

Research: Community Based Mediation Program in Nepal: Framework for Monitoring and Evaluation

Funding Partner: The Asia Foundation (TAF)

The Asia Foundation (TAF) has been active in several countries in supporting community mediation (CM) program including Nepal. Experience has indicated that 'mediation', in comparison to 'arbitration' and/or litigation, is more effective in providing just resolution of disputes satisfactory to both the parties and is long lasting. It promotes harmonious relation in the community and society.

The Pilot Phase (November 2002 to October 2004) conceived the program to be part of the local governance system under the ongoing decentralization framework of the government. The project was accordingly titled: "Dispute Resolution through Village Development Committees and Municipalities". It was envisaged to work primarily with the Ministry of Local Development (MLD) and with involvement of Ministry of Law, Justice and Parliamentary Affairs (MLJPA), the Local Development Training Academy (LDTA) and partner NGOs. The goal of the program was to improve access to justice at the local level through development and institutionalization of mechanisms for alternate dispute resolution (ADR) in the VDCs and Municipalities. Accordingly, the Pilot Phase aimed to establish enabling legal framework under LSGA 1999, to build institutional capacity of VDC/Municipality for mediation.

The program was extended for one more year (2004/05) under USAID support for consolidation and expansion to few more districts/ locations. Currently it is under a consolidation phase of two years (2005-07) being implemented under financial support from The McConnell Foundation and Save the Children.

The objective of this study is to restructure monitoring and evaluation framework for community-based mediation program in Nepal. The basic tasks are to recommend improvements and changes, where necessary, in the M&E methods and practices; and to generate new data and analysis of specific qualitative aspects of the mediation process for more effective implementation and improvement of the program in future.

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1.3 Methodology

The study is based on a comprehensive review of the existing monitoring system of the CM program as well as generation of impact related primary information from interviews of sample disputants.

Review of Existing Monitoring System

Based on the program goal, objectives, outputs and activities a conceptual framework for monitoring and evaluation is presented in Chapter 2. Existing monitoring system of the program – information collection, processing, and reporting at all levels from project areas to the program

districts to the NGO partners in Kathmandu and to TAF – was assessed against the conceptual framework. Gaps and areas of improvement were identified. The process involved:

- review of basic program documents, studies, and secondary information.
- interactions and discussions with responsible TAF staffs.
- interactions with responsible officials of all NGO partners in Kathmandu.
- detail review of the information collection, processing, and reporting system in the project area, district, central office of the NGO partners and TAF; and
- interactions with district coordinators (4), trainers (5), local coordinators (17), mediators (42) and key informants (5) in 14 VDCs and 3 Municipalities of the four purposively selected program districts (see Annex 2 for list of people contacted / interviewed). Field surveys were undertaken for a total of 19 days during June / July 2006.

Sample Survey of Disputants

The need for collecting primary information relating to impact of the program through sample survey of disputants was perceived in the initial stage of reviewing existing information collection formats. The study, therefore, aimed at testing a suitable instrument for periodically collecting requisite information from a representative sample of disputants through field surveys and to analytically demonstrating the potential use of such information for impact assessment as part of the overall M&E system of the program. It was decided to cover sufficiently large number of disputants so that broad indicative conclusion could be derived on the effectiveness of the program from the information generated.

Four districts – Dandeldhura, Kaski, Dhading and Sarlahi – were purposively selected. The selection was based on several considerations such as: (i) areas covered by different partner NGOs; (ii) districts representing east, central, and western region; (iii) districts representing Hill and Terai; and (iv) districts where CM program has been implemented since its inception. Field verifications relating to various issues of existing monitoring system were also undertaken in the four districts.

Around 100 sample disputants, 25 from each of the four districts, was planned to be covered. It was decided to interview only disputants whose cases have been resolved through CM at least six-months before. This was necessary to assess the durability of resolution and because most agreement between the disputing parties would take time to be fulfilled or terms of agreement to be executed. The samples, however, were not randomly selected and the interviews could not always be conducted at the disputant's residence due to onset of rainy season, busy agriculture season and time constraint. Nearby VDCs / Municipalities from the district headquarters were visited and interviews were undertaken wherever the disputants could be contacted, e.g., the farm, tea shop or VDC / local coordinator's office. In some cases, local coordinators made arrangement for disputants to meet at a pre-fixed location. Ideally interviews should have been conducted without presence of any stakeholders, but it could not be strictly ensured since either a mediator or local coordinator or both usually accompanied the team. Though interviews were conducted privately, the knowledge that a stakeholder is present nearby could have introduced positive bias in disputants' response.

A total of 106 disputants were interviewed but responses of only 96 were included for analysis. Response of 10 disputants was discarded since subsequent verification revealed their disputes to

have been resolved less than six months before. The questionnaire was simple and took about 15 minutes for administration.

Major Key Findings

- CM program has been very effective in resolving disputes. Ninety-six percent of the disputants expressed satisfaction with the resolution and 95% responded that there was no pressure exerted from anybody to agree on the resolution.
- The efficiency of CM resolution was also supported from existing information on disputes, viz. 85% were resolved within a week of registration and 72% in a single sitting. agreed provisions have been all fulfilled in majority of disputes resolved (83%) and partly fulfilled in some (7%). Ninety-one percent expressed that the dispute is now fully settled.
- Positive response relating to improvement in relationship is slightly lower 71% responded improved relationship, 23% reported no change meaning that relationship has remained the same as before the dispute was resolved and 5% even mentioned that relationship has worsened.