

## **The Asia Foundation**

### **Dispute Resolution through Village Development Councils and Municipalities USAID Grant No. 367-G-00-03-00009-00**

#### **Semi-annual Progress Report June 2004**

##### **Highlights of results achieved (November 2002-May 2004)**

- ✓ Directives/procedures for mediation under the LSGA, 1999; drafted, disseminated, and currently under discussion
- ✓ Training materials (mediator's training workbook, mediator's manual, and trainer's guide with glossary); developed and currently in use
- ✓ 62 trained and field-tested Master Trainers (44 district level, 18 in Kathmandu)
- ✓ 1,335 Community Mediators
- ✓ VDC/Municipality officials in all 75 locations knowledgeable of mediation concepts and process
- ✓ 640 applications received for mediation, 535 cases settled (January-May '04)
- ✓ Mediation training replicated twice by Local Development Training Academy, led by core trainers and using resource materials of this project

##### **I. Summary of Program Activities during December '03–May '04:**

- **Refresher Training for Community Mediators**
- **Process Orientation for VDC/Municipality Officials**
- **Social Marketing**
- **Implementation of Mediation**
- **Selection of District and VDC coordinators**
- **Steering Committee Meetings**

##### **Refresher Training for Community Mediators**

In December-January the Foundation supported refresher training for community mediators (CMs) trained earlier. This two-day refresher followed up, clarified, and reinforced key concepts necessary to fully prepare CMs for actual mediation. The training also introduced CMs to the administrative process, documentation, and data collection forms to be used during actual mediation. After refresher training, CMs were able to distinguish positions, interests, and needs, and demonstrate practically the options and solutions that were identified and short-listed. Participants also took an oath of allegiance to the code of conduct for mediators.

##### **Process Orientation for VDC/Municipality Officials**

In conjunction with the above-mentioned refresher training for CMs, the Foundation supported orientation for VDC/Municipality secretaries and other officials in each project location. In addition to reinforcement on mediation concepts and practices, these officials were provided orientation on the administrative process to register and refer disputes for mediation, and the use of all documents needed to support mediation sessions. This process orientation also contributed to building better relationships between local bodies and partners and CMs in project areas.

## **Social Marketing**

Social Marketing and Distribution Nepal (SMD) completed social marketing of mediation in close coordination with the Foundation and its partner NGOs. As a part of the development of the social marketing campaign, SMD pre-tested drafts and designs of behavioral change communication (BCC) materials with diverse groups to select the best design of the BCC materials. SMD refined the campaign and materials twice, based on creative research in the field and feedback from the Foundation and its partners. SMD designed, produced, and distributed 11,000 posters with the mediation logo, 11,000 consumer leaflets, and 120 audiocassettes. SMD also conducted street dramas on mediation in all 75 project locations.

The street dramas were highly appreciated by partners, target groups, and local authorities. The estimated number of population reached through the street dramas was over 46,000, with over 680 people viewing each performance. The audience was surveyed for feedback at every performance; most of the feedback was about the need to perform the drama in each ward of the project VDCs and municipalities for better publicity and education. In many locations, local newspapers and cable networks covered part or all of the street drama performances.

## **Implementation of Mediation**

In December, the Foundation signed subgrant agreements with each partner NGO to support the provision of community mediation services in all 64 VDCs and 11 municipalities. In the first five months of actual implementation, 640 cases were registered, of which 535 cases were settled, 75 cases are in mediation, and 30 cases (4.9%) could not be mediated. Of the disputants, 66 percent were male and 34 percent female; 34.7 percent were higher caste, 17.7 percent were dalits, and 47.5 percent were indigenous and other minority groups.

With over 600 cases and a 95 percent resolution rate in only the first five months of community mediation, the program has established the interest-based facilitated model of community mediation as an effective alternative for dispute resolution in Nepal's socio-cultural setting. Communities are experiencing quick, inexpensive, and effective resolution of disputes, improvement in social and family relations, and improvements in social justice. As a result, there is a high level of commitment to this program at the local level. Furthermore, these successes have increased the capacity and energy of local citizens. Local citizens have great hopes, high energy, and many good ideas for the future of community mediation in their villages and municipalities.

The early successes and high level of acceptance of interest-based facilitated mediation in the 75 pilot locations indicate that the mediation program is meeting a great need of local communities in a culturally acceptable way. In addition to the burgeoning requests from government and quasi-judicial bodies in their areas, many mediators receive frequent requests for cases to be "heard" from surrounding communities as well.

In general, local government bodies have been cooperative, and have provided different forms of support to the project, including permission for participation of VDC secretaries in orientations and launches, utilization of VDC space, and assistance in publicizing mediator lists and inaugurating street dramas.

## **Selection of district and VDC coordinator**

Each NGO has assigned a full-time district coordinator, selected from the pool of district-based master trainers, to be responsible for the smooth and accurate implementation of

mediation as laid out in process guidelines. These district coordinators and district-based master trainers help identify the strengths, weaknesses, and consistency of implementation procedures in assigned localities, and ensure quality of mediation services through constant monitoring and feedback to CMs. District trainers also provide orientation to all applicants about the mediation process. These orientations have helped the disputants to learn about the mediation process, the responsibilities of CMs as well as disputants, the selection of CMs and their code of conduct.

Similarly, full-time VDC coordinators were selected from the pool of CMs in each location, to assist their VDC/Municipality secretary in carrying out administrative responsibilities related to mediation (such as applications, scheduling, etc.) and to coordinate practice-sharing sessions for CMs.

### **Observation and Coaching**

Each partner NGO has assigned at least two trainers per district to attend mediation sessions, and provide post-mediation debriefing and coaching to community mediators in each project location. These trainers, along with the district and VDC coordinators mentioned above, are one of the great strengths of this program and its ability to be so successful at the local level.

### **Steering Committee Meetings**

The project steering committee constituted and chaired by the Foundation has held four meetings in this reporting period. In addition to sharing experiences on training activities, the meetings focused on the following:

- on December 21, 2003 partners were introduced to documentation developed for supporting mediation, and discussed VDC-level administrative process issues;
- on January 30, 2004 partners discussed and agreed on how to overcome implementation delays, organize interaction programs at project districts, and calculate essential budget items for practice sharing and interaction programs;
- on April 6, partners shared their experiences of four months of pilot mediation and prepared for an appreciative inquiry summit for program participants; and
- on April 17, partners brainstormed and agreed on a viable expansion strategy for the community mediation program.

In addition to discussion and agreement on the abovementioned issues, the project steering committee came to agreement on the following program-wide issues:

- inclusion of district judges or similar high district-level government officials as resource persons in all district-level public interactions related to mediation;
- geographic expansion of the program should first be within current project districts and then to new districts; and
- establishment of relationships with local/district legal aid services and advocacy/human rights groups to ensure that women and disputants from marginalized groups have access to legal aid and information regarding their legal rights.

**II. In conjunction with and complementary to the above activities, the Foundation conducted the following activities with its General Grant funds during the reporting period.**

- **Interaction Program with Stakeholders**
- **Observation Tour**
- **Practice Sharing**
- **Appreciative Inquiry Summit**

#### **Interaction Program with stakeholders**

With Foundation support, partners organized interaction programs on community mediation with district-level stakeholders--especially administrative agencies that exercise quasi judicial authority and government line agencies--in all 11 project districts. The objectives of the interaction program were to impart an understanding about the rationale and significance of alternative dispute resolution especially mediation and its appropriateness in resolution of disputes at the local level; share information about the pilot community mediation project; and to build rapport and linkage to secure their support and cooperation in implementing the pilot project. District stakeholders expressed their commitment to support the implementation of mediation. District court judges even offered to include the project's CMs in the roster of district court mediators for court-referred mediation.

#### **Observation Tour**

During March 9-11, the Foundation provided support for partners Institute of Governance and Development and Pro Public to participate in an observation visit to Bangladesh to observe mediation sessions supported by the Madaripur Legal Aid Association and Banche Shekha. The visit provided the opportunity for Nepali participants to observe and compare the Bangladeshi rights-based model to the Nepali interests-based model of mediation.

#### **Practice Sharing**

From January 2004 to date, the Foundation has supported practice-sharing sessions for CMs, project coordinators, trainers, VDC/Municipality officials, and community-based organizations. CMs and trainers involved in mediation bring their diverse inputs to these sessions, sharing experiences and lessons from their unique communities, and learning from each other.

#### **Appreciative Inquiry Summit**

In April 2004, the Foundation organized an Appreciative Inquiry Summit in Kathmandu to engage a diverse spectrum of project participants in generating ideas to enhance the effectiveness of the initiative. The summit objectives were to find and study what was working well in the community mediation program and develop a shared vision in order to generate ideas for future development and mobilize local action. Well over 60 percent of Summit participants were local-level mediators, former disputants, and VDC officials. District-level trainers and coordinators made up another 25 percent of participants, with Kathmandu-based NGO partners accounting for the remaining 15 percent.

Summit participants identified mediator training and selection, as well as NGO coordination and positive local government relations, as core processes enabling the success of the program. Impartiality of mediators, win-win solutions, increasing local capacity, and community peacebuilding were named as the most significant benefits. Participants developed goals, project recommendations, and local action plans to improve mediator

effectiveness, expose more members of the community to the skills and benefits of interest-based approaches to conflict resolution, integrate mediation activities into local and district governance functions, and use the community mediation project as a springboard for further community peacebuilding efforts.

### **III. Challenges:**

#### **Security**

The security situation deteriorated further during this reporting period, with the Foundation and its partners having to adjust program activities for each location in order to assure effective and safe mediation sessions. In particular, destructive activities by Maoist insurgents posed logistical difficulties in some VDCs, both in terms of travel as well as in conducting mediation. Some VDC offices were either burned down or locked up by the insurgents, making it difficult to physically coordinate mediation application and data collection/storage with VDC officials. In the absence of VDC offices, CMs and VDC coordinators used public spaces or even their own homes to provide mediation services. Partner staff and CMs continue to conduct activities during the daytime, and always keep local administration informed of group movements and activities.

#### **Assuring social justice**

During an alternate dispute resolution process such as mediation, there is the risk that the stronger party may dominate the process and decide on a solution that does not seem fair to the weaker party. How to ensure that the mediation solution benefits women, the very poor and members of disadvantaged caste and ethnic groups is, therefore, a challenge. The Foundation has and will continue to enhance mediator training in inquiry and reframing skills to effectively assist marginalized disputants in identifying, articulating, and addressing their interests; use selection criteria to increase diversity of mediator pools; develop partnerships and referral relationships with advocacy and legal aid programs; and monitor settlements to see whether or not agreements reached in mediation have been effective for both parties.