

Country Name	<b>The Project for Strengthening the Capacity of Court for Expeditious and Reliable Dispute Settlement</b>
Nepal	

**I. Project Outline**

Background	<p>In Nepal, a comprehensive peace agreement was signed between the government and the Maoists in November 2006 after the ten-year conflict. As a part of democratic nation-building, judiciary was expected to become more efficient and effective. Moreover, court-referred mediation, which was expected to become an easy means of dispute settlement as well as an alternative to court, was not used actively. Because of the inadequate capacity of court mediators, the number of disputes settled by court-referred mediation was too scarce to reduce the workload of the courts.</p>										
Objectives of the Project	<p>In Nepal, through development and approval of the Case Management Guideline by the Supreme Court, dissemination of the Case Management Guideline and other related information for implementation at the courts nationwide, development of the Court-Referred Mediation Guideline and Information Materials for court mediators, and wide dissemination of the Court-Referred Mediation Guideline and Information Materials for court mediators as well as other related information, the project aimed at establishment of foundation for improving court's functions on dispute settlement, thereby contributing to promotion of expeditious and reliable dispute settlement in order to protect rights of people.</p> <ol style="list-style-type: none"> <li>Overall Goal: Expeditious and reliable dispute settlement is promoted through improving court's functions in order to protect rights of people.</li> <li>Project Purpose: Foundation for improving court's functions for promoting expeditious and reliable dispute settlement is established.</li> </ol>										
Activities of the Project	<ol style="list-style-type: none"> <li>Project Site: Kathmandu, area of the Model Courts* *Dang District Court (DC), Kavre DC, Dhanusha DC</li> <li>Main Activities: <ol style="list-style-type: none"> <li>Baseline surveys on current practices of case management system, Development of Case Management Guideline, Hearing of opinions on the Case Management Guideline at the Model Courts, Finalization of the Case Management Guideline and submission to the Supreme Court for approval, etc.</li> <li>Implementation of trainings and seminars for judges, court officials and legal professionals to disseminate the Case Management Guideline and other information related to the case management, etc.</li> <li>Baseline survey on current practices of court-referred mediation, Development of Court-Referred Mediation Guideline for judges and court officials, Hearing of opinions on the Court-Referred Mediation Guideline at the Model Courts, Development of Information Materials for court mediators, etc.</li> <li>Implementation of seminars on the Court-Referred Mediation Guideline for judges and court officials, Implementation of trainings for court mediators based on the Information Materials, Establishment of Mediation Center to the Model Courts and implementation of workshop to review the overall Model Court activities, etc.</li> </ol> </li> <li>Inputs (to carry out above activities) <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Japanese Side</td> <td style="width: 50%;">Nepalese Side</td> </tr> <tr> <td>1) Experts: 8 persons</td> <td>1) Staff Allocated: 24 persons<sup>2</sup></td> </tr> <tr> <td>2) Trainees Received: 102 persons<sup>1</sup></td> <td>2) Office space (from September 2013 to April 2015*)</td> </tr> <tr> <td>3) Local expenses</td> <td>*Until the great earthquake occurred in April 2015.</td> </tr> </table> </li> </ol>			Japanese Side	Nepalese Side	1) Experts: 8 persons	1) Staff Allocated: 24 persons <sup>2</sup>	2) Trainees Received: 102 persons <sup>1</sup>	2) Office space (from September 2013 to April 2015*)	3) Local expenses	*Until the great earthquake occurred in April 2015.
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3) Local expenses	*Until the great earthquake occurred in April 2015.										
Project Period	(ex-ante) September 2013 – March 2017 (actual) September 2013 – March 2018	Project Cost	(ex-ante) 197 million yen, (actual) 270 million yen								
Implementing Agency	Supreme Court, Dang District Court, Kavre District Court, Dhanusha District Court										
Cooperation Agency in Japan	International Cooperation Department, Research and Training Institute, Ministry of Justice										

**II. Result of the Evaluation**

## &lt;Constraints on Evaluation&gt;

• In this Ex-Post Evaluation, an evaluation judgment was made primarily by analyzing information acquired by sending and collecting questionnaires, and through telephone and e-mail interviews with persons concerned due to the impact of COVID-19.

## &lt;Special Perspectives Considered in the Ex-Post Evaluation&gt;

• As to the continuation status of Indicator 1 of the Project Purpose, the current status of utilization of materials developed by the project was examined.  
• The continuation status of Indicator 2 of the Project Purpose is almost the same as Indicator 2 of the Overall Goal. Therefore, the continuation status of Indicator 2 of the Project Purpose was assessed as a part of assessment of the achievement of Indicator 2 of the Overall Goal.

**1 Relevance**

## &lt;Consistency with the Development Policy of Nepal at the Time of Ex-Ante Evaluation&gt;

The Supreme Court started the implementation of the Second Five-Year Strategic Plan of Judiciary (2009/10-2013/14) to put democratic nation-building on track and promote it peacefully.

## &lt;Consistency with the Development Needs of Nepal at the Time of Ex-Ante Evaluation&gt;

<sup>1</sup> Including 10 persons in one course held before the commencement of the project as Kick-Off Seminar. During the project, six courses were held and there were 10 to 20 participants in each course.

<sup>2</sup> The project members were reshuffled several times during the project period but the number of the project members at one time was 24 in general.

The judiciary faced criticism for being ineffective in providing justice in a timely manner. A study conducted in June 2012 by the JICA legal support advisor showed that the rate of case disposal was 40% of the annual received cases. Around 40% of the total disposed cases took more than three years to dispose. Moreover, court-referred mediation was not used actively. The frequency of the use of court-referred mediation varied greatly depending on the district.

<Consistency with Japan's ODA Policy at the Time of Ex-Ante Evaluation>

In "Country Assistance Policy for Nepal" (2012), one of the three priority areas was the consolidation of peace and steady transition to a democratic state, which included support for legal reform.

<Evaluation Result>

In light of the above, the relevance of the project is high.

## 2 Effectiveness/Impact

<Status of Achievement of the Project Purpose at the Time of Project Completion>

The Project Purpose was partially achieved by the project completion. In regard to Indicator 1, the Case Management Guideline (English and Nepalese) was approved by the Supreme Court in April 2017 and was printed and 5,000 copies were distributed to 75 districts nationwide as well as relevant agencies in July 2017. The Court-Referred Mediation Guideline was not developed as was initially planned but it was agreed during the terminal evaluation that the preliminary draft of the Court-Referred Mediation Guideline would be used as the Basic Concept Document at the Supreme Court. Three materials were developed as Information Materials. They are: the Mediation Basic Concept Note, the Materials for Mediation Trainers and the Basic Concept Document on Court-Referred Mediation. As to Indicator 2, since training materials such as the Materials for Mediation Trainers were developed and the capacity of those involved in the project was improved, the programme for Master Training of Trainers (MToT) was prepared although MToT programme was not actually conducted. Regarding Indicator 3, the judges and court officials who participated in the Japan Seminars and other sharing seminars were much more aware of promoting expeditious and reliable dispute settlement<sup>3</sup>, although the target of Indicator is not clearly defined and it was difficult to measure the level of awareness. Regarding Indicator 4, the results of interview and questionnaire conducted by the terminal evaluation indicated that the judges and the court officials who took part in the Japan Seminars and other sharing seminars were much aware of the importance of promoting court-referred mediation, although the target of Indicator was not clearly defined and it was difficult to measure the level of awareness.

<Continuation Status of Project Effects at the Time of Ex-Post Evaluation>

The project effects have partially continued to the time of ex-post evaluation. Regarding Indicator 1, the Case Management Guideline and the Information Materials for the Court-Referred Mediation have been utilized, although not as fully as expected. In Nepal, the new codes were introduced in September 2017 and set a departure in existing legal framework, affecting the relevancy of the Guideline. However, the theoretical aspects mentioned in the Guideline are still relevant and have been utilized in various occasions. The Guideline is yet to be revised based on the new codes. The Information Materials for Court-Referred Mediation, comprising three parts, have been still utilized as mediation has been considered as one of the best tools to settle disputes permanently. Indicator 2 has been partially continued (for the detail, refer to Indicator 2 of the Overall Goal). As to Indicator 3, all the judges and court officials are continuously aware of promoting expeditious and reliable dispute settlement through various means, as shown in the Indicators in the Overall Goal below. The high court and district court judges and judicial officials along with other concerned stakeholders are following the calendar of each case through the implementation of Differentiated Case Management (DCM) system. Regarding Indicator 4, judges and court officials are aware of mediation as an effective means to settle dispute expeditiously, reliably and permanently. Mediation is considered as the best way of settling the disputes therefore, it has been incorporated in the codes, court rules and the Strategic Plan of Judiciary.

<Status of Achievement of the Overall Goal at the Time of Ex-Post Evaluation>

The Overall Goal has been partially achieved. Due to changes in the legal provision, a part of the Case Management Guideline has become inapplicable to the current legal situation, as described above. However, judges and court officials still use the Guideline in order to understand the concept and various aspects of case management (Indicator 1). Training focused on Case Management Guideline has not been conducted because the Case Management Guideline was not revised as per the new codes enacted. (Indicator 2). However, the awareness on Case Management Guideline has been continued in other training program such as DCM and by distribution of the Case Management Guideline throughout the courts in Nepal. The time to dispose cases in court has been reduced (Indicator 3). At all the three Model Courts, the percentage of cases disposed within one year has been increased in general, although it is almost at the same level at Dang DC and Kavre DC during fiscal year from 2019/20 to 2020/21<sup>4</sup>. The average number of cases disposed by a judge is increasing in general (Indicator 4). At Dang DC, the disposal rate in fiscal 2019/20 was reduced in comparison to the previous year, because of the lockdown imposed due to the impact of COVID-19. The number of pending cases has not been reduced because of lockdown imposed throughout the country due to COVID-19 (Indicator 5). There is no clear tendency of improvement in the number of cases referred to mediation or in success rate. One of the reasons is lockdown due to COVID-19 (Indicator 6).

<Other Impacts at the Time of Ex-Post Evaluation>

Mediation Committee of Supreme Court issued a notice in 2016 to promote the use of judicial mediation, based on the report of the training in Japan. Furthermore, Supreme Court Regulations revised in 2016 include the introduction of prior consultation procedures, which can be evaluated as a result of the training in Japan. No negative impact has been observed. The Mediation Centers were constructed within the premises of the Model Courts, therefore, there was no land acquisition.

<Evaluation Result>

Therefore, the effectiveness/impact of the project is fair

### Achievement of Project Purpose and Overall Goal

Aim	Indicators	Results	Source
(Project)	Indicator 1: Case	Status of the Achievement (Status of the Continuation): achieved (partially continued)	source : JICA

<sup>3</sup> In the project, a large number of personnel were dispatched to Japan, compared to other similar projects. Taking the results of the project into account, it is considered that training a large number of personnel was effective in the project, to develop capacity of the implementing agency as a whole.

<sup>4</sup> It may be due to the impact of COVID-19.

Purpose) Foundation for improving court's functions for promoting expeditious and reliable dispute settlement is established.	Management Guideline and Information Materials for Court-Referred Mediation are prepared.	(Project Completion) - The Case Management Guideline (English and Nepalese) was approved by the Supreme Court in April 2017 and 5,000 copies were distributed to 75 districts nationwide as well as relevant agencies in July 2017. The Court-Referred Mediation Guideline was not developed but it was agreed that the preliminary draft of the Court-Referred Mediation Guideline would be used as the Basic Concept Document at the Supreme Court, and three materials were developed as Information Materials. (Ex-Post Evaluation) - Case Management Guideline and Information Materials for the Court-Referred Mediation have been utilized, although not as fully as expected. In Nepal, the new codes were introduced in September 2017, affecting the relevancy of the Guideline. However, the theoretical aspects mentioned in the Guideline are still relevant and have been utilized in various occasions. The Information Materials for mediation have been still utilized as mediation has been considered as one of the best tools to settle disputes permanently.	document, Supreme Court information																																																																			
	Indicator 2: The Programme for Master Training of Trainers (MToT) is prepared and conducted to disseminate the Case Management Guideline.	Status of the Achievement (Status of the Continuation): partially achieved (partially continued) (Project Completion) - As training materials were developed and the capacity of those involved in the project was improved, the programme for MToT was prepared, although MToT programme was not actually conducted. (Ex-Post Evaluation) *Refer to Indicator 2 of the Overall Goal.	source : JICA document																																																																			
	Indicator 3: The awareness of judges and court officials for promoting expeditious and reliable dispute settlement is enhanced.	Status of the Achievement (Status of the Continuation): achieved (continued) (Project Completion) - The judges and court officials who participated in the Japan Seminars and other sharing seminars were much more aware of promoting expeditious and reliable dispute settlement. (Ex-Post Evaluation) - All the judges and court officials are continuously aware of promoting expeditious and reliable dispute settlement through various means.	source : JICA document, Supreme Court information																																																																			
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(Overall Goal) Expeditious and reliable dispute settlement is promoted through improving court's functions in order to protect rights of people.	Indicator 1: All the courts in Nepal utilize improved Case Management Guideline.	(Ex-Post Evaluation) partially achieved - Due to changes in the legal provision, a part of the Case Management Guidelines has become inapplicable to the current legal situation. However, judges and court officials still use the Guideline in order to understand the concept and various aspects of case management.	source : Supreme Court information																																																																			
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Indicator 4: The number of cases which a judge disposed in a year is increased.	(Ex-Post Evaluation) partially achieved - The average No. of cases disposed by a judge is increasing in general.				source : Case Management System of Supreme Court	
	DC	Fiscal year	Total No. of cases disposed	No. of judges		Average No. of cases per judge
	Dang DC	2018/19	2,010	3		670
2019/20		1,189	3	396		
2020/21		1,790	3	596		
Kavre DC	2018/19	892	3	297		
	2019/20	909	3	303		
	2020/21	1,197	3	399		
Dhanusha DC	2018/19	2,312	9	257		
	2019/20	3,590	9	399		
	2020/21	3,455	9	384		
Indicator 5: The number of pending cases is reduced.	(Ex-Post Evaluation) not achieved - No. of pending cases has not been reduced.				source : Case Management System of Supreme Court	
	DC	Fiscal year	No. of pending cases			
	Dang DC	2018/19	1,082			
2019/20		1,452				
2020/21		1,782				
Kavre DC	2018/19	881				
	2019/20	982				
	2020/21	1,222				
Dhanusha DC	2018/19	4,097				
	2019/20	3,383				
	2020/21	4,884				
Indicator 6: The success rate of Court-referred Mediation is increased.	(Ex-Post Evaluation) not achieved - There is no clear tendency of improvement in the number of cases referred to mediation or in success rate.				source : Case Management System of Supreme Court	
	DC	Fiscal year	No. of cases referred to mediation	No. of cases where parties successfully reached agreement		Success Rate (%)
	Dang DC	2018/19	394	75		19%
2019/20		376	53	16%		
2020/21		510	88	17%		
Kavre DC	2018/19	235	64	27%		
	2019/20	214	29	14%		
	2020/21	138	36	26%		
Dhanusha DC	2018/19	81	06	7%		
	2019/20	276	44	16%		
	2020/21	127	13	10%		

### 3 Efficiency

Both the project cost and the project period exceeded the plan (ratio against the plan: 137% and 128%, respectively). The project period was extended because it took a long time to have a common understanding on the scope of the activities for case management as the scope of case management tackled by the project was not clearly agreed between the Nepalese and Japanese sides at the planning stage<sup>5</sup>. The project activities were also delayed partially due to the earthquake in 2015. The outputs of the project were produced as planned. Therefore, the efficiency of the project is fair.

### 4 Sustainability

#### <Policy Aspect>

One of the goals of the Strategic Plan of Judiciary (2019 - 2024) is to achieve speedy and qualitative dispute settlement. Within this goal, each court has to take appropriate measures to make their case management efficient and effective so that backlog of cases will be reduced and timely disposition of cases can be achieved. Other goals of the Strategic Plan are enhancing access to justice, improving good judicial governance, increasing the efficiency of court management and achieving public faith and trust.

#### <Institutional/Organizational Aspect>

The basic organizational structure of court system has not been changed since project completion, that is, Supreme Court - High Court (called Appellate Court during the project) - the District Court. The total number of employees working at DCs is 2,133 at the time of ex-post evaluation. There are 26 employees at Dang, 34 at Kavre, and 44 at Dhanusha DCs respectively. This number doesn't include judges, drivers and other support staff. Generally, the number of employees is static and the number of cases is increasing in these days. Consequently, the number of employees should be increased to make it compatible with the increased number of cases. With the use of IT and software, trained staff members are able to handle the workload of courts. Therefore, DCs are focusing on using maximum IT/software in the court's work, while regularly conducting capacity enhancement training for employees working in the courts.

#### <Technical Aspect>

The judges and court officials have necessary skill and knowledge to settle dispute. However, it is also necessary to be acquainted with further skill and knowledge through training, observation visit or experience sharing in the field of law and justice. Moreover, it is also necessary to know about the best practices from different jurisdictions. Approximately 78-80% participants in the Japan Seminars are still

<sup>5</sup> In addition, it took a considerable time to design and construct the Mediation Centers.

engaged in case management and mediation process, utilizing the results of the training in Japan. Around 20-22% of participants left the service due to retirement age<sup>6</sup>. Basic mediation training is regularly organized by the Mediation Council, Mediation committee of Supreme Court and other courts and other NGOs throughout the country. Similarly, advance level of mediation training is conducted to enhance the knowledge and skills of mediators working in the dispute settlement. The Mediation Centers constructed by the project have been utilized to facilitate the mediation process of the parties at all the three Model Courts. The Mediation Centers have also been utilized as a waiting room so that parties can read and understand the benefits of mediation and other relevant knowledge on mediation.

#### <Financial Aspect>

In order to implement the various activities mentioned in the Strategic Plan, resources are secured through the regular budget. However, to fully realize the Strategic Plan, more budget is necessary and resource constraint is always a big challenge for implementing a reform agenda. The cost for maintenance and operation of Mediation Center is funded through regular budget of courts. Separate maintenance budget only for Mediation Center is not allocated in practice in DCs. As transportation cost, Rs. 500 is provided to mediators for each discussion.

#### <Evaluation Result>

In light of the above, slight problems have been observed in terms of the institutional/organizational and financial aspects of the implementing agency. Therefore, the sustainability of the project effects is fair.

#### 5 Summary of the Evaluation

The project partially achieved the Project Purpose of establishment of foundation for improving court's functions as the Case Management Guideline and Information Materials for Court-Referred Mediation were developed and those who participated in Japan Seminars improved their awareness towards expeditious and reliable dispute settlement as well as court-referred mediation, although MToT programme was not conducted. At the time of the ex-post evaluation, although the Case Management Guideline has not been utilized as expected because of the change of legal framework, the awareness of judges and court officials has been maintained. Therefore, the project effects have been partially continued. The Overall Goal of promotion of expeditious and reliable dispute has been partially achieved as the time to dispose cases in courts and the average number of cases disposed by a judge have been improved in general, although the number of pending cases has not clearly decreased. Sustainability is high in terms of the policy and technical aspects, but slight problems have been observed in institutional/organizational and financial aspects in terms of insufficient number of human resources, including trained ones and in terms of insufficient budget. In the efficiency, both the project cost and the project period exceeded the plan.

Considering all of the above points, this project is evaluated to be partially satisfactory.

### III. Recommendations & Lessons Learned

#### Recommendations for Implementing Agency:

- It is desirable to review and develop the Case Management Guideline and the Court-Referred Mediation Guideline as per the provision of new codes and to disseminate them with appropriate trainings. Therefore, it is recommended that the Supreme Court conducts review of Case Management Guideline and drafting of Court-Referred Mediation Guideline in next year's activity of the Supreme Court by allocating necessary budget and human resource.

#### Lessons Learned for JICA:

- As a result of the project, the Supreme Court has started building Mediation Centers in all its new court buildings at district level. Combination of human resource development and infrastructure project (Mediation Center) was a good example to achieve the project purpose. To construct the facilities to be appropriately utilized and in a timely manner, there should be necessary human resource assigned to the project who has appropriate knowledge and skill in infrastructure.

- In the project, a substantial number of senior judges and court officials were dispatched to Japan for learning. This created a critical mass in the judiciary sector who were exposed to Japanese legal system and had a influence in the policy level as well in the day-to-day operation in the office work space. A large-scale training in Japan is effective to produce effects in policy and day-to-day operation, if appropriately implemented.

- The project was delayed partly because it was difficult to reach a common understanding and consensus among project team. To avoid this, it is desirable to appropriately organize the project implementing structure with consideration to the hierarchy of those involved on the counterpart country side as well as clearly defined leadership and other roles on the Japanese side.

- In Nepal, the new codes were introduced in September 2017, affecting the sustainability of the Guideline. In the project involving formulation of guidelines, it would be useful to consider the possibility of the change of law and policy in advance and to develop the guideline contents so that they are applicable even if law and policy are changed. Also, it is important to formulate projects with prospect to revising the guideline contents by implementing agencies themselves while considering the possibility of law and policy changes.

<sup>6</sup> Based on the information from the Supreme Court, with reference to the lists regarding the Note Verbal of the Ministry of Foreign Affairs.



Mediation Center constructed by the project at Kavre District Court



People utilizing the Mediation Center at Dhanusha District Court