

Research: Base Line Survey on “Strengthening Community Mediation Capacity for Peaceful and Harmonious Society”

Funding Partner: Japan International Cooperation Agency (JICA)

JICA commissioned IGD carry out a baseline survey (BLS) for the purpose of examining the status of alternative dispute resolution (ADR) and conditions of community mediation (CM) at different levels (central, district and VDC/community levels). IGD carried out the BLS in April-May 2010 in two project districts (Mahottari and Sindhuli) as well as in other four Sindhuli Road Corridor (SRC) districts of Dolakha, Kavrepalanchok, Ramechhap and Sindhupalchok. The overall purpose of the BLS is to examine the current status of alternative dispute resolution (ADR) and conditions of community mediation (CM) at different levels, namely, the central level, the district level (Mahottari and Sindhuli), and SRC Area.

The scope of the BLS included roles and functions of these central, district and VDC level institutions on ADR/CM under existing policies, legal frameworks and the future plan proposed in the Mediation Procedure Bill, the status of coordination and information-sharing among related stakeholders, the status of monitoring and evaluation activities of ADR/CM, statistics on ADR/CM, the status of budget/disbursement, existing resources allocated for ADR/CM, profiles of the institutions, capacity building opportunities and resources provided to these institutions, understanding of personnel on ADR/CM and the formal justice system, awareness on rights and access for justice, attitudes toward ADR/CM, confidence level in dispute management capacity, and capacity for communication/negotiation with concerned stakeholders.

The overall objective of the BLS is to examine the status of alternative dispute resolution (ADR) and conditions of community mediation (CM) at different levels, namely, the central level, the district level (Mahottari and Sindhuli), and Sindhuli Road Corridor Area.

The specific objectives of the survey are as follows:

- Collect baseline information and data to be used at later stages of the Project to monitor and evaluate the project impacts and achievements
- Collect community level information and data to be used for selection of target VDCs/Municipalities for project implementation
- Assess capacity of government authorities to develop a capacity development plan to strengthen community mediation capacity of the target districts

Methodology

This BLS was carried out in Mahottari and Sindhuli districts, and four remaining districts of Sindhuli Road Corridor Area – Dolakha, Kavrepalanchok, Ramechhap and Sindhupalchok. The overall study was based both on primary and relevant secondary information. Participatory approaches and methods were employed to gather qualitative as well as quantitative information. Furthermore, key indicators by output were identified from the project design matrix (PDM) agreed in the R/D to maintain methodological and conceptual precision.

The overall study was based both on primary and relevant secondary information. A questionnaire survey and a participatory method such as focus group discussion were employed to gather qualitative as well as quantitative information. The BLS Team collected and reviewed reports,

documents, relevant data/information prepared by government ministries/institutions, NGOs, and donors. Existing data, specifically related to ADR/CM were collected and analyzed.

Major Key Findings

- It is found that MoLD has no section responsible for ADR/CM. The concerned staff of LBSS has pointed out the need for specific assignment related to CM/ADR. Similarly, the staff of MoPR has pointed out the need for specialization in policy issues related to CM/ADR.
- DFID/ESP/MCMP and MoPR have been reported to be engaged in compiling and updating the statistics on ADR/CM. These statistics are compiled through VDC/district level reports, interactions, and monitoring and evaluation reports. Moreover, CeLLRd also reported similar activities.
- MoLD has not disbursed any budget specific to ADR/CM. It does not have any existing resources (physical or human) specifically allocated to ADR/CM. Information provided by LBSS shows that LBSS Officers have not received any capacity building opportunities and resources provided to them except for their participation in a workshop held in June 2010 related to CM/ADR. The meeting was organized by the COMCAP.
- Aggregate findings clearly show that the central level staffs are aware of CM/ADR. The mean percentage of positive understanding shows that future interventions of COMCAP such as training/workshops and interactions will help raise the level of their understanding. They are aware of the need for people's right and access to justice. These officers have positive attitudes toward CM/ADR, and it can be expected that they will cooperate with COMCAP activities in the future to make the programme successful. However, central level staffs are not confident on the existing capacity of DDC/VDC to manage disputes at local levels.
- COMCAP needs to develop collaborative efforts to make the process of community mediation more effective in its project districts as well as at the national level. Such a collaborative effort may be crucial in lobbying for, and advocacy related to policy on CM/ADR. In the current situation, In the current structure, MoLD is not able to accelerate the pace required for the coordination related to CM/ADR in terms of its existing resources and capabilities. COMCAP needs to develop capacity of the relevant section of the MoLD. Some of the officers at the central level are not yet adequately aware on the issues related to CM/ADR and formal justice system. They need to be involved and/or collaborated to develop better coordination and synergy.
- None of the district level institutions have disbursed any budget related to CM/ADR. However, LPC Mahottari has disbursed some budget in dispute mediation activities. None of the district level institutions have any existing resources (human resource, office space and equipment) allocated for ADR/CM. Data shows that there is no specific policy and operational guidelines related to CM/ADR. However, District Courts have been following District Court Manual and Working Procedure for Mediation. Concerned district

stakeholders (DAO, DPO, DC and LPC) do not have roles and functions specific to CM/ADR.

- District Development Committee (DDC) is mandated to follow participatory 14-step planning process as provisioned by Local Self Governance Act (LSGA) 1999 and its supplementary rules/regulations. The VDC Councils formulate their programmes as per their resources and capacity. District level, central level and sectoral programmes that are beyond their resources and capacity are first endorsed in the VDC Council and are then submitted to area (ilaka) level workshops for prioritization. Programmes, especially sectoral ones related to agriculture, livestock, irrigation, industry, drinking water, road construction, etc. are presented in the workshop by the representatives of district level sectoral offices. Planning and utilization of District Development Fund (DDF) is executed in cooperation with the district/VDC level political representatives and NGO/CBOs.
- None of the DDCs of the surveyed district have allocated fund to CM/ADR. Maximum amount is spent in social security (allowance for the differently able persons, widows, and senior citizens), road construction, drinking water and sanitation, non-formal education, and community development programmes in Sindhuli. None of the district stakeholders have mentioned capacity building opportunities and resources provided to them to implement CM/ADR related activities and none of the district stakeholders have maintained any statistics related to CM/ADR. Similarly, none of the survey districts have any programmes related to CM/ADR except MCMP being implemented in 15 VDCs of Mahottari district. None of the survey districts have any monitoring and evaluation activities especially related to CM/ADR. However, DFID/ESP has been monitoring MCMP activities, and according to its officials, evaluation of the project will be carried out soon.
- The VDC fund is disbursed in the areas/sectors like construction of road, drinking water supply, electrification, support to education (scholarship, purchase of sports items, etc.), support to health (for example, maintenance of health post building), support to college, support to improved mill construction, support to temple construction, support to agriculture and irrigation, community development activities, support to schools maintenance, support to road maintenance, support to livestock insurance, support to matching fund, preparation of village profile and grant to local clubs. The pattern of budget allotment indicates that the highest amount of the fund is spent in the construction sector. Stakeholders like political parties and NGO/CBOs have been cooperating with VDCs through involvement in programme planning, and programme implementation.