



TRIP REPORT II:  
ARCHIVING & CASE  
MANAGEMENT  
14 JANUARY–6 FEBRUARY 2004  
FREDERICK C. HUMPHREYS,  
CONSULTANT

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Strengthen Rule of Law and Respect for Human Rights in Nepal  
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Contractor: ARD, Inc  
Man Bhawan, Lalitpur-20, Nepal  
Tel: 977-1-555-5557/8/9  
Frederick G. Yeager  
Chief of Party



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Submitted by: FREDERICK C. HUMPHREYS  
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The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

**MEMORANDUM**  
**NEPAL RULE OF LAW PROGRAM**

Subj: Trip Report for Nepal (14 January to 6 February, 2005)  
To: Frederick Yeager (Chief of Party) and Brad Johnson (ARD)  
From: Frederick C. Humphreys, Independent Consultant on Court Administration  
Date: 19 February, 2005

This report summarizes the results of my recent visit to Nepal. I worked in Katmandu for three weeks with a site visit to the District Court in Pokahara. This trip was under the authority of the United States Agency for International Development (USAID), which has awarded a contract to ARD of Burlington, Vermont to “Strengthen the Rule of Law and Respect for Human Rights in Nepal”. No non-USAID related business was conducted during this fully funded visit.

Executive Summary

I worked in Katmandu for three weeks with a site visit to the District Court in Pokahara. This trip was under the authority of the United States Agency for International Development (USAID), which has awarded a contract to ARD of Burlington, Vermont to “Strengthen the Rule of Law and Respect for Human Rights in Nepal”. The specific objectives of the visit were to work with members of the Nepal judiciary to begin to collect data that will strengthen the management capacity of the judiciary and to lay the initial groundwork for a scientific, central archive system for the courts. The District Court in Lalitpur and the Special Court in Katmandu had been selected by the Supreme Court in consultation with the Chief of Party as pilot courts for these two tasks.

I spent about three-fourths of my time on tasks directly related to the Management Strengthening component of the project. The goal was to design a strategy for improving the management capacity of the two pilot courts and to develop a methodology and set of criteria that could be used to evaluate the effectiveness of those efforts. To accomplish those objectives, I worked with the Registrars and other court staff to document the work flow in the courts and to design and test a data collection instrument that would measure the time required for completion of each step in the processing of a case. My efforts on the

development of an archive system for the courts were concentrated on gaining a better understanding of the existing system of archiving, learning about the existing logging and tracking system for archived files, and becoming familiar with the laws and regulations governing the retention and storage of court documents in Nepal. I worked mainly—but not exclusively—with the Special Court during my visit.

### Background and Objectives

The specific objectives of the visit were to work with members of the Nepal judiciary to begin to collect data that will strengthen the management capacity of the judiciary and to lay the initial groundwork for a scientific, central archive system for the courts. These two activities support Intermediate Result 7.4.1.1 (Enhanced Administration of Justice in Court, Prosecutor & Public Defense Organizations). The District Court in Lalitpur and the Special Court in Katmandu had been selected by the Supreme Court in consultation with the Chief of Party as pilot courts for these two tasks.

Because the ARD team wanted to start with a court with a relatively straightforward case processing structure before tackling a more complicated one, much of my early work was at the Special Court. The choice reflected several factors. First, the cases in the Special Court are similar from an administrative perspective and are processed in the same manner by the Registrar's office whereas the District Court has the entire spectrum of civil and criminal cases. In addition, the Special Court has a comparatively small workload. It was established just two years ago, and, even though it inherited many cases from its predecessor, the number of cases in its archive is a mere fraction of those in other courts. Another consideration is that the Chief Justice has been reluctant to allow third-party staff to work in the archives of the District Court, but he did not have the same concerns about the Special Court because that court is governed by a different set of regulations. Finally, the Registrar and Judges of the Special Court had all expressed strong support for the project and exhibited a keen interest in participating in it.

The Registrars and staffs in both courts were actively involved in all aspects of the project, including the development of a set of measurement tools and the drafting and review of documents. I also worked closely with the courts on the archive elements of the project. The two Registrars are very interested in finding ways to enhance the management of both their

open and closed files, in part because they have fiduciary responsibility for the records and thus are concerned about protecting them. To this end, neither wanted third-parties to be used in this effort.

### Strengthen the Management Capacity of the Judiciary

I spent about three-fourths of my time on tasks directly related to the Management Strengthening component of the project<sup>1</sup>. The goal was to design a strategy for improving the management capacity of the two pilot courts and to develop a methodology and set of criteria that could be used to evaluate the effectiveness of those efforts. To accomplish those objectives, I worked with the Registrars and other court staff to document the work flow in the courts and to design and test a data collection instrument that would measure the time required for completion of each step in the processing of a case. This instrument will be used initially to collect baseline information on case-processing times and over time to measure changes in the court's efficiency. I also worked with the staff in each court to refine its organization chart and to clarify the functional responsibilities of each office and its staff members—information that is necessary to identify which office is responsible for each task and to ensure that it has the resources available to perform the task. With these tools in hand, we hope to reduce delays, relieve bottlenecks and eliminate any duplication of effort in case processing.

The documentation of work flow was a rather straightforward endeavor. The Registrar provided a verbal description with a physical “walk through” of the court offices for each of the steps in the process; I asked a lot of questions, drafted a preliminary document, and made several trips to the court to clarify my understanding of its procedures and to get answers to questions about the internal case processing. Once the Registrar and I were satisfied that the work flow procedures were described accurately, the document was finalized. The work flow description for the Special Court is Attachment 1; analogous documents for the District Court are Attachments 2 (criminal proceedings) and 3 (civil proceedings).

I then started to work with the court staff to design and pre-test a data collection instrument. In brief, the data collection instrument is a measurement device that is linked to the work

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<sup>1</sup> A short list of accomplishments is contained in Appendix 1. Appendix 2 is a list of the persons I met with.

flow description, identifies key steps in the processing of a case and is used to record information about the performance of those steps. In this case, the proposed instrument has three components. The first is for time-series data on how long it takes to complete each major step in a case. The second component gathers information that can later be used for “case-weighting”; it includes items like the nature of the charges in a case, the number of documents filed, the number of defendants, and other variables that might affect case-processing times. This additional information can be used to document the administrative complexity of different categories of cases. The third component—which was added as the data collection tool was being finalized—is a narrative that will be linked to the time-series data. It will allow the data collection team to highlight unusual features of the case and should aid in the understanding of the case and facilitate data analysis. Finally, the information that is collected during this process can be used to identify norms of operations and to ensure that cases selected are in fact representative. It may also set useful benchmarks for courts that are not directly involved in the project.

I worked directly with the court staff on the design and pre-test of the data collection instrument, in part to ensure that I had a good understanding of the work flow and the structure of the case files in the Nepalese courts. This effort took a good deal of my time, mainly because it involved a lot of staff training and required five visits to the Special Court and five revisions to the document. The Court, while enthusiastic about applying modern case management principles to its work, had no previous exposure to these techniques, and the Registrar and his staff were not familiar with data collection and analysis. As a result, I instructed them in the use of the instrument and in the basic application of court data management. For example, the Court initially wanted to include open cases, or closed cases of types that were no longer being received, in the sample. I had to convince them that open cases did not have the rich data we needed and that classes of cases no longer being tried by the Court, although potentially interesting, did not belong in the baseline. I also needed to reassure the Court that I was not examining how cases were adjudicated—just how they were administered. While refining the data collection instrument, I learned a good deal more about the details of case processing in Nepal, and the staff gained a greater appreciation of how the information collected in the process could be used to improve court administration.

For the pre-test, we selected ten closed cases that approximate the distribution of closed cases in the Special Court. A review of the statistics on case filings and dispositions showed that virtually all of the cases either closed or filed last year were under the general category of Corruption, with the majority in the two subcategories of False Certificates and Corruption. A distribution of the Court's workload in the last fiscal year is Attachment (4).

Once the pre-test was completed and I reviewed the findings, we presented a finalized data collection instrument to the Registrar, who agreed that it was accurate. The finalized document is Attachment (5).

The next step is the formal data collection, which will be performed by Court employees with support from the ARD resident staff. I recommend that data be obtained for 15 percent of cases closed during the last year, which would be approximately 50 cases. As described above, the cases in the sample must be representative of the universe of closed cases. The sub-registrar will play a key role in selecting the cases and collecting the data.

As noted, I also worked with the staff of the Special Court to refine an organization chart that displays the hierarchy of the court, the lines of responsibility, and the number of employees in each office. The document is too big to be transmitted electronically but can be obtained from the ARD office in Nepal. A parallel effort was started in the District Court toward the end my visit and will be completed by the resident Project staff.

In addition, I helped the Special Court start to prepare a brief description of tasks, functions and responsibilities of each office in the Court; a preliminary version of this document is Attachment (6). Because the Court has not done anything like this in the past, the document will have to be revised several times before it is finalized. This task has not been discussed with the District Court because we feel that it is more important to complete the other tasks with that court first.

It should be noted that although this Report provides a more detailed description of my activities in the Special Court, it does not mean that the District Court was given less attention. The Special Court was the first court in this project. Therefore, I was able to carry the knowledge I gained in that Court over to the District Court and to build on what I learned.

This allowed for more effective use of my time in Nepal and more productive efforts in the District Court.

### Scientific Central Archive System for the Courts

Much of the remainder of my time was spent working on a plan to develop a scientific archive system for the courts. During my visit, Mr. Govind Das Shrestha (Deputy Chief of Party) conducted a review and summary of the laws and regulations governing the court archives in Nepal, while the Chief of Party was completing a contract to have the current archives at about 25 courts photographed. I worked mainly—but not exclusively—with the Special Court on this aspect of the Project and concentrated on gaining a better understanding of the existing system of archiving, learning about the existing logging and tracking system for archived files, and becoming familiar with the laws and regulations governing the retention and storage of court documents in Nepal. I worked with both courts to identify appropriate storage boxes and file folders, measure the volume of archived files, and find work space to box the files.

The issue of who will perform the work of creating the archive is tricky. In the Special Court, the Registrar initially was unwilling to give non-court staff access to court files. Later he offered to talk to the Supreme Court about a temporary detail of two employees to help with this effort. However, once we pointed out that this Court had only 434 closed cases and that the work would require only four person-days of staff time, he agreed that his staff could perform this task.

The situation in the Lalitpur Court is more difficult and is still unresolved. The Chief of Party is continuing to talk to the Chief Justice of the Supreme Court about this matter; he also raised the issue with the USAID Mission during the exit briefing. We do not have a count of the number of closed cases in the Lalitpur Court, but a visual inspection of the files indicates that the court could easily have 30,000 closed cases on hand—far too many to be processed by current court employees. We are pursuing all possible options to find a viable alternative. Our initial idea of hiring university or law students on a temporary basis was not acceptable to the Court, and we are now exploring a suggestion from Mr. Thakur to use those Court employees who are currently on sabbatical from official functions to attend law school.

We plan to focus first on improving the physical condition of the files for current open cases and on strengthening the record-keeping system. Once the open cases are closed, they will feed into the archive system. With regard to the closed cases, we plan to start with the most recently closed cases and work backward. Both courts have adequate work space to perform the filing and boxing of closed cases.

I took pictures of “banker boxes” and other filing materials from an office supply catalog. The Registrars in both courts felt the samples I showed them would be acceptable. The final selection will be made jointly by ARD and the Courts and will be limited to products that can be acquired locally.

#### Plans for the Next Few Months

I expect to return to Nepal in the mid-May for about eight weeks. In my absence, the ARD staff will continue to work on this project. They will work with the staff of the Special Court to collect time-series data on case processing and will record the information on Excel spreadsheets that will be transmitted to me for review. The ARD staff will also work with the District Court to design a data collection instrument for its civil and criminal cases. That instrument will be based on the work flow descriptions found in Attachments 2 and 3, and it will be put into Excel spreadsheets and sent to me for review. Once the data collection tools for the District Court are finalized, the ARD staff will train the court staff in their use. For the archive effort, the ARD staff will locate a vendor for storage boxes and case file folders. The ARD staff will contact me as necessary and will provide a written status report every other week to me and the Chief of Party.

#### Pokahara and the United Nations Model Court

In addition to the two tasks described above, I traveled to the Kaski District Court located in Pokahara on 18–19 January, 2005. This court is one of several model courts under the UNDP Reform of the Judiciary Program, and it has been a model court for 18 months. I traveled with Mr. Yeager and Mr. Govine Das Shrestha. We were joined by Mr. Bishnu Adhikari of the American Mission. We met with Judge Rupakheti and the Registrar, Mr. Devendra Paudel.

According to Mr. Paudel, the Model Court program has two elements: One is to create two benches in the court (civil and criminal), and the other is to expedite the preparation of judgments. He believes that the program has been a success on both counts. The two-judge bench at Pokahara had been bifurcated, and one judge now sits on each bench. With regard to the preparation of judgments, the Court has taken advantage of the hardware and software provided by the UNDP and has been able to reduce case processing times from several months to several days. The UNDP furnished the court with seven computers, and the software was developed by *Techminds* in Katmandu. Mr. Paudel said that most of the efficiency gain had come from automating the administrative functions of the court because the adjudicative functions were prescribed by law and thus were not suitable for automation.

#### United Nations Development Program

Following the trip to Pokahara, Mr. Shrestha and I visited the UNDP office in Katmandu and met with Mr. Shantam Singh Khadka, Program Officer for the Model Courts, to learn more about the program. Mr. Khadka provided an overview of the training for Judges, Registrars, and data entry staff in the Model Courts and described the logistical support that the UN had provided the program. We then had a good discussion about what the UN had learned from the project, what they considered their successes, what had not met their expectations, and what difficulties they had encountered. I also wanted to find out more about the automation aspects of the program—in particular, what software had been developed, which functions had been automated, and whether they planned to make any modifications. I requested screen shots showing what the operators saw during various steps of data entry, and Mr. Khadka gave us the name and telephone number of the developer.

## Key Tasks Accomplished During the Visit of Frederick Humphreys

### Case Management

1. Developed a detailed description of the work flow in the Special and District Courts.
2. Developed and tested a data collection instrument for the collection of case processing times.
3. Reached agreement with the Courts on selection criteria, number of cases, and protocol for collection of time series data.
4. Trained staff in the use of the data collection instrument.
5. Refined organization charts.
6. Started work on a description of the functions of each office in the Special Court.

### Archive System

1. Developed an understanding of the current archive system and the destruction and retention policy of the Courts.
2. Explored alternatives to current retention and storage system.
3. Became familiar with the current case indexing system.
4. Quantified volume of cases in the archives.
5. Reached agreement with the Special Court on the organization and storage of the files.
6. Identified the level of staff effort needed to organize archives.
7. Identified where the boxing of the archives would be performed and agreed on the type of file folders and storage boxes to be used and on identification information for the exterior of the archive boxes.
8. Reached agreement with the Special Court about who would perform the archiving efforts.
9. Discussed potential criteria for cross indexing in both manual and future automated systems.

Contacts

Mr. Lohit Chandra Shah	Registrar of the Special Court
Mr. Narayan Panthi	Undersecretary of the Special Court
Mr. Janardar Bahadur Khadka	Chief Judge of the Lalitpur District Court
Mr. Rajukumar Khatinada	Registrar of the Lalitpur District Court
Mr. Balendra Rupakheti	Judge of the Pokahara District Court
Mr. Devendra Paude	Registrar of the Pokahara District Court

Work Flow in the Special Court

1. The Court receives the incoming documents.
2. The Court reviews the documents to make sure that they are in the proper order.
3. If not, it returns the documents to CIAA for corrections.
4. If yes, it prepares the preliminary registration.
5. Preliminary registration is delivered to the Registrar.
6. The Registrar reviews the preliminary registration.
7. If the registration is not correct, he returns it for corrections.
8. If the registration is correct, he approves it.
9. A case number is assigned.
10. If a defendant is delivered with the case, the Court holds a hearing to determine if the defendant may be released on his own recognizance or if bail must be posted.
11. If necessary, the Registrar prepares an order for summons of absent defendant for the District Court.
12. The order for summons is delivered to the District Court for execution of appearance before the Special Court within 15 days.
13. If a defendant is present, the judge takes his statement. If the statement is complete and bail is posted, the defendant can be released.
14. The defendant posts bail.
15. The bail is received by the Registrar.
16. The Registrar deposits the bail in a bank.
17. If the judge is not satisfied, or if bail is not posted, the defendant is held.
18. If the defendant cannot be served with the summons, the Special Court can publish a notice in a national daily newspaper for appearance within 30 days.
19. The Registrar sets the time and place for the next hearing.
20. The Judge orders documents to be delivered from an outside agency.

21. The Correspondence Section prepares the order.
22. The Registrar dispatches the order.
23. The defendant has 15 days to prepare additional statements and collect witnesses.
24. He can request an additional 15-day extension.
25. If the extension is requested, the Registrar modifies the time and date of the next hearing.
26. At the end of the 30 days, the defendant must report to the Registrar.
27. If the defendant returns as scheduled, the Court takes his statement.
28. The Bench decides whether to release the defendant (bail yes/no) or hold him in custody.
29. The defendant posts bail.
30. The Registrar collects the bail.
31. The bail is deposited in a bank account under the defendant's name.
32. The defendant is given the day and time of the next hearing.
33. The hearing is held.
34. The defendant can request a 15-day extension.
35. Either the lawyer for the defendant or the prosecution can request a 15-day postponement of the hearing.
36. The defense or prosecution can request a second 15-day postponement of the hearing.
37. If necessary, a subsequent hearing is held.
38. The case is adjudicated.
39. If the defendant is found not guilty, he is released.
40. If the defendant is guilty, he is sentenced.
41. The defendant may appeal his conviction to the Supreme Court.
42. If the defendant files an appeal, the case is sent to the Supreme Court.
43. After the appeal, the case is returned to the Special Court.

44. The case is closed.

45. The case documents are filed in the Special Court's archive.

Work Flow for Criminal Proceedings in the District Court

1. A charge sheet comes to the Registrar.
2. The Registrar checks the charge sheet to ensure that it fulfills all requirements.
3. If the case is filed correctly, it is registered.
4. If the defendant is in custody, the charge sheet is presented to the Judge.
5. After taking the defendant's statement, the Judge decides if the defendant should be held in custody or released on bail.
6. The Registrar receives the bail (if posted).
7. The Registrar deposits the bail in the bank.
8. If bail is granted, the Registrar fixes the date for next hearing.
9. If a defendant is not present at the time of initial case registration, the Registrar issues a warrant for arrest. The warrant may be sent to police for execution, delivered by court personnel, delivered to the defendant's family, or attached to the home of the defendant.
10. The defendant is delivered to the court.
11. With the defendant in custody, the charge sheet is presented to the judge.
12. After taking the defendant's statement, the Judge decides if the defendant should be held in custody or released on bail.
13. If bail is posted, the Registrar receives it.
14. The Registrar deposits bail in the bank.
15. If bail is granted, the Registrar fixes the date for the next hearing.
16. At the hearing, the Judge can request external documents.
17. The Correspondence Section prepares the documents.
18. The documents are dispatched.
19. The Registrar receives the necessary documents.

20. The Registrar sets the hearing date.
21. The hearing is held.
22. The case is adjudicated.
23. A notice of appeal may be filed.
24. The case may be reviewed by the Appeals Court (depending on type of case).
25. The case is returned to the District Court after the appeals process is completed.
26. The case records are sent to the archive.

A criminal proceeding can be postponed two times at the request of an attorney.

Work Flow for Civil Proceedings in the District Court

1. The complaint is submitted to the Registrar.
2. The Registrar checks the complaint to see that it meets the requirements of the District Court.
3. If the requirements are not fulfilled, the Registrar can reject the case registration.
4. If the requirements are fulfilled, the case is registered.
5. Within three days after registration, the defendant is summoned to appear within 30 days.
6. The defendant can request a 30-day extension.
7. A hearing is held at which the defendant presents his written defense.
8. The hearing judge can request external documents.
9. The Correspondence Section prepares the documents.
10. The documents are dispatched.
11. The Registrar receives the necessary documents.
12. Two postponements can be granted at the request of the attorneys.
13. The Judge issues a ruling.
14. A Notice of Appeal may be filed.
15. The case is returned to the archive after all appeals are exhausted.

## Special Court

Kathmandu

Annual Report 2003-2004

Date: 08/12/2004

S. No.	Case Name	Number of cases		Total	Disposed	Balance of cases	Remarks
		<i>Carried forward from last year</i>	<i>Case registered this year</i>				
1	Drug	15		15	15		
2	Trafficking of Women	9		9	8	1	
3	Foreign Exchange	3		3	3		
4	Offence against State	15		16	9	7	
5	Terrorism & Destructive Activities	3	1	3	1	2	
6	Corruption	{206}	{110}	{316}	{130}	{186}	
i	<i>Fake Certificates</i>	71	49	120	83	37	
ii	<i>Corruption</i>	106	39	145	42	103	
iii	<i>Disproportionate Assets</i>	24	20	44		44	
iv	<i>Bribe</i>	5	2	7	5	2	
	<b>Total :-</b>	<b>251</b>	<b>111</b>	<b>362</b>	<b>166</b>	<b>196</b>	
		2002/2003	2003/2004	<b>Case Total</b>	<b>Disposed Case Total</b>	<b>Balance of cases</b>	
	From 2002 to 2004	509	111	620	258+166=424		

				<i>Verdict Total</i>		<b>Details of Cases</b>	
	Custodial Order	313	412	725		<b>Backlogged cases</b>	43
	Extension Order	153	51	204		<b>Cases from Court of Appeal</b>	97
	<b>Total:-</b>	446	463	909		<b>Cases in Special Court</b>	222
						<b>Total</b>	<b>362</b>

### DATACOLLECTION INSTRUMENT

Step	TIME SERIES DATA	Date	Remarks
1	Date received by the Special Court		
2	Was it initially received or rejected (Yes/No)		
3	Date of delivery to Registrar		
4	Date of approval of registration		
5	Was defendant delivered to the court with petition (Yes/No)		
6	Date of initial hearing to determine custody/bail status		
7	Date of hearing where defendant presents statement to the court		
8	Date of second hearing where defendant presents witnesses		

9	Date of subsequent hearing where defendant presents witnesses		
10	Did the court need to document from another agency (Yes/No) ?		
11	If so, was agency Nepal or foreign (Nepal/foreign)		
12	Date judge requested correspondence		
13	Date correspondence dispatched from the court		
14	Date correspondence received by court		
15	Number of simple dates issued by the Registrar		
16	Number of ordinary dates issued by the Registrar		
17	Date of final adjudication		
18	Date file received in the archive		

### CASE FILE INFORMATION

What provision of the SC authority -		
Number of defendants –		
Number of documents -		
Number of pages in the file -		
How many documents in each retention schedule -		
Condition of the file cover (torn or not readable) –		
Was case ever checked out of the archive		

## Preliminary Functional Description of the Offices in the Special Court

The administration of the Court is supervised by the Registrar under the general control of the President Judge of the Court. The Registrar is assisted by two Deputy Registrars and about 40 other officers and staff members. The court is divided into ten sections.

The Registration Section reviews and registers new cases.

The Case Sections A, B, and C handle the life of the case. They deal with matters relating to fixing dates and the hearing of cases and collect any documentary evidence ordered by the Court.

The Bench Section assists the Judges in their day-to-day business. Seven staff members (including three officers) assist the Judges in witness examination, writing orders and judgments in the courts.

The Records and Archive Section keeps and maintains records of the Court's decisions and all other relevant documents.

The Store Section manages and stores the stationary and other logistics materials and distributes them to the Judges and court staff as necessary.

The Accounts Section pays the salaries and allowances of court employees. It is also responsible for the payment of other expenses of the court.

The Administrative Section deals with correspondence and maintains records of incoming and outgoing letters.

The Computer Section types all decisions, orders and letters of the court.