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STRENGTHENED RULE OF LAW AND RESPECT FOR HUMAN RIGHTS IN NEPAL

ANNUAL REPORT: 1 OCTOBER 2004
THROUGH 30 SEPTEMBER 2005

31 OCTOBER 2005

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Chief of Party



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ACRONYMS AND ABBREVIATIONS

CIAA	Commission for the Investigation of the Abuse of Authority
DLAC	District Legal Aid Committees
ICAC	Independent Commission against Corruption (Hong Kong)
NGO	Nongovernmental Organization
NJA	National Judicial Academy
NVC	National Vigilance Center
OAG	Office of the Attorney General
OJT	On-the-Job Training
REC	Recommendation and Evaluation Committee
ROL	Rule of Law
TADA	Terrorist and Destructive Activities (Control and Punishment) Ordinance
USAID	United States Agency for International Development

EXECUTIVE SUMMARY

STRENGTHENED RULE OF LAW AND RESPECT FOR HUMAN RIGHTS

During his two visits to Nepal, Mr. Fred Humphreys, ARD International Consultant, developed data collection instruments to measure the time required for processing a case filed in the courts. Two pilot courts, the Special Court and the Lalitpur District Court, gathered the data and completed the data collection instruments. The ARD Rule of Law (ROL) Project began a process of photographic documentation of the conditions of Nepali courthouses. The documentation was used in a public relations campaign to increase funding for the judicial system.

During his visits, Mr. Humphreys worked on a case ageing report to identify target dates for the flow of a case and determine whether these dates are met. The Project helped the Supreme Court to handle of case briefings by identifying the facts of a case and organizing the file before putting it on the court calendar for decision. The case briefing focused on approximately 1,400 cases in the Supreme Court that had been pending for five years or more.

ARD organized a tour for ten Nepali judges to visit courts in the Netherlands and Slovenia, and the Research Institute on Judicial Systems and the Italian Judicial Council, both in Italy. The judges observed court-referred mediations systems, learned about case management, and met with the Italian Judicial Council on judicial training, and appointment and transfer of judges.

The Project staff and Mr. Humphreys worked with the Special Court and the Lalitpur District Court to organize the courts' archives. This included purging outdated documents from the archived files and general organization.

The first step in work plan activities for the development of legal aid programs for the indigent and disadvantaged involved contracting with a local nongovernmental organization (NGO) to perform an assessment of the current legal aid system. If an assessing consultant determines that a public defender system is sustainable, the Project will bring a consultant to Nepal to implement the recommendations and assist in setting up a public defender system.

Following the recommendation of judges in the Netherlands that the first step in a court-referred mediation program should be a strong public relations program to get support and buy-in for a program, ARD brought Robert Randolph, Mediation Consultant, and Judge Patrick King, a retired judge, to Nepal to participate in three workshops. These workshops brought representatives from the business community, the Nepal Bar Association, and judges together and presented them with the benefits of mediation and court-referred mediation. The Project anticipates that Mr. Randolph and Judge King will return to assist the court in setting up a court-referred program and train mediators.

At the start of the Project, ARD supported an interaction program organized by the Supreme Court Bar Association. Judges from the Supreme Court and members of the Supreme Court Bar Association discussed issues and problems and, at the conclusion of the interaction program, recommended measures for improving hearings at the Nepal Supreme Court.

The Project considered issues related to security for judges, particularly that of judges hearing cases in which alleged Maoist were the defendants. The Project was not able to provide any concrete solutions or recommendations but is continuing to look at the security issue.

During the project year, ARD assisted the National Judicial Academy with training needs assessments and workshops. The results from the assessments and workshops are now being organized and will be reviewed and analyzed.

MORE TRANSPARENT, ACCOUNTABLE, AND EFFECTIVE GOVERNANCE

The Special Court moved into newly remodeled facilities. ARD provided the court with office equipment and furniture. The court now has excellent and modern facilities.

During the year, ARD supported four regional anticorruption conferences organized by the Commission for the Investigation of the Abuse of Authority (CIAA) and the National Vigilance Center (NVC). The conferences objectives were to:

- Improve performance of anticorruption systems in the country;
- Improve performance of organizations contributing to good governance at the local level;
- Build strong public support for ongoing efforts against corruption;
- Build and develop integrity in public service and the private sector;
- Educate public on their role against corruption;
- Form/develop non-partisan, free, and active local forums against corruption;
- Build a culture of zero tolerance against corruption; and
- Educate people to demand effective, accountable, and transparent governance.

At the conclusion each conference, a conference declaration was adopted setting out a program of anticorruption activities.

ARD supported a training workshop for investigative journalists, which was organized by ReMAC, a local NGO. Similar workshops are planned for the next project year.

Training activities also included tours for staff of the CIAA, NVC, and the Office of the Attorney General (OAG) to anticorruption agencies in Hong Kong, Kuala Lumpur, Malaysia, and Sydney and Canberra, Australia. Other anticorruption training included workshops on investigation and trial of corruption cases and plea bargaining.

A manual, [“Anticorruption Investigation and Trial Guide.”](#) was written for the investigators and prosecutors at CIAA and OAG.

At the request of the Special Court, ARD supported an interaction program to discuss the delays at the Special Court and to find ways to speed up the case flow. The interaction program recommended a procedure in which a brief of the facts would be included in the files sent to the Special Court.

During the project year, ARD worked with the OAG to develop a strategic plan and provided it with books and shelving for the OAG library. A Criminal Intake Form was developed that would provide prosecutors with basic information when individuals were arrested and charged. This form should contribute to improving improper police activity and attention to the civil rights of an accused.

ARD has been working with the NVC to write a Strategic Plan and has hired a local consultant to finalize the plan. Staff of the NVC have been included in the study tours and all of the anticorruption workshops. ARD has begun working to improve the filing and processing of financial declarations forms that government officials are required to perform. ARD has supplied equipment and furniture to NVC.

Grants Program

The ARD Grants Program received and reviewed 56 applications for a grant. The Recommendation and Evaluation Committee selected 24 applicants for a second stage review. A final 14 applications were selected for budget and technical review. If the budgets and technical reviews are satisfactory, the 14 applicants will each be awarded a grant not to exceed \$50,000.

Monitoring and Evaluation

During the project year, Leo Surla, a consultant on monitoring and evaluation, made two trips to Nepal to assist ARD in reporting on performance and monitoring of its activities. Mr. Surla developed statistics on the many training events that ARD supported or organized. He also assisted in setting up a Partners Program Review Advisory Committee to provide ARD with ongoing comments and critiques of its compliance with performance and monitoring.

I.0 STRENGTHENED RULE OF LAW AND RESPECT FOR HUMAN RIGHTS

I.1 NEPAL COURT ACTIVITIES

I.1.1 Activity: Streamline and Strengthen Management Capacity of Judiciary

During the project year, Mr. Frederick G. Humphreys, ARD consultant, made two trips to Nepal to assist in developing and implementing Rule of Law (ROL) Project activities for strengthening the management capacity of the Nepal judiciary. During his first visit, the Special Court and the Lalitpur District Court were selected as pilot courts in which Mr. Humphreys would work.

During the February trip, Mr. Humphreys documented the workflow in the two courts and designed a data collection instrument to measure the time required to complete each step in processing a case. The data collection instrument and instructions for collecting the data were pre-tested in the two courts and found to be satisfactory.

After discussion with the two courts on procedures for gathering the data required for the data collection instruments, the Special Court decided to use its staff to gather the data during regular working hours. The data was gathered and analyzed. The above chart shows this data and the average time for disposal of a case.

THE SPECIAL COURT TIME SERIES DATA OF CASES SELECTED FOR BASELINE SURVEY		
NATURE OF CASE	SAMPLING NUMBER	AVERAGE TIME FOR DISPOSAL OF A CASE
File Corruption	21	3 yrs 1 mo 7 days
Fake Certificate	23	8 mos 27 days
Disproportionate Property	3	2 yrs 8 days
Offense Against State	4	2 yrs 5 mos 18 days
Bribe	2	1 yr 1 mo 12 days
TOTAL	53	9 yrs 5 mos 12 days
Average time for disposal of a case: 1 year 10 mos 20 days		

However, the Lalitpur District Court is much larger, with more files, and the staff cannot gather the data during regular working hours. Consequently, the court and ARD decided to organize on-the-job training (OJT) workshops to train the Lalitpur staff in data collection. The workshops were held on weekends and holidays. A feature of the OJT workshops was that, as part of its training, the staff would collect the data required by the data collection instrument from the court files. Using the data collected, a time series report was prepared each for civil cases, criminal cases (persons), and criminal cases (state)¹ in the Lalitpur District Court².

¹ Criminal cases (persons) are filed by individuals and when the crime is minor, i.e., assault or defamation. In the United States many of these would be considered torts. Criminal cases (state) are more serious crimes and filed by the police or prosecutors.

1.1.2 Activity: Logistical Support

Nepali courthouses are in a very poor condition and there is little maintenance of the buildings' exteriors or interiors. One reason for this is that the judicial system receives approximately 0.5 percent of the national budget.

One of the Project's activities is to increase the government's financial contribution to the judiciary. In an effort to achieve this, the Project is developing a public relations campaign to increase the government's support and encourage financial support from the international donor community. ARD entered into a contract with a local public relations firm, Urban Pixel, to plan the campaign and develop the materials for the campaign.

The campaign began with the Supreme Court Registrar selecting 25 courthouses for photographing and videotaping in order to show the conditions of courthouses in Nepal. Due to Maoist activity, the photographer was not able to travel to some of the original 25 courthouses, and other courthouses were selected. The photographing and videotaping of the selected buildings have been completed. Urban Pixel is now developing brochures, pamphlets, leaflets, and print media materials using these photographs. Drafts will be submitted to the Supreme Court for approval. After approval, the brochures and pamphlets will be printed and distributed throughout Nepal.

1.1.3 Activity: Develop and Implement an Effective Case Management System

Case Management

Mr. Humphreys designed a case ageing report to track the progress of cases and identify when a case misses its target due dates. The report is now being reviewed by the Special Court and Lalitpur District Court. The report has also been sent to TechMinds, a local computer company that developed the software for a Nepal case management system. TechMinds will determine if the data needed for the proposed case ageing report is available from the case management system.

Mr. Humphreys also prepared a manual, ["Using Case Analysis and Time Series Data as Case Management Tools,"](#) for the Nepali courts. The manual describes the design and maintenance of a case tracking system.

The United Nations Development Program (UNDP) has installed software developed by TechMinds in 7 pilot courts in Nepal. Mr. Humphreys, Mr. Fred Yeager (ARD Chief of Party), and Govind Shrestha (Deputy Chief of Party) visited the Kaski District Court in Pokhara to observe the software and its implementation. During his July visit, Mr. Humphreys met several times with TechMinds and evaluated the software for use in the Special Court and the Lalitpur District Court. He expressed some concern about the software, but since the Nepal courts have already decided to use the software, he did not proceed with a thorough analysis. Mr. Humphreys set forth his findings and concerns in the report ["Case Management Software from TechMinds."](#)

Case Briefing

The Supreme Court and ARD agreed to a case briefing project that would brief and organize approximately 1,000 cases that had been pending at the Court for more than 5 years. An OJT program was designed that would train staff in procedures for preparing a brief of the case facts and organizing the files. After briefing and organizing, the cases would then be put on the court calendar for decision by the court. Staff from the district courts and appellate courts were trained over a period of

² To see the time series data for the Lalitpur District Court, go the [Quarterly Report: April-June 2005](#).

approximately 6 weeks using the 1,000 backlogged cases as training materials. The project was successfully completed, and, at the end of July 2005, 253 of the backlogged cases had been decided. See Annex A for a report on the project. At the end of the case briefing project, the trainees were asked to prepare an evaluation of the OJT training. A summary of the trainee evaluations is provided as Annex B.

Observation Tour

Ten Nepali judges³ traveled to Europe to observe court-annexed mediation, case management, and judicial council activity. The tour from 3–16 July 2005 took the judges to the Arnhem District Court, Arnhem, the Netherlands; the Ljubljana District Court, Ljubljana, Slovenia; the Research Institute on Judicial Systems, Bologna, Italy; and the Italian Judicial Council, Rome, Italy.⁴

The program on case management at the Research Institute on Judicial Systems included a presentation on the general structure of the Italian judiciary followed by a presentation and discussion of the general principles of case management. The focus of the discussion was preparation for developing and implementing a case management system. The presentation by Drs. Marco Fabri and Francesco Contini covered documenting and understanding a court's case flow as a foundation for the development of a system. A presentation followed on manual case management systems and transitioning from a manual to an automated system. The participants visited the Bologna Civil Court and a court of first instance and observed the functioning of that court and its use of automation.

1.1.4 Activity: Strengthen Justice Sector Appointment, Promotion, and Recruitment

Ten Nepali judges visited the Italian Judicial Council and discussed council procedures and transfer of judges. They also witnessed a council meeting, in which members discussed a transfer and vote to defer the matter for technical reasons.

1.1.5 Activity: Develop a Scientific Central Archive System for the Courts

A major activity during the last year has been upgrading the Special Court and the Lalitpur District Court archives. These two courts were selected as pilot courts for the upgrading of court archives. After successful completion of upgrading and installation of a computerized logging and tracking system, the procedures used will be implemented in other courts. Mr. Fred Humphreys worked on the archive upgrading during his two trips to Nepal. In his first visit, he gathered data on the condition of the archives and the laws and regulations governing the storage and retention of court records.

In both courts, archived files had been put into cloth bags and stored on available shelving. When the shelves were filled, the cloth bags were then left on the floors. Rodents and insects freely invaded the cloth bags. Many of the files contained documents which, under the laws and regulations, could be thrown away. Mr. Humphreys recommended that the files be purged of outdated documents and that the remaining files be stored in boxes designed for that purpose. During his two visits, Mr. Humphreys gathered data on archival file boxes that would meet Nepali court requirements, and he recommended a



³ For the names of the judges, go to [Quarterly Report, April-June 2005](#).

⁴ To see the agenda for the tour, go to [Quarterly Report, April-June 2005](#).

file box that he believed would meet all requirements. The Lalitpur District Court and the Special Court accepted Mr. Humphreys' recommendation, and the Project placed an order with a local firm.

During his visits, Mr. Humphreys also wrote a "[Manual for Archiving in the Nepal Courts,](#)" which has been delivered to the Special Court and Lalitpur District Court.⁵ The manual provided information on procedures for purging, organizing, and boxing archived files. The Special Court decided the number of archived files was small enough that its staff would be able to handle them. The staff has completed the purging and organizing.

The number of archived files at the Lalitpur District Court is much larger than that of the Special Court, and much more time would have been necessary for the staff to purge and organize files in addition to their regular duties. Consequently, the Project and the Lalitpur District Court agreed on an OTJ workshop to teach the court staff purging and organizing procedures. The workshops were held on weekends and holidays so as not to interfere with regular duties. During the OJT workshop, 38,734 files were purged and organized. A copy of the report prepared by the Lalitpur District Court can be found as Annex C.

During his second visit to Nepal, Mr. Humphreys worked with a local software development firm to develop an automated system for recording and tracking archived files. The firm has completed development of the software. Upon approval by the Supreme Court Registrar, the software will be installed in the Special and Lalitpur District Courts and the staff will begin inputting the data.

1.1.6 Activity: Legal Aid Program for the Indigent and Disadvantaged

There are a number of local nongovernmental organizations (NGOs), including the Nepal Bar Association, that are providing legal aid to women and the disenfranchised. The Nepali courts provide legal aid through a system of stipendiary lawyers. There is one lawyer appointed in each court, except for the Supreme Court in which two lawyers are appointed. The stipendiary lawyers are appointed for one-year terms and receive a very small stipend. Under the Legal Aid Act of 1997, the government provides legal aid through the District Legal Aid Committees (DLAC). Presently there are DLACs in 33 districts.

ARD decided that the activity's first step should be an assessment to determine the extent of legal aid available to women, indigents, and disenfranchised groups and whether there were any gaps or overlaps in the system. ARD contracted with a local organization to do an assessment of the current legal aid programs in Nepal. The contract required the local firm to:

- Assess current legal aid programs offered to indigents and disenfranchised groups;
- Assess current methods of appointing counsel to represent indigents and disenfranchised groups; and
- Assess court rules for appointing counsel.

The assessment was completed and the report delivered.⁶

In the next project year, a consultant will:

⁵ To see the [Manual for Archiving in the Nepal Courts](#), go to "Trip Report II: Archiving & Case Management 24 June- 22 July 2005, Frederick G. Humphreys, Consultant.

⁶ [Study of the Current Legal Aid System in Nepal](#), Law Associates Nepal, 2 September 2005

- Followup on the report recommendations;
- Develop a training program for legal aid counsel; and
- Develop a certification program for legal aid counsel.

1.1.7 Activity: Strengthen Mediation and Encourage Consensus Building in the Justice System

The ten Nepali judges on the observation tour to Europe observed court-annexed mediation programs at the Arnhem District Court, Arnhem, the Netherlands and Ljubljana District Court, Ljubljana, Slovenia. At both courts, judges and staff members gave presentations on the principles and functioning of court-annexed mediation. The Nepali judges also visited the Utrecht Appellate Court where judges gave several presentations on mediation in an appellate court. The director of the Netherlands Mediation Center spoke about the center and its activities.

There is a strong community mediation program in Nepal. The UNDP also has a court-referred mediation program in which cases are sent for mediation with little follow-up or support by the courts. There is a Mediation Center-Nepal which does some court-referred mediation. There is currently no effort at mediation by the business community. The principle objective of the ARD program is to develop court procedures for referring and tracking cases referred for mediation. ARD will also work with the business community to develop mediation and reduce the number of cases filed in the courts. Consequently there will be close coordination with the other mediation programs, but no duplication or overlap.

During the program at the Arnhem District Court, Judge Machtel Pel made the point that, before beginning court-referred mediation, there should be a strong public relations program to develop support in the business and legal communities and with the judges. Following Judge Pel's advice, ARD brought Robert Randolph, Mediation Consultant, and Judge Patrick King to Nepal to participate in three workshops on court-referred mediation. The workshops were designed to explain the benefits of and build support for court-referred mediation to businessmen/women, lawyers, and judges. The workshops were held in Kathmandu, Biratnagar, and Pokhara during the week of 26 September 2005. The agenda was the same for the three workshops. See Annex D for the Kathmandu workshop's agenda. The workshops were organized by the Nepal Supreme Court, Nepal Bar Association, and the Federation of Nepalese Chambers of Commerce and Industry and were supported by the United States Agency for International Development (USAID) and ARD, Inc.

During his trip to Nepal, Mr. Randolph met with business leaders, bar leaders, and courts to discuss court-referred mediation and gather their ideas and opinions. In general, the individuals with whom Mr. Randolph met were receptive. The indications are that the business men/women and lawyers are interested in mediation and would welcome further initiatives from ARD.

1.1.8 Activity: Strengthen Communication, Coordination and Interaction

On 8 October 2005, an interaction program was organized by the Supreme Court Bar Association with support from ARD. The agenda for the meeting between the judges of the Supreme Court and the members of the Supreme Court Bar had eight items for discussion and resolution. However, the discussion was so intense and animated that only two items were discussed.

The recommendations discussed and passed were the following.

- The Supreme Court should implement the rules for submitting a brief of argument.
- Court proceedings should begin at the appointed time with the lawyers present.
- The Supreme Court should implement a “lead lawyer” system in which the lead lawyer would make the argument and other lawyers would speak only on points not covered by the lead lawyer.
- Lawyers should be required to finish their arguments within the time allotted and the allotted time should be enforced.
- The Court would give its reasons for issuing or refusing to issue an interim order.
- There should be further interactions.

In January, a new Chief Justice took office who was unpopular with the Nepali lawyers. After some confrontations, the Nepali lawyers refused to appear before him. Consequently, the planned interaction programs were delayed until a new Chief Justice was appointed. The new Chief Justice has been appointed and the Project expects to support several interaction programs between the Supreme Court and the Supreme Court Bar Association.

ISSUES FOR DISCUSSION

- Supreme Court/Supreme Bar Association Interaction
- Pleading management
- Interim orders
- Postponement of court hearing
- Precedent
- Review petition
- Leave petition
- Arbitration
- Bar-Bench relationship

1.1.9 Activity: Develop and Implement Court User’s Charter

Govind Shrestha, Deputy Chief of Party, met with the Supreme Court Committee that is working on the Court User’s Charter. The committee submitted a charter and asked for assistance to print and distribute it. However, the charter was only applicable to the Supreme Court. Mr. Shrestha requested that the Supreme Court develop a Court User’s Charter for use in all Nepali courts. The Project expects to assist the Supreme Court with printing and distributing of the revised charter.

1.1.10 Activity: Review Security for Judges

Courthouse security is non-existent and people enter and leave courthouses with no attempt at security. In addition to the lack of security, there is concern that Maoists target judges who render verdicts against individuals charged under the Terrorist and Destructive Activities (Control and Punishment) Ordinance (TADA) or other laws, including the Offense Against the State Act, the Public Offense (Control and Punishment) Act, and the Possession of Illegal Arms and Explosives Act.

Five courts were originally designated to hear cases under TADA. They were:

- Biratnagar Appellate Court in the eastern region;
- Patan Appellate Court in the central region;
- Pokhara Appellate Court in the western region;
- Nepalgunj Appellate Court in the mid-western region; and
- Mahendranagar Appellate Court in the far-western region.

Effective 20 August 2005, the jurisdiction to hear and decide TADA cases was extended to all 16 appellate courts.

During the project year, ARD Project staff met with judges at the Patan, Pokhara, and Biratnagar Appellate Courts to determine whether there were TADA cases filed and their results. ARD learned that a few cases had been filed, but even fewer were decided for reasons related to the logistics of transporting defendants and witnesses through Maoist-held territory.

The Project has not yet developed a program to provide the required level of security, but discussion is continuing.

I.2 OTHER JUDICIAL SECTOR ACTIVITIES

I.2.1 Activity: Strengthen Institutional Capacity of the Judicial Council

During the observation tour to Europe, the Nepali judges met with the Italian Judicial Council in Rome, Italy. The Italian Judicial Council's mandate is similar to that of the Nepal Judicial Council. Therefore, the judges were able to learn about the Italian council's activities and procedures for appointing, transferring, disciplining, and training judges. The Nepali judges also attended a session of the council at which the transfer of an Italian judge was discussed. The Nepali judges were surprised at the openness with which the issue was discussed and the fact that there was a vote by show of hands.

A consultation meeting was held on 5 August 2005 in Kathmandu to assess the organizational structure, composition, and role of the Judicial Council and to discuss making the council more accountable and responsible. Participants included past and current members of the Judicial Council, Supreme Court judges, representatives of the Ministry of Law, Justice, and Parliamentary Affairs, and representatives of the Nepal Bar Association. After presentations by the Undersecretary of the Judicial Council, President of the Supreme Court, and the President of the Nepal Bar Association, there was extended discussion by the participants. A large part of the discussion covered judicial corruption and the need to discipline judges who are charged with or suspected of corruption. At the end of the program, ten conclusions and recommendations were adopted. They included:

- Suggestions for making the council more effective in maintaining discipline in the judiciary;
- A more transparent system of appointment, promotion, and transfer; and
- Enhancement and capacity building of judges.

1.2.2 Activity: Strengthen Institutional Capacity of the National Judicial Academy

During the year, the Project held numerous meeting with the National Judicial Academy (NJA) to discuss assistance and possible joint activities. Among the items discussed for assistance were updating the NJA's current Strategic Plan, updating its training assessment, and providing office and training equipment.

After discussion about the Strategic Plan, ARD and NJA agreed that an experienced strategic planning consultant should be engaged to assist the NJA with updating its Strategic Plan. ARD entered into a contract with Management Innovative, Training, and Research Academy to assist the NJA with updating its strategic plan.

Updating the training assessment was a key activity for the NJA since it would be the basis for the training curriculum for the next several years. ARD agreed that it was a key activity and agreed to provide support for updating the assessment. After preparing a questionnaire to gather information on perceived training needs, the NJA, with ARD support, organized workshops in the following locations:

- Pokhara;
- Janakpur;
- Biratnagar;
- Hetauda; and
- Kathmandu.

The agenda for the training was the same for all five workshops. The workshops opened with remarks by NJA staff and local judges. The questionnaire⁷ was passed out, and the purpose of the assessment and an explanation of the questionnaire were given. The participants then completed the questionnaire. In the afternoon, there was a full discussion of training needs and the strengths and weakness of the training program.

The NJA does not have the staff to enter the data from the questionnaires or develop a computer program to review and analyze the data. The Project agreed to provide assistance and has contracted with TechMinds to develop a computer program to perform these tasks. ARD will also enter into a contract with a local consulting firm to perform further analysis and write the training needs report.

During the year, the Project provided computers, printers, and a copier. After the Strategic Plan and the training assessment are updated, the Project plans to provide training equipment.

1.2.3 Activity: Strengthen the Investigative and Disciplinary Mechanism within the Judicial System

At the consultation meeting held on 5 August 2005, the participants commented extensively on judicial discipline and the need for effective enforcement (see Section 1.2.1).

⁷ For a copy of the questionnaire, see [Quarterly Report, April-June 2005](#).

I.2.4 Activity: Strengthen Ability to Enforce Judicial Decisions

The Supreme Court conducted a three-day workshop on enforcement of judicial decisions. The participants were decision execution officers from selected districts. A committee was appointed to coordinate the suggestions and recommendations of the workshop. The committee is planning a seminar for stakeholders, including civil society organizations, to discuss the recommendations and build consensus for action. The committee has asked for assistance from ARD in organizing the seminar on an as yet undecided date.

2.0 MORE TRANSPARENT, ACCOUNTABLE, AND EFFECTIVE GOVERNANCE

2.1 ACTIVITY: SPECIAL COURT FACILITIES

In April 2005, the Special Court moved to refurbished quarters. In anticipation of the move, the Special Court requested that ARD provide office equipment, computers, and court furniture. After discussion and agreement on the conditions under which the items would be provided, a Memorandum of Understanding was signed. The office equipment, computers, and furniture were delivered to the court during the second and third quarters of 2005.

The Special Court is now one of the best equipped courts in Nepal, with facilities ideally suited to court activities. The Special Court is an excellent model for other courts and complements the activities discussed above in Section 1.1.2.

2.2 ACTIVITY: PROMOTE CORRUPTION AWARENESS AND PREVENTION IN NEPAL

2.2.1 Anticorruption Regional Conferences

Aware of the need to develop public awareness on the effects of corruption and build support for the Commission for the Investigation of the Abuse of Authority (CIAA) and the National Vigilance Center (NVC) and their efforts in Nepal, the two agencies, with ARD support, undertook several activities to build public awareness. One of the major activities was arrangement of regional anticorruption conferences. These conferences were planned for Birgunj, Nepalgunj, Biratnagar, Dhangadhi, and Pokhara; however, the conference planned for Dhangadhi has not been held for security reasons.

The conference objectives were:

- Improve performance of the anticorruption systems in the country;
- Improve performance of organizations contributing to good governance at the local level;
- Build strong public support for ongoing anticorruption efforts;
- Build and develop integrity in public service and the private sector;
- Educate public on their role against corruption;
- Form/develop non-partisan, free, and active local forums against corruption;
- Build a culture of zero tolerance against corruption; and

- Educate people to demand effective, accountable, and transparent governance.

Speakers and participants were from CIAA, NVC, the Judicial Council, the Department of Revenue Investigation, the Department of Customs, local government offices, ProPublic, Transparency International, Swati, ReMac, other local NGOs, and local professional organizations. At the conclusion of each of the four regional conferences, Conference Declarations were adopted giving recommendation for building public support for the battle against corruption. See [“Anticorruption Conferences Declarations.”](#)

Prior to the Pokhara conference, ARD hosted a meeting of local government officials. The meeting focused on the role of the local offices in controlling corruption. As a result of the participation of the government officials, the Pokhara Declaration named three offices in Kaski District⁸ as pilot offices for a model program. The offices selected were the Kaski District Development Committee Office, the Kaski District Police Office, and the Kaski Internal Revenue Office. The Director General of the Customs Department, Mr. Krishna Hari Baskota, visited the offices approximately three weeks after the conference. He documented his visit in a letter copied to ARD. In summary, Mr. Baskota found that the model offices were making progress in adopting programs and policies to give their local constituency efficient and effective service.

After discussion with ARD about implementing the conference declarations, CIAA organized an interaction program on 10 June 2005 to review declarations made during the anticorruption regional conferences held in Birgunj, Biratnagar, and Pokhara. The participants at the interaction program supported organizing a task force to discuss and prepare a detailed draft on procedures and mechanisms for implementing and monitoring regional conference declarations. NVC Chief Mr. Bal Krishna Prasai was named as chairman of the task force. The other members are:

- Mr. Ratna Kaji Bajracharya, CIAA;
- Mr. Yubraj Subedi, Office of the Attorney General; and
- Mihir Thakur, ARD ROL.

The task force met and prepared a draft document outlining procedures for monitoring anticorruption activities in the districts (see Annex E). The procedure provides for a Local Coordination Forum in each of the conference locations, i.e., Birgunj, Biratnagar, Pokhara, and Nepalgunj. A monitoring panel will supervise the four Local Coordination Forums. Regular visits by the monitoring panel are planned. The draft document has been submitted to CIAA for review and approval with any changes made by CIAA.

2.2.2 Investigative Journalism Training

The Mechi-Mahakali Media Society Nepal was organized in early 2004 to encourage media coverage of corruption and to support CIAA in its efforts to combat corruption. Its members are print, radio, and electronic media reporters who are located in all regions in Nepal. Mechi-Mahakali was supported by CIAA and USAID during its formation. Mechi-Mahakali, with support from ARD, organized a seminar in Pokhara on 16 April 2005 on the “Role of Journalists against Corruption and for Good Governance.” At the conclusion of the seminar, the participants supported further programs for training investigative journalists. ReMAC, a local NGO with offices in Kathmandu, had earlier submitted a proposal for training investigative journalists. Mr. Michael Genelin, ARD consultant, consulted with several stakeholders including the Nepal Press Institute and the Nepal Center for Investigative Journalism on

⁸ Pokhara is the main city in Kaski region.

topics for the workshop. ARD recommended that ReMAC and Mechi-Mahakali jointly develop a program which would be supported by ARD and provided them with Mr. Genelin's recommendation for a workshop curriculum.

ReMAC and Mechi-Mahakali met and recommended that a one-week workshop be held in Kathmandu and a similar seminar be held in Nepalgunj. The two organizations agreed that ReMAC would organize the Kathmandu workshop and that Mechi-Mahakali would organize the Nepalgunj workshop.

The Kathmandu workshop was held in half-day sessions. The topics were:

- Conceptualizing Corruption and Anticorruption
- Anticorruption Prosecution
- Anticorruption Investigation
- UN Convention against Corruption
- Anticorruption Strategies
- Investigative Journalism: Norms and Parameters
- Role of Civil Society
- Role of Media in the Anticorruption Drive
- Investigative Journalism: Anticorruption Perspectives
- Issues and Challenges in Corruption Reporting

There were also several case studies in which the participants were given a set of facts and asked to develop an investigation.

Ms. Ritu Sarin, Investigative Bureau Chief, Indian Express, from New Delhi, India, was the principle speaker for the topic "Investigative Journalism: Norms and Parameters." Ms. Sarin is an experienced reporter who gave many interesting examples of corruption cases on which she has reported for her paper. The other speakers were local reporters and professors. See Annex F for the complete agenda of the workshop.

The Nepalgunj workshop will be held during the fourth quarter of 2005.

2.3 ACTIVITY: STRENGTHEN INSTITUTIONAL CAPACITY OF THE CIAA

Mr. Genelin made two trips to Nepal to work with the Office of the Attorney General (OAG), CIAA, and NVC on activities that would strengthen the institutional capacity of the three agencies. His primary focus was on working with the OAG attorneys assigned to the CIAA.

2.3.1 Seminars and Observation Tours

In December 2004, ARD organized a study tour to Hong Kong's Independent Commission against Corruption (ICAC) for three staff members from the CIAA investigative staff and an attorney from the OAG assigned to prosecute corruption cases at the Special Court. The purpose of the tour was to give the participants information on skills when investigating disproportionate property cases, private section corruption, money laundering, fraudulent bank lending schemes, and public procurement and

infrastructure corruption. After returning to Kathmandu, the participants presented a summary of the training for their colleagues at CIAA. See Annex G for a summary of the ICAC training.

A “Seminar on Investigation and Prosecution of Corruption Cases” was held on 12–13 March 2005, its participants made up of government attorneys from the OAG and CIAA. The speakers were Mr. Genelin and Mr. Richard Miles, a consultant with the British Department for International Development.

A workshop on plea bargaining was held on 7 August 2005. Mr. Genelin was the main speaker. Staff from the CIAA, NVC, OAG, and Ministry of Law, Justice, and Parliamentary Affairs attended the workshop. Senior officials from the CIAA, NVC, OAG, and ministry gave comments. At the conclusion of the workshop, the participants decided to support a plea bargaining law and decided that the OAG should take the lead in pushing for the law.

In July 2005, ARD, with the assistance of Australia’s Ambassador to Nepal, Keith Gardner, organized a tour to Australia and Malaysia. The tour participants were staff members of CIAA, NVC, and the OAG and they visited anticorruption agencies in Sidney and Canberra, Australia and Kuala Lumpur to learn about investigation and preparation of corruption cases. During the tour, the participants wrote action plans for projects to be implemented upon their return to Nepal.

The action plans prepared by the tour participants were presented at a meeting at the Hotel Radisson in August 2005. The invitees included CIAA, OAG, and NVC. Judges and staff from the Supreme Court, Special Court, members of NGOs with anticorruption activities, and other interested individuals also attended the presentations. Approximately 60 people attended in total. The presentations laid out a proposed action plan for each of the three agencies, i.e., CIAA, OAG, and NVC. A number of the invitees commented that this was the first time that any organization supporting a study tour had required an action plan from tour participants using skills and knowledge learned on the tour. See Annex H for a summary of trip and action plans.

Mrs. Geeta Shrestha, Undersecretary, CIAA, and Mr. Shekhar Chandra Aryal, Deputy Government Attorney, attended the Asia-Pacific Economic Cooperation Anticorruption and Transparency Symposium in Seoul, South Korea from 1–2 September 2005. ARD provide financial support for the two individuals to attend the symposium. The symposium:

- Explored ways to disseminate global efforts to fight corruption;
- Discussed anticorruption policies, including enhanced transparency in the public and private sector;
- Introduced various ways to cooperate in rooting out corruption in the global community; and
- Collected opinions from the participants about battling anticorruption.

ARD sponsored three individuals for participation at the Asian Development Bank/Organization for Economic Cooperation and Development Seventh Steering Group Meeting and Fifth Anticorruption Conference for Asia Pacific held on 26–30 September 2005 in Beijing, China. The individuals who attend the program were:

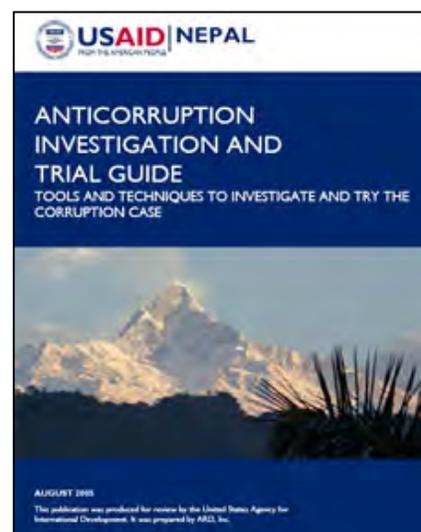
- Hon. Basudev Lamichane, Commissioner, CIAA;
- Dr. Meen Bahadur Paudyal Chhetri, Undersecretary, CIAA; and
- Mr. Bal Krishna Prasai, Chief Officer, NVC.

At the meeting and conference, the participants attended capacity building workshops that discussed public opinion surveys and donor collaboration to ensure that anticorruption strategies are well designed and meet countries’ specific needs. They also analyzed the specific anticorruption strategies

required in humanitarian relief operations and developed conflict of interest typologies to respond to district corruption risk zones of particular concern in the region. Building on the need to ensure cross-country and cross-stakeholder cooperation, they discussed ways that governments could assist the private sector in strengthening business integrity and identified ways to enhance international cooperation in confiscating and recovering illicitly gained assets.

2.3.2 Anticorruption Manual

During his second trip, Mr. Genelin completed the “Anticorruption Investigation and Trial Guide” for use by CIAA and OAG staff. A draft document of the manual was circulated to CIAA and the OAG for comments. Their comments were incorporated and the manual finalized. The [“Anticorruption Investigation and Trial Guide”](#) will be printed and distributed to the CIAA, OAG, NVC, and other interested parties.



2.3.3 Assistance on Case Preparation

The Danish organization, DANIDA, had provided CIAA with funding for two lawyers, an accountant, and a press relations specialist, to assist CIAA in preparing cases for trial and supporting CIAA’s public relations efforts. After a state of emergency was declared on 1 February 2005, DANIDA terminated all assistance to CIAA. Upon request from CIAA, ARD entered into consulting contracts with the individuals to continue providing assistance to CIAA. CIAA was advised that the assistance was short-term and given with the understanding that the individuals would train staff to perform these functions.

2.4 ACTIVITY: STRENGTHEN INSTITUTIONAL CAPACITY OF THE SPECIAL COURT

Mr. Genelin and Project staff met with the judges of the Special Court to discuss specialized training for the judges. During the meeting, the judges commented that trials take a long time and one of the reasons for the lengthy trials is that the files submitted by CIAA are not organized and information is missing. As a result of those comments, an interaction program was organized between the Supreme Court, the Special Court, and CIAA. The interaction program was held on 22 July 2005 in Kathmandu. The meeting concluded with the recommendation that CIAA should develop a briefing program for organizing the files that it sends to the Special Court. Under this program, the case files would be organized, missing information identified and gathered, and a covering brief prepared for the Special Court judges.

ARD will work with the CIAA to develop a briefing program similar to that organized by the Supreme Court. For description of the Supreme Court Case Briefing Project go to the Quarterly Report April–June, 2005, page 7.

The Special Court judges have expressed interest in training on topics such as money laundering and cyber crime. The judges recommended that the training programs should include judges other than those sitting at the Special Court. The reason for this is to develop a pool of trained judges from which appointments could be made whenever there is a vacancy at the Special Court. ARD has expressed its willingness to assist the Special Court in organizing the training.

2.5 ACTIVITY: STRENGTHEN INSTITUTIONAL CAPACITY OF THE ATTORNEY GENERAL'S OFFICE

The "[Anticorruption Investigation and Trial Guide](#)," prepared by Mr. Genelin (see Section 2.3.2) will be used by public prosecutors including those assigned to the CIAA to prosecute corruption cases filed at the Special Court.

2.5.1 Criminal Intake Form and Model OAG Offices

Mr. Genelin, Project staff, and the OAG discussed developing a form that would be used to inform public prosecutors that a suspect had been taken into custody. Following that discussion Mr. Genelin designed a [Criminal Filing Intake Form](#) that would provide public prosecutors with the following:

- A review and record of bail issues;
- A record of custodial history;
- Witness statements;
- Existence of recordings;
- Witness identification/contact information; and
- Arresting, investigating, and supervising investigator identification and contact information.

Upon his return to Nepal in June, Mr. Genelin and Project staff again discussed the status of the form. The OAG advised that it would like assistance in setting up a pilot office project, and that the pilot offices could implement the Criminal Intake Form on trial basis. ARD agreed to support this effort. Discussions are in progress and the pilot office project should start late in the fourth quarter of 2005.

2.5.2 Strategic Planning

ARD agreed to assist the OAG in writing a Strategic Plan. After much discussion and effort to get the project started, a staff workshop was organized to develop ideas and suggestions. A working group was formed to write the Strategic Plan. Several documents were developed to help the working group, including model formats. However, progress has been slow, and ARD decided to contract with a consultant to assist the working group. A contract was given to the School of Environmental Management and Sustainable Development to assist the OAG to finalize the plan.

2.5.3 Equipment, Furniture, and Books

The Project agreed to provide books and shelving for the OAG's library. The OAG provided a list of books and, after agreement on the books to be supplied, a Memorandum of Understanding was signed. The books were purchased and delivered during the third quarter of 2005.

The Attorney General also requested equipment for the OAG office and the pilot offices. The Project has agreed to provide the equipment and a Memorandum of Understanding has been signed. The equipment and furniture will be purchased and delivery will begin in the fourth quarter of 2005.

2.5.4 Seminars and Observation Tours

OAG staff were included in the observation tours to the ICAC in Hong Kong and the anticorruption offices in Sydney and Canberra, Australia and Kuala Lumpur, Malaysia. OAG staff were also active participants in the Investigation and Prosecution of Corruption Cases Seminar and the workshop on plea bargaining. (For details on the tours and seminars, see Section 2.3.1.)

An OAG staff member attended a five-day workshop on tax policy and administration in Seoul, South Korea, in April 2005. Another OAG staff member attended a workshop in Rome, Italy on commercial transactions including the role of bank personnel in uncovering corrupt activities, problems of money laundering, and willful defaults on repayment of bank loans. A third OAG staff member attended a two-week course, "Victimology and Victim Assistance," in Ibakari, Japan that dealt with rights of victims and assisting victims.

- During Mr. Genelin's visit to Nepal, he had discussions with the OAG about a train the trainers program that would allow the OAG to begin developing an in-house training program. Discussions were held with the Kathmandu School of Law and the Nepal Law Campus. Both indicated that they have the capacity to provide a train the trainers program for OAG staff. The Project expect to finalize the program in the fourth quarter of 2005.
- The OAG has requested training on a number of topics and the Project expects to assist the OAG with training in cyber crime, forensics, evidence, investigation, and case preparation during the next project year.

2.6 ACTIVITY: STRENGTHEN INSTITUTIONAL CAPACITY OF THE NATIONAL VIGILANCE CENTER

2.6.1 Strategic Plan

Strategic Plan activities for the NVC began with a seminar on 7 November 2004 to discuss the strengths and weaknesses of the NVC and its role in fighting corruption in Nepal. Following the seminar a detailed plan for writing the NVC's strategic plan was drafted. A working group was named to draft the Strategic Plan, and a steering committee was named to review and comment on the draft submitted by the working group.⁹ A second seminar was held on 26 January 2005 to discuss the plan and to get buy-in from the NVC staff. The working group drafted a Strategic Plan, but no further action has been taken. Consequently, the Project decided that a specialist in strategic planning should be brought in to assist in finalizing the Strategic Plan. A contract has been signed with School of Environmental Management and Sustainable Development to provide assistance.

2.6.2 Seminars and Observation Tours

NVC staff were included in the study and observation tour to the anticorruption offices in Sydney and Canberra, Australia and Kuala Lumpur, Malaysia. NVC staff also participated in the Investigation and Prosecution of Corruption Cases Seminar and the workshop on plea bargaining (see Section 2.3.1).

⁹ For details on the Working Group and the Steering Committee, see excerpt from [Quarterly Report October-December 2004](#).

2.6.3 Financial Declaration Forms

In March 2005, ReMAC, in association with NVC and with support from ARD, organized a workshop on “Financial Disclosure Law and its Enforcement” to discuss the issues, problems, and lack of enforcement of the current financial disclosure law. ReMAC, CIAA, and NVC organized a second program which was held on 26 May 2005 to discuss methods and procedures for more effectively implementing the financial disclosure law. Program participants supported more effective enforcement, but recommended that there should be a campaign to alert public officials that the NVC would begin enforcing the law. See Annex I for workshop participant recommendations.

ARD and NVC have begun discussions on writing a pamphlet on preparing and filing financial disclosure statements. This pamphlet would be targeted to public officials required by Nepali law to file such a statement.

2.6.4 Furniture and Equipment

NVC requested assistance in furnishing a meeting and training room and for office equipment. ARD agreed to provide financial assistance. ARD and NVC signed a Memorandum of Understanding, and the room has been furnished and the equipment provided.

2.6.5 Public Awareness Campaigns

NVC requested assistance in developing radio programs that would highlight the NVC and explain its role in fighting corruption. However, ARD and NVC were not able to agree on the terms under which the assistance would be provided and the plan for the programs has been dropped. NVC has requested other assistance in programming the NVC, and they are discussing particular campaigns and the financing required.

2.7 ACTIVITY: STRENGTHEN INSTITUTIONAL CAPACITY OF GOVERNMENT AND NON-GOVERNMENT AGENCIES TO ENHANCE GOVERNMENTAL INTEGRITY AND TRANSPARENCY

2.7.1 Auditor General

Mr. Genelin, Mr. Yeager, and Mihir Thakur (ARD Technical Coordinator) met with the Nepal Office of the Auditor General. The purpose of the meeting was to discuss anticorruption issues that were of interest to the Auditor General. During the meeting, the Auditor General indicated that he received very little feedback from the CIAA or the NVC on questionable practices disclosed in the Auditor General’s Annual Report and that his office had very little contact with CIAA or NVC. He also indicated that there were no meetings or coordination with either the CIAA or NVC. ARD suggested that a committed liaison would be a good way to encourage coordination. The Auditor General agreed, and ARD offered to discuss setting up a liaison committee with the CIAA or the NVC.

During the meeting, the Auditor General agreed to pass any significant information to CIAA for prompt preventive or curative action. The Auditor General also requested ARD support for advance training for auditors.

2.7.2 Fiscal Discipline

On 27 June 2005, ReMAC and the Project conducted a workshop on “Unsettled Expenditures in Government Offices.” Participants included officials from the Office of the Auditor General, CIAA, NVC, and representatives from various ministries and departments of the government. The purpose of the workshop was to identify reasons behind increasing huge volumes of unsettled expenditures in government offices. Officials discussed the control of financial irregularities and concluded with recommendations to minimize financial irregularities in public sector.

2.7.3 Revenue Leakage Control

At the initiative of Naren Chanmugam, USAID/ Nepal Economic Growth Officer, several meetings were held with the Director General of Department of Customs, Mr. Krishna Hari Baskota, to discuss recent reform initiatives by the Customs Department. At the meetings, the participants discussed the need for collaboration and partnership with formal anticorruption agencies like CIAA and NVC. In order to support Mr. Baskota’s reform initiatives and his ideas and techniques for reform at the local level, he was invited as key speaker at several regional anticorruption conferences (see Section 2.2.1).

3.0 CROSS-CUTTING ACTIVITIES

3.1 ACTIVITY: PROMOTE EQUITY AND LEGAL REPRESENTATION

Grants will be provided to local NGOs who present proposals for improving and promoting justice and legal representation for women and disenfranchised groups.

3.2 ACTIVITY: STRENGTHEN THE CAPACITY TO PROSECUTE ENVIRONMENTAL CRIMES

The project anticipates that two grants will be awarded to local NGOs for programs strengthening prosecution of environmental crimes.

3.3 ACTIVITY: DONORS COORDINATION COMMITTEE(S)

This activity has been delayed due to uncertainty arising from the state of emergency declared on 1 February 2005.

4.0 ADMINISTRATIVE ACTIVITIES

4.1 GRANTS

During the project year, the Grants and Subcontracts Manager was hired and a Grants Manual was written and approved. In May 2005, the Project organized a grants application workshop and invited 33 local organizations. The workshop explained the ARD Grants procedures, including the application process and administrative procedures. The participants asked questions and presented their views including negative comments.

Following publication of a notice advising that interested parties could request the application forms and information about the grants program at the ARD office in Kathmandu, 155 organizations requested the Request for Assistance/Application Package. The due date for submitting an application was 6 July 2005. Sixty-five applications were received and processed as follows:

- Six were rejected for late submission;
- Two were rejected because they were incomplete or were not targeted to Project activities;
- One was recalled by the applicant; and
- Fifty-six applications were determined suitable for review by the Recommendation and Evaluation Committee (REC).

The ARD grant procedures provide for an REC to review the grant applications and select the applicants to be awarded a grant. The REC members are the ARD Chief of Party, either the ARD ROL Technical Coordinator or the ARD Anticorruption Technical Coordinator, and the ROL CTO. The Grants Manager is an ex-officio member of the REC.

The REC reviewed the 56 applications and approved 23 for consideration at the second stage of review. The 23 applicants were advised that they were being considered for further review and each was asked to present additional information based on issues raised in the initial review. At the second stage of review, the additional information was reviewed by the REC, and the committee decided to award grants to 14 applicants subject to satisfactory completion of the budget and technical review by the Grants Manager.

The budget and technical review of the 14 applicants are in process and the grants will be awarded in late November 2005.

4.2 MONITORING AND EVALUATION

Leo Surla, Monitoring and Evaluation Specialist at Metametrics, Inc., visited the Project office in December 2004 and again in August 2005 to monitor and evaluate Project activities. He analyzed the Project's training activities. In the "First Annual Performance Monitoring and Evaluation Report," Mr. Surla documents that, during the project year, the Project organized or sponsored 43 training events. A training event is defined as an event at which learning takes place and includes:

- Conferences;
- Workshops and seminars;
- Interaction sessions;
- Attendance by individuals at international programs; and
- International observation/study tours.

Mr. Surla did a thorough analysis of the Project's training activities. In his report, he provides the summary information on the Project's training activities:

“Sixteen training events were conducted under the Rule of Law Component. There were a total of 31 women participants out of a total of 719 participants (4.3%). Under the Anticorruption Component, there were 27 training events. Of the total 1,102 participants, 66 or 6.0% were women. Overall, women constituted 5.3% of the total 1,821 participants in the 43 Project training events.”

Further information on the Project's training activities can be found in tables located in the report. Information on type and location of training, individual training participants, gender disaggregation, and the number of training days is given in detail in the report, [“The First Annual Performance Monitoring and Evaluation Report.”](#)

4.3 PARTNERS PROGRAM REVIEW ADVISORY COMMITTEE

The Project has organized a Partners Program Review Advisory Committee. The committee was proposed as a means for getting participation from counterparts, particularly in performance monitoring and evaluation of project activities. The committee held an initial meeting and a follow-up meeting in August. The following individuals have agreed to participate in the committee:

- Dr. Ram Krishna Timilsena, Supreme Court
- Mr. Lohit Chandra Shah, Special Court
- Mr. Ashis Thapa, Transparency International/Nepal
- Ms Sapana Malla Pradhan, Forum for Women, Law, and Development
- Ms. Sangita Niroula, Swati
- Mr. Achyut Sharma, National Vigilance Center
- Mr. Ratna Kaji Bajracharya, CIAA
- Mr. Rishikesh Wagel, Office of the Attorney General
- Mr. Krishna Bhandari, ReMAC
- Mr. Kishor Silwal, CeLRRD

The committee will meet semi-annually and more often if necessary.

ANNEX A. SUPREME COURT OF NEPAL PILOT PROJECT

SUPREME COURT OF NEPAL

Report of the pilot project for preparing summary of case files more than five years old

No. of cases more than five years old: 1,036

No. of Supervisors (S) Deployed	No. of Trainees (T) Deployed	No. of Days for purpose of per diem	No. of trainee/ days for purpose of preparing case briefs	No. of case briefs prepared (Av. per person per day)	Total no. of case briefs prepared (cumulative)	Balance of case briefs to be prepared	No. of cases decided (Balance of cases to be decided)
Week 1 (April 18-23, 6 Days) 4 S	23 T	162 days	92 person days	143 (Av. 1.55)	143	893	0
Week 2 (April 24-30, 7 days) 4 S	27 T (including 8 working part of the week)	189 days	136 person days	241 (Av. 1.44)	384	652	0
Week 3 (May 1-7, 7 days) 4 S	23 T	184 days	156 person days	243 (Av. 1.56)	627	409	0
Week 4 (May 8-14, 7 days) 4 S	23 T	180 days	154 person days	176 (Av. 1.14)	803	233	0
Week 5 (May 15-21, 7 days) 4 S	19 T	161 days	114 person days	118 (Av. 1.03)	921	115	0
Week 6 (May 22-28, 7 days) 4 S	19 T	161 days	114 person days	81 (Av. 0.71)	1,002	34	0
Week 7 (May 29-June 3, 6 days) 4 S	19 T	136	112	92 (Av. 0.82)	1,036	00	253 (783 As of July 15, 2005)

ANNEX B. EVALUATION OF TRAINING PROGRAM

SUPREME COURT

ORGANIZATION OF ON-THE-JOB TRAINING FOR PREPARATION OF BRIEFS OF CASES MORE THAN FIVE YEARS OLD

At the end of the seven-week long on-the-job training (OJT) program, conducted in April–May 2005, each of the trainees was asked to fill out a report. Altogether, 27 trainees participated at the OJT. The evaluation of the program has been prepared on the basis of information received from 18 trainees.

1. Total number of trainees: 27. Number of respondents: 18
2. Indicate how frequently you used the following skills in preparing the case briefs by putting an “X” in the appropriate column.

ON-THE-JOB TRAINING EVALUATION: USE OF SKILLS			
SKILLS	DAILY	OFTEN	NOT OFTEN
Analyze and evaluate raw data and give tentative conclusions	3	11	4
Identify easily distinguishable facts	15	3	0
Screen established factual information	17	1	0
Clarify established factual information	8	10	0
Recognize differences in related fact situations	2	2	14
Organize case files in proper order for easy reference	13	5	0
Describe basic facts needed for decisions with an outline of missing basic facts	6	12	0
Compile administrative transcripts	16	2	0
Prepare documents related to court functions and activities	15	3	0
TOTAL	95 (59%)	49 (30%)	18 (11%)

The above set of responses shows that the skills given to the trainees were relevant. While reviewing the cases, it was shown that 89 percent of trainees apply the skills often.

3. What problems or difficulties did you have during the OJT period?

- Lack of adequate office space for preparing case briefs. Working environment was not good. Too many people were crammed in a room, and five people had to share a table.
- There was weak management support.
- The time allowed to prepare the briefs was not adequate. Many case files were voluminous and required more time for reviewing.
- Documents contained in the case files sometimes were ambiguous and incomplete. This created difficulty in understanding the development of the case and preparing briefs.

4. How do you intend to use the training you received when you are working in your home court?

- Case briefs will certainly help reduce case backlogs.
- The training will help to speed up the process.
- Attempts will be made to introduce the method in the home court in selected cases.
- The training will help facilitate better management of cases in the court.

5. How can the OJT be improved?

- Such training should be given to the staff in the district courts.
- Trainees should be selected with relevant background, that is, persons who have worked in the litigation desk.

COMMENTS AND SUGGESTIONS

A roundtable for review of the OJT program was organized with the bench assistants of the Supreme Court following the conclusion of the OJT program. Eight bench assistants participated in the program. The discussion was coordinated by Joint Registrar Til Prasad Shrestha and facilitated by Govind Das Shrestha from ARD. The main points discussed were:

1. Judges have found the case briefs extremely useful in better management of bench time.
2. Quality is an issue, however. Judges presiding at the bench have expressed certain reservations with regard to the quality of some of the case briefs. Not all case briefs are up to the mark. Preparing case brief requires relevant experience of working in the bench. Due to some logistical problems in transporting court personnel from around the country to Kathmandu, no rigorous screening procedure was possible. In some cases, whatever staff was available had to be deployed. After review of initial performance of some of the staff, four people had to be sent back.
3. Supreme Court bench assistants have difficulty in owning the briefs because they were not part of the OJT program.
4. Hearings have been faster with case briefs. Case briefs are made available to judges on the bench at the beginning of the hearing. If the briefs could be made available to judges one day in advance, it would further improve hearings and decisions would be faster. Reform on this line would expedite hearings and help decrease case backlogs faster.

5. The main objective of the case brief preparation was to assist the judge in better management of time on the bench. However, the briefs prepared can also be used in drafting the decision. All elements of the format of the case briefs do not align to the current standard format of decision-writing. Nevertheless, making the case file information available electronically on a CD-ROM will certainly help drafting decision writing. This would definitely be an improvement over the current situation where obtaining a copy of a decision sometimes takes months after the bench has pronounced its decision.
6. A post-case brief assessment is necessary to assess the results and impact of the OJT program.

ANNEX C. TRAINING-CUM-WORKSHOP IN ARCHIVING

Lalitpur District Court

PROGRESS AND FINAL REPORT							
S. No.	Period	Total Person/ Days	Total Files Purged	Ave. No./ Person/ Day	Est. No. of Files in Archive	Est. Balance of Files to be Purged	Remarks
1.	July 22–24, '05	83	3,912	47	48,116 (50,000)	44,204	Actual no. of files 48,116
2.	July 25–31, '05	190	11,420	60		32,784	
3.	Aug. 1–7, '05	145	8,093	56		24,691	
4.	Aug. 8–14, '05	179	7,253	41		17,438	8 persons engaged in entering info. of files >12 yrs. old
5.	Aug. 15–21, '05	110	5,056	46		12,382	4 persons engaged in entering info. of files >12 yrs. old
6.	Aug. 22–27, '05	94	3,000	32		9,382	4 persons engaged in entering info. of files >12 yrs. old
	Total:	801	38,734	—		9,382	Balance figure includes cases <5 yrs. old which do not require purging and files purged by the Court before the project started.

ANNEX D. WORKSHOP ON COURT-REFERRED MEDIATION IN NEPAL

SEPTEMBER 26 (Kathmandu), 28 (Biratnagar), and 30 (Pokhara) 2005

AGENDA	
8:30–9:00	Registration
9:00–09:15	Opening (by facilitator) Welcome and Overview of the Program <ul style="list-style-type: none"> • Fred Yeager, ARD Inc., Rule of Law Project
09:15–10:00	Anatomy of Alternative Dispute Resolution <ul style="list-style-type: none"> • Bob Randolph, US mediator and trainer
10:00–10:45	Anatomy of Court-referred/Annexed Mediation <ul style="list-style-type: none"> • Judge Patrick King, US Judge (ret.) and mediator
10:45–11.00	Morning Tea
11:00–11:45	Video: Resolution Through Mediation Discussion facilitated by : <ul style="list-style-type: none"> • Judge Patrick King • Robert C. Randolph
11:45–12:15	Wrap-up before lunch <ul style="list-style-type: none"> • Nepali Judge, Judge Patrick King, Bob Randolph
12:15–1:15	Lunch
1:15–1:45	Mediation in Nepal—The Judicial Perspective <ul style="list-style-type: none"> • Report on Judges’ trip to Netherlands/Italy to observe Court Mediation Comments by Nepali Judges and Judge King
1:45–3:00	Mediation in Nepal—The Current Landscape <ul style="list-style-type: none"> • Court-referred Mediation: Judge Laxman P. Aryal, Mediation Centre - Nepal • Community Mediation: Nick Langdon, Asia Foundation • Ministry of Law, Justice and Parliamentary Affairs • UNDP • CeLLRd • CVICT Comments by Judge King and Bob Randolph
3:00–3:30	Mediation in Nepal: Perspectives of Bar and Stakeholders <ul style="list-style-type: none"> • Lawyer’s perspective Moderated by Bob Randolph
3:30–3:45	Afternoon Tea Break
3:45–4:15	Commercial Mediation in Nepal—Business Perspective <ul style="list-style-type: none"> • FNCCI • Bob Randolph • Patrick King
4:15–5:00	Aspirations for Court Mediation in Nepal (facilitated by Robert and Judge

	King)
5:00–5:15	Wrap-up
5:15	High Tea

ANNEX E. FORUM AND CONFERENCE RESOLUTIONS

District Level Anticorruption Coordination Forum and Central Monitoring Panel to Implement Anticorruption Regional Conferences' Resolutions

1. Background: The Commission for Investigation of Abuse of Authority (CIAA) and National Vigilance Center (NVC), in association with USAID/ARD, Inc. Rule of Law Project, organized a Regional Anticorruption Conference at four cities Birgunj, Biratnagar, Pokhara, and Nepalgunj respectively. Each Conference was held for two days. There was broad participation of government agencies, private sector, and NGOs. At the end of each conference, they unanimously agreed to follow certain principles and good practices that would contribute to prevention of corruption and enhance integrity, accountability and transparency in all sections of the society, particularly the government sector. These common agreements passed by the participants are called Declarations/Resolutions.

The resolutions passed by each the four Conferences are similar and have created certain obligation upon the government sector, private sector and NGOs to comply with them collectively as well as individually. Following the last of the four Conferences, the CIAA and NVC in collaboration with the ARD staff have been working to develop a suitable mechanism, procedures for implementation and follow-up for implementation of the resolutions with an appropriate system of monitoring.¹⁰

A Task Force recommended among other things, organizing a “Local Coordination Forum” at each of the four locations where the Conferences were held. The Forum has been given primary responsibility to implement commitments made through resolutions. The Forum shall have 21 members comprising members from government agencies, private/business sector and NGOs. A Central Monitoring Panel will also be organized comprising of 5 members (CIAA & NVC) which shall oversee the activities of the Forum.

2. Composition of Local Coordination Forum: The Forum shall have a total 21 members of which 15 shall be from government agencies, 3 from private/business sector and 3 from NGOs. The Forum shall have the following members –

Government Sector - 15

- (i) Chief District Officer or any Chief Officer of a government office s/he nominates as **Coordinator**
- (ii) Officer of District Administration Office responsible to handle corruption cases
- (iii) Office Chief or Representatives from Internal Revenue Office
- (iv) Office Chief or Representatives from Customs' Office

¹⁰ The Task Force was formed in June 10, 2005 at the end of a workshop on 'Implementing Anticorruption Regional Conferences' Resolutions' organized by CIAA and NVC in support with ARD ROL Project. The Task Force headed by the NVC Chief Mr. Bal Krishna Prasai was comprised with CIAA Joint-Secretary Mr. Ratna Kaji Bajracharya, Joint-Government Attorney Mr. Yubraj Subedi and ARD ROL Staff Mihir K. Thakur. The Task Force met three times and finalized the document in the second week of September 2005.

- (v) Office Chief or Representatives from Revenue Investigation Office
- (vi) Office Chief or Representatives from Municipality
- (vii) Office Chief or Representatives from District Development Committee
- (viii) Office Chief or Representatives from Land Reform / Land Administration / Land Survey Office
- (ix) Office Chief or Representatives from District Government Attorneys Office
- (x) Office Chief or Representatives from Road Division Office
- (xi) Office Chief or Representatives from Water Supply Office
- (xii) Office Chief or Representatives from Irrigation Office
- (xiii) Office Chief or Representatives from Nepal Electricity Authority
- (xiv) Office Chief or Representatives from Telecom Office
- (xv) Office Chief or Representatives from District Police Office

Representatives from Business Community--- 3

- (xvi) Chairman of local chamber of commerce
- (xvii) One entrepreneur from a reputable local business
- (xviii) One lady entrepreneur

Representatives from NGOs ----- 3

- (xix) One potential representative from a partner NGO¹¹
- (xx) One lady representative from a NGO
- (xxi) One representative from a NGO working for *Dalits* and marginalized community.

3. Functions of the Local Coordination Forum: The Forum shall perform the following activities –

- (a) Collect all necessary information regarding the level of implementing resolutions made at the conference and monitor the implementation.
- (b) Call a meeting of the Forum once a month, discuss the findings of monitoring and report to the CIAA and NVC on the progress made so far.
- (c) Coordinate and assist the Monitoring Panel at the time of field visit.

4. Monitoring Panel: There shall be a Monitoring Panel comprising members from the following Agencies.

- (a) From CIAA – 2 (One senior officer of gazetted first class level or above ranking and one officer.)

¹¹ Representative from TI Nepal Support Group Birgunj, Pro Public Regional Office Biratnagar, Mechi- Mahakali Media Society Group Pokhara and SWATI Nepalgunj Group shall work as the Secretary of respective Forum.

- (b) From NVC – 2 (One senior officer of gazetted second class level or above ranking and one officer)
 - (c) From USAID/ARD, Inc. Rule of Law Project – 1
 - (d) Other official nominated by the CIAA and NVC when necessary to be included in the Panel as an expert.
5. Functions of the Monitoring Panel: The Monitoring Panel shall supervise the activities of the Local Coordination Forum on implementing the commitments made in the conference’s resolution.
- (a) The Monitoring Panel shall supervise the following matters (of the resolution) relating to Government Sector:
 - (i) Whether inter-governmental mechanism at regional level and district level has been formed to control corruption.
 - (ii) Whether monthly discussion and review on the status of corruption in regional/local government offices are held among the chiefs of various government offices.
 - (iii) How effectively the complaints on corruption or improper acts are handled? Whether such complaints are investigated within three months and reported to CIAA.
 - (iv) Whether services provided to citizens are easily accessible and are managed transparently.
 - (v) Whether the Citizens’ Charter and Complaint Box are managed in the offices.
 - (vi) How the Committee headed by the Chief District Officer is working on the inquiry into fake academic certificates?
 - (vii) Whether any corruption complaints registered at the respective office and/ or any case forwarded by the CIAA to respective office are in progress in accordance with law or not.
 - (viii) What is the status of the complaints regarding improper acts of public officials?
 - (ix) Whether there is prompt action by the agency to whom CIAA has delegated authority of investigation.
 - (x) Whether any direction given by other legally authorized supervisory agency or monitoring agency has been implemented.
 - (xi) How reliable is the record keeping and information system in the office?
 - (xii) What progress has been made to honor civil servants who are friendly and dedicated to the service of common people?
 - (xiii) Whether public post holders are submitting financial disclosure statement on time or not?
 - (xiv) What progress has been made in building coalitions and networking among organizations working for corruption control?

- (xv) Whether there are efforts to make non-governmental organizations follow transparency and accountability regarding their all financial transactions?
- (xvi) What support has been given by the government sector to any local civil society organizations' program on anticorruption?
- (b) The Monitoring Panel shall supervise the following matters (of the resolution) relating to Civil Society Organizations –
 - (i) What progress has been made by civil society organizations and media groups of the same nature for promoting a strong anticorruption movement?
 - (ii) What progress has been made by the civil society organizations to honor civil servants who are friendly and dedicated to the service of common people?
 - (iii) What progress has been made by the civil society organizations in building coalition and networking among organizations working for corruption control?
 - (iv) What system has been developed by the non-governmental organizations to manifest culture of transparency inside their organizations?
 - (v) What support and encouragement have been provided by the NGOs in corruption control to any government offices in the district?
- (c) The Monitoring Panel shall observe the following matters (of the resolution) relating to Private/business Sector –
 - (i) Whether the business community is following the code of conduct duly adopted by the Federation of Nepalese Chambers of Commerce and Industry.
 - (ii) If the business community is supporting any action against revenue leakage?
 - (iii) What role is played by the business community in controlling revenue leakage?

6. Procedure of Monitoring:

- (a) The Monitoring Panel shall meet all concerned agencies, civil society and private sector and discuss with them the progress, achievements and challenges made so far in the implementation of the conference's resolutions. It shall discuss separately the matters at regional and district level with all concerned officials and organizations. At regional level, the following officials shall be consulted –
 - (i) Regional Administrator
 - (ii) Officer at Regional Administration Office who handles corruption complains
 - (iii) Regional Directors of Government Offices

At district level, the following officials and organizations shall be consulted –

- (i) Chief District Officer
- (ii) Officer at District Administration Office who handles corruption complains
- (iii) District Offices charged with public relations and delivering public services

- (iv) Three Model Offices of Kaski District
 - (v) Chamber of Commerce
 - (vi) Journalist's Association
 - (vii) Non-governmental organizations
-
- (b) The Monitoring Panel shall normally perform its work within three to five days at one place.
 - (c) The Monitoring Panel shall plan dates of visiting four districts i.e. Parsa, Morang, Kaski and Banke where the regional conferences were held, within one month after the formation of Local Coordination Forum in those districts.
 - (d) The Monitoring Panel shall plan dates of visiting other CIAA pilot districts within three months.
 - (e) The Monitoring Panel shall also plan dates of visiting other districts of Terai and Hills within one year.
 - (f) The date of visit shall be fixed in consultation with the officials nominated in the Panel.
 - (g) The Monitoring Panel shall revisit and supervise the district where it has already monitored. The time gap between first and second visit shall not exceed more than six months.

7. Financial Arrangements :

- (a) The reasonable expenditure on transportation, accommodation and incidentals of the members of the Monitoring Panel shall be managed by the ARD, Inc. Rule of Law Project in accordance with USAID rules and regulations.
- (b) The reasonable budget may be provided to Local Coordination Forum by the ARD, Inc. Rule of Law Project, if required to manage and monitor implementation of the resolutions effectively.

ANNEX F. WORKSHOP ON INVESTIGATIVE JOURNALISM AGAINST CORRUPTION

Organized by ReMAC Nepal (Research and Media Center against Corruption)
Supported by USAID/Nepal ARD Inc. Rule of Law Project
2–9 September 2005, Park Village Hotel, Budanilakantha, Kathmandu
Tentative Program Schedule

TIME	DATE/TOPICS/SCHEDULE	RESOURCE PERSON(S)
Day One – Friday, Bhadra 17, 2062 (02 September 2005)		
7:00	Arrival at ReMAC Nepal office	
7:15	Departure from ReMAC	
7:45–8:15	Tea and Registration	
8:15–9:30	Inaugural Session Welcome, Shed light and Objective of Program-ReMAC Nepal Frederic Yeager, ARD Von Millard, USAID Bishnu Nisthuri, FNJ Bal K. Prasai, NVC S.N. Upadhaya, CIAA Closing and Vote of Thanks by Mihir Thakur, ARD, Inc.	
9:30–9:50	Tea & Breakfast	
9:50–11:35	Conceptualizing Corruption and Anticorruption Dimensions of Corruption: Concepts, Definition, Theories of Origin; Corruption Measurements: Tools and Techniques, Impact of Corruption in Nepal: Causes and Consequences	Dr. Narayan Manandhar 98510 85098, 4432131 Off.
11:35–11:40	Break	
11:40–1:30	Anticorruption Laws and Flaws, Anticorruption Bodies in Nepal: Strengths and Weaknesses	Mr. Mahadev Prasad Yadav 98510 78046, 4430716
1:30	Lunch	
Day Two – Saturday, Bhadra 18, 2062 (03 September 2005)		
7:25–7:50	Tea & Breakfast	
7:50–9:50	Anticorruption Prosecution: The Government Attorney (Cont.) • Charging Decisions # Case Examples	Mr. Yuva Raj Subedi 98510 91940

	<ul style="list-style-type: none"> • Procurement # Construction • Disproportionate Property # Bank Frauds • Service Delivery Points # Embezzlement Charging Decisions: Who and What Will be Charged?	
9:50–10:00	Break	
10:00–11:55	Anticorruption Investigation: CIAA Perspective, Types of Corruption: Anticorruption Strategy, Achievement and Challenges	Mr. Chet Nath Ghimire 98510 58466
11:55–12:00	Break	
12:00–1:30	UN Convention Against Corruption, Nepalese Responsibility and Needed Changes	Mr. Kedar Poudel 4241002 Off. 4248364 Res.
1:30	Lunch	
Day Three – Sunday, Bhadra 19, 2062 (04 September 2005)		
7:25–7:50	Tea & Breakfast	
7:50–9:45	Anticorruption Prosecution: The CIAA Government Attorney Perspective and Approach—Tracking Cash Generation Schemes <ul style="list-style-type: none"> • Overview of Financial Evidence • Methods of Proof • Other Types of Financial Evidence • The Financial Investigation Revenue Cash Bribe, Payoff, Kickback Scheme Case Examples	Mr. Prakash Wasti 98510-42595
9:45–9:50	Break	
9:50–11:40	Anticorruption Investigation: An Anticorruption Investigator's Process <ul style="list-style-type: none"> • Offenses • An Introduction to Basic Investigation • General Principles in Overt Investigations • General Principles in Covert Investigations • A Realistic Plan of Action • Witness Problems Follow the Leads: Follow the Money: How money is Laundered	Dr. Gobinda Thapa AIGP, Human Resource Development Dept. Police Headquarter, Naxal
11:40–11:50	Break	
11:50–1:30	Anticorruption Strategy: Government Perspective	Bal K. Prasai, Government 98510-88417, 4227096 Off.
1:30	Lunch	
Day Four – Monday, Bhadra 20, 2062 (05 September 2005)		
7:25–7:50	Tea & Breakfast	
7:50–9:45	Anticorruption Strategies: Journalistic Perspective	Ram K. Regmi, Journalist R. 4272842/ Off. 4430239
9:45–9:50	Break	
9:50–11:45	Major Areas of Corruption in Nepal: Development Expenditure, Revenue Collection, and Policy Corruption	Mr. Narayan Raj Tiwari 4498367 Off. 4470013 Res.
11:45–11:50	Break	

12:05–1:30	Role of the Civil Society : Investigating and Exposing Corruption	Mr. Kedar Khadka 98510-72225, 4268681
1:30	Lunch	
Day Five– Tuesday, Bhadra 21, 2062 (06 September 2005)		
7:25–7:50	Tea & Breakfast	
7:50–10:30	Investigative Journalism: Norms and Parameter <ul style="list-style-type: none"> • Basic Elements of Investigative Journalism • Ethics of Investigative Journalism • Dealing with Confidences • Caution in Criticism • Avoiding Political Program • Principle: A person is Innocent Until Proven Guilty Right to information and Freedom of Information	Ritu Sarin, Investigative Bureau Chief, Indian Express and Nepali Journalist Yuva Raj Ghimire, Editor, Samaya Weekly
10:30–10:35	Break	
10:35-12:00	A Case Study on Investigative Journalism: Investigation and Reporting	Mr. Shiv Gaule 98510-36125/5543333
12:00–12:05	Break	
12:05–1:30	Role of the Civil Society : Combating Corruption	Mr. Ashish Thapa/TI Nepal 98510 37832, 4420412/4436462
1:30	Lunch	
Day Six –Wednesday, Bhadra 22, 2062 (07 September 2005)		
7:25–7:50	Tea & Breakfast	
7:50–9:50	Role of Media in Anticorruption Drive	Ram K. Regmi, Journalist R. 4272842/ Off. 4430239
9:50–10:00	Break	
10:00–1:30	Anticorruption Investigation: A Journalist's Approach (Cont.) Working from the Outside in The Investigative Trail Theory or Premise: Focusing an Investigation Electronic Trails Field Work Key Skills Useful Tips Organize Write Fact Check Libel Check <ul style="list-style-type: none"> • The People Trail # The Paper Trail • Investigating Corruption # Investigating Conflicts Ethical Concerns	Ritu Sarin, Investigative Bureau Chief, Indian Express
11:50–12:00	Break	
1:30	Lunch	
Day Seven –Thursday, Bhadra 23, 2062 (08 September 2005)		
7:25–7:50	Tea & Breakfast	

7:50–9:50	Investigative Journalism : Anticorruption Perspective Investigative Journalism: a Perspective: Problems the Journalist Faces, Journalistic Practices in Anticorruption, Case Reporting: How the Stories Developed, a Personal Perspective. A Case History	Mr. Rajendra Dahal 98510-31650/5543333
9:50–10:00	Break	
10:00–11:30	Anticorruption Strategy: Donors Perspective, Anticorruption Tool Kits and Web Sites	Dr. Narayan Manandhar 98510 85098/5537967
11:30–11:35	Break	
11:35–1:30	Issues and Challenges in Corruption Reporting Corruption Issues, Developing Techniques, Challenges on Corruption Reporting in the Context of Present Situation	Rajendra Dahal 98510-31650/5543333
1:30	Lunch	
Day Eight –Thursday, Bhadra 24, 2062 (09 September 2005)		
2:00–2:20	High Tea	
2:20–4:20	Case Fact Study Problems: A Practical Session— How Would You Investigate and Report Them?	Moderator
4:20–4:30	Break	
4:30–5:30	Informal Discussion with Chief Commissioner of CIAA	Mr. Surya Nath Upadhaya 98510-46501
5:30–5:35	Break	
5:35–6:35	Closing Ceremony Remarks Hari Bahadur Thapa, from Participants Ram K. Regmi, from Trainers S.N. Upadhaya, CIAA Certificate Distribution Vote of Thanks by ReMAC Nepal	
6:35	Refreshment and Dinner	

Every session are divided in two parts equally for presentation and interaction.

**Pls Contact: Krishna Bhandari, ReMAC Nepal, 4218455 Off. 9851094955,
4464721 Res.**

ANNEX G. ON-THE-JOB TRAINING TRIP TO ICAC

Nepali Officials On-the-Job Training Trip to Independent Commission Against Corruption (ICAC), Hong Kong, 13–17 December 2004

The Nepali officials Mr. Hom Bahadur Khadka (CIAA), Mr. Sudhir Man Baisyat (CIAA), Mr. Komal Bahadur Khatri (CIAA), and Mr. Krishna Jeevi Ghimire (Attorney General Office) visited ICAC Hong Kong.

The five-day trip was well organized by the ICAC Operations Department with 17 different sessions and 6 separate observations of government departments, like custom, housing, monetary institutions, and the High Court. The Nepalese team had a very good opportunity to understand investigative techniques and skills on corruption from nearly 30 senior officers of the Operation Department; and they looked at several case studies. The training with the ICAC officers was in the following areas:

- Disproportionate property issues;
- Corruption in private sector;
- Money laundering ;
- Corruption in bank lending;
- Corruption in public procurement and infrastructure; and
- Observation of some government departments.

Disproportionate Property Corruption Issues:

The ICAC officers comprehensively talked about disproportionate property with reference to some cases investigated and prosecuted in the court through the Department of Justice. They dealt the following matters on disproportionate property:

- Legal provisions on disproportionate property offenses;
- Investigation and prosecution;
- Special investigative powers under pobo;
- Financial investigation;
- Surveillance on life style of suspect/relatives/associates;
- Preparation for trial; and
- Disproportionate property cases study.

Corruption in Private Sector:

The ICAC officers talked about private sector corruption, money laundering, and bank lending scheme frauds during the second day of the trip. The ICAC officers spoke on:

- Legal provisions on private sector corruption;
- Some common forms of corruption in the Hong Kong private sector;
- The difficulties of private sector investigations; and
- Sources of complaints in private sector corruption.

Money Laundering:

The ICAC officers said that money laundering aims to change or conceal the identity of illegally obtained money so that it appears to have originated from a legitimate source. It is accumulated cash transactions deposited in the banking system or exchanged for value items, e.g. L/C, travelers' cheques, bank draft, or stocks and shares. The information and experience shared by the ICAC officers on money laundering were related to:

- Crimes which commonly generate money for laundering;
- Places/sources of money laundering;
- Legislation in Hong Kong to detect and prevent money laundering;
- Law Enforcement Agency; and
- Operation Owl – A case on money laundering.

Corruption in Bank Lending:

The ICAC officers spoke about a few cases relating to corruption in bank lending schemes.

- Corruption in a personal installment loan (PIL);
- The Shanghai Land Case; and
- Corruption related to credit card fraud

Corruption in Public Procurement and Infrastructure:

The common allegations of corruption against government departments in Hong Kong on public procurement and infrastructure (construction work, like roads and public buildings) are people receiving preferential treatment, lax supervision, overestimating contract amounts, and fraudulent payments to contractors/sub-contractors. The ICAC officers spoke of some case investigations, prosecutions, and court trials. They also discussed difficulties encountered during investigation and the techniques adopted to overcome the problems. Topics also covered:

- The “Winner” Case; and
- A Misconduct of Public Office Case

Observation of Some Government Departments:

ICAC works in collaboration with government departments to control corruption. The Nepali team visited some government offices which considered corruption-prone offices in Hong Kong a few years

ago. Since the participatory and collaborative approach between ICAC and the government departments has been in practice, the chances for corruption have been lowered. The Nepali team members observed the following offices:

- Hong Kong Housing Authority – Exhibition Center
- Hong Kong Monetary Authority
- Hong Kong Customs and Excise Department, Control Points Command, Lok Ma Chau Division
- Immigration Department
- High Court

Achievements from ICAC Visit:

The ICAC training trip motivated the Nepali officials and provided an opportunity to learn new skills and techniques for investigating corruption. The visiting Nepali officials concluded their ICAC tour with following remarks:

- There should be committed anticorruption agency staff.
- Investigators should be whiter than white.
- Investigators should be well paid.
- Investigators must possess knowledge and good investigation skills.
- Investigators should be able to internally monitor the staff.
- There should be an internal Training School/Center for the staff.
- Proper checks and balances on power should be in place.
- Human rights of accused /suspect should always be respected.

ANNEX H. NEPALESE ANTICORRUPTION STUDY TOUR TO AUSTRALIA AND MALAYSIA

Knowledge/Experience Sharing and Presentation of Action Plan

8 September 2005

Hotel Raddisson, Lazimpat

5:00– 9:30 PM

USAID/Nepal ARD, Inc. Rule of Law Project organized a Nepalese Anticorruption study tour to Australia and Malaysia for two weeks (July 23, 2005 to August 4, 2005). The team comprised 10 members, three officers from Commission for Investigation of Abuse of Authority (CIAA), three government attorneys from Office of the Attorney General (OAG) and three officers from National Vigilance Center (NVC) and one from USAID contractor ARD respectively. The tour participants shared their experience and knowledge with their seniors, colleagues and other invitees on Sep. 8, 2005. They also proposed some ideas and activities that they learned from the study tour to several agencies in Australia and Malaysia. There was discussion on the proposed action plans and the heads of the three agencies, i.e., CIAA, OAG and NVC, took the suggestions very positively.

The members of the Nepali team included:

1. Mr. Mohan Bahadur Karki, Joint Attorney, CIAA
2. Mr. Kusumakar Dhakal, Under Secretary, CIAA
3. Mr. Binod Kumar Gautam, Section Officer, CIAA
4. Mr. Dron Raj Regmi, Deputy Attorney General, OAG
5. Mr. Ramesh Kumar Pokharel, Joint Government Attorney, OAG
6. Mr. Rishikesh Wagle, Deputy Government Attorney, OAG
7. Mr. Ram Prasad Shrestha, Under Secretary, NVC
8. Mr. Prakash Paudel, Senior Division Engineer, NVC
9. Mr. Sagar Raj Acharya, Section Officer, NVC
10. Mr. Mihir Kumar Thakur, Anticorruption Specialist, USAID/Nepal, ARD Inc. Rule of Law Project

The agencies visited at Australia and Malaysia and subject matters discussed were as follows:

(1) Independent Commission against Corruption (ICAC), NSW, Sydney, Australia

- Investigate allegation of corruption against public authorities and public officials
- The Director of Public Prosecutions retains independence in deciding whether prosecution be initiated
- Cooperation and coordination between investigator and prosecutor
- Reporting system of corruption (Complaints)
- Tools of investigation
- Relationship with media
- Rate of prosecution
- Rate of conviction
- Accountability of anticorruption agencies
- Asset tracing
- Asset valuation including agriculture property
- Determination of excessive assets (disproportionate property)
- Witness protection
- Techniques and tools of identifying corruption prone area
- Preventive measures and strategies

(2) Australian Transaction Reports and Analysis Center (AUSTRAC), Sydney

- Federal Government Agency under Attorney General's portfolio
- Australia's Anti-money Laundering Agency
- Financial Intelligence Unit
- False name accounts/tax evasion/money laundering/financial and corporate fraud and crime
- Reporting system
- Working with other government agencies by signing MOU
- Working with ICAC
- Awareness Promotion Program
- Training Program

(3) Police Integrity Commission (PIC), NSW, Sydney

- Statutory body headed by a Commissioner
- Created in 1996 to reduce serious police misconduct
- Legislative prohibition to recruit the staff from police officials including formers from NSW
- Staff recruited on three years contract basis subject to renewal
- Detect or prevent or investigate police misconduct
- Assembling admissible evidence
- Criminal assets recovery proceedings
- Monitor the quality of NSW police investigations
- Complaints handling process
- Cooperation with other agencies
- Checks and balances on the power of the commission, the Inspector, and Parliamentary Joint Committee

(4) The Committee on the Independent Commission against Corruption (ICAC Committee), NSW

- A Joint Parliamentary Committee of 11 Members created by ICAC Act 1988
- Monitor, review, and report to Parliament on the exercise by ICAC and the Commission Inspector's functions
- Examine reports of the ICAC and report to Parliament upon them
- Examine trends and changes in corrupt conduct and practices and methods relating to corrupt conduct and report to both Houses of Parliament for any change in the law
- Checks and balances
- ICAC Committee has veto over Commissioner's appointment
- ICAC Amendment Act 2005

(5) Australian Securities and Investment Commission (ASIC), Sydney

- Federal agency for building confidence in financial markets
- Enforcing law to raise standards in corporations and financial services
- Improving financial system
- Contributing to consumer protection and financial literacy
- Business ethics
- Private sector misconduct/fraud/corruption

(6) Asia Pacific Group on Money Laundering (APG), Sydney

- The regional body for Anti-Money Laundering/Counter Terrorist Financing – 29 member states and 16 observer organizations
- The 40 Recommendations by Financial Action Task Force on Money Laundering
- APG Mutual Evaluation Report on Nepal, February 2005 (confidential, with 8 special recommendations)
- Corruption-related money laundering

(7) Director of Public Prosecutions (DPP), NSW, Sydney

- Power and functions of DPP
- Separation of power investigation and prosecution
- Working relation with ICAC, NSW
- Jury Trial System
- Relation and difference between DPP and Attorney General
- Methods of Prosecution

(8) Attorney General's Department, Criminal Justice Division, Canberra, Australia

- Federal Agency serves the people of Australia by providing essential expert support to the government in the maintenance and improvement of Australia's system of law and justice.
- The Attorney General and Minister of Justice and Customs are responsible for all of its work.
- The Attorney General Department is divided into four Groups: 1) Civil Justice and Legal Services; 2) National Security and Criminal Justice; 3) Information and Knowledge Services; and 4) Corporate Services
- National Security and Criminal Justice Group also has four divisions: 1) Security and Critical Infrastructure; 2) Criminal Justice; 3) Protective Security Coordination Center; and 4) Emergency Management Australia
- Criminal Justice has four Branches: 1) Community Safety and Justice Branch; 2) National Law Enforcement Policy Branch; 3) Criminal Law Branch; and 4) International Crime Branch
- Role of the International Crime Branch
- Australian approach to the implementation of the United Nations Convention against Corruption
- Relation and difference between Attorney General's Department and Director of Public Prosecution
- Difference between Federal and State level Attorney General's Department

(9) Australian Federal Police (AFP), Canberra

- Australian Federal Police – A Brief History
- Power and functions
- Bribery of foreign officials and unauthorized disclosure of information by Commonwealth officials
- The Complaints (Australian Federal Police) Act 1981
- Handling police corruption
- AFP professional standards
- Working relation with public prosecutors
- Priority rating in investigation
- Perjury law
- Political pressure in investigation

(10) Australian Crime Commission (ACC), Canberra

- Federal agency created in 2003
- Primary objective of ACC to strengthen the fight against nationally significant crime
- ACC brought together three Agencies: 1) Australian Bureau of Criminal Intelligence (Est. 1981); 2) National Crime Authority (1984); and 3) Office of Strategic Crime Assessments (1994)
- ACC Vision: to reduced incidence and impact of serious and organized criminal activity
- ACC Mission: to enhance Australian law enforcement's capacity to counter serious and organized criminals by providing quality intelligence and investigative services
- Special Coercive Powers: no right to silence during interrogation
- Functions of the ACC
- Determinations (special area of work) – Firearms trafficking, established criminal networks, money laundering and tax fraud, vehicle rebirthing, identity crime and card skimming, people trafficking for sexual exploitation

(11) Anticorruption Agency (ACA) Malaysia , Putrajaya, Kuala Lumpur

- (i) Meeting with Deputy Director General (Prevention) and Senior Officers of ACA with the Nepali Team
- ACA structure, staff recruitment, power and functions
 - Relation between ACA and the Attorney General's Department

(li) Briefing by Investigation Division

- Uphold integrity, eradicate corruption
- Investigate, process, supervise, monitor, recommend, and report
- Integrity vetting: promotion, confirmation of awards, optional retirement, and general vetting
- Joint operations
- Surprise checks
- Investigation techniques in excessive assets (disproportionate property) offenses
- ACA need not police assistance normally, staffs has 6 months of police training
- Coercive powers in investigation
- Agriculture property valuation
- Burden of proof on accused in excessive assets

(iii) Briefing by Legal and Prosecution Division

- Function of Legal and Prosecution Division
- Investigation and prosecution done separately and independently
- Checks and balances on ACA
- Standards and priority area of prosecution
- Aggressive preventive measures
- Conviction rate
- Prosecution in excessive assets major criteria (Sec. 32 & 43 of ACA Act, 1997)
- Burden of proof
- Relation between police and prosecutors
- Confidentiality of information and media relationship

(iv) Briefing by Intelligence Division

- Structure of the division
- Major task: clarify and verify information
- Function: collect and collate information on corrupt practices through effective network services
- Covert operation
- Observation and surveillance on individuals
- Develop individual's and organization's profile
- Sources of information

(v) Briefing by Inspection and Consultation Division

- Assist public bodies/companies/organizations to identify corruption loopholes
- Advise public bodies how to plug in the loopholes and minimize corruption opportunity
- Provide corruption prevention advice upon request by any person
- Preventive Strategies
- Proactive Roles
- Reactive Roles
- Advisory Committee

(vi) Briefing by Community Education Division

- Functions
- Approaches
- Focus sector
- Public sector targets
- High risk department
- Activities in public sector
- Private sector targets
- Activities in private sector
- Student sector targets
- Activities in student sector
- Politics/NGO sector target
- Activities in Politics/NGO
- Integrity administration module

Action Plan Proposed Separately by the Three Groups:

The CIAA group proposed 10 areas where something needs to be done within CIAA.

1. Asset tracing: database/intelligence/banks/relatives/surveillance
2. Determination of excessive assets: more clarity in law required
3. Handling corruption prone areas/system (e.g., police corruption) tools, techniques, and procedures of identifying corruption prone areas/systems

4. Working with government agencies (NVC, OAG, ministries, departments, etc.) to prevent corruption on the basis of Memorandum of Understanding (MOU)
5. Awareness promotion program: training programs for government officials (MOU)
6. witness protection: clear policy/law on witness protection essentials
7. Special coercive powers in investigation: amendment in the law
8. Integrity vetting for promotions, voluntarily retirement, award confirmations, and general vetting (MOU)
9. Organizational restructuring: setting up an intelligence division and a community education division inside CIAA
10. Standards and priority areas of prosecution and policy framework

The NVC group proposed 8 areas where reform measures are required within NVC.

1. Public officials asset tracing database
2. Aggressive preventive measures: community education; public awareness; training; etc.
3. Identifying corruption-prone areas and systems (data analysis, research, etc.)
4. Working with government agencies/inter-agency coordination (CIAA, OAG, ministries, departments, etc.) to prevent corruption (MOU)
5. Awareness promotion program: training programs for government officials (MOU)
6. Integrity vetting for promotions, voluntarily retirement, award confirmations, and general vetting (MOU)
7. Organizational restructuring: creating separate divisions inside NVC: Research Section; Inspection and Consultation Division; Intelligence Division; Community Education Division; and Financial Corruption Prevention Section
8. Capacity building: legal provisions, expert group formation, equipments. and facilities

The OAG group proposed 6 areas where some reforms are required within OAG.

1. Better handling of serious and organized criminal activities (strengthening the fight against nationally significant crime);
2. Witness protection in criminal cases (a clear policy/law on witness protection is essential);
3. Effective monitoring of the quality of police investigations (appropriate mechanism for monitoring);
4. Setting standards of prosecution (policy frame work);
5. Perjury law (strict enforcement of the existing law and timely reform of it); and
6. Reorganizing /coordinating OAG functions with CIAA and Ministry of Law and Justice (MOU).

After presenting the action plan, a discussion was held. A few questions were raised and some recommendations made by the participants. The discussions were mainly in the areas of:

- The agreed areas of changes/reforms;
- Prioritizing reforms;
- Division of major responsibility to implement reforms; and
- Progress assessment.

At the end of presentation and discussion, CIAA Chief Commissioner Mr. S.N. Upadhyay, Attorney General Mr. Pawan Kumar Ojha, and NVC Chief Officer Mr. Bal Krishna Prasai expressed appreciation for the action plans proposed by the tour participants and asked officials to plan, support, and coordinate such activities in the coming days.

ANNEX I. INTERACTION PROGRAM

Increased Efficiency of Filling Property Details (Disclosure System)

Organized by CIAA, NVC, and ReMAC

May 6, 2005, CIAA Meeting Hall

In the presence of all CIAA commissioners, NVC chiefs, and the authorities from concerned property record keeping offices, a workshop was organized to discuss various methods and processes for effectively implementing the property disclosure law. Actually, it was an interaction among enforcement agencies to follow-up and review the recommendations made in the workshop organized by ReMAC and NVC on March 18, 2005 and supported by ARD ROL. The March workshop, which was attended by more than 55 participants including the CIAA Chief Commissioner, the NVC Chief Officer, Von Millard-USAID and Bishnu Adhikari-USAID, was the first one held in Nepal to discuss the financial disclosure system in Nepal. The workshop concluded with general suggestions and recommendations.

This follow-up meeting, which was attended by 25 individuals from enforcement agencies, was organized to discuss dealing with the problems of enforcing the law and ways to more effectively enforce the law. A discussion paper was presented by ReMAC president Rajesh Hamal giving some of the issues and problems that needed to be settled. He raised many issues and problems with his remarks and offered suggestions for improvement. Listed below are some important questions put forward by him.

- Should the property details submitted be made secret or be monitored?
- What is the purpose of collecting property details from public officials?
- Should a time extension be given or a fine imposed on officials who do not submit the form?
- Who will take action against officials who do not submit the form?
- Where should the property details form be submitted and what should be the timelines?
- What is the definition of “family” for the purposes of submitting property details of an official and his/her family?
- What form should the design of the property details take?
- How property details are checked and verified?
- How will each concerned record keeping office determine the number of public authorities obliged to submit the form?
- What are the practical problems that face individuals who are obliged to submit property details?
- What are the problems of the record keeping offices when managing property detail record?
- What are the practical problems facing monitoring and investigative agencies:

- a. For evaluating property listed in the property declaration form? and
- b. For identifying property disproportionate to a valid source of income?

The CIAA joint secretary, Mr. Ratna Kaji Bajracharya, proposed some additional issues for discussion by the participants. The issues were:

- Should the property disclosure law be strictly enforced starting in the new fiscal year 2062/63 (commencing from July 16, 2005)?
- What roles must the concerned government agencies play in the implementation of the law?

Participants suggested that the only way to fully enforce the law was to fine those officials who do not fill out the property details. The CIAA Act authorizes a fine of NRs. 5,000 for any public official not annually filling out property details in the specified time. The CIAA commissioners were reluctant to begin penalizing without notice. They recommended giving notice of enforcement through circulars and advertisements to the effect that punitive measures would be taken in the coming days against any public official who fails to submit the declaration in time.

The enforcement authorities from CIAA and NVC, as well as some experts from civil society, stressed the need to have a comprehensive study on various aspects of “the property disclosure law, execution problems, and improvement in the system.” CIAA and NVC chiefs requested that ARD ROL support an empirical study on the subject. The first annual work plan activity (strengthen institutional capacity of government and non-government agencies to enhance governmental integrity and transparency, p. 30) is also specific about this study. It plans to “provide a grant to a local NGO for an assessment of the financial disclosure law and recommendations for improvement.”

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