



## ASIA-PACIFIC RIGHTS AND JUSTICE INITIATIVE

Case Studies on Access to Justice by the Poor and Disadvantaged

# Promoting Alternate Dispute Resolution to Reduce Backlog Cases and Enhance Access to Justice of the Poor and Disadvantaged People through Organizing Settlement Fairs in Nepal

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### SUMMARY BOX

This case study deals with the experiences gained during the implementation of the Settlement Fairs (Mediation in Court Cases) organized by UNDP/Nepal through the Nepal Bar Association and its district units in 2002 and 2003. Despite the absence of legal basis mediation in court cases was organized for the first time in the legal history of Nepal.

This programme was launched in three district level courts and quasi-judicial bodies in 2002 and in four district courts/quasi-judicial bodies and one appellate court in 2003. In absence of legal basis, the mediation in court cases was initiated in 2002 which had to face various problems. One of the greatest challenges was to bring the disputing parties to the negotiation table. The problem was overcome adopting various techniques such as information dissemination (through news papers, radio, street drama shows, stakeholders meetings and distribution of posters and pamphlets), and motivation to the disputing parties (through volunteers and lawyers). The preparation of the programme also included training of the mediators and drafting and compliance of the ground rules which was done in partnership of the main stakeholders.

In total, 790 cases were mediated and 539 cases were settled with mutual consent of the disputing parties in 2002. Likewise, 1382 court cases were mediated and 866 cases were settled in 2003. However, it is also true that, in many cases mediation could not succeed to bring amicable settlement among the disputing parties. The success rate was 73% in 2002 whereas it was only 63% in 2003 – of the total mediated cases. Regarding other benefits of the programme; about 40% were women among the total beneficiaries of the programme, social harmony maintained because many cases were between family members, relatives and friends, some of the settled cases were quite old such as running for last three decades, a new concept viz mediation in court cases adopted in the Nepalese legal sector and cost of settlement was not high - about 4000 Nepali rupees per case which is quite low for settling a case for ever. Inspired by the success of the programme, the Supreme Court of Nepal, towards the end of 2003, amended the District Court Rules (4<sup>th</sup> Amendment Gazzetted on 17 Nov 2003) making a legal provision authorizing the District Courts to refer cases for mediation to individuals or institutions as specified in the said Rules.

Many lessons learned through the implementation of the programme. Among them “women mediators needed to be promoted in order to protect the interest of the women disputing parties” is of utmost importance. UNDP has decided to pilot test the provisions of the District Court Rules (Fourth Amendment) in 17 districts in 2004 and 2005. However, the programme will be a regular mediation programme instead of organizing Settlement Fairs from time to time.

### CATEGORISATION OF LESSON

Lessons learnt from Settlement fairs (initiation of mediation in court cases) which were organized as pilot testing in three districts (Udaypur, Saptari and Parsa in 2002 and four districts - Udaypur, Saptari, Rauthat and Dang in 2003) of Nepal during September – December of the respective years. This case study solely deals with the experience gained during organizing the Settlement Fairs.

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## Background

Human Development Reports of last few years reflect Nepal as one of the poorest countries of the world and about 40% of its total population is below the poverty line i. e. their earning is less than a dollar a day. In Nepal, many people are less aware about their rights and those who are aware of their rights they cannot seek court's services - simply they cannot afford it.

Despite the constitutional provisions and legal framework governing the behavior of various agencies of Nepal, there are some problems in administering the rule of law - the first and most important duty of the state. The judicial system, the penal system, and the police all suffer from some sort of shortcomings. These weaknesses relate both to organizational issues at the multiple tiers of the judiciary as well as to judicial system. There is shortage of manpower and available staff often lacks expertise in the relevant field, especially in new and emerging areas of law. Therefore, there is a need to boost up the trust of the general public and the private sector in the judiciary to assure the rule of law.

There are three tiers of court system in Nepal. There is one District Court in all 75 districts and appeals against the decisions of the District Courts are heard by Appellate Courts that are 16 in number. The Supreme Court is the apex court. The court system in Nepal is guided by traditional norms, values and the procedural laws (Mukuki Ain) drafted 150 years ago. The ratio of cases in Nepal exhibits 70% civil and 30% criminal cases. The courts are overloaded with backlogged cases and late decisions are common practices. It is said that justice delayed is justice denied. And also, in principle delay in justice sector is one of the root causes of violent conflict and when there is a conflict in a country the judicial system is in trouble. Therefore, it would be pragmatic to reduce workload of the courts in order to provide the trial courts adequate time to develop the judicial system as per the present needs of the people. It was realized that the appropriate means to reduce the burden of the court is to start mediation in court cases for their settlement so that the justice system can provide quick resolution of conflicts with a "win - win" formula rather than limiting itself to the orthodox formula of giving mandatory decisions.

The other problem of the judicial sector of Nepal is that the administrative bodies are given legal powers to decide some cases. For example, Chief District Officer (CDO) hears all cases relating to peace and order, District Forest Officer hears cases relating to misappropriation of forest resources, Land Revenue Officer hears cases relating to cancellation of sold lands (HAKSAFA), Land Reforms Officer hears many kinds of cases relating to tenancy rights, Village Development Committees (VDCs) and municipalities hear some petty cases as prescribed in the Local Self Governance Act (LSGA) though the related provisions of the Act have yet to be enforced. Surprisingly, the staffs of the concerned quasi-judicial bodies are neither students of law nor they are given training on legal matters. They feel it difficult to give verdicts on cases brought to them. As a result of this, either they face problem of backlogging cases or their decision in most cases are quashed by the courts. It is widely accepted fact that the delay in the court (by definition they also include authorities who are authorized to hear cases under different laws) proceedings hamper human rights of the people to a great extent.

## Objectives and Strategies

### *Matching with the objectives of Strategy Result Framework*

The CO/Nepal, under the given situation decided to launch "Settlement Fairs" under the Enhancing Access to Justice through Media Campaign, Settlement Fairs and Strengthening the Community Mediation Practices Programme" under the Democratic Governance Thematic Trust Fund (DG/TTF) funding. It was one component of the Programme out of five. Other components of the programme included training on community mediation, media campaign, publication of Supreme Court decisions on HRs, and street drama on access to justice.

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The idea of Settlement Fairs was conceived during Canada visit of the Programme Officer in March 2002. In Canada, Settlement Fairs are legally recognized and organized every year for reducing the number of backlogged cases in courts. The Canadian judges are involved in the mediation process provided that they have not heard the case in the past and there is no possibility of hearing that case in future.

UNDP/CO Nepal's SRF goal is - fair and efficient administration of justice and enhancement of access to justice of people especially of the poor and marginalized ones. And, the sub-goal includes formulation of ADR related laws. In support of this Strategic Result Framework goal, the target set for the Settlement Fairs was to initiate mediation practices in court cases and help the disputing parties to settle their cases with mutual agreement. It was also expected that this process can help the courts to reduce the backlogged cases and perform their tasks efficiently. Ultimately, this programme intended to initiate institutionalization of this process in Nepal.

The strategies adopted under this programme are dealt with below:

**Preparation:** Training programmes were organized for 150 possible mediators for two days in 2002 and 3 days in 2003 through an expert deputed by American Bar Association and professional Nepali trainers. The trainees included lawyers, judges and officials of the quasi-judicial bodies who were expected to get involved in the Settlement Fairs one way or the other. The trainees from the districts level quasi judicial bodies included representatives from CDO, Land Revenue Office, Land Reform Office, Police Office and municipalities.

It was remarked by the chief trainer that a two days (16 hours) training programme will not be adequate to "produce" a good mediator and also it is the legal provision in USA that a person having mediation training for less than 40 hours (5 days) cannot be a mediator. However, taking this into account the manual was revised so as to make it 20 hours training and maximum information was disseminated to the trainees, so far possible, in those two days in 2002. And, the training was conducted for three days in 2003 counting 28 hours in total.

**Preparation of Ground Rules:** In the process of the training the Ground Rules of the Settlement Fairs were also drafted and finalized in consultation with the trainee lawyers, judges and others. It intended to let the lawyers "own" the rules. And, one of the rules was that no body other than a person trained would be a mediator (chief) in the Settlement Fairs. However, all the parties were authorized to appoint one counselor to plead on their behalf in the process of mediation. Even if there were many people in one side of the party all of them had to find one counselor in consensus. Upon failure of a party to nominate his/her counselor the Bar nominated the counselor on behalf of such a party – a trusted person of the party concerned. Other rules are dealt with as and where required in the text.

**Information dissemination and collection of documents:** In each pilot district one stakeholders' meeting was organized before organizing Settlement Fairs for dissemination of information to the stakeholders – lawyers, judges, officials of the courts and quasi-judicial bodies. Similarly, one joint workshop of all programme districts was organized at the end of the programme for its evaluation.

One of the biggest issues of concern was that how the disputing parties would be gathered in the Settlement Fairs. For this purpose some information processes were used viz:

- Posters and pamphlets were prepared and placed with the officials of the case sections in each court and quasi-judicial body and distributed to all the visiting disputants so that they

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could share information about the Settlement Fairs with their family members, neighbors and friends.

- To promote and disseminate the idea of the Settlement Fairs, NGOs (namely Cultural Unesco Club in 2002 and SARWANAM in 2003) were contracted to organize cultural programs and street dramas for at least 10 times in each pilot district. The cultural teams performed a street drama titled "*Adhikar*" (Rights), with various other cultural programs, at different parts of the pilot districts which not only made people aware about their rights but also gave notice in advance to the people regarding the Settlement Fairs in their respective districts. As always, the entertainment program gathered very big crowd and the Club very efficiently spread the message of Settlement Fairs. In total, 25% disputing parties of the total settled cases had come for mediation in Settlement Fairs after looking the street drama.
- In each pilot district volunteers were nominated following the number of target cases whose main responsibility was to meet the disputing parties and convince them to come forward for the mediation during the Fairs. They canvas people door to door in rural and urban areas.
- Incentive was announced in each programme district, to provide a reward of Nrs. 10,000 (approximately 150 US\$) for the lawyer who sends maximum number of cases to the Settlement Fairs.
- Special meetings were held with senior lawyers, who possess maximum number of cases, in each programme district and they were requested to extend cooperation by asking their clients to visit the Settlement Fairs.

Following these processes the parties were contacted and asked if they would be interested in settling their case by mutual agreement. The volunteers helped the parties to file a written application with the local bar unit for inclusion of their cases for mediation. On the basis of the collected documents and response received by the volunteers from litigants the committees, formed at the local bar unit levels, selected appropriate cases for mediation. No case in which the government was a party was selected for mediation during the Settlement Fairs. 70% of the total target cases were from the concerned District Courts and 30% were from the quasi-judicial bodies including police and local administration. The interested parties along with their lawyers were invited to attend the Settlement Fairs on specified dates.

In the Settlement Fairs, the parties were briefed about the pros and cons of the continuation of their cases and benefits of the settlement through mutual agreement. They were also assured that the mediator is a neutral person and the issues disclosed during the mediation would be kept secret and will not be used as evidence in the court (*ground rules*). Then all the issues related to the case were declared to remain open for discussion among the disputing parties and their counselors. The mediator monitored the process. Deed of compromise was prepared and submitted to the court concerned for its legalization in those cases in which the parties agreed for a compromise during the mediation. Those cases were automatically in process, as usual manner, in which mediation failed or parties could not compromise. The mediation venue was out of court and court staffs were not involved in this process so parties' statements made during mediation remained out of courts' purview.

**Stakeholders brought on board:** In the very beginning of the programme it was decided that this programme can-not be implemented through an agency of the government (NEX modality) since there was time pressure, so it was a directly executed by UNDP (DEX project). However, the Supreme Court was involved from the very beginning of this programme and was invited in the meeting of the Project Appraisal Committee. This involvement was beneficial for the project in the sense that the court officials properly understood the programme and issued necessary directions to lower courts for extending cooperation in the implementation of the programme.

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Concerned District Courts and the quasi-judicial bodies were requested for giving dates (*Peshh*) to the disputing parties as many as possible during the period of settlement fairs so that maximum number of parties could visit the court and Settlement Fairs.

## Outcomes

### ***Settlement of Cases surpassed the expectation***

The project had very short span of life – 4.5 months in each year. Indeed, only three months were there to work because 1.5 months were spent for the fulfillment of the administrative requirements – contracting and all. Despite of the short period, the project successfully met its targets. In 2002, 790 cases were mediated and 539 (68%) cases were settled with the mutual agreement of the parties concerned – that was more than the set target of 500 cases. Among the total settled cases 60% were court cases and 40% from quasi-judicial bodies. The result of success rate is quite surprising for example out of the total 365 mediated court cases settlement was reached in 325 cases (89%) whereas out of 425 mediated cases of quasi-judicial bodies settlement could be reached only in 214 cases (50%). Similarly in 2003, 1382 cases were mediated whereas the set target was 1150 cases. In total 866 (63%) of the mediated cases were settled with the mutual agreement of the disputing parties. It was more than the set target of 845 cases.

## CASE STUDY

This program was able to settle very old and complicated cases. Some of them were running in courts for last three decades. For example;

### ***Case no. 1: From Udaypur District***

***Kedar Bdr. Dhimal (Plaintiff) Vs Rudra Bdr. Khatri (Defendant)***

***Case: Land Dispute, Corps looting and removal of house***

***Characteristic of the case: The same disputing parties had three cases. This case was 28 years old and it was taken up till the Supreme Court.***

*In this dispute originally three cases were registered by the plaintiff (Forgery, land encroachment and cancellation of the land registration). The lead case was related with land ownership. Kedar Bahadur Dhimal (lower caste) was the owner and cultivator of a land but due to his absence during the land measurement carried by government officials he did not register the land in his name and the defendant Rudra Bdr Khatri (upper caste) registered the land in his name in 1974. K.B. Dhimal, when he knew the fact that his land was registered by R. B. Khatri, moved a lawsuit at the Udaypur District Court. In a bid to strengthen their position in the lead case, the plaintiff and defendant started to file law suits against each other and the number of cases between these two people grew to nineteen. The other cases included Looting of crops, Battery, Defamation etc.*

*Since the conflict deepened the parties took their case up to the Supreme Court. Later, the Supreme Court quashing the previous decisions of District and appellate courts on technical grounds returned the case and asked the District Court to give its final verdict in the case. The main stake involved in this case was the ownership of the land and a house built on it by the defendant. Finally, all those 19 cases were settled in the Settlement Fairs with the mutual agreement of the disputing parties. Rudra Bdr. Khatri happily agreed to get the house including some peripheral land occupied by the house and Kedar Bahadur Dhimal received the remaining land. Later, Kedar Bahadur said that the case could take many years further after the decision of the District Court as the decision can be again challenged in Appellate and the Supreme Courts but he is tired of fighting the case.*

The mediated court cases can be grouped in 22 groups according to the nature of the cases. The most common cases of the court are family separation, battery, assault, fraud, security, looting, land registration, tenancy, forgery and defamation.

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### ***Poor women benefited from the settlements***

Cases in which woman was one party included divorce, battery, alimony, land dispute, inheritance, defamation etc. In 2002, 102 cases in Udaypur district, in which woman was a party, were mediated and 90 were settled. Among them, in majority of cases (81) women were the applicants (plaintiffs) and in the rest 21 cases males were the applicants. In Parsa district, 62 cases were related to women, out of the total 309 mediated cases. In majority of cases (40) plaintiffs were women and in the rest 22 cases males were the plaintiffs. However, there is not a single women lawyer in District Bar Units of Udaypur and Parsa districts. Therefore, there was no women lawyers to work as mediators in the Settlement Fairs. However, the abovementioned facts relating to cases in which women are involved proves the fact – that they are the most benefited people out of this programme. In 2003, about 45 cases involved women disputants and around 50% of those cases were settled during the mediation programme.

### **CASE STUDY**

*Case no. 2: From Saptari District*

*Rameshor Shah Haluwai (Plaintiff) Vs Blaeshor Mallik Dom (Defendant)*

*Case: Money borrowed not returned*

*Characteristic of the case: Forgery case*

*This case involved a schedule cast defendant. The plaintiff Rameshor Sah Haluwai (Haluwai falls among an Indian origin ethnic group which is known for their business of sweets) filed a lawsuit in the court of law stating that the defendant who had borrowed Rs. 55,000 from him with the promise to pay back the loaned amount with 10 % of interest in due course of time but he did not complied with the contract. The plaintiff asked the court to help recover the loaned amount and interest as promised by the defendant. The plaintiff also submitted the contract deed signed by the defendant in the court.*

*The defendant Blaeshor Mallik Dom (Dom is considered as one of the lowest caste and also untouchable in the terrain society of Nepal) pleaded in the court that the signature on the deed was not his and it was forged. He prayed in the court that he had not taken any amount from the plaintiff. This case was running in the court from last two years.*

*The defendant came to the local Bar office and asked for help in settling the case through mediation. The volunteers of the Settlement programme visited the plaintiff and convinced him to come to the Bar office for mediation. Both the parties attended the Settlement Fairs and the case was settled in the mediation process. The plaintiff agreed to tear off the deed of agreement since the defendant had not borrowed any money from him. But he put one condition that it will be written in the formal compromise document that the defendant has paid back the loaned amount to him because that would save his reputation and there will be no legal punishment against him for forgery. The defendant agreed the plaintiff's condition because he wanted to get rid of the case. Finally, the compromise was legalized by the court.*

### ***New concept (mediation in court cases) introduced***

Though the programme had short span of life the popularity of the mediation among the common people went very strong and it helped to build better image of the lawyers and legal system among the commoners. In the beginning of the programme people found it difficult to believe that the lawyers, who always promoted cases, were advocating for settlements – to resolve the conflict forever!! The orthodox litigants (lawyers) are now also considered as problem solvers. Once the people were convinced during the programme, they trusted the lawyers and discussed about the hidden issues involved in the cases and their readiness to closedown their case. Even after the closing of the Settlement fairs many parties requested their lawyers for taking their case to the Settlement Fairs for mediation. Now there are 150 trained mediators who can undertake mediation in court cases.

### ***Process of institutionalization has begun***

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Many judges are highly influenced by the outcome of the Settlement Programmes. They feel this programme is in favor of courts and people at large. As one of the greatest success of the Settlement Fairs Programme the Supreme Court of Nepal amended the District Court Rules (4<sup>th</sup> amendment) making a provision for court referred mediation. The judges involved in the drafting process were also involved in the settlement fair processes. As per the newly promulgated rules, district court judges are authorized to refer cases to an individuals or institutions for mediation processes which must be completed within three months.

### ***Cost Effectiveness***

In Nepal, lawyers' fee for writing a petition or deed of defendant or pleading in a District Court is one thousand in a normal situation. That price increases as per the gravity of the case, paying capacity of the client or popularity of the lawyer. The rates charged by the lawyers in Appellate and Supreme Courts are also much higher than the fees charged by the lawyers at District Court level. And, in average a case takes about six years for getting through all lairs of the courts and avail the final verdict. Thus fighting a case is definitely taxing in terms of investment of time and resources to the disputing parties – especially to the people of a poor country like Nepal.

However, in 2002 a total of 2,351,250 Nepalese Rupees were spent for organizing the Settlement Fairs. If we forget other benefits of the programme it helped 1078 parties of different cases to settle their 539 cases. *The net expenditure for the mediation of one case was Nrs 900 and 500 added in case of settlement.* Even if we calculate the total cost of the project and divide with the *settled cases it comes 4,362 Nrs. per case.* The settlements helped the parties to close the case at the district level because appeal cannot be filed in those cases. Thus, it is really cost effective and in the interest of poor people who can not afford expensive legal processes. In 2003, the total amount spent for the Fairs was NRs 3,646,500 which if divided by the total settled cases (866) comes to 4210 Nrs per case. However, the total cost for per mediated case in 2003 was only 2,639 Nrs.

### ***Family/Social harmony maintained***

The cases relating to family property (land, separation, inheritance) are the most common cases in Nepal, which are basically the disputes of poor economic groups. And, in most instances the cases are fought among the family members or their own kinships. The Settlement Fairs have created social harmony and peace by helping the parties to reach to mediated settlement of their disputes –e. i. a “win win” situation.

### ***Support of Media***

Unexpectedly, media (local and national newspapers, local and national radio programs and Nepal television) covered the Settlement Fairs with very high importance. The program was highlighted in local (Bhojpuri, Maithali), Nepali and English languages. This was an example that if a new concept which is really in the interest of the people do not need extra efforts to draw attention of the media!!

### **Challenges faced**

The main problems encountered during the implementation of the programme are listed below;

**Selection of partners and districts:** To proceed with the programme it was thought by the programme management that the process should be owned by the relevant stakeholders so the Judges Society –as being an organization of judges and court staff would be the best institution to handle this programme so its officials were consulted. The Judges Society shown its reluctance to own the process saying there is no legal basis for the judges to get involved in such a process. Then, as the second option, Nepal Bar Association was consulted. The officials of the Nepal Bar Association were quite enthusiastic to undertake such an initiative but the programme management, considering the importance of the willingness of the

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concerned local Bar Units is vital to the success of the programme, decided to visit a few districts for the selection of pilot districts.

The field study was carried by the Legal Reforms Officer, who also acted as the National Programme Manager of this Programme, to various districts of Nepal and due consideration was given to the following criterion:

- Number of ongoing cases in the District Courts and quasi-judicial bodies;
- Readiness to conduct the programme on the part of the local Bar Association; and
- Geographical location and ethnicity of the local inhabitants.

During the field visit officials from District Courts (DC), District Police Offices (DPO), Chief District Office (CDO), Land Revenue Offices (LRO), Land Reform Offices (LRO), Village Development Committee (VDCs)/Municipalities (MCs) and Appellate Courts (AC) were interviewed and necessary information were gathered.

Based on the criteria mentioned above Udaypur, Saptari and Parsa districts were selected for the pilot testing of the Settlement Fairs in 2002. And, Udaypur, Saptari, Rauthat and Dang districts were selected for 2003 programme. The Parsa district Bar Unit found to be reluctant to undertake the programme saying there was no sufficient support from the members of the Bar.

In process of the visit in 2002, the officials of the Rupandehi Bar flatly refused to undertake this programme saying it will reduce the number of cases in courts and thereby reduce income of the local lawyers. Therefore, Rupandehi was not selected for organizing Settlement Fairs.

In both the years the programme districts were selected based on the criterion mentioned above.

- In the beginning, the stakeholders and the main actors found it difficult to understand the idea of the program, ground rules and the processes. Therefore, Nepali trainers were involved in the process of training to the mediators.
- Failure of mediation also needs to be accounted for and detailed analysis of reasons thereof should be done – which remains as an issue for research in future. For example in the process of mediation in 2002, the parties of the 51 registered cases did not come for mediation (45 in Saptari district, 6 in Udaypur), in 143 cases mediation process broke without a success (14 in Udaypur, 6 in Saptari and 129 in Parsa) and in 57 cases (4 cases in Udaypur, 6 in Saptari and 47 cases in Parsa) mediation was successful but later the parties did not show up for legalization of the compromise. Similar incidences happened in 2003 as well.
- During the implementation of the programme the insurgents' movement was very high and it was not safe to visit rural areas because unknown persons in villages were scrutinized by the insurgents as if they were spy sent by police. Therefore, volunteers could not be mobilized properly and it was difficult to disseminate information about the Settlement Fairs to all the remote parts of the programme districts.
- In one district the judges were reluctant to help the Bar for organizing the Settlement though there was a formal letter from the Supreme Court to provide necessary support to the programme organizers. Personal influence was also used during the implementation of the programme. In an average, 35% of the total cases mediated during the fairs was referred by the related courts.

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- This Program is a new concept in Nepal and the training was not much helpful to the mediators since it was conducted in English instead of Nepali language. In absence of proper understanding the roles of the mediators and other actors were misinterpreted by the people involved in this process. As a result the simple rules of mediation (such as – neutrality of mediators, show of respect to the parties, help parties to come out with hidden agenda, provide options in case of deadlock) were not followed. Regular monitoring helped to correct this confusion.
- The programme had short span of life and in between there were main festivals in Nepal like Dashain, Tihar, Chhat (greatest festivals of the Tarai people) and Id. The volunteers were bound to work even in their holidays. And, also there was the harvesting season so despite of lot of efforts information relating to Settlement Fairs remained limited to certain people – mainly in urban areas. Otherwise, many other cases would have been brought for mediation. Due to limitation of time, even the mediated cases could not be legalized.
- Even though the concerned District Bar Units were consulted in advance and their Executive Committees had decided to undertake this programme, many lawyers opposed this programme saying it is against the interest of the lawyers. In many instances the protests were guided by political interest of the opposing lawyers. It was also because the lawyers were not trained enough to maintain the accounts of the project. To solve this problem repeated field visits were conducted and senior lawyers were requested to intervene and it really worked. However, in total 15% of the total cases mediated during the fairs was referred by the private lawyers.

## Conclusion and Lesson Learnt

In the initial stage of the program, some people thought that the concept of the Settlement Fairs was originated in developed countries like America and Canada. It would be very difficult to implement this concept in a developing country like Nepal because of the backward social, economic and educational status.

In the beginning, the idea of the program, ground rules, processes etc were felt difficult to understand by all stakeholders and actors of the program. Besides it, there were some other technical problems such as inappropriate season and limitation of time, confusion among District Bar, Appellate Bar and Central Bar Associations, national security reason and the lack of legal ambit to conduct the Settlement Fairs. All the hurdles were overcome with the support of the key actors – Bar Association, courts, lawyers, judges, media, CSOs, volunteers, local leaders and officials of the quasi-judicial bodies. Constant monitoring and effective information delivery also had important role in the success of the programme.

Finally, the program was completed successfully learning that the Settlement Fairs can be initiated in a developing country like Nepal and it can help people to avail fair and quick justice at low price. And also, the backlogged cases of courts and quasi-judicial bodies can be reduced if the program is implemented successfully. The program is getting popular in Nepal. However, there is a challenge ahead in order to replicate this programme to other districts of the country which requires attention to the following issues;

- ❖ Achievement of specified, considerably large, targets is possible, in a short span of time provided that the staffs concerned are committed and senior management is supportive to the process.
- ❖ If the lawyers and other (possible) mediators are not well versed with English language the training to impart mediation skills must be conducted in their mother tongue.
- ❖ Projects can be successfully implemented in partnership with civil society organizations without creating “big” bureaucracy in UNDP provided that the selection is right. Partnership with CSOs can

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enhance efficiency in UNDP projects. However, their capacity to implement the programme needs to be assessed in advance.

- ❖ Programme Officers and other programme staff learn a lot by implementing such a fast track project.
- ❖ If the programmes are innovative, effective and directly in the interest of people there will be self esteemed media coverage of such programmes and lot of support at grassroots can emerge.
- ❖ Misunderstanding between the District and Appellate Bar was big problem in the Settlement Fairs program therefore, necessary coordination between different bars is necessary if the district has more than two Bars.
- ❖ Number of cases relating to women is considerable in each district. Men mediators cannot be as sensitive as a woman on women and children related issues but very few women mediators are available in the field. Moreover, male mediators would be less trusted by women parties than a woman could be. Therefore, number of women mediators should be increased.
- ❖ The Settlement Fairs should be organized during January to May basically in Terai areas because during this period people are free from their agriculture activities.