Female	Male vs Female	Total no. of cases	Female as first party cases
Morang	815	148	374	1337	345
Rupandehi	238	45	154	437	151
Makwanpur	108	49	122	279	121
Udayapur	125	104	180	409	236
Bardiya	375	110	170	655	134
Dang	80	46	165	291	88
Kailali	67	24	71	162	38
Surkhet	45	22	58	125	50
Banke	119	33	110	262	67
Kanchanpur	74	37	45	156	31
Nawalparasi	107	35	89	231	90
Total	2153	653	1538	4344	1351



District	B/C vs. B/C	Dalit vs. Dalit	Ind vs. Ind	Other vs Other	B/C vs. Dalit	B/C vs. Ind	B/C vs. Other	Dalit vs Ind	Dalit vs. Other	Ind vs Other	Total
Morang	85	181	577	238	31	71	6	80	14	54	1337
Rupandehi	57	33	195	15	5	56	1	39	4	32	437
Makwanpur	73	12	141	4	19	20	2	7	0	1	279
Udayapur	63	51	187	9	17	37	7	23	2	13	409
Bardiya	73	42	311	22	56	31	62	6	11	41	655
Dang	128	44	60	12	16	10	5	14	0	2	291
Kailali	33	15	79	4	5	1	1	12	2	10	162
Surkhet	45	30	19	10	13	7	0	1	0	0	125
Banke	22	64	80	19	13	23	7	25	6	3	262
Kanchanpur	47	40	22	12	4	10	0	6	8	7	156
Nawalparasi	39	25	101	9	7	21	6	16	5	2	231
Total	665	537	1772	354	186	287	97	229	52	165	4344



Out of the total direct beneficiaries of community mediation, 50% relates to indigenous, and 25% to Dalit and other marginalized groups. In 31% cases, women are the first party which means that a significant mass of women at least of the program locations are being empowered to come forward for the peaceful resolution of their disputes.

Mediation restored communal harmony

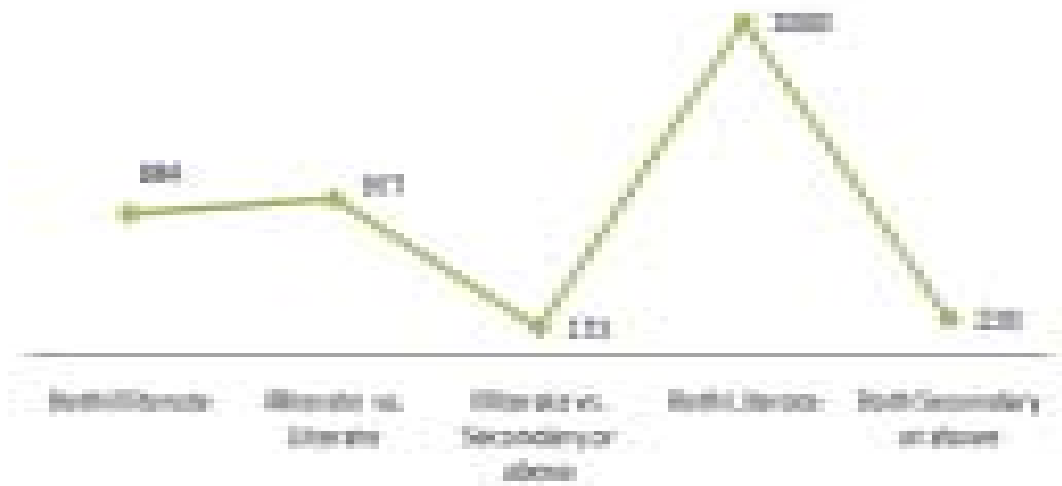
Ram Bahadur BK, a *Dalit* and Shyam Sharan Dhakal, a *Brahmin* of Beltar VDC-3 of Udayapur were good neighbors until their cultural differences started affecting each other. Ram Bahadur built a pig shed in his land but very close to Ram's house whereas he was a pure vegetarian. This had already started ruining their relationship. Furthermore, one day Ram's buffalo destroyed the latter's harvest, and a violent dispute arose. As it was between two castes, a so-called higher and the lower caste, it dragged the attention of and divided the communities. However, this dispute was just an apparent issue whereas, the core problem was the caste system. Ram's family felt that Shyam being the higher caste was feeling superior and therefore discriminating them, whereas on the other hand, Shyam was thinking that Ram's family was behaving very recklessly. They spelled bad words to each other and when it became intolerable to Ram Bahadur, he filed an application to the

Beltar mediation center on 15 May 2011. Mediation was done a few days later; Ram said, "The days of perpetrating injustice upon the lower caste people are over, and therefore, you also cannot try the same". Shyam said, "Who is wrong is clear and we will also see what you can do to us".

But as the mediation progressed, softness came into their words, and they could agree on resolving their differences. They discussed on what to do for the crops damaged, issues of pig shed and land border and had a consensus on shifting the shed to the other place as soon as possible, controlling their domesticated animals and also sensitively behave with the family members of one another. Some time later, when an observation team visited them, it was found that the mediation agreements were well being implemented and the parties were thankful to the mediation center for restoring a peaceful neighborhood.

IV) EDUCATIONAL STATUS

VDC / MC	Both Illiterate	Education				Total
		Illiterate v. Literate	Illiterate v. Secondary or above	Both Literate	Both Secondary or above	
Morang	380	298	24	590	45	1337
Rupandehi	56	119	3	224	35	437
Makwanpur	60	90	9	112	8	279
Udayapur	49	49	10	270	31	409
Bardiya	125	67	33	375	55	655
Dang	21	82	7	173	8	291
Kailali	25	51	16	60	10	162
Surkhet	23	35	13	51	3	125
Banke	64	105	27	50	16	262
Kanchanpur	56	49	13	27	11	156
Nawalparasi	25	32	18	148	8	231
Total	884	977	173	2080	230	4344



“Mediation has been able to contribute especially poor communities by resolving their significant number of cases and thus, it has challenged the popularly known conception that justice is for affluent masses”, Shankar Thapa, UCPN (Maoist), Tikuligadh, Rupandehi.



V) ECONOMIC STATUS

VDC / MC	Economic Status						Total
	Lower v. Lower	Lower v. Medium	Lower v. Higher	Medium v. Medium	Medium v. Higher	Higher v. Higher	
Morang	778	232	36	244	21	26	1337
Rupandehi	143	76	10	170	25	13	437
Makwanpur	94	68	31	75	10	1	279
Udayapur	233	74	6	83	8	5	409
Bardiya	179	118	18	242	73	25	655
Dang	135	50	25	33	46	2	291
Kailali	68	44	10	37	3	0	162
Surkhet	48	24	10	43	0	0	125
Banke	147	62	12	41	0	0	262
Kanchanpur	61	50	16	29	0	0	156
Nawalparasi	82	61	10	66	7	5	231
Total	1968	859	184	1063	193	77	4344



Moreover, 47% cases relate to the illiterate disputants, and further 69% cases relate to the low economic status disputants. i.e., having less than NRs. 25,000 per year. It reflects that economically and socially backward people are benefiting more from mediation.

1.3. Mediation Successes

● MEDIATION SOLVED 26 YEARS DISPUTE

Pakharu Bahardar Sudi's, (name changed) and the other four Dalit families lived in Sijuwa-1, Morang. Altogether the five families had *1bigba, 5 kattba* land and they had been living there for quite many years. Besides the land, they had nothing for sustaining their lives. Then in 2038 BS, a primary school was opened within the premise and therefore, the-then chairperson of the VDC had registered the land in the name of school keeping in view of its extension. This school is now a lower secondary school. In 2042 BS, with the help of police, the land was evacuated, thereby destroying the shelters of five families, but after the revolt of few marginalized groups like *Bahardar, Rajbanshi, Tajpuriya and Santhal*, they were reinstated. But then the relation between the families and the school management committee (SMC) ruined so much so that it became a significant political issue. Many a times, the school was vandalized. District administration, police and local stakeholders put their effort but to no avail.

Then upon hearing about the mediation center in the neighborhood, the president of the SMS filed an application there. The mediation day was fixed and as the session started, both the parties put forward their views: the SMC said that the land occupied by the five families was in fact the school property, and so they should leave and again should also give the school a compensatory amount of 1 lakh 50 thousand. The other side's story was that the school had unethically robbed them of the land where they had been living since their forefathers' time, and as they had not participated in the vandalism, they were not liable to pay the compensation.

After 7 hours discussion, they reached to an agreement. From the land, the school was ready to allocate 10 *dhurs* land to each household and they will leave the remaining land, and the school will also provide land for a 10 feet road to their habitation. The VDC will take responsibility of repairing the school building. They also agreed to restore their relationship. Thus, this dispute which was initially looked into by a number of government agencies including police, administration and many local political units for a period of 26 years, was eventually solved by mediation. Nowadays, there is a popular understanding that mediation is able to solve even long standing conflicts.

● MEDIATION RESTORED ENVIRONMENT

Lumbini Utensils Industry is running for the last six months in Butwal-13, Rupandehi. 24 laborers are employed there. However the area being the densely populated one suffered from both air and sound pollution. As a result, the inhabitants started developing several illnesses related to respiration and others, and eventually it was identified that pollution was the causal factor. This ignited the tension between the industry owner, Birendra Shahi and the citizens who

demanded that the industry should be shut down immediately, to which Birendra denied. Eventually it reached to the Municipality office which tried to mediate the case, but to no avail. As the mediation center was established within Butwal municipality, the municipality office referred this case to the mediation center in the month of May.

A group of 74 municipality inhabitants lodged the case to the mediation session. Chuda Bahadur Shrestha represented the group and said that it is their right to live in a pollution free environment, and that due to the industry invited air and noise pollution, they were unable to sleep at nights, and the children and old-age people suffered more complications. Therefore, they demanded that the industry should be shut down immediately. On the other hand, Chuda Bahadur said that he has invested a lot in the industry and as 24 persons are employed there, he is not in a position to shut it down and that he will incur a huge loss. After rigorous discussion, both the parties realized the problem they were causing to each other. Chuda said that he had not realized that the consequences faced by people would be so severe. At the end, temporary and permanent alternatives were generated. The air and noise pollution level caused by the industry would be reduced technically within few months and gave a time frame of 18 months to permanently transfer the industry to the next place in which the people also committed to help him find a suitable place to build an industry.

The mediation thus helped both the parties reach to a consensus being sensitive to each other.

● 74 YEARS WOMAN GOT JUSTICE AFTER 19 YEARS

19 years ago, Bhikhani Tharuni of a remote VDC, Daulatpur of Bardiya district had filed a petition for property right at the age of 55, after her husband, Hemkarna Tharu and two step-sons discarded her; she was left with no foods and clothes. Her case reached upto the Supreme Court via the District and Appellate courts. The SC had already decided on her case back in BS 2061/11/19, however there was no implementation of the decision. Then in 13 Sep 2010, she filed a separate petition at Bardiya DC for the registration of the property she inherited. In such a context, she also applied for mediating her case in Feb 2011 and on 1 March the case was mediated. Both Hemkarna and Bhikhani shared their stories behind fighting the case in the courts. It seemed that only in other people's bad influence, they did not hear each other, and now as mediation gave them a private place where they opened their hearts, their case was resolved. It was agreed that Bhikhani would receive 0-4-10 piece of land from the same plot. Thus, the case which though decided by the formal justice system could not give justice in a real sense to the poor, old marginalized and illiterate woman, whereas when it was handled through the process of mediation, both the parties felt that their case was appropriately looked into by not making one to win and the other to lose, but both to a win-win situation.

● MEDIATION SUCCESSFUL TO SAVE AN INTER-CASTE MARRIAGE

Urلابari, a Brahmin girl Rita, 20years and a Dalit boy, Suresh 22 years did a love marriage after many years of affair since the school days. Due to poor financial condition, both of them could not continue their studies beyond 10, in case of Suresh and 8, in case of Rita. When Suresh had proposed to Rita for marriage, she happily accepted it but did not want to tell her parents about the marriage, because she well understood that her parents will not give consent to the marriage with a Dalit. But on the side of Suresh, it was well acknowledged to his parents. Eventually, the marriage took place. When her family members knew about it, they refused to accept it and after seven days, Rita's mother filed a complaint at the police station that Suresh in fact abducted Rita.

When all the concern parties were called to discuss on the matter, Rita and Suresh assured that the marriage took place with their consent and that they would not accept being separated with each other. Even when Rita denied to the claim made by her mother, she did not want to accept it. As the police could not solve the dispute, it then referred to the Urلابari mediation center on 15 January 2011. On 21 Jan, the case was mediated. It helped many concerns to come up. Rita and Suresh very strongly tried to establish that their marriage should not be made void just because of caste-based discrimination. Rita's mother claimed that the marriage happened without acknowledgment to the parents; nobody in any generation did marriage to a Dalit, and it will bring a shame to their family.

However, after many hours discussions on several issues like human rights and how caste-based discrimination is a violation of human right, and how the state is promoting social justice, a level of awareness came to Rita's family members, and they eventually accepted the marriage. This has nowadays been an inspiration in the community and whenever one talks of discrimination, their story is recalled.

1.4. Activities

INTERACTIONS WITH DISTRICT LEVEL STAKEHOLDERS

The main objectives of such interactions were to build synergy amongst district level stakeholders, and help publicize and institutionalize mediation program in the districts. 15 such interactions were held where over 600 districts and VDC (program VDC) level stakeholders participated.

Representatives of major political parties, local government authorities, former elected representatives of the program

VDCs, social workers, local coordinators, mediators, journalists, judges, bar representatives and other concerned NGOs' representatives attended the program and committed for the possible supports on their parts. They were updated on the achievements made so far in the districts. The stakeholders in each program reiterated that since community mediation has provided easy and effective access to justice for many women, marginalized and other downtrodden groups, it should be continued to a long run.

The attendees expressed that they have been providing supports both at the individual and institutional levels, and in the upcoming days, they would work with the organization to find more ways to help the program.

REFRESHER TRAININGS FOR COMMUNITY MEDIATORS

To strengthen skills to handle disputes better, and enable mediators to work more effectively in dealing with groups' cases and the intricate cases of individuals, refresher trainings to community mediators were deemed necessary. 3-day refresher trainings in 19 old locations were conducted, where around 456 mediators doing mediation got the opportunity to enhance the mediation skills.

PRACTICE SHARING AMONGST THE MEDIATORS AND STAKEHOLDERS

Regular practice-sharing amongst the mediators and stakeholders at the district and VDC levels became an important tool to effectively implement mediation program. It provided a platform to share achievements made, problems

encountered and also the measures to be taken care of to do mediation in a better way. It also helped to increase the mediators' confidence and credibility. Each such practice sharing accommodated 30-40 participants including program VDC/municipality Coordinators, VDC secretaries, representatives of different political parties, social workers and if possible other stakeholders from government line agencies, community based organizations and local intellectuals.

233 such interactions were held; they were also useful to get more referrals of cases, and worked as a significant tool of social marketing.

343 monthly meeting of mediators were also held in the currently existing locations so as to regularly refresh the mediators. The meetings were organized just for the community mediators where they not only shared their ideas and progresses but became platforms to keep the team of mediators intact in any VDC.

A mother's group member shares her experiences about mediation at Practice sharing meeting in Kerwani VDC of Rupandehi



COMMUNITY MEDIATION ORIENTATIONS TO TRADITIONAL DISPUTE RESOLUTION PRACTITIONERS

To reform traditional justice delivery mechanisms practiced by *badghars* (elected leaders of Tharu and Rana communities) in specific districts of Western and Far-western regions, four three-day orientations were held: 23-25 March in Tikapur of Kailali; 26 to 28 March in Bhimdattanagar of Kanchanpur; 14-16 May in Gulariya of Bardiya; and 17-19 May in Nepalgunj of Banke district. *Badghars* promote communities' social, cultural, and religious values; play a significant role in the developmental activities on the community's behalf; and settle both intra-community and inter-community disputes, including criminal cases, through mediation. 103 *badghars* attended the trainings. CeLRRd mediation coordinators Chet Raj Bhatta and Kumar Sharma Acharya worked with other local mediators as facilitators.

Role-play to demonstrate mediation skills to Badghars in Kailali training



The training provided the *badghars* with proper mediation skills and knowledge, and discouraged them from mediating criminal cases. Further, instead of position-based mediation, they were taught to practice interest-based mediation. They were also made aware of being sensitive to the principles of social justice and human rights.

The trainings revealed how political ideologies and divisions at the local level have affected this traditional practice, which means *badghars* are not able to play as effective role as in the past. Traditional practices, cultures, and norms are changing, and the participants asked for protection from the state mechanism.

In few districts, hilly people called *Pahades*, young *tharus* and women are also elected as *Badghars*, which reflected that changes are happening even within the traditional mechanisms.





FORMATION OF DISTRICT LEVEL MEDIATORS' NETWORKS

District level mediators' network meeting

2 new district level mediators networks were formed this year: 13-member in Rupandehi and 11-member in Makwanpur.

After holding a full day interaction on the need and scope of forming a mediators' network, amongst the mediators selected as 3 per mediation center, the mediators' networks were formed, with the following representatives:

Rupandehi formed in 20 May 2011		Makwanpur formed in 27 May 2011	
Shankar Panthi	Chairperson	Indra Psd. Khatiwada	Chairperson
Bijaya Prakash Upadhaya	Vice-chairperson	Chandra Bdr Syangtaan	Vice-chairperson
Punam Ligal	Secretary	Sujata Dhakal	Secretary
Nanda Chaudhary	Treasurer	Bednath Neupane	Treasurer
Krishna Psd. Panthi	Member	Rajan Mainali	Member
Shyam Bahadur Thapa	Member	Kuber Psd. Khatiwada	Member
Najar Kumari Shrestha	Member	Radha B.K	Member
Ganesh Kumar Khati	Member	Chandrakala Dhungana	Member
Debu Bhattarai	Member	Bhim Bahadur Paakhrin	Member
Sanjay Nau	Member	Bhuvan Joshi	Member
Gopal Pokhrel	Member	Ganga Subedi	Member
Santa Kumar Yadav	Member		
Sharada Kaphle	Member		

The networks are entrusted with making the mediators more liable towards the mediation work, making mediation program sustainable and help in its institutionalization, build awareness for peace building, raise awareness amongst the mediators to follow code of conduct, ensure that the service reaches to the needy and marginalized and oversee the effective implementation of the mediation program.



▲
*Rupandehi
 mediators
 in
 Kanchanpur
 at exposure
 visit*

EXPOSURE VISITS OF MEDIATORS

Inter-district exposure visit for some 164 mediators of Morang, Bardiya, Rupandehi and Makwanpur districts was managed in the later half of this year. It was mainly to observe the progresses happening in mediation in other districts, and supports received from local authorities, political parties and community at large in the sustainability and institutionalization of mediation, so that wherever applicable, they can replicate the same in their locations. Besides, it was also considered as a major tool of motivation for the mediators. In addition to the afore-mentioned districts, observation was also done in other districts like Dang, Surkhet, Kanchanpur and Nawalparasi where CeLRRd is running mediation program.

PARALEGAL TRAINING TO LAND RIGHTS ACTIVISTS

CeLRRd in coordination with Community Self Reliance Center (CSRC) held a three-day paralegal training from

1 to 3 October 2010 in Biratnagar for 24 community land rights activists from 11 remote districts. They were oriented about a wide range of issues broadly under legal and constitutional provisions relating to land and how those rights can be attained. Tenant system, land ceiling for landlord and tenant, legal administration, hierarchy of courts and their jurisdictions, quasi-judicial bodies and their jurisdictions, *Locus Standi and limitation* were dealt upon. Various kinds of lands like government, community, public, individual, trust, property held on joint ownership were also discussed. Furthermore sessions were held on legal provisions regarding land cultivation, land registration, transfer and its procedures, types of land system and its eradication, encroachment of land, distribution of land, ownership, legal provision of house making, gift, handover and partition of land, legal provisions regarding public land, forest zone, buffer zone, land acquiring system by Government for the public interest and national interest.

Commenting upon the training's effectiveness, one of the participants from Mahottari expressed that it had given them in-depth understandings on land rights which they believe would ease their advocacy for land rights for the landless people. He also said that though law had entitled landless people with several rights, they did not know how to advocate on those issues to attain them. Adv. Lilamani Paudel, Adv. Sukhadev Sapkota, and Adv. Ganesh Raj Luitel, CeLRRd facilitated the training.

UNDP'S OBSERVATION VISITS TO KAILALI AND SURKHET

Country Director of UNDP giving an opening speech



A 5-member UNDP delegation, led by Country Director Sokonado, visited Pahalmanpur Mediation Center in Kailali district on 21 May 2011. The other members were Rafiq Sidhiki, Reena Chhetri, Lila Sthahit, and Sundeep Bista.

Ms. Sokonado inquired about the mediation center's experiences, the nature of its typical cases, the post-settlement situation of disputants, and the center's sustainability. Mr. Basudev Gyawali and Mr. Baram Bhattarai, Regional and District Coordinators respectively, said that the mediation center has been able to do commendable job, settling 67 cases in Pahalmanpur alone. Most of the cases are land related or economic transactions or domestic violence. *"The supports received from VDC authority, political party representatives and CBOs and others have given drive to mediation program and on its basis, its sustainability can be assumed"*, Gyawali said. The team also visited Masuriya VDC to inaugurate the mediation center. The inauguration meeting was attended by local stakeholders and community members.



2

Prisoners Legal Aid (PLA)

Center for Legal Research and Resource Development (CeLRRd) has been a pioneer for over the last thirteen years to promote fair trial in criminal justice system and uphold the rights of the socially and economically underprivileged prisoners by providing free legal aid in the form of counseling and representing their cases before the judicial and quasi-judicial bodies. In the juridical landscape of Nepal, fair trial is yet to get concrete shape as large numbers of criminal cases are decided undefended or inadequately defended and existing legal and institutional framework is not well developed.

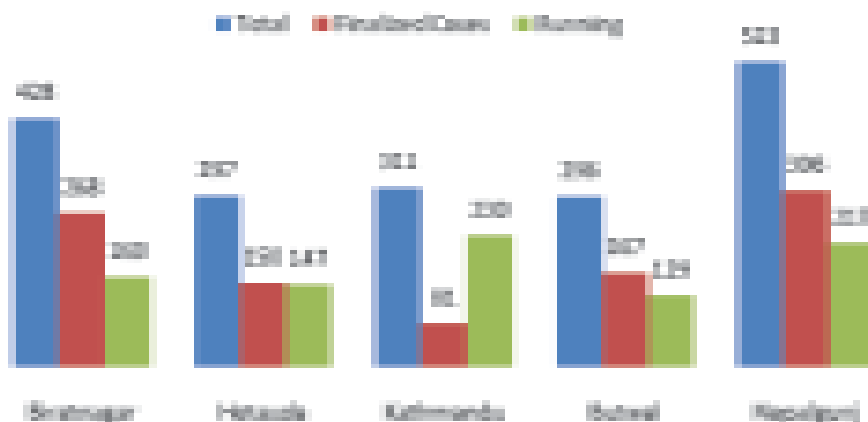
Implementation of prisoners' right to fair trial requires unfettered access to have visits from and correspond with their lawyers, human rights friendly police, pro-active judges, sincere, honest and committed lawyers and awareness of the prisoners' rights.

Against this backdrop, PLA programme has been structured and carried out to promote and protect the indigent prisoners' rights and to improve the quality of criminal trial in Nepal by reforming the criminal justice system. It is currently being executed in 28 districts through five legal aid clinics in the five different regions.

2.1. Case Statistics

PRISONERS' CASES REPRESENTATION

Center	Old case	New Case	Total	Result								
				Finalized Cases	Conviction	Acquittal	Partialconviction	Writ/Petition issued	Writ/Petition quashed	Paralegal service	Other	Running
Biratnagar	160	268	428	268	126	42	23	4	11	60	2	160
Hetauda	65	232	297	150	94	17	26	5	3	2	3	147
Kathmandu	123	188	311	81	56	9	6		6	4		230
Butwal	72	224	296	167	100	21	43		1		2	129
Nepalgunj	165	358	523	306	168	77	16	18	25	1	1	217
Total	585	1270	1855	972	544	166	114	27	46	67	8	883

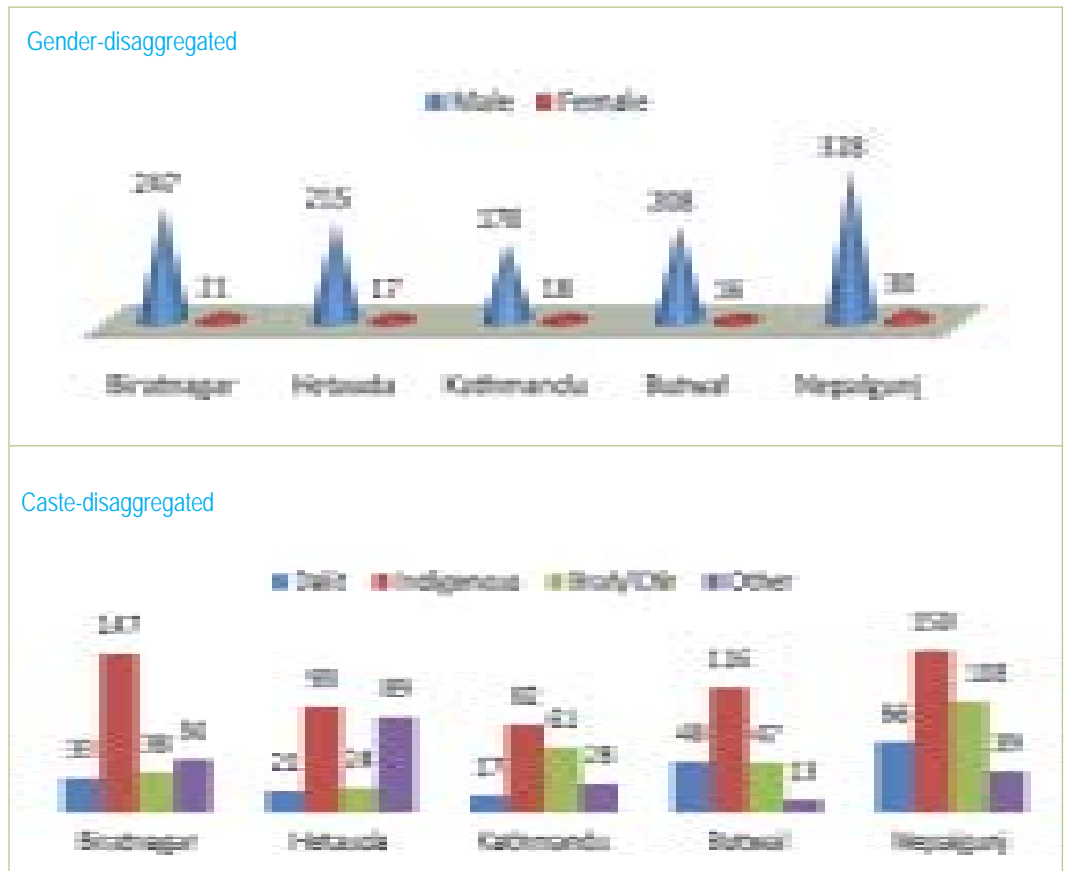


Legal representation is done in 1270 new cases of prisoners along with 585 carried on cases of the previous fiscal year. 972 cases are finalized and 883 cases are running by the end of this fiscal year. 17% of total finalized cases (972) resulted to acquittal and 12% of cases to partial conviction.

GENDER AND CASTE-DISAGGREGATED DATA OF PLA CASES

Center	Newly Registered Cases	Gender		Caste			
		Male	Female	Dalit	Indigenous	Brah/Chh	Other
Biratnagar	268	247	21	33	147	38	50
Hetauda	232	215	17	21	98	24	89
Kathmandu	188	170	18	17	82	61	28
Butwal	224	208	16	48	116	47	13
Nepalgunj	358	328	30	66	150	103	39
Total	1270	1168	102	185	593	273	219

Around 80% beneficiaries include Dalit, Indigenous and other marginalized people. Dalit alone comprises 15%.



2.2. Success Stories

WRIT OF HABEAS CORPUS ISSUED ON THE GROUND OF EXCEEDING TIME FRAME

Raj Kumar Chaudhary of Rajhena- 6, Ghorahi, Dang was convicted of forceful theft with 45 days imprisonment and Rs.2, 40, 830/- as fine by District Court Dang on 2007/7/10. It was also decided that in case of inability to pay the fine, it translated into 10 years imprisonment. The case was appealed at Appellate Court, Tulshipur and the decision of district Court was approved on 2009/4/19 and therefore he was behind bars until CeLRRd intervened. During a jail visit of PLA lawyer of Dang, it was found that the plaintiff had spent more than 6 years of imprisonment and as per Number 38, 40 and 53 of punishment chapter of Muluki Ain and different orders issued by the SC, the maximum years of imprisonment in theft case is 4 years if one cannot afford the fine. However, in this case the fine was converted into 10 years imprisonment, which is against the spirit of Law.

Therefore, being based on Muluki Ain provision, CeLRRd filed habeas corpus writ against prison office Tulsipur and Deukhuri district court at Appellate Court, Dang. CeLRRd made legal representation and court ordered to release Raj Kumar on the ground that it was illegal and conflicted with the established provisions. *Thus, though lately, the fair trial standard is invoked in this case.*

JUSTICE GIVEN TO DEFENDANT CAUSING ACCIDENTAL HOMICIDE

It was an incident caused at the house of defendant Narbahadur Bohara when a group of locals were consuming alcohol in his home. Suddenly Bir Bahadur Khati, one in the group started sexually harassing Narbahadur's wife, Parbati Bohara seeking an opportunity. Mina Rana Magar, a neighbor happened to be in the scene as she had gone to the tap of the house to fetch water. On seeing that Bir bahadur was assaulting Parbati, she made an attempt to free her. Nar Bahdur, Parbati and the other accused Prem Chhetri joined her in the attack to Bir Bahadur. However, he managed to flee, but he fell from a temporary construction on the road and died. This case later was decided by the Mahendranagar District Court as general homicide and thus, 20 years imprisonment was given. Accordingly, all of them were imprisoned in Kanchanpur jail. Mina Rana Magar, whose case CeLRRd represented and did appeal was successful in strongly presenting her case.

It argued that Mina's role was just limited to begging help from others for freeing Parbati, and as her name was not also mentioned while Bir Bahadur breathed his last, she should get acquitted. Appellate Court Mahendranagar then converting it to accidental homicide decided for 2 years imprisonment instead of full sentence. Hence, despite the claim of the Government Attorney of severe punishment, Mina who coincidentally happened to be in the scene was given justice.

2.3. Activities

PARALEGAL TOT FOR LEGAL AID LAWYERS

To generate paralegals to work for prisoners' legal aid program, a three-day residential 'Trainers Training for Lawyers on Paralegal' for legal aid lawyers was held from 18th to 20th Sep 2010 in Bhaktapur. It aimed to increase prisoners and jail's stakeholders' understanding on prisoners' rights like legal representation, right to silence, right against torture and others. How free legal representation can be sought in case of unavailability of legal representation due to financial restriction was mainly focused on. After receiving the training, the lawyers became capable enough to conduct orientations in prisons on the said dimension. 21 legal aid lawyers participated in the training.

To address the difficulty in reaching out to a greater number of prisoners with

the limited lawyers involved in the program, a need of paralegal service was deemed necessary. Hence, a paralegal manual was developed mentioning about the definition of law, criminal justice system of Nepal, prisoners' rights, skills to deal with prisoners, the code of conduct and others.

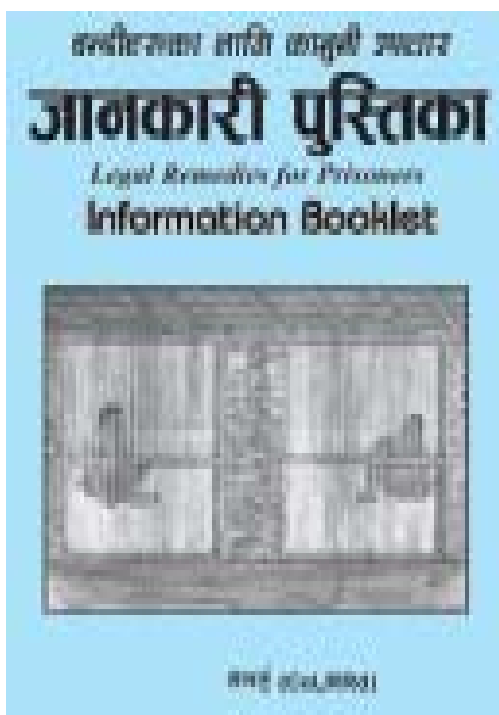
Attempts are being made to serve especially women, juveniles, foreigners and marginalized communities.

Prisoners' Information booklet has been updated and is already disseminated to more than 8000 prisoners through paralegal orientation.

PARALEGAL ORIENTATIONS FOR PRISONERS TO PROMOTE THEIR RIGHTS

Paralegal orientations were conducted to uphold the rights of indigent prisoners. Through such orientations in 28 jails, 351 paralegals (27 women and 324 men) including Chaukidar, Naike, Bhai Naike, teacher, accountant, and security staffs have been generated to support legal aid programme, and jailers of the respective prisons along with the legal aid lawyers under the program worked as resource persons. They were provided in detail about the programme's understanding, their rights guaranteed by the constitution, and how they can work and coordinate to attain those rights. Besides, they could also learn something about criminal law, and its procedural aspects.

Legal aid lawyers of the respective program areas facilitated the orientations. The programs were worthwhile in orienting the prisoners about their constitutionally and legally guaranteed





▲ *District coordinator Madan Pokhrel giving paralegal orientation inside Dang prison*

rights like provision of free legal aid provided to indigents, right against torture, illegal detention and others. Participants shared that previously they did not have much idea about prisoners' rights but now they are aware enough and would help others also to stand for their rights.

STAKEHOLDERS OF LEGAL AID COME TOGETHER FOR EFFECTIVE DELIVERY OF THE SERVICE

With the objectives of bringing conceptual clarity and uniformity on legal aid issues amongst its stakeholders, its importance in the present context, build coordination amongst stakeholders and discuss on the challenges along to draw probable solutions, 27 coordination meetings were held in 2010/11. A total of **449 district level stakeholders** attended the interactions; they included district judges, bar representatives and other officers, district government attorneys, paid lawyers, CDO and other

DAO officials, police personnel, lawyers, jailors, media persons and others.

Various expressions of gratitude to CeLRRd for implementing PLA program and its increasing relevance in the present context and support on their parts were received.

Hon'ble Bal Krishna Uprety, District Judge, Sunsari shared that there lacks coordination amongst the service providers and if it can be managed, legal aid will be more effective. Similarly **Ram Prasad Niroula, President, Appellate Bar, Biratnagar** also said that the interaction, supervision and coordination amongst Bar, CeLRRd and other legal aid providing institutions could yield greater outcomes, but has not been materialized in a satisfactory way.

*Many people are not aware of the concept of free legal aid which they can receive from various organizations, and therefore the organization should also popularize this issue as opined by **Devi Ghimire, Councilor, Bar Council, Morang.***

Similarly, discussion in Kathmandu revealed that there have been duplication of services in some cases while in some other cases, there is no any representation. Other issues were like, deciding for the witness examination while giving decision for bailment; taking statement from the defendant as soon as possible after charge sheet is lodged in District Administration Office; easing the system of visiting prisoners; and expediting the registration of charge

sheet by the government attorneys and others.

Coordination amongst the stakeholders is being strengthened, however effective coordination amongst the legal aid providing agencies at the district or regional or national level is still felt to be a distant away. However, the concern stakeholders in the meetings committed for the possible reform on their parts in the said issues.

The coordination meeting thus, helped pressurize for the speedy trial of prisoners' cases and help practical implementation of fair trial principle throughout the program locations, 28 districts.



3

Anti-trafficking

The issue of trafficking has transcended both time and space. It has now become a global phenomenon with rapid changes in its forms, and purposes. Traditionally trafficking used to be linked with women and children for sexual exploitation; however it has not left men untouched in the recent years, with the purposes ranging from abduction for forced marriage and debt release, exchange of women and girls for dispute settlement, abduction for domestic and sexual servitude, organ transplant and bonded/forced labor to name a few. New international convention and protocols have emerged to address the complexities in trafficking, and similarly Nepal has also formulated progressive and victim-oriented Human Trafficking and Transportation (Control) TIP Act 2007, which has related trafficking not only with ethical and personal abuse, but also with the severe violation of human rights of victims like right to freedom, right to choose profession, reproductive health and right against slavery.

District level anti-trafficking sensitization workshop in Dang



However, enough sensitization on the new TIP Act is not done amongst

the concerned anti-trafficking stakeholders, including many NGOs working in anti-human trafficking with the inadequate conceptual clarity on the new TIP Act, which is creating negative impacts on the success rate of the human trafficking cases in courts. The provisions of the new Act in relation to victim and witness protection are therefore hard to be implemented.

Presently, a large number of both men and women are being trafficked to India, Gulf countries and other parts of the world in the name of foreign employment. If a massive awareness is not created among the vulnerable population, it is going to victimize a significant number of people.

3.1. Activities

SENSITIZATION WORKSHOPS FOR ANTI-TRAFFICKING STAKEHOLDERS ON HTT (C) ACT

Workshops held in Morang, Makwanpur, Banke, Kailali, Kanchanpur, Nawalparasi, Udayapur, Dang,



Rupandehi, Sindhupalchowk.

Through 10 one-day workshops on Human Trafficking and Transportation (Control) Act 2007 held in the above-mentioned districts, the understanding of 312 stakeholders on the newly promulgated Human Trafficking and Transportation (Control) Act 2007 has been increased and are also sensitized on how they behave sensitively with trafficking victims with their rights protected. Along with providing the ins and outs of the Act, the workshops also helped to know about its implementation situation, the procedural complications faced by the concern stakeholders, and also trends of trafficking cases.

► *Anti-trafficking orientation in Manhari VDC of Makwanpur*

Murari Prasad Paudel, District Attorney, Nawalparasi and LDO Prabha Shrestha, Dang focused on building awareness on the Act, its procedures and provisions rigorously as many stakeholders are still unaware of the provisions of the Act despite its enactment few years back.

However, for the implementation of the Act, there lack enough resources, determination and capacity enhancement trainings, said Dang DC Judge Mohammad Juned Ajad.

The provision of compensating the victims directly from perpetrators' side creates space for imbalance of justice to the victims. The compensation happens to be proportional to the property owned by the perpetrator.

District judge, district attorney, police, representatives from district legal aid committee, representative from bar and different NGOs in the respective districts, media persons, LDO, WDO and many others attended the workshops.

CAMPAIGNING WITH PARALEGAL WOMEN

CeLRRd has generated and or strengthened the capacity of paralegal women who are now more rigorously involved in protection of the human rights of the survivors of human trafficking.



183 campaigns with especially the paralegal women of 11 districts were conducted on various dates throughout the year 2010/11. It helped to bring clarity on the issues entailing gender based violence and trafficking. The roles of the state, civil society organizations, and community people and the safety measures that can be adopted to curb trafficking were dealt upon. Besides, discussing on the issues of polygamy, rape, and domestic violence that frequently transpire in societies, the intervention also helped local people to understand different dimensions of human trafficking especially of

prostitution, organ transplantation and forced labour. The victims can now report the case to the police and register the case at the court as empowered by CeLRRd.

The understanding of such 9519 paralegal women and men has been enhanced not only on the emerging dimensions of trafficking but also on the victim-oriented provisions made by the new TIP Act and the processes to exercise those provisions. 5645 Dalits, indigenous and other marginalized had their awareness on trafficking issues enhanced. The

paralegals shared their relevant works and expressed their zeal to reach to a greater number of such victims for support and to check such incidents.

LEGAL AID TO TRAFFICKING SURVIVORS AND VICTIMS OF DOMESTIC VIOLENCE

Legal aid and counseling service is provided to 37 cases of trafficking victims/ survivors. Similarly, Victim legal aid support is given in 53 cases of violence against women in the 6 districts: Banke, Kanchanpur and Sindhupalchowk and Nawalparasi, Rautahat and Chitwan.

3.2. Success Stories

A JUVENILE'S ESCAPE FROM THE CLUTCHES OF A TRAFFICKER

Seema Kumari (name changed), 15 years came to Kathmandu from home district Ramechhap to pursue higher studies. As she belonged to a poor family, she also opted for job. In the meanwhile, she met Bir Bahadur Kami, 60 years who was very kind to her. After few meetings, he invited her to his home in Dhading in the pretext that he was childless, and therefore, would treat her as his own child, pay her school's fee and even transfer in her name 10 lakhs he has in his account. They then took a bus from Kathmandu, and eventually he took her to Indo-Nepal border area in Kanchanpur. As she felt thirsty, she went to a shop and asked about the location. There, the shopkeeper told her that the place was not Dhading but in fact a border area in Kanchanpur. Then with the help of the shopkeeper, she contacted the police and got Bir Bahadur Kami arrested. The police referred her to Maiti Nepal and as the other local CTIP partners including CeLRRd received this information, it provided legal aid and finally based on Section 15(1)(e)(2) of TIP Act 2064, the case was finalized thereby sentencing Bir Bahadur Kami 10 year imprisonment along with 50 thousand fine and compensation for the victim. The victim is now at the shelter home of Maiti Nepal Kathmandu.

Seem's rescue operation was possible due to the coordinated efforts of many organizations working to curb trafficking at the local level.

TRAFFICKERS SENTENCED

Sabita Paudel (name changed), 15 of Kohalpur, Banke belongs to a poor family. She used to go school and even assist her mother in household works. One day, her neighbor Ajaya Sunar along with his wife and mother in law lured her to a

job in candle factory in Punjab where they said she could earn at least 25 thousand per month. Thus, she was easily enticed and thought it a good idea to get rid of poverty. Then she left her home with Ajaya, went to Punjab with Ajaya's wife Kamala and his mother in law Bimala. They took Sabita to Sunita Seth house in Punjab. For some days, Sunita treated very nicely and assigned her easy works, but after a week, she tortured Sabita to wear short clothes and dance in front of visitors. She somehow manages to return to her home. Upon knowing about her arrival in Nepal, Ajaya and others started giving her mental torture and forced her to return but she resisted. Somedays later, Sunita Seth also came in search of Sabita and forced her to go back with her. She even threatened her to pay the money she invested on purchasing her. Sabita got scared and with the help of local social worker dropped an application at the area police office, Kohalpur, but it did not take the matter that seriously and even suggested doing mediation. Then Sabita visited CeLRRd and with its help lodged an FIR against all four perpetrators at the District Police Office Banke. They were arrested and now they are behind bars. Sabita is feeling that with the help of CeLRRd, *she could drag both the buyer and seller to court and hopes that this will encourage other such victims and survivors to come forward to persecute the perpetrators.*

A TRAFFICKING SURVIVOR GIVEN JUSTICE

Mintara B.K (name changed) 18 of Kohalpur – 4, used to stay with her parents. Earlier in 2010, she met Pawan Pun Magar who was new to her village through her village uncle. Mintara and Pawan became close with each other in short time and then Pawan proposed her for marriage. Mintara has already started liking Pawan and therefore she readily accepted and ran away with him. Pawan very tactfully crossed the border and took her to Delhi. There he left Mintara saying that he would go to Panjab for some income generation. As he left, she was taken to a brothel and was treated very inhumanly.

“I was compelled to entertain 20 to 25 men per day”, said Mintara after escaping and coming back to Nepal. Due to so much of sexual exploitation, she got ill and was taken to hospital for treatment from where she managed to flee and with the help of a Nepali citizen, came back to Nepal. After returning, she filed the case against Pawan Pun Magar with the help of CeLRRd and Pawan is now arrested. CeLRRd is currently representing the case giving her legal aid and it has arisen hope in her that full justice to her with severe punishment to the culprit is imminent.

4

Promoting Juvenile Justice

4.1. Activities

LOBBYING FOR THE ESTABLISHMENT OF JUVENILE REFORM HOME

A workshop on “**Promotion of Juvenile Justice (JJ) System of Nepal**” was jointly organized by the Attorney General Office and CeLRRd on 14 May 2011, wherein *legal experts urged the government to show its serious concern towards developing and expanding juvenile justice system in the country.* It focused on the overall strengthening of the JJ system and more specifically the extension of juvenile reform home, adoption of diversion mechanism, and establishment of juvenile court. With Hon’ble Chief Justice Khil Raj Regmi as the Chief Guest, and the then Attorney General Dr. Yubaraj Sangroula as the Chair, the workshop had several other distinguished guest speakers from judiciary: Raghav Lal Vaidhya, Executive Director, National Judicial Academy; Dr. Ram Krishna Timalsena, Registrar, Supreme Court; the then IGP Ramesh Chand Thakuri, Nepal Police; Mr. Tilak Ram Sharma, Acting Secretary, Ministry of Women, Children and Social Welfare. Besides, Lars Peter Christensen, Programme Coordinator, DanidaHUGOU and Criminal Law Expert and Prof. Incharge Madhav P. Acharya, Kathmandu School of Law also provided their invaluable insights into improving the system.

Proceedings

Inauguration

With the welcome remarks, Deputy AG Surya Prasad Koirala highlighted the objectives of the program, and Mr. Sudeep Gautam furthered it followed by remarks from the dignitaries. Secretary Tilak Ram Sharma disclosed that efforts to construct juvenile reform

homes are underway in various places like Biratnagar, Pokhara and Dhangadi. Some progresses have been attained, however, in few places, technical hurdles exist, which are hoped to get cleared away within few years. He also stressed on the need to create government ownership on the only existing juvenile reform home (JRH) at Bhaktapur which is currently sheltering greater number of children than its capacity.

Briefing on the efforts made on the part of Police, the then IGP Thakuri said that it has put in place several strategies to protect both children victims and delinquents, as children due to their immature sensibilities, ignorance, fragile post-conflict situation are trapped into on one hand committing crimes and on the other hand heinous violence is perpetrated upon them, and this renders the juvenile justice system a more crucial sector to work on. With around 5000 children on streets and more so involved in several crimes, inadequate financial, human resources and weak implementation of the Children’s Act, 2048 provisions and Juvenile Justice (Procedural) Regulation, 2066, it is becoming a challenging issue. However, police has established Women and Children Service Directorate and is extending such service across the country. It has maintained juvenile justice officer in 28 districts and child friendly room in 18 locations. 50 senior and 360 junior police officials have been trained on juvenile justice system and investigation skill and after basic curriculum revision incorporating juvenile issues, 5000 additional police personnel are being trained. Similarly, juvenile justice and diversion issues are also incorporated into 16 days curriculum on crime investigation related to women and children and 144 officials are already trained on this.



▲
President
Kumar
Ingnam
giving his
remarks

However, in the lack of multi-agency approach, juvenile justice is not being materialized. So, there needs to be a holistic approach thereby incorporating formulating laws, developing proper infrastructure, taking care of implementation issues.

Lars Peter Christensen focusing on the respect for human rights and access to justice, in which DanidaHUGOU is engaged in, said *“There is a predominant tendency to equate justice with judicial process. These two are interrelated, but not the same. Courts may give verdicts, but if there are no mechanisms to follow-up, these decisions may not matter much. It is the responsibility of the justice system to make sure that its verdicts are implemented.”* He also expressed his pleasure to see that AG Office and CeLRRd had jointly organized the workshop and wished to see more such coming together of state and non-state actors for a cause.

Emphasizing on the need to better

investigation, prosecution and enforcement measures, Dr. Ram Krishna Timalsena said that the Five Years Strategic Plan of judiciary has also prioritized promotion of juvenile justice and for that reforms are taking place. For instance, juvenile justice focused trainings are ongoing; more than 3 dozen psychologists and sociologists are being trained, curriculum review is also done. Yet they are inadequate to improve the system: specific prosecutors are needed; privacy and confidentiality should be better taken care of and capacity enhancement trainings are urgently required. He also revealed that a new Child Act is already drafted which when endorsed will pave way for several supportive initiatives. Children deviants should be prioritized and acted on, said Raghav Lal Vaidhya.

Chief Guest Rt. Hon’ble Khil Raj Regmi stated that SC has been playing proactive role in improving the system and in the context, played a significant role in the formulation of juvenile justice

(procedural) regulation and also developed a Procedural Guideline, 2064 to maintain confidentiality in special natured cases. Focusing on the promotion of juvenile justice, the CJ said, *“The government should be sensitive towards handling the cases related to children and juvenile justice system which stresses on the protection, and promotion of children delinquents from developmental perspective as it seeks not to disturb such children’s physical and psychological development, whatsoever”*.

He committed for the support on the expansion of JRH, popularizing diversion mechanism and establishment of juvenile courts.

Chairperson Sangroula contended that Nepalese JJ system though having history of just around 15 years has been able to do commendable work and playing a leading role in at least South Asian JJ jurisprudence. However, there is a need to improve our system more so that the children delinquents who once come into conflict with law do not transform themselves into criminals ultimately and also to check recidivism. If enough investment is done in judicial reform, it finally leads to better socio-economic position of societies, and in that sense the investment for juvenile justice reform will not go unrewarded.

Presentations

In the chairmanship of Amar P. Pant, Dean, Faculty of Law, TU, Chief Judge Hon’ble Keshari Raj Pandit, Patan AC presented on **“Expansion of JRH and Use of Diversion for the Promotion of JJS”** He highlighted on the rights guaranteed by the national and international laws in relation to juvenile

delinquents, and also the established precedents at various times which have helped to bring the JJS to this level. The only existing JRH is unable to accommodate all the delinquents both at the stage of detention and imprisonment who come from across the country. Primarily, it is due to geographical distance and also due to the fact that accused should be present during the hearing process, should not be kept detached from family and case-representing agency. Hence, in his paper, he proposed two alternatives for the extension of JRH: first is the possibility to extend additional four JRHs on the regional basis in Dhankuta, Pokhara, Surkhet and Dadeldhura or Doti, and the second is to make a total of 7 such homes in the places that would accommodate the children in zonal basis: Dhankuta to Mechi, Koshi and Sagarmatha; Makwanpur to Janakpur and Narayani; Bhaktapur to Bagmati; Pokhara to Gandaki and Dhaulagiri; Dang to Lumbini and Rapti; Surkhet to Karnali and Bheri; Dadeldhura / Doti to Seti and Mahakali. The size of the JRH can depend on the probable number of children. He also proposed models of ownership in which there was government, public-private, and non-governmental, but whatsoever there should be government supervision, and a separate law should be put in place to regulate all the activities concerning JRH.

Emphasizing the scope of diversion, he said that it in fact helps the delinquents not to get spoiled any further and there is a better chance of his/her life skills development, educational opportunities without stigma attached to the extent as it would be going through the normal process. It is mainly taking delinquents away from 3Ps (police, punishment and prison), criminal environment and courts, helping them to integrate into societies



▲
Dr Yubaraj Sangroula, the-then AG providing his views on JJ

and trying to identify the core problem with the delinquent. In the context, he discussed about family group conferencing of New Zealand, Austria, Victim-Offender mediation (conference) of Sweden and America and others. He also discussed on the provisions and mechanisms available for diversion in the amended draft of the Child Act which is yet to get endorsed.

Commenting on the paper, Dr. Sangroula said that the paper rightly discussed pertinent issues like extension of the JRH and how diversion can properly be used. He said, “*JRH is not just about the infrastructure but a treatment center where every deviance should be treated*”. Addressing why diversion is not working in our context, he said that the proper probationary institutions should be identified and worked with. He also provided a rough outline of the probable JRH which is in the modality

of SOS village but if not, joint-work can be done to shelter the delinquents. Many more organizations are willing to work on this, however he also emphasized the regulatory role of the government, to supervise whether or not the transformation is taking place within a delinquent at JRH.

In the plenary discussion session, several attendees explored various issues and obstacles hindering the reform of the system. As identified by Durga Prasad Bhandari, Director Prison Management Department, proper coordination mechanisms are lacking amongst the government bodies working for the same cause. Shreedhar Sapkota, Faculty National Judicial Academy and Parbati Thapa, DIG stressed on the need of capacity enhancement trainings for juvenile justice stakeholders and more specifically in police to investigators. What should be the role of police appointed in the JRH is also a debatable issue, as inquired by most of the attended police personnel.

Subsequently, in the session chaired by Pushpa Raj Koirala, Deputy AG, Surya P. Koirala, Deputy AG presented on the “**Establishment of Juvenile Court: Needs and Objectives**”. He dealt with ins and outs of the concept of juvenile justice and how and why it should be dealt with differently than the Criminal Justice System. Juvenile delinquents are usually considered to be in need of treatment, rehabilitation, or discipline. He mentioned about all the available national and international instruments to support the delinquents.

Suggesting on the paper, Hon’ble Ishor Khatiwada, Judge, Patan AC said that though JJS is being criticized for many reasons, primarily due to cost involved and as victims are not made the center,

there is no alternative to decriminalize delinquents through improving the system. Reforms at various sectors of JJS are taking place, albeit slow. The establishment of juvenile courts is crucial; however, its modality should be finalized first. Should it be on the basis of number of cases or on geographical basis? The other pertinent issue to also look into is the protection of child victims and child witnesses along with the hearing system to be made systematic. Video conferencing should be used but its use is costly and therefore, is limited to few districts only.

Chief
Judge
Keshari
Raj Pandit
making
his
presentation



The capacity building of JJ stakeholders should also be taken care of besides gaining community stakeholders' support. The engagement of victim, offender and community is necessary to

materialize restorative justice.

Keshari Raj Pandit opined the need of a separate court with juvenile and family courts and suggested at least to plan for a juvenile court.

In the plenary discussion, Mr. Santosh Sharma, JRH Legal Adviser advocated for a separate legislation for JRH. Currently, jail regulation is applicable to JRH which is not rational from juvenile justice perspective. Furthermore, in case of extending JRH across Nepal, provision of segregation of delinquents on the basis of age should be considered.

As said by Kiran Bajracharya, DSP, *if the draft Act has recognized 18 years to be considered juveniles replacing the current provision of 16 years, the juvenile cases will significantly*



increase as the present situation is such that the said age group teenagers are mostly engaged in crimes. Professor Madhav Acharya further elaborated that it is concurrent with the international standard and more attention should be given to all measures like prevention, correction and rehabilitation. The plenary session also agreed on the need to clarify the role of police appointed in JRH to maintain a child-friendly environment.

JJ BASELINE SURVEY REPORT DISSEMINATION

On 8th Dec 2010, a program was held to disseminate the Baseline Survey Report on Juvenile Justice (JJ) System of Nepal, a joint research work done by CeLRRd and Kathmandu School of Law. Hon'ble Khil Raj Regmi, Justice, SC and President of the Juvenile Justice Coordination Committee was the chief guest of the book-release program. Providing a synopsis of the findings of the research, Dr. Yubaraj Sangroula, the research team leader said,

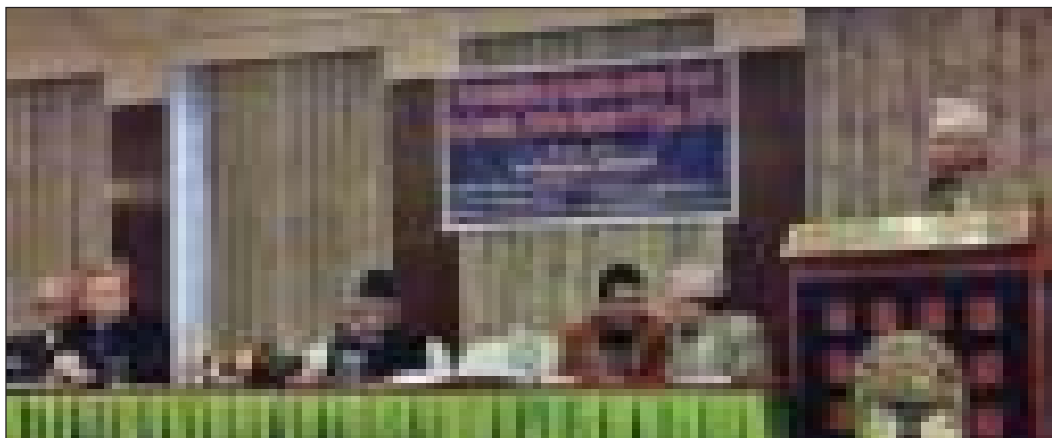
Chief Guest Khil Raj Regmi giving his feedbacks to the Report



the distinction between juvenile justice system & criminal justice system is not found in Nepal keeping in view that criminal liability is not the 'thrust' of the juvenile justice; the

sensitivity towards rights & best interests of child is still weaker in Nepal's justice system; the majority of the juveniles facing the criminal charges come from economically poor background and about two-third majority of juvenile population awaiting trial are languishing in jails in an extremely adverse condition.

Hon'ble Khil Raj Regmi expressed that though law has provisioned for a separate juvenile bench in each district court, it has not been fully materialized, and the only existing correction home is inadequate and lobbying should be done for establishing more such homes. Hon'ble Gauri Pradhan, Member, NHRC stressed to introduce proper diversion mechanism and popularizing informal justice system as the local safety nets at the community level can only protect the best interests of the children in conflict with law. *He opined that very nominal percent juvenile cases come before the formal justice mechanism and a large percentage of such cases do not encounter the system, and therefore, it is hard to properly analyze the juvenile delinquency trend.* He also wished that the research could have shed light into such cases wherein those children previously in conflict with law and have stayed in





▲
Appellate
Court
Judge
Ishwor
Khatriwada
taking a
session at
JJ training

the reform home have been relapsed into crimes again. To prevent such recidivism, he focused on adopting diversion as an appropriate measure.

Dr. Ram Krishna Timalsena, Registrar, SC said that it's time to revisit the Juvenile Justice system and that only juvenile in conflict with law should not be looked into, however, juvenile in contact with law (juvenile victims) should also be mainstreamed in the justice mechanism. He highlighted that the survey would help the government to a great deal to sketch the roadmap to reform the JJ system.

53 JJ stakeholders from different judicial bodies, funding agencies, Central Child Welfare Board, police force, and Bar Association.

CAPACITY ENHANCEMENT TRAININGS TO JJ ACTORS ON PROMOTING JUVENILE JUSTICE

To capacitate the Justice Sector actors to better deal with juvenile cases, 6 three-day trainings on Juvenile Justice were held on various dates in Kathmandu,

Hetauda, Pokhara, Nepalgunj, Biratnagar and Mahendranagar. Altogether it enhanced the understanding of 151 JJ stakeholders including 32 police, 23 Government Attorney, 25 court officials and 71 Nepal Bar members obtained better understanding on diversion and juvenile justice. The team of CeLRRd taking help of some JJ experts as resource persons organized the trainings.

The JJ stakeholders of several remote districts like Doti, Dadeldhura, Darchula, Baitadi, Kanchanpur, Surkhet, Bardiya and similar others received the training opportunity.

The three-day training imparted understandings on the trends and causes of juvenile delinquency, situation of the juvenile justice system of Nepal, judicial response in Nepal regarding JJ with reference to Children Act 2048, and way forward to improve the system like adoption of appropriate diversion mechanisms, establishment of juvenile reform homes and strictly following in-



▲
A
certificate
being
handed
over to a
JJ actor

camera hearing through juvenile benches and many others.

The bleak situation of JJ was also presented being based on the latest findings of the baseline survey recently accomplished by CeLRRd.

Highlighting the constitutional and legal provisions of juvenile justice in Nepal, Program Coordinator Ram Pd Aryal said “*Still some fundamental rights for adults are also applicable to juveniles though they are entitled different treatment according to the concept of positive discrimination*”. He also shed light on the different provisions of Children Act such as preamble definition of child, criminal liability of children, right against torture, right to counsel with lawyer, right to privacy, provision of suspended sentence in children case, provision of special court and its procedure and implementation situation.

Furthermore, Juvenile Justice Procedural Regulation was also discussed in detail, along with the sensitivity with which to protect the best interest of child during investigation, prosecution and adjudication. Privacy, child friendly environment during investigation and hearing, and speedy trial are significant in the regulation. Besides, the trainings also delved into the binding international instruments such as ICCPR, CRC, CAT and CEDAW provisions on juvenile justice, and shed light on the soft international laws like Beijing Rules, Tokyo Rules, and Riyadh Guidelines

JJ was also linked to restorative justice, thereby emphasizing protection and promotion of victims’ rights for their rehabilitation and reparation. Discussion was also done on the proposed provision of diversion in the newly drafted bill to improve JJ system.

TRAINING FOR JUSTICE SECTOR ACTORS ON JUVENILE JUSTICE (2010/11)

Date	Venue	Participants						Resource Persons Name/Designation
		Police	Govt. Attorney	Court	Nepal Bar (Including CeLRRd)	Men	Women	
17-19 Dec, 2010	Nepalgunj	5	5	6	10	24	2	- Hon'ble Kishor Silwal, Judge AC - Hon'ble Ritendra Thapa, Judge District Court - Mr.Ashish Adhikari, Advocate - Mr.Ganesh Bhattarai, Asst. Prof, KSL - Mr.Ram Pd Aryal, Programme Coordinator
17-19 Feb, 2011	Kathmandu	6	4	4	11	15	10	- Hon'ble Keshariraj Pandit, Chief Judge, AC - Dr.Ramkrishna Timalsena, Registrar, Supreme Court - Hon'ble Ishwor khatiwada, Judge, AC Court - Mr.Madhav Pd Acharya, Prof., KSL - Ms.Geeta Pathak, Assoc. Prof, KSL - Mr.Bishwo Adhikari, DSP, Nepal police - Mr.Sudeep Gautam, Director, CeLRRd
25-27 Feb, 2011	Hetauda	5	4	4	13	22	4	- Mr.Sudeep Gautam, Director, CeLRRd - Mr.Ram Pd Aryal, Programme Coordinator - Mr.Suraj Basnet, Asst. Prof, KSL
8-10 April 2011	Pokhara	6	4	4	11	22	3	- Hon'ble Kishor Silwal, Judge AC - Mr Basanta Paudel, Registrar, AC - Mr.Ashish Adhikari, Advocate - Mr.Sukhadev Sapkota, Adm & Procurement Officer
4-6 June, 2011	Biratnagar	5	3	3	14	20	5	- Hon'ble Meghnath Bhattarai, Judge, District Court - Mr. Shisirraj Dhakal, Under Secretary, JJCC - Mr.Ram Pd Aryal, Programme Coordinator - Mr.Ganesh Bhattarai, Asst. Prof, KSL
10-12 June, 2011	Mahendranagar	5	3	4	12	22	2	- Hon'ble DilliRaj Acharya, Judge AC - Mr.Sudeep Gautam, Director, CeLRRd - Mr.Ram Pd Aryal, Programme Coordinator - Mr.Suraj Basnet, Asst. Prof, KSL
		32	23	25	71	125	26	

REPRESENTATION IN JUVENILES' CASES

Within a year, CeLRRd could represent 56 cases of juveniles. 33 cases are finalized and 23 are running. 12 cases resulted to acquittal, partial conviction or handed over to parents.

4.2. Success Story

BOTH PARTIES TO A JUVENILE'S CASE GIVEN JUSTICE

Manu Rana (name changed), of Ratanpur VDC 7 of Nawalparasi was raped by a 15 years old neighbor Gurash Garauja Magar (name changed). Gurash was charged of rape under number 1 and 3 of chapter on rape of Civil Code. As he was minor, Section 11(3) of Children Act 2048 is attracted, and 5 years jail and 25 thousand compensation were claimed. Gurash confessed that in the bad influence of his elders returning from doing work in India, he happened to see pornographic movies and as a result he committed the crime which he confessed both in police and in court. He was identified a minor and CeLRRd intervened during bailment hearing on 7 July 2011. Considering the situation and best interest of the child the District Court decided to handover the juvenile in the custody of his parents based on Section 50 of Children Act 2048, thereby suspending the decision of court of 5 years imprisonment and 25 thousand compensation. In addition, Court ordered the Principal of his school to present the progress report and his behavioral changes during his study time. He is now studying in 7th standard.

CeLRRd could help in suspending the sentence to the juvenile delinquent and manage favorable environment to continue his study. Furthermore, respecting the right of other juvenile victim, it could manage a compensation of 25 thousand to her to be paid by Gurash. Thus, CeLRRd got success in giving justice to both of them.



5

Advocacy Campaigns for Human Rights, Good Governance and Democracy

CeLRRd is advancing the issue of consumer rights from a new vantage point, thereby linking it with human rights, democracy, and good governance. It upholds the logic that consumers are not only users of commodities, but also that of constitutionally guaranteed human rights that eventually contributes to democracy, and good governance

TOT FOR CONSUMER RIGHTS VOLUNTEERS ON DEMOCRACY, HUMAN RIGHTS AND GOOD GOVERNANCE

A three-day TOT for Consumer Rights Volunteers was held in Chitwan from 22-24 Dec 2010. It aimed to broaden the horizon of Consumer Rights that is still very much narrowed to the rights regarding products we consume, and so does our Consumer Protection Act. However, it sustains the logic that as we are also the consumers of democracy, human rights and good governance, we should be awake for consuming our

constitutionally guaranteed rights and also give due consideration to our duties. 30 Consumer Rights Volunteers from 15 different districts were selected to launch campaigns in line with the said concept in their respective districts.

The essence of democracy and the roles of citizens to promote democratic ideals were explored. The volunteers were even invoked to ask if they were enjoying the fruits of democracy and rights as committed by the state through several provisions. However, it was also considered that while demanding rights, due importance should be given to the duties we need to fulfill, and for this self-review becomes important. Human rights were discussed creating linkages with democracy in such a way that in the absence of one, the other cannot be guaranteed. The provisions of HR in Interim Constitution of Nepal and duties of people for its implementation were also highlighted.

Program Manager Rammani Gautam taking a session at ToT





▲ College students holding publications on the protection of consumer rights in Rupandehi program

CONSUMER RIGHTS CAMPAIGNS ACROSS RURAL COMMUNITIES OF 15 DISTRICTS

Over 26000 community people have been directly benefited from 465 community level campaigns including higher secondary level students, chairs, managers of community organizations, community forest users groups, mothers' groups, VDC representatives, community mediators, youth club members, women's groups, saving credit groups and cooperative shareholders. The campaigns were launched in 15 different districts.

Women's participation is 59%. Similarly, 55% of marginalized people got understandings on the rights entitled to them by the constitution and also on individual and collective roles and responsibilities they need to fulfill while using the entitled rights. Students' participation constitutes a significant percentage and therefore, the

understanding generated is believed to create greater and lasting effects.

"We knew that we had certain rights, but we were unaware of what those rights were and how to exercise them. The situation is such that when we demand our rights, we tend to forget our duties and it is the problem behind the present day anarchy, and conflicts. CeLRRd has rightly advocated the issue of using rights along with fulfilling duties and that I will also help to generate this awareness in my community", Purna Bahadur Khatri, Community Leader, Bageswori VDC, Banke

"This program helped to make use of human rights, understand and protect democracy and cultivate a sense of responsibility for good governance. If many such organizations enhance this understanding, the dream of a prosperous society is not too far", Dhana Babadur Nepali

25,000 copies of Citizen Charter are disseminated across 15 districts.

6

**Enhancing Legal
Education and
Professionalism**

6.1. LEGAL PROFESSIONALISM ENHANCEMENT TRAININGS

Janakpur

As a capacity building of justice sector professionals to deliver on the need of access to justice, a three-day training for lawyers was held from March 25-27, 2011 in Janakpur. The training focused on developing legal professionalism of lawyers of remote areas in dealing with cases scientifically and effectively.

To help retain and promote professional integrity, Senior Adv. Yugal Kishor Lal took a session on professional ethics of lawyers where he dealt with the theories, provisions and practices thereof, and highlighted on being guided by the professional interests but not personal interests. Adv. Prakash KC presented on counseling skills and art of advocacy; and Adv. Bijaya Kant Mainali on communication skills and legal drafting. He focused on delivering the voice of clients in a systematic and simple way, and also on the skills of witness

examination. In the subsequent days, Adv. Ram Pd Aryal highlighted on the importance of forensic science including its various principles to ensure fair trial and respect for human rights; principle of uniqueness, principle of exchange, principle of comparison, principle of progressive change and principle of reliability.

To impart the techniques of writing systematic memorandum which is vital in presenting the arguments before the court, participants were asked to do group exercise. Furthermore, the participants were made aware on the national and international precedents, human rights instruments and the treaty mechanisms and the sessions were jointly facilitated by Mr. Mainali and Mr. KC. The training covered some 23 practicing lawyers of Dhanusha and Mahotari districts, and Mr. Deepak KC, Dhanusa-based legal aid lawyer helped with the coordination.

lawyers' training in Janakpur





Lawyers' training participants in Patan

Legal Professionalism Enhancement Trainings

Date	Place	Participants			Resource Persons	Remarks
		Male	Female	Total		
Jan.11-13, 2011	Biratnagar	17	3	20	<ul style="list-style-type: none"> - Senior Adv. Bipulendra Chakrabarti - Hon'ble Gopal Parajuli, Chief Judge, AC - Adv Bijaya Kanta Mainali - Assoc. Prof Geeta Pathak Sangroula - Adv. Sudeep Gautam, Director - Adv. Ram Psd. Aryal 	
March 25 -27, 2011	Janakpur	23		23	<ul style="list-style-type: none"> - Senior Adv. Yugal Kishor Lal - Adv. Prakash KC - Adv. Bijaya Kant Mainali - Adv. Ram Pd Aryal 	
May 20-22, 2011	Kathmandu	20	6	26	<ul style="list-style-type: none"> - Adv. Lilamani Poudel - Adv. Prakash KC - Adv. Bijaya Kant Mainali - Adv. Yamuna Bhattarai - Adv. Geeta Pathak - Adv. Kumar Ingnam - Adv. Rajeshwor Adhikari - President, Kathmandu Bar 	In coordination with Kathmandu District Court Bar
June 10 – 12, 2011	Kathmandu	11	16	27	<ul style="list-style-type: none"> - Dr. Yubraj Sangroula, AG - Adv Lava Kumar Mainali - Adv. Bijayakant Mainali - Dr. Harihar Wasti, TU - Adv. Kumar Sharma Acharya - Adv. Satish Krisna Kharel - Adv. Bhuwan Niraula, AC, Patan - Asst. Professor, Kapil Aryal - Asst. Professor, Rita Mainali 	In coordination with Appellate Court Bar, Patan
	Total	71	25	96		

The topics delved into are:

- Professional ethics of Lawyers: *Theories, provisions and practices*
- Court's response on ethics and diligence of lawyers
- Counseling skill (client interview)
- Scientific legal writing (legal drafting)
- Legal professional organization skills
- Record keeping and development of case brief
- Basic concept and importance of forensic evidence
- Skills of witness examination
- Art of advocacy: *Argument and logic framing*
- Art of advocacy: *Skill of presentation*
- Presentation and analysis of case law: national perspectives
- Using international human rights jurisprudence

6.2. Educational scholarships

Educational scholarships to 5 students from Dalit and other marginalized *groups*, especially for aspiring girl students have been continued for LLB level study. The scholarship recipients are, Laxmi Bakhunchhe, Gita Chaudhary, Shanti Maya Moktan, Pritika Kumal and Chewan Rai. An additional scholarship to a Dalit student, is provided to attain LLM level study at Kathmandu School of Law, Dadhikot.

Similarly, scholarships are also provided to 10 marginalized and disadvantaged students to attend a 20-day residential school program (ESDR program) held in Dhulikhel.

The participants' understanding on promoting economic, social and developmental rights was enhanced keeping in view that their advocacy is even more important than that of civil and political rights.

6.3. Civic and Legal Education to Students

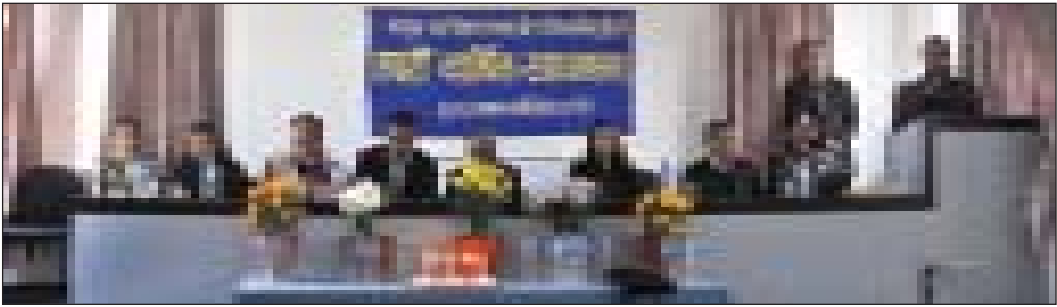
Promotion of legal education is one of CeLRRd's objectives. To rouse higher secondary level students' interest to pursue legal education, 20 orientations were held within Kathmandu valley on the importance of legal and civic education. It benefited 704 boy students and 572 girl students. The campaign imparted knowledge on civic and legal education, human rights, and rule of law and their increased relevance in the present context. What it means to be a good citizen, what human rights are and how they are to be protected, and their interrelationship with rule of law and good governance were discussed. The orientations were therefore, significant to make the students better agents of social transformation.

In the present context, wherein the violation of several rights of many people is so rampant, legal education plays an important role. When one is empowered through legal education, it further helps to empower and fight for the rights of a group of people.

The advocacy for civic and legal education also sensitized the students about their responsibilities to uphold and promote hard-earned *Loktranta*, good governance.

7

Institutional Development



▲
Dr.
Yubaraj
Sangroula,
the
founder
address-
ing the
Annual
General
Assembly

7.1. 11th Annual General Meeting

Center for Legal Research and Resource Development held its 11th AGM in the premise of Kathmandu School of Law on 15th Nov 2010 amongst its board members, general members, advisors, and staffs, numbering to altogether 47 attendees, and in the chairmanship of President Kumar Ingnam. The assembly endorsed the audit report, and the first annual progress report as per the Strategic Plan for fiscal year 2066/67 that Mr. Prakash KC, Treasurer and Mr. Anjan Kumar Dahal, Executive Secretary respectively presented. It also approved the four recently developed policies including Human Resource Management, Institutional Good-governance, Financial Management and Communication. The members have had of the opinion that these policies would be helpful for the institutionalization of the organization itself. Furthermore, Dr. Yubaraj Sangroula, founder and Adviser proposed few concepts that he said CeLRRd should seriously work upon to revitalize itself: Firstly, considering the issues of national interests, CeLRRd should streamline its programs thereby incorporating activities that contribute to the national discourse on critical issues like federalism, federalism based on caste, its pros and cons and also make efforts for the broader outreach of its existing

programs like legal aid and mediation. Secondly, it is the prime time for CeLRRd to think of establishing a training center to ease the conduction of programs and for this CeLRRd will be collaborating with KSL and KSL would be happy to be part of it. It is thought to be necessary also in terms of organizational sustainability and cost effectiveness. Applauding both these concepts, the assembly mandated the executive committee to work in the said lines. Prof Madhav P. Acharya, guardian like figure of both CeLRRd and KSL, and the one who has devoted his entire life for the promotion of justice and legal education expressed his solidarity in the mission of the organization. The program came to a close after the chairman gave vote of thanks to all the attendees.

7.2. International, National Trainings and Exposures

DANIDA FELLOWSHIP PROGRAMS

- Mr. Anjan Kumar Dahal, Executive Secretary attended a 5-week Conflict Management Course in Copenhagen from 26 July – 27 August, 2010. The course was targeted for multi-sectoral participants dealing with conflict at the local, national or regional level as a central component of their works. The course covered the issues of

processes and structures to manage and prevent destructive conflicts at the inter-personal, community and broader societal level. The tools like communication, negotiation, facilitation, conflict analysis (analysis of causes of conflict, mapping, and actor analysis) were dealt with and skills were dispensed to develop strategies that are effective in a conflict-ridden and for peace building situations.

- Similarly, Mr Kumar Ingnam, President attended “*A Human Rights Based Approach to Development*” course from 22 November – 10 December 2010. Emphasis is put on applicability of knowledge & skills and its transfer from course to work area. Both shared the newly acquired understandings on conflict management and development with the board members and relevant staffs in a meeting. They will bring those understandings to better inform programs like community mediation and peace building.

MEDIATION OBSERVATION TOUR TO BANGLADESH

A team of eleven mediation practitioners working across various regions under the community mediation program implemented by CeLRRd visited Bangladesh to observe mediation practices from 26 June to 3 July 2011. It primarily focused organizations like Bangladesh Legal Aid and Services Trust (BLAST) and Madaripur Legal Aid Association (MLAA). Since MLAA has extensively worked in the field of mediation, thereby creating easy access to justice for poor rural people similar to what CeLRRd has been doing, it was deemed that the sharing of ideas, experiences and challenges between

MLAA and CeLRRd would contribute to implementing community mediation program more effectively and help in its institutionalization. From 28 to 30, it visited MLAA situated at a distance of 200 kms South of Dhaka, and the team was stationed in the training center of MLAA. There discussions were held with Ms. Sara Hossain, Chairperson; Fazlul Huq, Executive Secretary; Khan Mohammad Sahid, Chief Coordinator and other Mediation Officers with regards to Madaripur Mediation Model (MMM), right-based mediation approach that they are promoting and it seemed during the course of observation that it had almost replaced the traditional form of mediation called *Shalish* in the locations where mediation program was launched.

The team also had the opportunity to see four mediation sessions at Ghatmajhi, Baligram, Rudrakar, and Mostafapur unions of Madaripur and Shariatpur districts. Almost all the cases were marital disputes entwined with domestic violence, dowry-related abuses, polygamy and complications due to early marriage. It was also observed that the rural communities which sustained on mostly labor and agricultural works were furthermore seriously stricken with dowry system, and that a poor and illiterate woman not bringing enough dowry had a pathetic situation in the family. In such a socio-economic context, MLAA was providing its mediation service in around 100 *union parishads*. All the cases were put on hold for next sittings. It was surprising to see that mediation service there is total voluntary unlike the trend in Nepal in which mediators here expect at least transportation cost. They don't set up any mediation center and just do mediation wherever they find comfortable, under

a tree, in the *union parishad* premise, or any other public places or halls. But there they appoint a mediation worker in every union to oversee all the mediation works and also a supervisor to monitor 5 *union parishads*. Mediators there are called CBO members and they are generally the respected and at least literate people of community. The team realized that the mediation modality was somewhat different: CeLRRd is propagating interest based facilitative mediation which prioritizes restoration of relationship between disputing parties whereas Madaripur Mediation Model is largely right-based mediation practice. The team noticed that there mediators scrutinized proofs and examined witnesses; CBO members and neighboring people's opinions are considered, and the case parties have the right to choices among the options proposed by others. There is a 15 member ward level CBO committee in each ward and a separate 12 member central CBO committee within a *union parishad* as different pools of mediators.

MLAA has a good coordination between mediation and legal aid programs, and if any case is not settled, and in case the party wants to go to court, legal support is provided. It was a good learning to see how unrestricted access to justice is being materialized to the fullest, both through the formal and informal justice

delivery means in the favor of poor people. Moreover, the team also could observe a *village court* session. It was the lowermost level of formal justice mechanism presided by the chairman of the *union parishad* as the judge, and there are two others from each party, one locally elected member and the other civil society member. Hence, the rural communities that were encountered seemed to have many doors to knock to get their disputes resolved. Besides, there is an arbitration council within *union parishad* to look into cases of polygamy, divorce and maintenance.

It was shared that the mediation settlement rate is around 80% and around 10% cases are the reopened and the 10% cases reach to litigation. During the interactions with mediators, the local stakeholders, and the disputing parties, it was observed that they have had high regard for mediation which counts their voice and decisions. One of the former chairperson of *Mostafapur* said, "In most of the places, traditional form of *Shalish* is getting abolished and it is gaining popularity with new practice of mediation".

On 27th, the team visited BLAST which is just taking mediation component as a part of the process along legal aid. It has been providing mediation and legal aid services through the 19 unit offices which

Team of
observation tour
with MLAA
colleagues in
the sitting
row



offer legal advice, perform mediation, conduct litigation, carry out awareness program and set up networking. It was found that they have focused their service especially to poor laborers at garment and textile industries, newspapers and slum-dwellers, alleging their employers and seeking their back-wages, legal benefits, reinstatement in the previously held job, and it could be observed that around 30-40% of such complaints were settled through mediation. In case, the matter is not settled through mediation, and needed legal aid, they also provide the service.

Learnings

Some of the learnings include, the organizations that were visited had a harmonized legal aid and mediation program, and it means that if a case fails to reach settlement through mediation, legal aid is provided and thus, access to justice for a needy is ensured in real sense which if replicated in our context will do good.

We are more process-oriented which has its own pros and cons. The advantage is we just softly facilitate the disputing parties reach to a consensus that often restores the relationships. However it cannot always lead to an agreement and there some suggestion or legal threat might be needed which do not have space in our modality, and therefore if some components of right-based modal can be adopted, it will be better.

Our process prioritizes confidentiality and privacy unlike the practices we observed in Bangladesh which was not as we found much sensitive to privacy of the matters. However, it was said that it was normal and natural for the people whose domestic matters have already gone public, to do mediation in an open setting.

They taught a philosophy that whenever a program is launched in a community, do not expect the community to change significantly,

but rather try to adjust the program with the community so as to sustain it for a long run.

SOCIAL ACCOUNTABILITY TRAINING

Ms. Sanjita Karki and Ms. Anita Tamang, district trainers of Makwanpur and Rupandehi districts attended an intensive training workshop on social accountability practices that was convened from 22-30 September 2010 in Thrissur, India by PRAXIS (Institute for Participatory Practices). It was funded by the World Bank Kathmandu. Participants of 12 countries including Nepal, India, Srilanka, Brazil, Siria, Ghana, Sudan, Kenya and few others attended the workshop that aimed to develop the capacities of mostly development practitioners to implement social accountability approaches for Good Governance in the respective home countries. It provided understandings on different pillars of good governance and accountability together with a range of social accountability tools and some hands-on experience in designing accountability frameworks. Mr. Robert Chamber, the founder of Participatory Module, a significant concept in Sociology, himself was the chief guest and also facilitated most of the sessions along with Anindo Banerjee, a veteran who facilitated on Participatory Rural Appraisal tools for public accountability. For a number of days, the participants got the opportunity to get hands-on experiences of how Kerala, a backward state a decade back has prospered after adopting participatory approach and making the concern stakeholders accountable towards the people.

REVIEW AND REFLECTION WORKSHOPS

Four review and reflection workshops were conducted throughout the year. The first was in the month of January 2011 in Nepalgunj with 19 staffs working primarily in Far-western and Mid-western Region and in

Hetauda with 23 staffs working in Eastern and Western regions. These meetings reviewed the programs done in the past six months period and discussed the challenges faced during implementation and it also helped review the budget.

The second was held in July 2011 in Nepalgunj and Hetauda with around 57 staffs including regional and district coordinators, trainers, regional accountants, legal aid lawyers and other field staffs to do annual review, and help with the planning for upcoming AWAB 2011/12. The workshops guided to formulate new activities supportive to meet the Strategic Plan targets.

TRAINING ON TRUEBOOKS FINANCIAL MANAGEMENT SYSTEM VERSION 2010

For better effectiveness of the accounting system, CeLRRd embarked into software-based system reporting from 2010-11 and installed *TrueBooks Financial Management System Version 2010* at the central office. Subsequently, software installation was accomplished in all the four regional offices. Prior to that, regional accountants were to familiarize about this software and therefore with this objective, a three-day training from 31st August to 2nd September 2010 was held at CeLRRd office, Kathmandu.

Bijay Bajracharya, Trainer SolutionEDGE was the key resource person, and six participants including the central and the regional accountants attended the training. On the first day, the installation of the system in all regional computers was done along with briefing on the curriculum of basic setup that covers primary setups and chart of accounts. On the second day, the curriculum of remaining budget lines including sub ledgers, expenditures, budget setup, transactions – vouchers entry etc was completed and on the last day, remaining

parts of voucher entry and all the reports were completed with the revision of the system.

It is felt that with new software-based financial reporting, the record of all financial dealings has been in a much specific and effective way.

APPRECIATIVE INQUIRY, A TOOL TO PROFESSIONAL AND PERSONAL SUCCESS

To build positive thinking amongst the field staffs, and help them appreciate the works that they are engaged in, a three-day Appreciative Inquiry training was held in Chitwan from 25-27 Dec 2010. The program targeted to retain and nourish the team spirits of respective locations so that they act better to fulfill the organizational short-term and long-term goals. Mr. Dhruba Acharya from Pragma Management Group facilitated the training. He inculcated understandings on the features of an effective team, leadership qualities, sensitivity towards communal responsibilities, power of a positive and committed mind amongst others. The importance of making plans and their implementation, acknowledging others' good works, and envisioning the way forward was discussed. Eventually, they could reflect on how they deal with concerns of personal and professional lives informed by positive thinking. In the same line, they also identified the areas that they need to improve for enhancing their performances. Twenty one staffs attended the training workshop. Binod Kumar Lamichhane, Program Officer and participant of the training expressed, "After attending this training, I feel much energized and committed to my work. If I fail in any given task, I will now not stick to my failure, but transform my energy internalizing what I should do to pass."

8

Challenges and Achievements

8.1. Achievements

COMMUNITY MEDIATION

- 35 new community mediation centers have been established and are actively functioning in 8 districts.
- A new pool of 1012 local mediators inclusive of caste, gender and age is generated to provide mediation service in their respective locations. Indigenous, *Dalits* and other marginalized groups occupy around 60% and women, 38%.
- Mediation service is provided in 4344 number of cases within the reporting period. Success is gained in 92% of cases out of total mediated cases.
- Out of the total direct beneficiaries of community mediation, 50% is indigenous, and 25% is *Dalit* and other marginalized groups. Moreover, 47% cases relate to the illiterate disputants, and further 69% cases relate to the low economic status disputants. i.e., having less than NRs. 25,000 per year. It reflects that economically and socially backward people are benefiting more from mediation. In 31% cases, women are the first party which means that a significant mass of women at least of the program locations are being empowered to come forward for the peaceful resolution of their disputes.

PRISONERS LEGAL AID

- Legal representation is done in 1270 new cases of prisoners along with 585 carried on cases of the previous fiscal year. 17% of total finalized cases (972) resulted to acquittal and 12% of cases to partial conviction.

- Around 80% beneficiaries include Dalit, Indigenous and other marginalized people. Dalit alone comprises 15%.
- Through paralegal orientations in 28 jails, 351 paralegals (27 women and 324 men) have been generated to support legal aid programme from within jail.

JUVENILE JUSTICE

- 56 cases of juveniles were and are being represented. 33 cases are finalized and 23 are running. 12 cases resulted to acquittal, partial conviction or handed over to parents.
- A workshop on “**Promotion of Juvenile Justice (JJ) System of Nepal**” was jointly organized by the Attorney General Office and CeLRRd on 14 May 2011, wherein legal experts urged the government to show its serious concern towards developing and expanding juvenile justice system in the country.
- 151 JJ stakeholders including 32 police, 23 Government Attorney, 25 court officials and 71 Nepal Bar members obtained better understanding on diversion and other juvenile justice issues.

DEMOCRACY, HUMAN RIGHTS AND GOOD GOVERNANCE

- Under consumer right program, the concept of consumer is redefined and advocated as the user of constitutionally guaranteed human rights that eventually contributes to democracy, and good governance. Over 26000 have directly benefited from the program including higher

secondary level and campus students, chairs or managers of community organizations, community forest users groups, mothers' groups, VDC representatives, community mediators, youth club members, women's groups, saving credit groups and cooperative shareholders.

- Over 26000 community people have been directly benefited from 465 community level campaigns including higher secondary level students, chairs, managers of community organizations, community forest users groups, mothers' groups, VDC representatives, community mediators, youth club members, women's groups, saving credit groups and cooperative shareholders. The campaigns were launched in 15 different districts.
- Women's participation is 59 %. Similarly, 55% marginalized people got better understanding of their rights.
- 25,000 copies of Citizen Charter are disseminated across remote areas of 15 districts.

ANTI-HUMAN TRAFFICKING AND GENDER JUSTICE

- 37 cases of trafficking victims have been fought and the understanding of 9519 paralegal women and men of a number of locations of 11

districts has been enhanced not only on the emerging dimensions of trafficking but also on the victim-oriented provisions made by the new TIP Act and the processes to exercise those provisions. 5645 Dalits, indigenous and other marginalized had their awareness on trafficking issues enhanced.

- Similarly through 10 one-day workshops on Human Trafficking and Transportation (Control) Act 2007 held in various districts, the understanding of 312 district level stakeholders on the newly promulgated TIP Act 2007 has been increased.

LEGAL EDUCATION AND PROFESSIONALISM

- Educational scholarship to 5 students from *Dalit* and marginalized groups for LLB level course is continued and an additional one is provided to a Dalit student for attending LLM course.
- 96 justice sector professionals' capacity was enhanced to deliver on the need of access to justice.
- 1276 higher secondary students of Kathmandu valley received civic and legal education. It prioritized the importance of legal education to better act as an agent for social transformation.

8.2. Challenges

- Though much effort was put in place to ensure that the selected mediators are not politically active, it often happens in many places that they eventually are politically biased and their personal and political tensions amongst themselves affect the program to some extent. However, much care is taken while finalizing the mediators' list.
- Local level politics is much strong and tensions amongst the local units of the political parties and at the all-party mechanism in many locations posed difficulties in the smooth functioning of the program activities. However, their implications were to some extent minimized by inviting them to interactions frequently held and also conducting special meetings with them.
- There is a huge competition going on between legal aid providing institutions and sometimes it turn out to be unethical. However, with the regular coordination meetings with the government actors and the like minded organizations, confusions about legal aid program are being settled.
- Due to frequent transfers of administrative staffs of local bodies, it has become difficult for the program implementers to take them into confidence.
- Most of the mediation centers are located at geographically remote areas, and therefore proper monitoring and evaluation activity of mediation program and mediators happens to be inadequate. This difficulty also has affected the number of cases in mediation centers.
- Despite efforts made to convince that mediation service is a voluntary service, some of the mediators would expect allowance or remuneration for their work. So, how to keep their motivation alight is a challenge.
- The police are not easy to be taken into confidence regarding the prisoner legal aid because the police suspect that the lawyers could influence the prisoners to produce false information before the court.
- The government policy is not clear on how much to cooperate with NGOs. Especially Nepal Police has said that Ministry of Home Affairs has restrained them to participate in the programs organized by NGOs. However, they are participating based on their personal contacts with the organizers and individuals. Therefore, it has posed a great difficulty to implement activities that need to be done in close collaboration with government agencies.

