

## **Implementation of the Public Defender Pilot Program in the Kathmandu Valley and future activities**

With the Public Defender board in its formative stages, it is now time to begin implementing the Action Plan previously submitted to this end. The program will provide assistance to indigent defendants charged in the Kathmandu, Lalitpur and Bakhtipur District Courts, and appeals generated therefrom to the Patan Court of Appeals and the Nepal Supreme Courts

### **PHASE ONE NOVEMBER 2006-JULY 2007**

The Stipendiary lawyers in the Kathmandu Valley region, presently 5 will assume temporary duties as Public Defenders. Two additional lawyers will also be hired by the Board, one to provide representation in the Kathmandu District Court, the other, a more senior attorney with management experience, to serve as Chief Public Defender. All contracts during this phase shall expire at the end of the fiscal year, July 15. The Chief Public Defender shall manage the public defenders office, provide assistance to the public defenders as needed, and liaise with the board. Lawyers shall be compensated at a level similar to that of Public Prosecutors with similar backgrounds and experience. The Public Defender Board shall establish minimum qualifications for the Public Defenders to be hired in Phase Two.

During Phase one, the primary objectives shall be as follows:

1. Create mechanisms to educate both the public at large, and those accused of crimes of the availability of public defender services to those of limited means.<sup>1</sup> This will entail printed materials being placed in prominent places at jails, police stations, public prosecutors offices, and the Courts. Additionally, print, radio, and television should be utilised for public service announcements to the maximum extent possible.
2. Establish working mechanisms for the assignment of counsel. Each Court Registrar shall ensure that appropriate cases are assigned the public defenders office in their respective court as soon as is practicable, and in no event later than the initial Court appearance. Counsel should be afforded sufficient time to meet with his/her client to prepare for the initial appearance hearing. The Registrars shall ensure that copies of all registered case materials are provided to the public defenders as soon as practicable after their filing.
3. Open a central Public Defenders Office, and satellite offices in each Court. ARD shall provide needed office equipment as funding allows.

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<sup>1</sup> Annual salary of NPS 60,000 for a person with no dependants, NPR 90,000 for those with dependants

4. In February 2007, begin advertising and recruiting qualified attorneys for one-year contracts as Public Defenders as set forth in phase two. The PDB shall meet as necessary to discuss the progress of the pilot program, and make changes as needed.
5. In March of 2007, or at such other time as the Board and ARD deem appropriate, ARD shall arrange for a certification and training program to be held in conjunction with the Nepal Judicial Academy. The consultant shall work with local ARD staff, and the PDB to organise a three-day training program based upon the “Public Defenders Rules of Procedure and Code of Conduct”<sup>2</sup> (PDRCC) This training shall be mandatory for all new PD hires, both for the pilot program, and all future contract public defenders and open to any criminal defense attorney who may wish to become a public defender at a later date. At the conclusion of training, the consultant, ARD staff and the participants should discuss topics for future continuing legal education programs, and future public defender certification programs.
6. Concurrent with the training set forth above, the consultant shall conduct a thorough survey of the effectiveness of the Public Defender System to date, and make a written report to the Board, outlining successes to date, and making specific recommendations for improvement.

### **Phase Two July 2007 July 2008**

1. At the beginning of phase 2, qualified attorneys shall be hired with one-year contracts. The hiring process shall be competitive, and managed by the PDB. All contracts entered into from the beginning of phase two forward shall be for a term of one year, and should be renewable at the attorney’s discretion provided the attorney provides satisfactory services to the clients and the Court.
2. When determined appropriate by the Public Defender Board, contact shall be made with appropriate legislators and executive branch officials to show the success of the pilot program, and explain the need for National government participation in the Public Defender program. Enabling legislation should be discussed, as well as funding to ensure the longevity of the program.
3. Near the End of Phase two, the Public Defender Board, working with ARD staff and the consultant as necessary shall identify the next districts for implementation of Public Defender services; ARD staff and the consultant shall visit these areas as necessary to assess the needs, make specific recommendations, and establish the program therein.

### **Phase Three**

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<sup>2</sup> The actual training shall be conducted in Nepali, the consultant shall work with the presenters to ensure a thorough understanding of the PDRCC and assist as needed at the training sessions

Working with the legislature, (CA) and the National government, ARD staff and the consultant shall prepare draft legislation to establish the Public Defender system nation-wide. ARD staff and the consultant shall provide all necessary assistance to the CA and other branches of government to understand the nature functions and need for such a system.

ARD staff and the consultant shall provide a draft plan to implement the Public defender System nation-wide, giving due consideration to the logistical and cultural challenges presented.<sup>3</sup>

3. ARD staff and the consultant shall work with the National Government and representatives of the CA to develop a transitional funding plan which utilises both ARD/USAID funds, and other grants and the like, with the goal of turning funding responsibility over to the Nepal government over a reasonable period of time.

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<sup>3</sup> The general concept should be that in every area where there is a public prosecutor, there should be a corresponding public defender