

Enhancing access to justice

The judicial system of Nepal often seems distant and inaccessible for the majority of the population, which lives predominantly in rural and remote areas. According to an estimate by the Centre for Victims of Torture (CVICT, 2004), only about 15 percent of the population with grievances ever goes to the courts to seek legal redress. Some of the key reasons for this low participation are the low level of awareness among the people, prolonged court procedures, inability of many people to afford the related costs over an extended period and the conflict, pushing many people to seek justice through informal means.

In 2007, there were about 54,000 backlogged cases in all the courts across Nepal. Although this figure was an improvement compared to the 80,000 backlogged cases in 1999, statistics released by the Supreme Court show that the number of new registered cases in 2007 almost equalled the number of disposed cases. As such, unless the efficiency of the courts is drastically enhanced, the problem of backlogged cases is unlikely to be reduced in the near future.

UNDP's response

In 2007, UNDP provided support in two major areas:

- to help modernize the legal system, and,
- to enhance the capacity of the courts to provide expeditious and cost-effective justice.

The key partners were the Supreme Court, the Ministry of Law, Justice and Parliamentary Affairs (MOLJPA), the Ministry of Land Reform and Management, the National Judicial Academy, and the Nepal Bar Association. The governments of Japan and Finland as well as the UNDP Democratic Governance Trust Fund (DGTF) were the major funding partners in this area.

Modernizing the legal system

UNDP supported the MOLJPA to draft and organise consultations with various stakeholders in different parts of the country on the Civil Procedure Code and Mediation Act. The Civil Procedure Code seeks to simplify procedures for adjudicating cases whereas the Mediation Act seeks to recognise, regulate and institutionalise mediation. In order to make these Acts more inclusive, consultations are still ongoing with the stakeholders.

Providing expeditious justice

UNDP supported the Nepalese judiciary to provide expeditious justice through the establishment of seven pilot model courts across the country.

- These courts have, for the first time in the history of Nepal, separate judges for civil and criminal cases thus contributing to professional development of the judges, and uniformity and effectiveness of decisions.
- Altogether 231 judges and administrative staff of these courts were trained in technical and administrative aspects such as land management, judgement execution, record keeping and use of computer applications in order to enhance their efficiency.

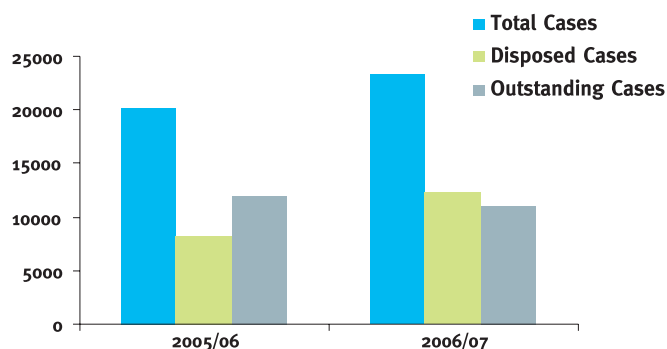


Chart 2: Comparative disposal of cases in the Pilot Courts

Table 2: UNDP support to justice in 2007

| Project | Expenditure (Funding Partners) | Focus |
|-----------------------------------|--|--|
| Reform of the Judiciary (ROJ) | US\$ 197,400 (Finland, Japan, UNDP) | Support seven model pilot courts to provide expeditious justice and reform court procedures. |
| Enhancing Access to Justice (A2J) | US\$ 241,700 (UNDP/DGTF) | Strengthen and institutionalise mediation as a cost effective way of settling civil cases. |

- As a result of the training, these seven pilot courts disposed 12,303 cases (or 22 percent of the total cases disposed by all courts and tribunals in Nepal), a 34 percent improvement over 2006 figures (Chart 2).

Towards less expensive and alternative justice

UNDP support successfully promoted alternative dispute resolution, particularly court-referred mediation and settlement through quasi-judicial bodies such as the Land Revenue and Land Reform Offices. Poor people who cannot afford court fees over an extended time were the primary beneficiaries of this initiative.

- A Mediation Centre was established in Kathmandu to provide mediation services whereas in the districts, the Nepal Bar Association units are offering these mediation services.
- A total of 2,218 court-referred cases (exceeding the target of 1,960) were mediated and another 1,211 were

settled by quasi-judicial bodies in 2007 at a very nominal cost.

- Similarly, in Kathmandu, the Mediation Centre was able to settle 127 cases out of the 590 referred cases in 2007.

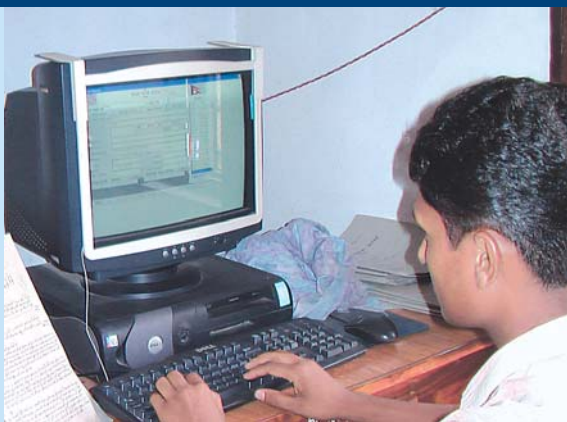
Vision for 2008 and beyond

A new project is in the pipeline to build on the successes of the *A2J* and *ROJ* programmes. This project will continue the work on:

- Modernising Nepal's legal system in line with the international human rights standards, and strengthening mediation practices in the country.
- Increasing the access of women and socially excluded groups to justice, and enhancing the accountability of the legal system towards the people by involving all legal institutions. ■

Box 3

Electronic archiving of cases improves court efficiency



The district courts supported by the *Reform of the Judiciary Project* are now able to electronically archive court cases and decisions. "If we need to refer to the court decisions on certain cases, we do not have to go back and open the files in the bundle", says Yogendra Shah, Registrar of Siraha District Court.

This support was backed up by providing the courts also with computers, photocopiers, cabinets and other necessary equipment. This all contributed to speeding-up the handling of cases.

Mediation training



In 2007, a '40 hours mediation training' following international standards and practices in mediation was organised for 35 Supreme Court justices, appellate and district court judges, deputy attorney generals, and senior lawyers from Nepal Bar Association and the Mediation Centre to institutionalise mediation as a practice for delivering speedy justice and reducing the number of backlogged cases.

This new pool of skilled mediation experts is a first step towards the institutionalisation of mediation in Nepal.

Protection and promotion of human rights

Despite the signing of the Comprehensive Peace Agreement (CPA) between the two major parties to the conflict in Nepal, various forms of human rights violations, perpetrated by different groups, continued in 2007. A total of 1,579 complaints related to kidnapping and abduction, extortion, death threats, displacement, disappearances and killings were lodged at the National Human Rights Commission (NHRC). This situation was particularly critical in a number of Tarai districts.

The 2007 Interim Constitution of Nepal elevated the NHRC to the level of a constitutional body, empowered with functions such as monitoring and investigation of human rights violations and referral of conclusions to the Government for action. However, the NHRC had no Commissioners for over a year, following the People's Movement in April 2006 which forced the Commissioners appointed during the King's regime to resign. This absence of Commissioners, coupled with the limited capacity of the staff of the Commission, hampered both its efficiency and effectiveness. A real breakthrough came with the appointment of the six Commissioners in September 2007 through parliamentary hearings, opening the door for the smooth functioning of the Commission.

UNDP's response

In close collaboration with the Office of the High Commissioner for Human Rights (OHCHR), UNDP and a number of donors continued to help strengthen the capacity of the NHRC to monitor, investigate and report

human rights violations and uphold human rights, and to monitor the implementation of the CPA. As a result the NHRC was able to:

- Investigate 1,101 cases, of which 13 recommendations were implemented by the Government.
- Carry out 250 monitoring missions of various incidents across the country and observe and ascertain the situation of human rights.
- Publish reports such as: *The domestication of the International Covenant on Civil and Political Rights*, *Trafficking in Women and Children* and *The Status of Human Rights under the CPA*. These reports were widely disseminated to various organisations in Kathmandu and other parts of the country and will serve as important reference documents.
- Complete a study on the application of international human rights law in the Supreme Court's decisions and carry out discussions on the results with Supreme Court Justices. As a result, the justices have committed to greater conformity to international human rights standards while adjudicating cases.
- Successfully lobby for the ratification of the ILO Convention 169 protecting the rights of indigenous and tribal people.

Vision for 2008 and beyond

- Discussions are underway to extend coordinated donor support to further strengthen the capacity of the NHRC to fulfil its enhanced mandate. ■

Table 3: UNDP support to human rights in 2007

| Project | Expenditure (Funding Partners) | Focus |
|---|---|---|
| Capacity Development of National Human Rights Commission (CDNHRC) | US\$ 1,082,000 (UNDP, UNICEF, USAID, AusAID, DFID, Ford Foundation, Canada, SDC, Denmark, Finland, Norway) | Build the capacity of the NHRC to monitor the human rights situation. |

Strengthening local governance

Despite progress at the national level in the transition to peace in 2007, local governance could only be carried out in a limited way. Local administration both at district and village levels was functioning, but the continued absence of elected local bodies since mid-2002 restricted the participation of stakeholders in the decision making process of fund distribution, and hampered the normal pace of local development. In the aftermath of the Comprehensive Peace Agreement in November 2006, many VDC secretaries displaced by the conflict returned to their respective areas, but the conflict situation in the Tarai forced them to again move back to district headquarters and even to other districts.

On the urban front, rapid population growth, mainly provoked by an influx of people from the conflict-affected country side, continued to exert additional pressures on the already insufficient basic services in many urban areas.

Thus strengthening local governance for improved service delivery to the people remained a major challenge for the Interim Government in 2007.

UNDP's response

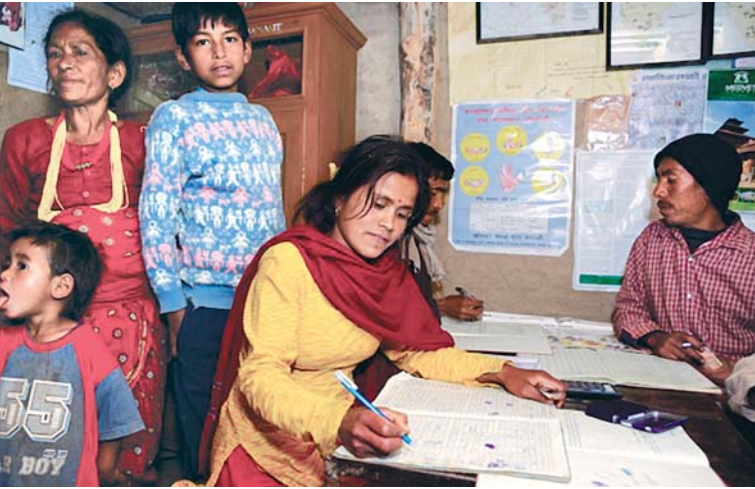
UNDP, in partnership with UNCDF-supported *Decentralized Financing and Development Programme (DFDP)*, continued to support the Ministry of Local Development (MLD) to strengthen decentralised local governance, in line with the provisions laid out in the Local Self Governance Act 1999. In parallel, the programme extended direct support through social mobilisation to the communities, particularly to women, marginalised and the poorest-of-the-poor, to enhance their participation in the planning processes of District Development Committees (DDCs), municipalities and Village Development Committees (VDCs) to build and improve service infrastructures, to initiate micro-credit schemes and to enhance livelihoods. The major donors supporting UNDP's work in decentralised local governance were DFID, Norway and UNCDF.

Support to decentralised local governance

Support was provided to strengthen the capacity of both central and local governments in the areas of participatory planning, gender and social inclusion, financial management, and transparency and accountability.

Table 4: UNDP support to local governance in 2007

| Project | Expenditure (Funding Partners) | Focus |
|--|--------------------------------|---|
| Decentralized Local Governance Support Programme (DLGSP) | US\$ 5,496,100 (Norway, UNDP) | Enhance the capacity of local bodies for effective service delivery; improve socio-economic condition of rural communities through social mobilization; support central policy formulation on decentralisation and poverty alleviation. |
| Decentralised Financing and Development Programme (DFDP) | US\$ 1,706,000 (DFID, UNCDF) | Poverty reduction through implementation of small scale rural infrastructure projects and support local governments to provide services in accordance with Local Self Governance Act 1999. |
| Rural-Urban Partnership Programme (RUPP) | US\$ 326,900 (UNDP) | Improve livelihoods of rural and urban poor through social mobilisation and by establishing rural-urban linkages; enhance capacities of municipalities to address the needs of the poor. |
| Public Private Partnership for Urban Environment (PPPUE) | US\$ 388,200 (PPPUE, UNDP) | Increasing access to basic services for the urban poor through partnerships among the municipal governments, the beneficiary communities and the private sector. |



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Some of the major achievements in 2007 included:

- Support to the Ministry of Local Development (MLD) for the preparation and approval of operational guidelines on Community Development Funds to help institutionalise this local funding mechanism.
- Preparations for the national replication of the performance-based funding system (Minimum Conditions and Performance Measures or MC/PM system) to local bodies. This system will help identify

the capacity gaps of local governments, strengthen monitoring and evaluation through annual assessments, and improve local government's performance in planning and budgeting, budget execution, financial management, transparency and communication.

- Continued support to the National Planning Commission (NPC) and MLD to upgrade the Geographical Information System (GIS) database and produce maps on conflict, vulnerability, resources and ethnicity for more grounded planning. GIS is now operational in 60 districts and many DDCs have used the system to produce different resource maps and generate additional revenue by selling them.
- Disadvantaged Group Mapping, initiated by UNICEF in 15 districts, was further carried out in 53 Districts and Social Mobilisation Mapping in 66 districts in order to identify the most deprived areas and groups and launch better targetted development interventions in a need-based, equitable and harmonised manner.
- *DLGSP* and *Rural Urban Partnership Programme (RUPP)* promoted public hearings in 20 districts and 5 municipalities and social audits in 439 VDCs and 21 municipalities in an effort to enhance the accountability, transparency, and social inclusion of local governments for better service delivery.



Empowered women of Pratibha and Nawabihani Community Organisation, Pakuwa village, Parbat District



“I started producing coffee, after receiving training on coffee production and some coffee saplings. I now earn around Rs. 10,000 annually from coffee production. My husband and I can live comfortably with this additional income.”

- Bhima Devi



“I received loan from my community organisation to buy 2 goats and made 21 out of them. With the income, I was able to marry off my daughters.”

- Duba Poudel



“I received basic training in health and I am now a health volunteer in my community, mainly involved in improving health of mother and children.”

- Min Kumari Malla

Mobilising community organisations for better services

In the absence of local elected bodies, community organisations needed to be established, strengthened and mobilised in order to foster people's capacity and participation in the identification of their development needs and in the planning process for basic service delivery and income generating activities.

About 40% of the total cost of the infrastructure projects (refer to page 5 under local governance) was generated through local resource mobilization involving the DDCs, municipalities, VDCs and the people themselves while the balance was provided by the respective projects in the form of seed grants.

Fostering private-public partnerships in urban areas

Funding provided by the central government has not been able to meet the additional service delivery demands placed on municipal governments due to rapid growth of the urban population. The public private partnership approach, which involves partnership and collaboration among the municipalities, the NGOs, the community and the private sector in the provision of services, is one way to address this problem.

The *Public Private Partnership for Urban Environment (PPPUE)* Programme is implemented in 10 partner municipalities and has a dual approach:

- to improve delivery of basic services; and,
- to generate employment for the urban poor.

On the service delivery front:

- Two community-managed drinking water projects were implemented in Hetauda municipality benefiting about 362 Dalits and squatters in poor neighbourhoods.
- A drinking water supply was set up, managed and used by 571 poor households in Dhalko, Kathmandu in cooperation with Nepal Water Supply Corporation, UN-Habitat and Urban Environment Management Society. Through this community scheme, water could be provided at NRs. 5 per jar while the market price of a similar water jar is about NRs. 50.
- Hygienic slaughtering and meat selling sheds operated by co-operatives were constructed in Mechinagar Municipality reducing the problem of food intoxicification.
- Communal mobile toilets were set up in Dhulikhel and Bharatpur municipalities on land provided by the municipality for free. These toilets are managed by landless Dalits, providing them with a non-land related source of income.
- A community level solid waste management system was introduced in the Kalimati Vegetable and Fruit Market, Kathmandu and Ward No. 1 of Biratnagar municipality.

On the employment front:

- A November 2007 survey of 30 running PPPUE projects in 10 partner municipalities concluded that these

projects had generated employment for 3,423 people (808 female and 2615 male). Of these, 2,869 (660 female and 2,209 male) were self-employed, and 554 (148 female and 406 male) were directly employed by the entrepreneurs themselves after offering skill development trainings.

Vision for 2008 and beyond

- On the local governance front, UNDP will continue supporting the MLD in the implementation of the new national local governance programme that will continue

addressing the issue of government performance for efficient service delivery and accountability, and build the capacity of communities to participate more effectively in planning and decision making and to hold the Government accountable on access to basic services.

- Given the accelerated pace of urbanisation in Nepal, *PPPUE* will continue to support the municipalities to increase the coverage and quality of basic urban services in selected urban areas through active collaboration with NGOs, community people, the private sector and other development partners. The project will strive to reach the urban poor (including women) through greater community involvement. ■

Box 4: Clean-up campaign in Kalimati Vegetable and Fruits Market

The accumulation of rotten vegetables and fruits was creating a number of environmental problems in the Kalimati Vegetable and Fruits Market in Kathmandu, such as foul smell and potential outbreak of diseases.

In July 2007, the *Public Private Partnership for Urban Environment (PPPUE)* Programme, in coordination with the Kalimati Fruits and Vegetable Market

Development Committee (KFVMDC), initiated a clean-up campaign in this market. The staffs of KFVMDC, local vegetable vendors, and the local club and *PPPUE* representatives participated in the campaign to both clean-up the market and to raise awareness about the impact of unmanaged wastes on the health of the vendors and people living in the market vicinity. Even the officials in formal clothes joined with shovels and brooms to clean up the market in this energizing partnership effort.

As a result, the contractor in charge of cleanup at the market has constructed a ramp to facilitate the loading of wastes from the litter bins into trucks. Fruit and vegetable wastes from the market is being composted off-site through a local NGO. Also, a system for managing the waste at the market and disposing of it is being devised with the Kalimati Fruit and Vegetable Market Board.

