

Training and Orientation Needs Assessment of the Nepali Judiciary on Human Rights and Social Justice

**Report
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Acknowledgements

The National Judicial Academy is a premier organization in Nepal in the area of training and capacity building for justice sector professionals of Nepal. Despite its small organizational built, limited budget, insignificant physical infrastructure and human resources, it is making visible progress in the mandate given to it by its enabling statute - the NJA Act.

The organization is thankful to the Socio-Economic Rights Programme, Norwegian Center for Human Rights at University of Oslo and its Director Mr. Malcolm Langford for assisting it to carry out this light touch need assessment for the training and orientation of Nepali Judiciary on human rights and social justice.

This assessment, though a quick appraisal, is a significant document providing guidance to the organization and its national and international partners on the need felt by the justice sector professionals for future interventions.

We are thankful to all judges, prosecutors, court registrars, legal judicial officers and the members and officials of the Nepal Bar Association who cooperated with us for their enthusiasm and commitment in providing their inputs and completing this research.

I must also thank Dr Bipin Adhikari (lead researcher), Shreekrishna Mulmi and Pamela Poon for their team work and Judge Til Prasad Shrestha for official arrangements to produce this document with all sincerity that it deserves.

We will continue working to make sure that the NJA is able to develop appropriate interventions in the days ahead to implement its recommendations.

Raghav Lal Vaidya
Executive Director

Acronyms

CAT	United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women 1979
CeLRRd	Center for Legal Research and Resource Development
CoA	Court of Appeal
CRC	Convention on the Rights of the Child, 1989
FWLD	Forum for Women, Law and Development
ICCPR	International Covenant on Civil and Political Rights, 1966
ICESCR	International Covenant on Economic, Social and Cultural, Rights, 1966
INGOs	International Non-Governmental Organizations
INSEC	Informal Sector Service Center
ILO	International Labour Organization
NGOs	Non-governmental Organization/s
NHRC	National Human Rights Commission - Nepal
NJA	National Judicial Academy
OHCHR	Office of High Commissioner for Human Rights
ToT	Training of Trainers
UDHR	Universal Declaration of Human Rights, 1948
UN	United Nations
UNDP	United Nations Development Programme

Executive Summary

The National Judicial Academy of Nepal (NJA) is a young and vibrant institution in the judicial sector of Nepal. It was established in 2004 to serve training and research needs of the judges, government attorneys, legal officers, judicial officers, private law practitioners, and others who are directly involved in the administration of justice in Nepal. The Academy is desirous to respond to the requirements of human rights and social justice training/orientation of its justice sector clientele in a planned way.

In furtherance of this desire, the Academy wanted to quickly assess the needs of training and orientation of the judicial decision makers – i.e., Courts of Appeal and District level judges, court registrars, government attorneys, and advocates representing the Nepal Bar Association. NJA's partner, the University of Oslo, supported this process financially. This is the report of the needs assessment. It was conducted on 105 judicial personnel of Nepal. They included judges, public attorneys, court registrars and representative officials from the Nepal Bar Association, from five areas across the country: Biratnagar, Kathmandu, Butwal, Pokhara and Nepalgunj. The report is based on two-pronged approach. The respondents in each place were invited to the Appeal Court Convention rooms for a two and half hour programme wherein they were served with a questionnaire specially prepared for the Needs Assessment. Immediately after filling out the questionnaire, the respondents were engaged in a focus group discussion for another hour, where they were encouraged to speak on their perceived needs on the basis of focus group questions.

The finding of the assessment is that judicial personnel of all types irrespective of their age, status, educational background, experience and location, need and desire training/orientation on human rights. While all levels of training/orientations are required, the participants must be given the opportunity to select the level they need. Most of the respondents have some background for the initiatives to be undertaken. It is advisable to start *all* training with some refresher orientation on concept of human rights and social justice, related international instruments, Nepal's obligations, and the situation of domestication and enforcement

There is clear need for focused training/orientation on judicial responses on human rights and social justice and comparative practices; socio-economic rights such as the right to food, work, health, education, housing, social security, water and environmental rights; rights of marginalized and disadvantaged groups including indigenous people, *dalits* and other deprived communities, the right to culture and practices, the right to equality and non-discrimination, natural resources, the right to development, and economic and social justice in transition; the rights of women, children and elderly people; rights in criminal justice system, legal aid and access to justice constraints and social groups; and the right to property (as far as it touches vulnerable people and communities). There is also the need for exposure trips and interactions with international experts, judges, prosecutors and other legal professionals of high repute who have already delivered in the area of social justice (role models).

Training and Orientation Needs Assessment of the Nepali Judiciary on Human Rights and Social Justice

1. Background

The National Judicial Academy of Nepal (NJA) is a young and vibrant institution in the judicial sector of Nepal. It was established in 2004 to serve training and research needs of the judges, government attorneys, legal officers, judicial officers, private law practitioners, and others who are directly involved in the administration of justice in Nepal. It was first established in 2004 under the NJA Ordinance issued by the King of Nepal which is now substituted by the National Judicial Academy Act of 2006. The NJA works under the broad policy guidelines of a sixteen member Governing Council headed by the Chief Justice of Nepal. The three major objectives of the NJA are as follows:

- To enhance the competence and professional development of judges, government attorneys, court officials and other officers of the Nepal judicial service, as well as private law practitioners, by developing programs of judicial and legal education;
- To undertake research in areas of law and justice; and
- To establish itself as a legal information centre.

The Act created the opportunity for the NJA to bring major justice sector actors under its banner and to work continuously for their capacity enhancement in a coordinated manner. The partners of this initiative include the Supreme Court and subordinate courts, the office of the Attorney General, the Ministry of Law and Justice, the Judicial Council and the Nepal Bar Association – the later being the professional forum of independent legal practitioners in Nepal. The Government of Nepal allocates an annual budget as a grant necessary for the training and research activities and also expenses for the salary and other facilities of the NJA staff. The Executive Board and Governing Council of NJA approve an annual plan in the beginning of each fiscal year for training and research activities. The Act has allowed the Academy to partner with international organizations that have both funding and broader resources, as well as with other international organizations operating in Nepal, to help the NJA fulfill its overall objectives.

The Academy has its own internal structure. An executive director, who is appointed by the chief justice of Nepal on the recommendation of Judicial Council, heads the Executive Board representing all clientele organizations. In particular, it has its own pool of resource persons, or faculty, who conduct the trainings and orientations. External experts from the wider justice sector in the country are also contracted to do the job in appropriate cases. The annual plan depends on training needs assessment in the clientele organizations and also on demands put forward by clientele organizations for the fiscal year. There is a demand assessment behind every training or orientation programme organized by the Academy. The programme planning addresses the training needs of judges, judicial officers and prosecutors who are being promoted to higher positions, and also judges who are being transferred from one place to another. Some programmes are designed as refreshment courses at intervals. The Academy also provides in-service training for the officers of the Nepal Judicial Service. The sessions are of varying length and magnitude, depending on the demand and resources available. The overall Judiciary

Strategic Plan is the key guiding document. A number of programs have been conducted in sectoral areas such as gender justice, juvenile justice, programs on *Dalit* rights, commercial and banking law, mediation, case management, public-private partnerships and federalism. Trainings are expected to boost the participants' overall personal development along with enhancing their knowledge and skills to promote effective, efficient and accessible justice in the country.

The human resource management needs of stakeholders have also been emphasized by maximizing the benefits by equipping participants with necessary knowledge, skills, and technologies in the judicial sector. Training and orientation needs are catered to with structured programmes and seminars, conferences, and symposia. The Academy has yet to launch programs on budgetary management, supervision of employees, performance evaluation, conflict resolution in the workplace, team building and leadership skills, etc. However, it is open to such requests should they come in the context of training package that is recommended by the client organizations.

The Academy is also emerging as a leading legal judicial research forum in the government sector. Since its inception, it has prioritised research and publication, not only to cater to training needs, but also to support the wider policy reform process. The work completed so far can be categorised into three broad groups: research in problem areas affecting speedy and effective justice; quality of judicial education, and policy research for legal judicial reform. Since the country is in transition from conflict to peace, the Academy finds this subject important for public and private legal practitioners, who have generally no exposure to the theories and application of the transitional justice process. In addition, trainings and programmes have informed the judiciary and the wider community of new technology and its use in the administration of justice including dissemination of web-based information. With the increasing emphasis on computerization, this component is going to have more relevance in the future.

The Academy also coordinates and collaborates with the Judicial Council and Judicial Service Commission in improving judicial administration by promoting a competitive, professionally competent, service oriented and effective Nepal Bar Association.

1.1 Human Rights and Social Justice

The theme of human rights and social justice is one important area upon which the Academy wants to focus its efforts over the next few years.

Nepal is party to almost all of the major human rights treaties. The Academy continues to provide with training and orientation on those basic rights that belong to people because they are human beings, regardless of their nationality, race, ethnicity, gender, or religion, and without which people cannot live in dignity. As the number of United Nations human rights instruments that the country has ratified have gone up to 21, the obligations that are undertaken by the state are significant. The human rights that are considered by Nepal as by other most societies to belong to all people include the right to life, justice, freedom, and equality. Social justice is the fundamental concept in most of these instruments that community and state activity should be based on to provide just and equitable treatment of all people, regardless of color, race, socioeconomic class, gender, age, or sexual preference. As a state organ, NJA is also aware of the need to familiarize the justice sector professionals on international norms and mechanisms in

the human rights sector and to help with state endeavors to domestically implementing these instruments.

Nepal's human rights record was reviewed in January 2011 for the first time under the Universal Periodic Review mechanism established by the UN General Assembly on 15 March 2006 through Resolution 60/251. Its objective was to "review the fulfillment by each state of its human rights obligations and commitments." Recommendations given to Nepal notably concerned ongoing reports of torture and violence by law enforcement agencies, persistence of gender-based violence, continuous caste-based discrimination, insecurity of human rights defenders in a context of overreaching impunity for past and present human rights abuses and with failing police and justice systems in the country. The government accepted a majority of those recommendations and therefore committed to take the necessary measures to turn them into concrete advancements in the human rights situation. The implementation of the Universal Periodic Review mechanism will require an intense debate on the fundamental concept of justice and its centrality to the development of the Nepali State.

The training program of NJA on human rights and other thematic issues is designed for mixed groups of all the stakeholders to provide them the opportunity to interact among themselves. The mixed group training is meant to facilitate the identification of human rights problems by the participants themselves and for them to find out the role that each of them could play to address the problems. In addition, the training program includes field visits to enable the participants to understand the reality of the subject matter and to discuss concrete measures to address the issue. The pedagogical approach in these activities generally consists of paper presentations, discussions, and interactive question-and-answer sessions. On some occasions, group exercises are carried out to facilitate interaction among the participants. Relevant handouts are distributed to the participants. The participants evaluate each session.

Recently, the Academy was able to prepare a manual on human rights in the administration of justice covering the concepts of international human rights, provisions relating to fundamental rights in Nepal and assessment of other legislative provisions related to human rights in Nepal; major instruments on universal human rights; implementation mechanisms; and important thematic areas including the right to equality and non-discrimination in the administration of justice, and the role of the courts in protecting economic, social and cultural rights.

In recent years, the Academy has successfully conducted smaller trainings on the incorporation of international human rights instruments into domestic judgments, the right against torture, juvenile justice system, gender justice, transitional justice, social justice, the right to privacy and in-camera hearing process, rights of migrant women workers, etc. These trainings were able to meet some of the training demands, but the approach was piecemeal, and not all-encompassing.

The theme of Human Rights and Social Justice demands consistent efforts. This is a topic of importance to a country like Nepal. There has been some clear demand in this regard from the justice sector professionals. Before embarking on this topic, however, the Academy wanted to quickly assess the needs of training and orientation of the judicial decision makers – i.e., Courts of Appeal and District level judges, court registrars, government attorneys, and advocates representing the Nepal Bar Association. NJA's partner, Socio-Economic Rights Programme, Norwegian Center for Human Rights at University of Oslo, has also supported this process. This is the report of the needs assessment.

1.2 Methodology

This Training and Orientation Needs Assessment of the Nepali Judiciary on Human Rights and Social Justice (hereafter “the Needs Assessment”) was conducted on 105 judicial personnel of Nepal. They included judges, public attorneys, court registrars and representative officials from the Nepal Bar Association, from five areas across the country: Biratnagar, Kathmandu, Butwal, Pokhara and Nepalgunj.

The work was based on two-pronged approach. The respondents in each place were invited to the Appeal Court Convention rooms for a two and half hour programme wherein they were served with a questionnaire specially prepared for the Needs Assessment (See Annex A). The respondents were allowed one hour to respond to the questionnaire. The team of researchers facilitated the group to help them fill out the questionnaire. They were also helped in understanding the questions and the range of possible answers. Immediately after filling out the questionnaire, the respondents were engaged in a focus group discussion for another one hour, where they were encouraged to speak on their perceived needs on the basis of focus group questions. (See Annex B) Here again the team facilitated the discussion, and helped the group to pick up the questions and speak their minds. The Judges of Courts of Appeal and District level judges, court registrars, government attorneys, judicial officers and advocates representing various units of the Nepal Bar Association have participated in the meeting held in different regions. (See Annex C)

Before the programme actually kicked off, a formal presentation was given by the team on the objective of the session, and how it was going to be accomplished. This presentation also included a refresher note on human rights and social justice in Nepal. All of these programmes at five key places of Nepal were chaired by the Chief Judge of the concerned Court of Appeal, and welcome notes were delivered by the senior NJA official joining the research team.

Actually, this needs assessment survey was undertaken by a team of taskforce formed by the NJA with the constant directions and feedbacks of the seven members' Steering Committee chaired by the Honourable Justice of the Supreme Court of Nepal Mr. Kalyan Shrestha (See Annex D). The Committee has rendered its advices during the preparation of the survey questionnaire, and methodology for the consultation programmes and suggestions and feedbacks for the finalising this report.

1.3 Limitations

In general, the primary limitation of the study was time. It was intended to be a light touch need assessment. The questionnaire was served only on 105 people. The research team was able to visit only five locations. In each place, the time spent for the questionnaire and focus group discussion was about three hours. In spite of these constraints and limitations, the study is still a good piece of work in this area. It responds to its objective well.

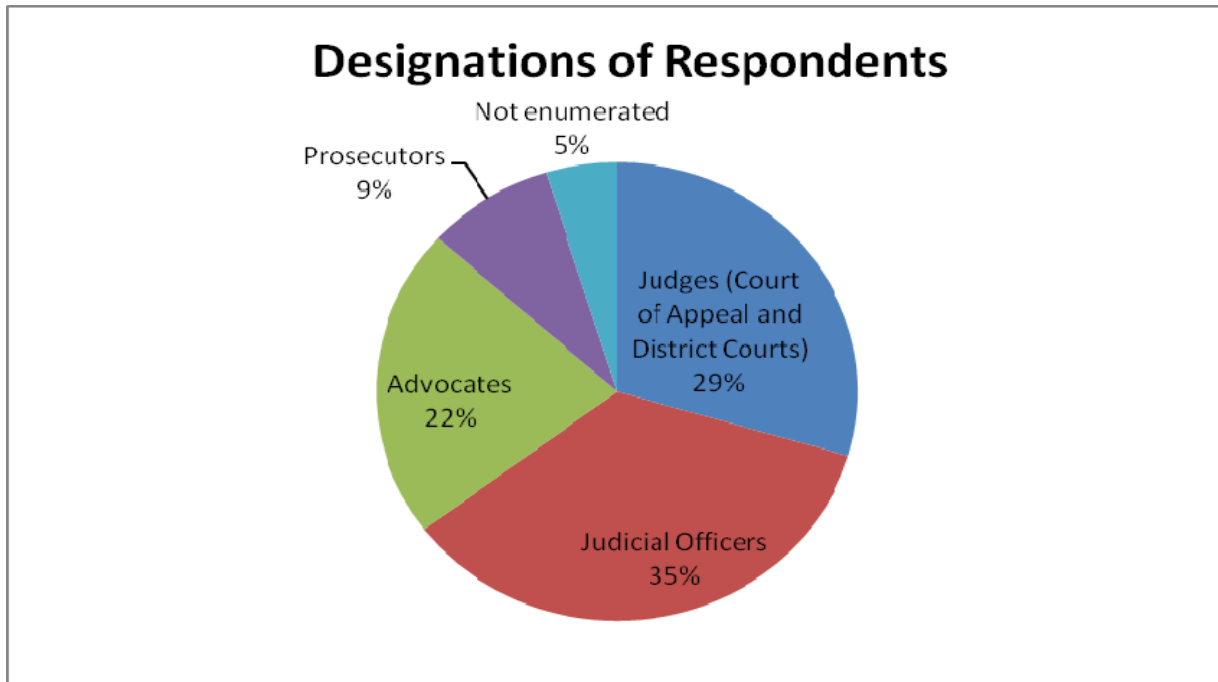
2. Data Analysis

2.1 Analysis of Questionnaires

This report presents the findings of the analysis of all questionnaire and focus group discussions. The first part is the analysis of the questionnaire. The second part gives the summary of focus group discussion held in all locations.

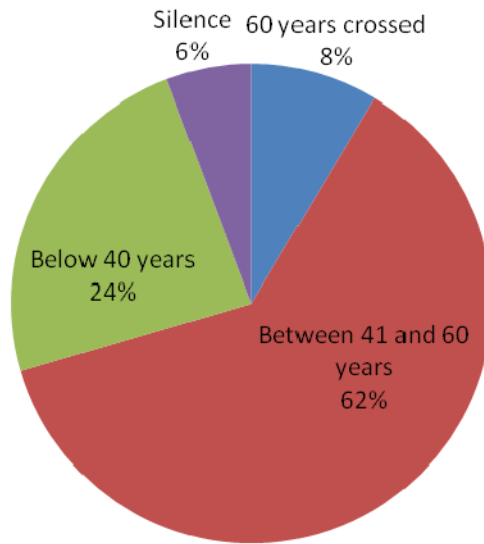
2.2 A Brief Introduction about the Participants

Out of the total of 105 respondents, 35% of them, or 37 individuals were Judicial Officers. 29% of the respondents, or 31 of the people were judges in the Court of Appeal and District Courts of the country. Twenty two percent of the total respondents, or 23 individuals of the group, were advocates. Nine percent of the total, or 9 individuals, were prosecutors, and 5 people, or 5% of the respondents, did not mention who they were.



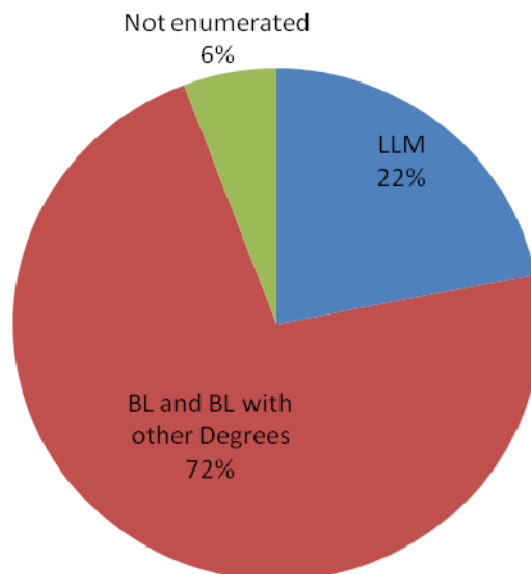
Out of the 105 respondents, 62% of them, or 65 individuals, were between the age of 41 and 60 years. Twenty-four percent of the respondents, or 25 of the people, were below 40 years of age. Only 8% of the respondents, or 9 people, had crossed 60 years in age, while 6%, or 6 of the people, did not respond. Only 9 out of 105 respondents (or 9%) were women.

Age of the Respondents

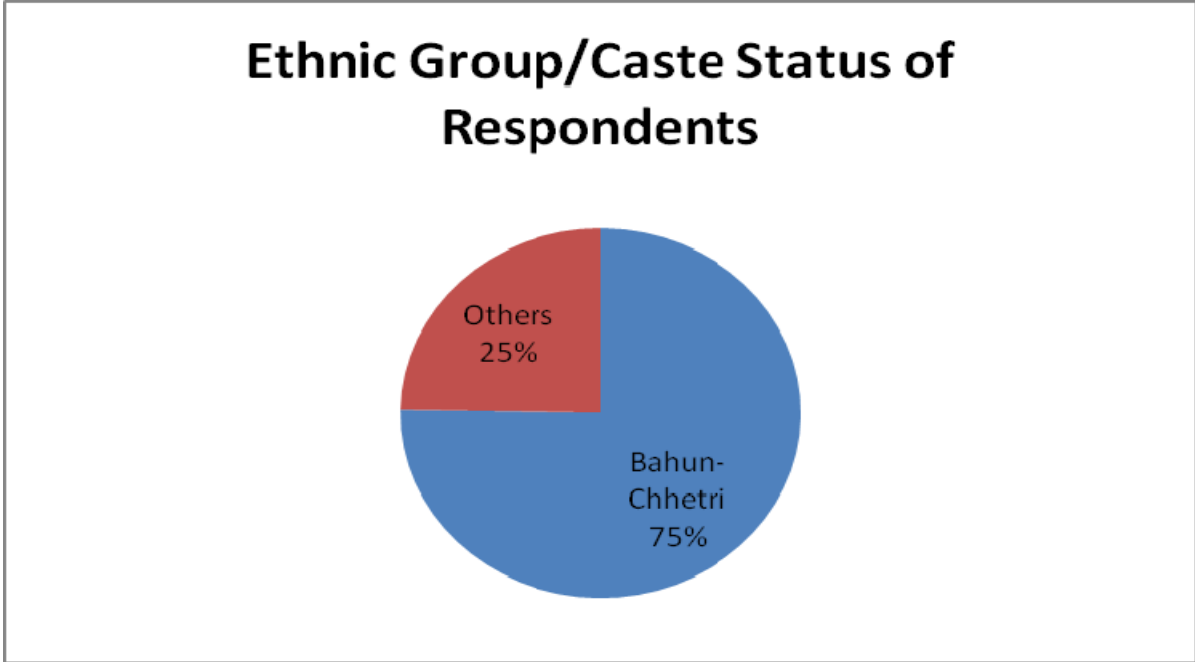


The education levels of the respondents varied as follows: Seventy-two percent of the respondents, or 76 individuals out of 105, had a Bachelor's degree in law or a BL with other degrees, 22% of the respondents, or 23 individuals, had an LL.M. degree, while 6% of the respondents, or 6 of the respondents, did not enumerate their educational qualifications.

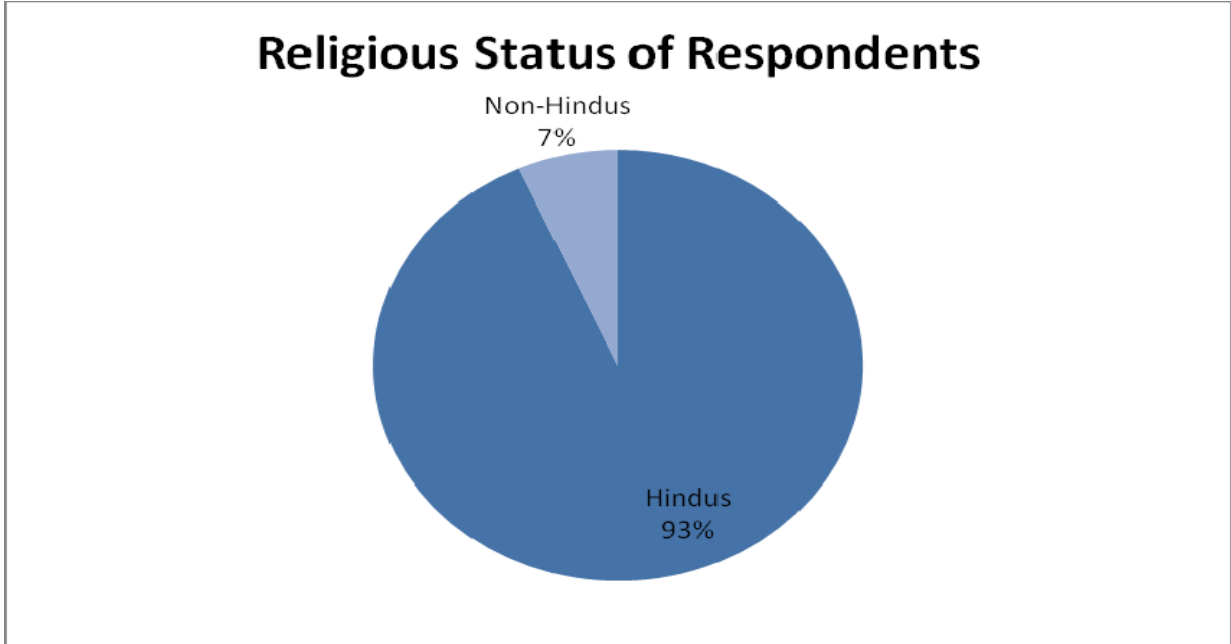
Education of Respondents



Among the respondents, the majority or 75% of the total, were from the Bahun-Chhetri ethnicity, while the remaining 25% was made up of the others, including Janajatis and Madhesis. This shows that the Bahun-Chhetri constituted the dominant group in the survey.

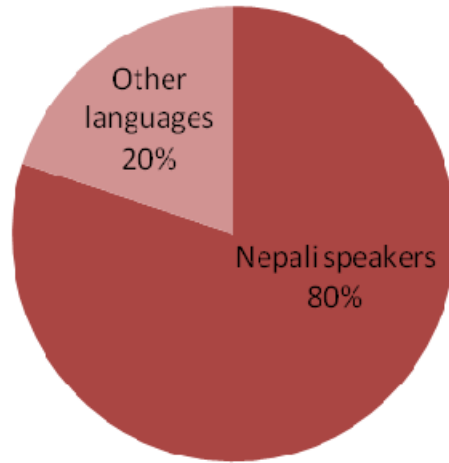


Similarly, 93 percent of the respondents were Hindu, and the rest others. This shows that the Hindus dominated the group.



There was some plurality in the matter of language. Eighty four of the respondents were native Nepali speakers and the rest were speaking other native languages.

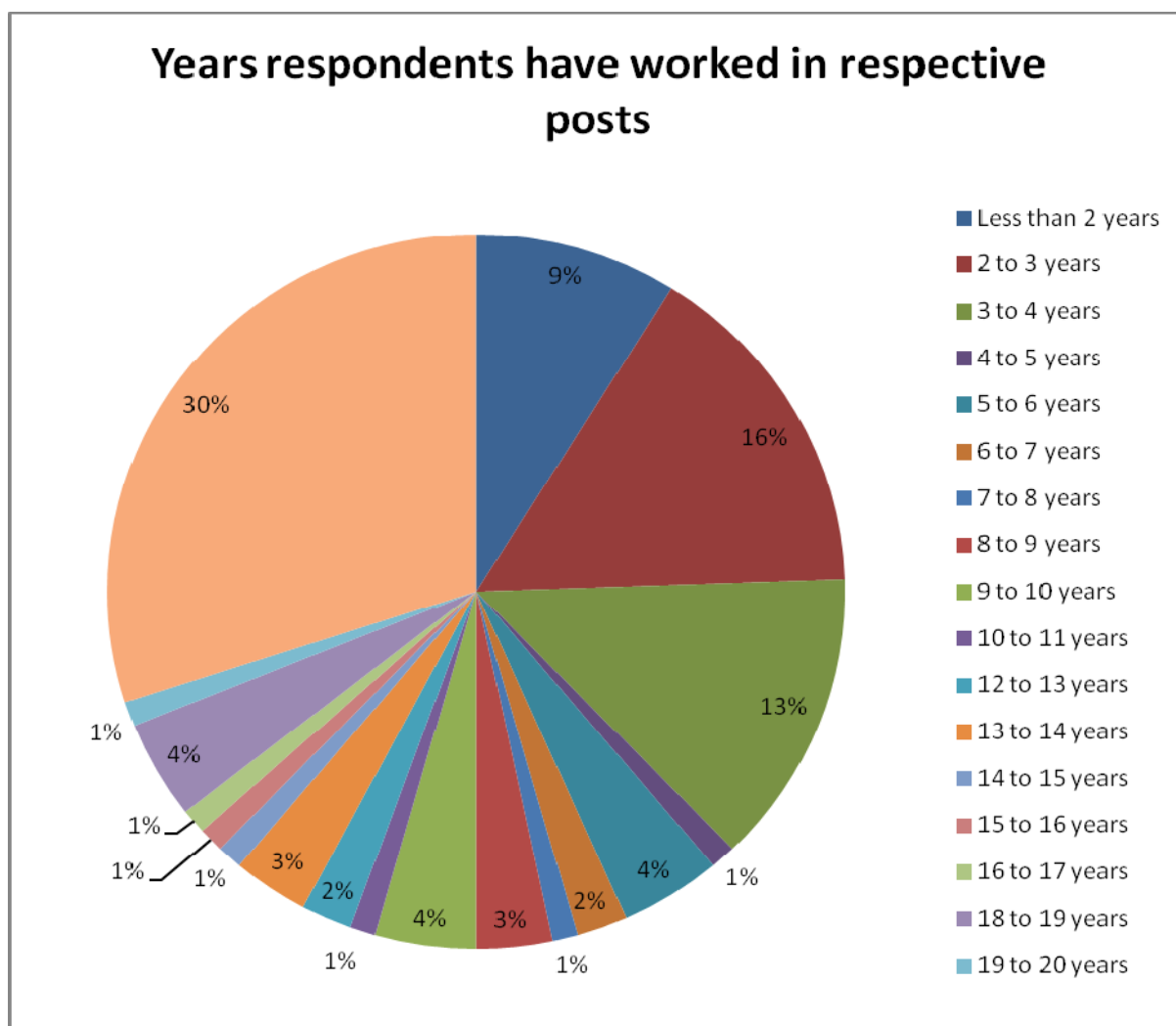
Languages of Respondents



Years of working in respective posts	Number of Respondents
Less than 2 years	8
2 to 3 years	14
3 to 4 years	12
4 to 5 years	1
5 to 6 years	4
6 to 7 years	2
7 to 8 years	1
8 to 9 years	3
9 to 10 years	4
10 to 11 years	1
12 to 13 years	2
13 to 14 years	3
14 to 15 years	1
15 to 16 years	1
16 to 17 years	1
18 to 19 years	4

19 to 20 years	1
20+ years	27

The chart below shows the percentage of the respondents and their level of experience in office as judicial decision makers or lawpersons. Thirty percent of the respondents have been working at their posts for twenty years or more. Sixteen percent of the respondents have been working at their posts for 2 to 3 years. Thirteen percent of the respondents have worked at their posts for 3 to 4 years while 9% have been working at their posts less than 2 years. The remaining 32% of respondents have been working at their posts for a range of 4 to 19 years.



2.3 Findings

On the question “how often have you come across issues of human rights and social justice in your professional life,” 62 percent of the respondents said they come across social justice issues frequently.

The question - "have you had professional experience or taught or trained in human rights and social justice issues?" – invited quite diverse responses. Seventeen percent of the respondents said they had no professional experience nor had they taught or trained in human rights and social justice issues. In other words, they had no other human rights or social justice background than what they brought from the law school or colleges they attended.



Few of the respondents said they had good training in human rights and social justice issues. Most of them had some professional experience and had some training or teaching experience. Even then, it does not appear from their responses that they had long and structured trainings. One respondent noted that he had taken a TOT training as well. A few lawyers showed some background in human rights and social justice issues. A couple of them had received such trainings in the context of conflict management. Many of them who had the training also wrote about CEDAW and women's rights related trainings. Most of the respondents referred to 3-day trainings. According to the respondents, non-governmental organizations (NGOs), Nepal Bar Association, NJA, NHRC, the Supreme Court, UNDP etc. were the institutions that had provided the trainings. Respondents who had a prior background in the civil societies and law schools appeared to have more training on human rights and social justice. According to the respondents, a couple of them had obtained Master's degrees in human rights for a more in-depth study of the topic. This included some research accomplishments as well.

There was no confusion among the respondents that Nepal has international obligations to ensure social justice raised out of international instruments. The participants unanimously agreed on this.

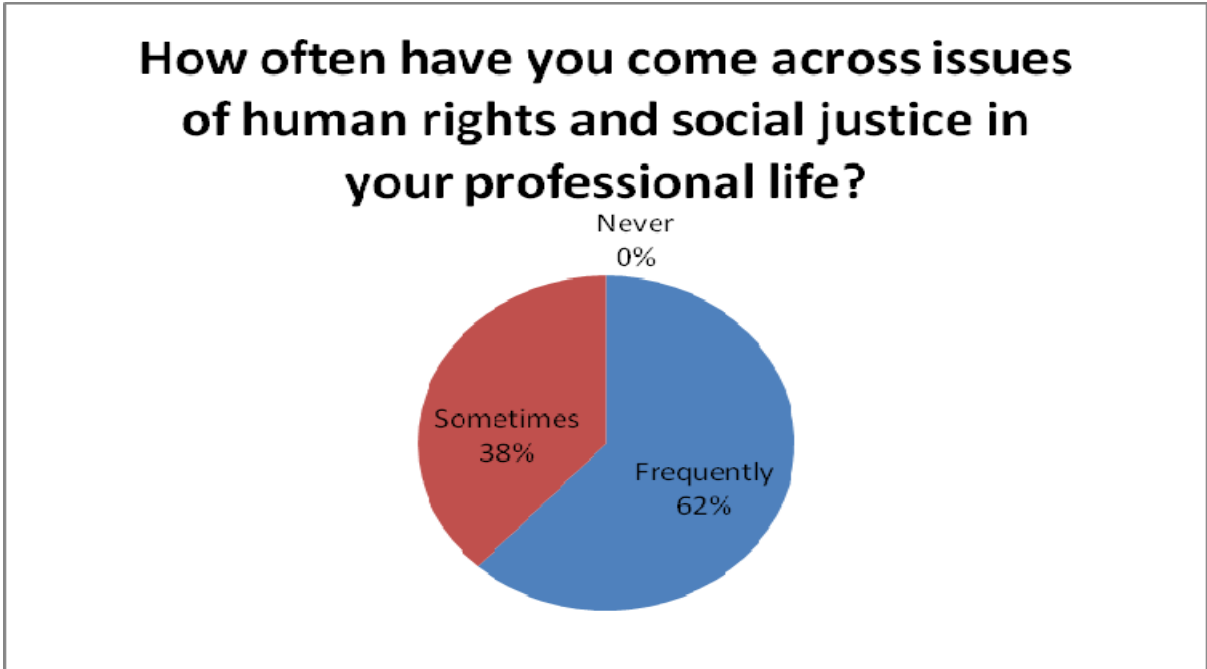
All the respondents were able to recall some of the important international instruments they immediately thought important. Everyone responded with some examples. Instruments such as

the ICCPR, CRC, CEDAW, ICESER, UDHR, CAT, UN Charter, and conventions on racial discrimination were mentioned by most of the respondents, some of whom also talked about ILO instruments. On the other hand, minority rights conventions were mentioned by only a few. Similarly, the declarations and soft rules were not referred to, although a couple of respondents did mention conventions against trafficking and ILO 169. Other conventions were generally not touched upon.

Again, when the participants were asked whether there were any judgements relating to human rights and social justice rendered by the Supreme Court of Nepal, they all answered in the affirmative.

Most of the respondents who were asked to name some judgements which have social justice effects gave encouraging responses. They comfortably mentioned the key decisions of the Supreme Court that had strong implications for human rights and social justice. The participants were able to demonstrate that most of them are aware of important precedents. The cases that were referred to related to gender justice, environmental law, and the right to property, food crisis, equality and non-discrimination, the right to privacy, the right to productive health, consumer rights, and disappearances, amongst many others. The cases of caste based discrimination, children rights, and equal wages were others that were also mentioned. They were either able to write down the name of the parties, or the rights that were established in these cases. These responses, in the aggregate, show that the legal profession is substantially aware of the important case law established by the Supreme Court of Nepal.

When asked “how often you have come across issues of human rights and social justice in your professional life,” 65 of the respondents ticked ‘frequently,’ and the rest ticked ‘sometimes.’ There was no ‘never.’ It is clear that they come across human rights and social justice issues quite often.

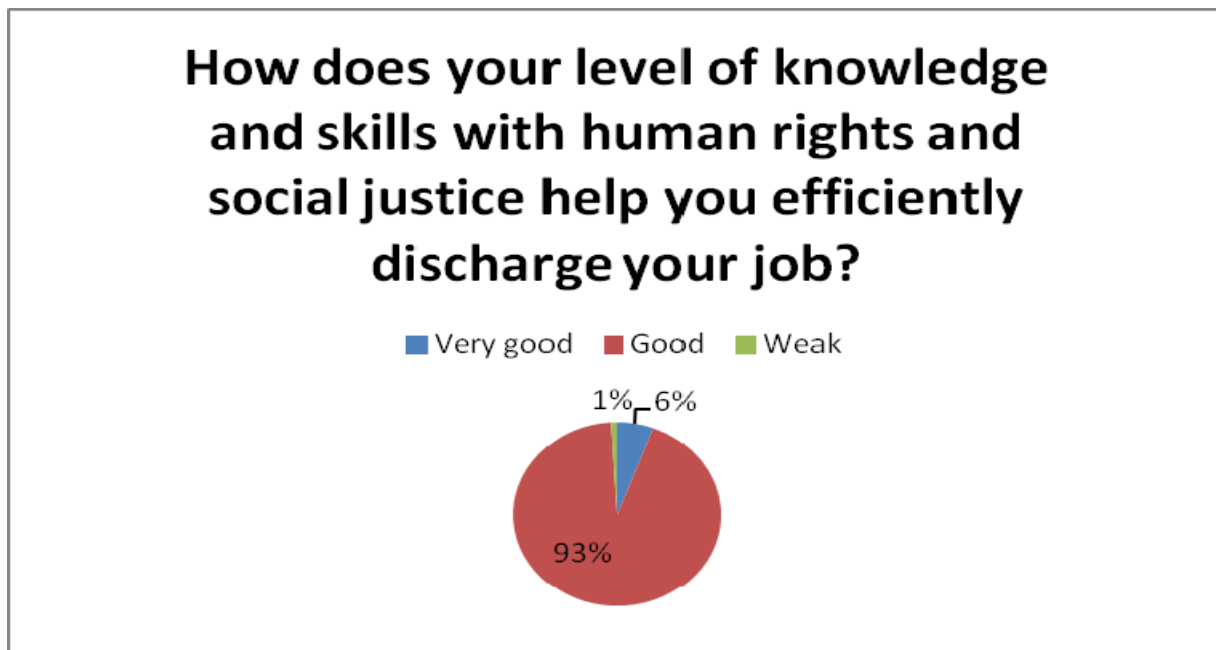


The participants were also asked to select major human rights and social justice issues that they confronted on a day to day basis in their work. On the answers, the respondents were provided

with six major issues with the seventh box open for any open ended inputs. Seventy-five responses emphasized confronting these issues during the implementation of court decisions. It is important to note that the respondents were not emphasizing any of the other options given to this extent. Sixty-six respondents agreed that they confront social justice issues more on at the procedural stage. Needless to say, procedures involved in the implementation of court decisions are also linked with this response in an important sense. Ineffective procedures and lack of support from public agencies impede the process. Another 65 responses were on providing remedies to the petitioners in cases where their rights have been claimed. Fifty respondents said they saw social justice issues in the matter of evaluating evidence as well, and 42 found the context on substantive arguments and judgments.

Among the open ended inputs, cases involving women and children, caste discrimination, emergency remedies, alimony, expenditure regarding children on school or college fees, and operation of administrative and quasi judicial bodies were indicated by a few respondents as involving social justice concerns. These issues also come up when the person responsible does not have a basic awareness about these issues. It should be noted that not all participants crossed all boxes. They were not asked to show their preferences. They selected only the boxes that they thought best explained the question. None of the respondents, however, indicated how these issues did arise in the law.

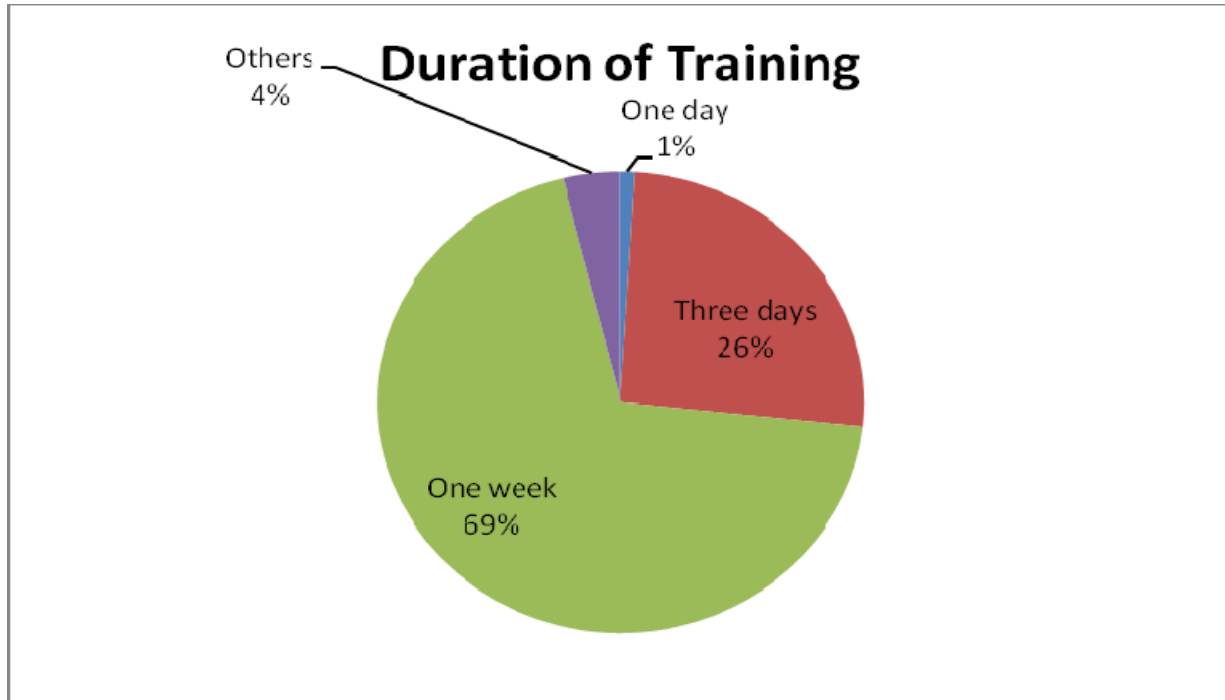
On this question only one of the 105 respondents said that his/her level of knowledge and skills to efficiently discharge his work was poor. The rest of the respondents were divided into 'good' and 'very good.' Ninety-eight of the respondents said their situation was just 'good' (in Nepali this might mean manageable). The 6 respondents said they were 'very good.' They were probably the lawpersons with higher degrees in human rights, mostly earned abroad. This definitely meant most of those who responded thought there was a need to augment their level of knowledge and skills.



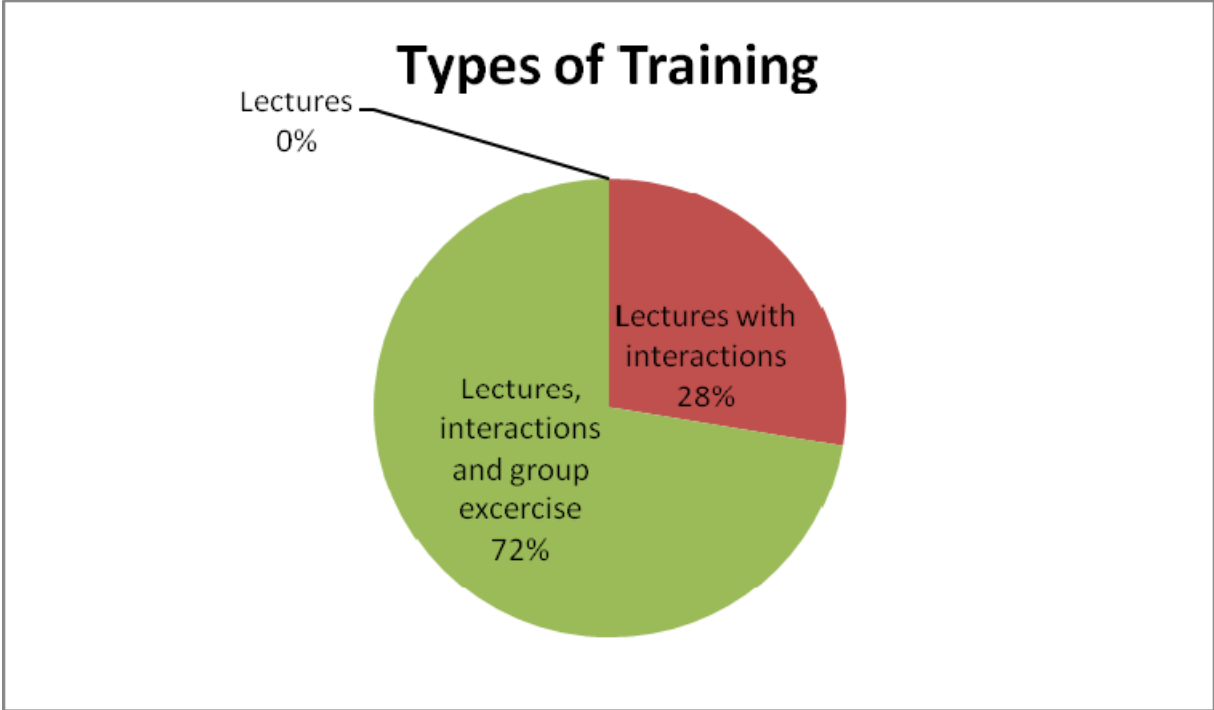
Even though 98 out of 105 respondents said their level of knowledge and skills with human rights and social justice to efficiently discharge their job was good, all of them marked 'yes'

when they were asked whether they needed training/orientations. There is a clear finding that all of them, without exception, think they need for training.

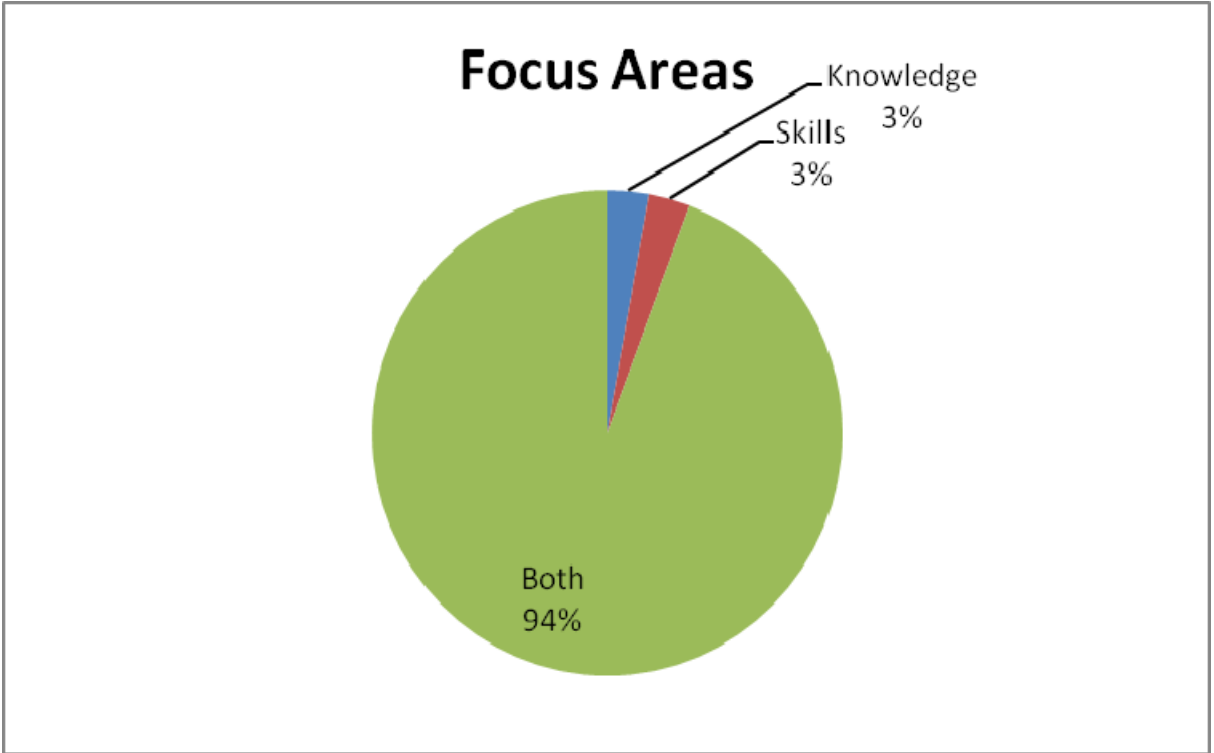
As for the duration of training, only one out of the 105 respondents said a one-day training is preferable by way of intervention. Most of the others said that a one-week training is needed. Twenty-seven respondents preferred 3-day trainings. Some of the respondents emphasized exposure visits and field observation as important factors for these trainings. They said visits to foreign courts which have remarkable social justice performance and exchanges of opinion and experience with them could be helpful. They recommended 3 to 5 day long visits for the exposure trip, by which they also meant visits to the universities abroad.



On the types of training, 29 lawpersons preferred lectures with interactions, and 76 preferred group exercises as well (apart from lectures with interactions). There was no affirmation of the traditional lecture method only.

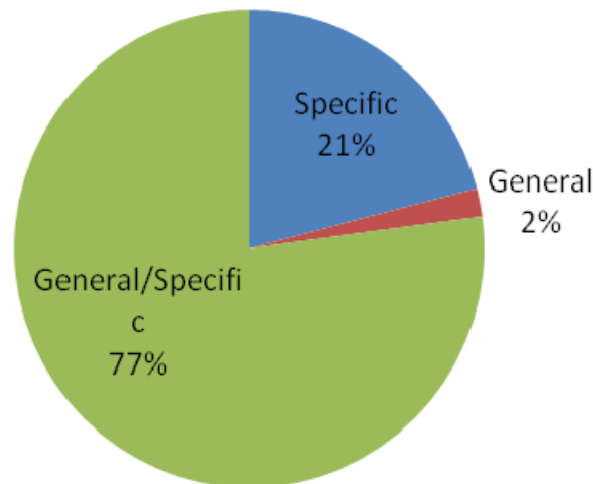


Ninety-four percent of the respondents wanted the training and orientation not only on knowledge of social justice but also on the skills associated with it.



Again, among the participants, 21 percent showed their preference for specific subject area training/orientations. But a majority among them, 77 percent, thought a combination of specific and general subjects would help them more.

Nature of Program



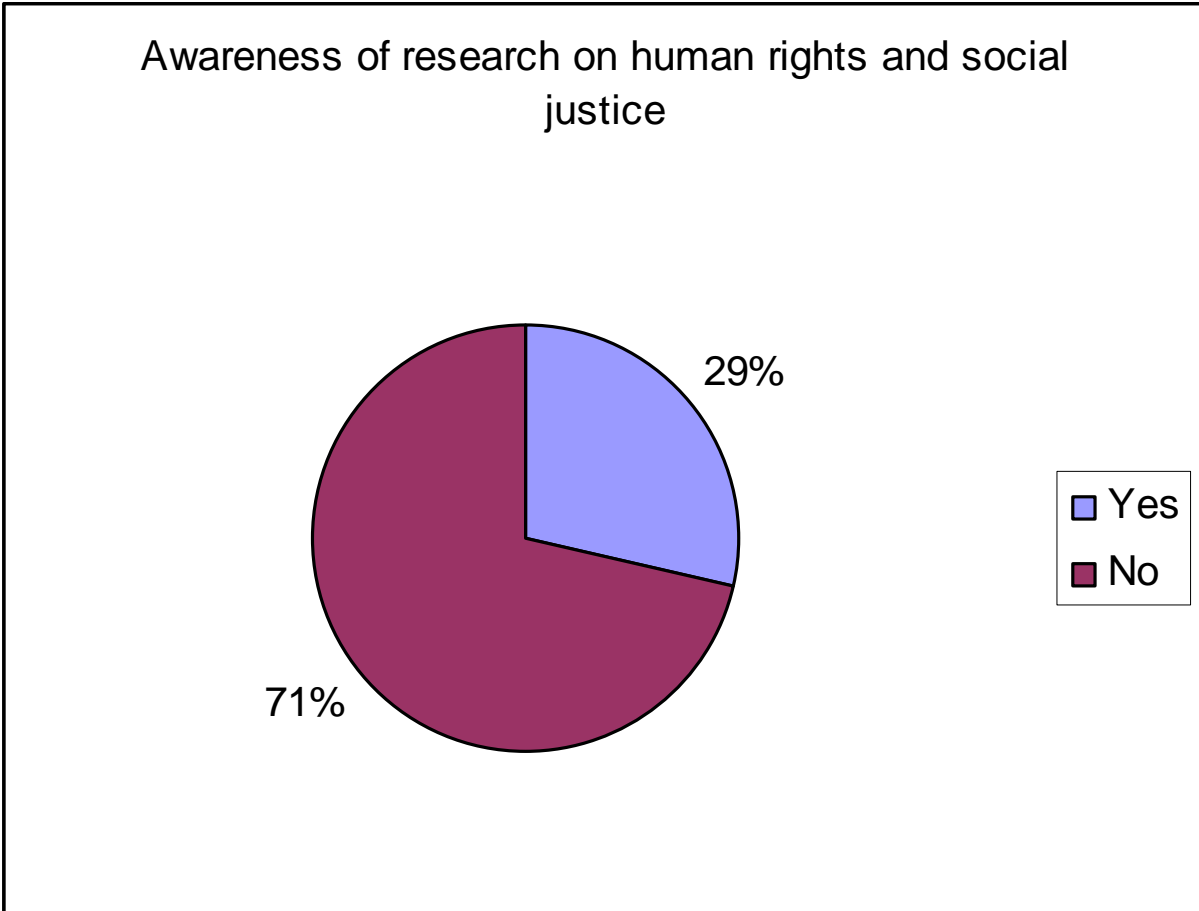
After these important questions, the respondents were asked to rank the given topics from (1) most important to (5) least important weight.

The responses received in this regard were not systematic. The respondents did not respond as expected. Some of them marked all of the issues on the boxes, while others only marked five issues without properly ranking them as the question asked for. This did not help the team to prepare a prioritized list based on the responses. However, during the filling-out session in all locations, some of the respondents wondered if prioritization was necessary, as they believed that all the issues mentioned are issues that are typically relevant to Nepal. In the context of poverty, deprivation, and limited access to resources, the respondents said most of these topics were directly linked and prioritization would not be necessary.

When asked whether they thought a follow-up program and an impact assessment program were necessary after the trainings or orientations were given, all respondents said they would be necessary.

When they were asked what form the program should take, several suggestions were made. It was suggested that there should be a categorization of trainings, and evaluation could be done by way of questionnaire. Suggestions included publications, question-answer sessions, interaction programs, sensitization tests, review of job performance, judgment review, field observation, and changes brought in the social justice sectors. Some emphasized that it is good to take tests as a means of feedback. Group interactions were another way to get feedback. Practical questions could also be offered. Evaluations could be done once a year and could be general or specific. Group interactions and feedback systems are expected.

Seventy-five out of 105 respondents noted that they are not aware of research being conducted in the field of human rights and social justice in the context of justice delivery and the role of judiciary. Thirty of them, however, said that they did know some research was being conducted.



When they were asked what they were aware of, the participants were able to refer the landmark decisions of the Supreme Court and publications of important NGOs like FWLD, Pro Public, the NJA, INSEC, international organizations like OHCHR, INGOs, and national sources including the Ministry of Women, the Supreme Court, the Government of Nepal.

They also indicated a long list of areas where the need of research was felt. They included the role of the judiciary, court decisions, enjoyment of rights guaranteed under different laws, enforcement of judgments their impact on society, Nepal’s international treaty obligations, domestication of these obligations, discriminatory legal provisions, educational and housing rights, rights of development, victim’s rights, the environment, poverty-related issues, economic, social, and cultural rights, and the rights of deprived communities.

When they were asked if they were aware of materials, international and national instruments, and case laws on human rights and social justice which would be useful to their profession, 29 of them said ‘yes’ and the rest said ‘no.’

Among the resources available, the respondents referred to the case reports of the Supreme Court, publications of National Judicial Academy, American, British and Indian cases relating to public interest litigation, compilation of international instruments, different publications of NGOs in Nepal, books and journals, and resources available from the Nepali Government (Ministry of Law and Justice) among many others.

The respondents emphasized that the judicial personnel need a digital library, access to abundance of foreign case laws, international reference books, publication of case laws and cases of the Supreme Court and Appeal Courts, journal of criminal justice, social justice manuals, foreign journals, and journals of fundamental rights.

The last question on the questionnaire was: “Do you have any additional suggestions and recommendations regarding this human rights and social justice needs assessment?” The respondents were quite prescriptive in their answers to this question. Responses were as follows:

- Techniques of implementation of law and international norms, mandate and enforcement mechanism
- Links between national and international law
- Socioeconomic considerations to be employed by the court
- Procedural matters that effect the social justice considerations
- Researchers should be involved in depth while designing the curricula of the training or orientation programs.
- Specific cases of non-implementation of human rights and social justice judgements should be emphasized in the curriculum.
- International best practices
- Exposure visits to social justice institutes, foreign courts and institutions, and interactions with important judges, prosecutors, and lawyers
- Training on the role of Para-judicial staff like court management officers, bailiffs, registrars, etc.
- Skills in the use of foreign resources
- General awareness programs

3. Focus Group Discussions

3.1 Provide details about issue of human rights and social justice that you have experienced in your professional life

The focus group members suggested that a variety of issues come up when making judicial decisions. Some of them concern the right to property, some the administrative responsibilities of the state, including good governance, and some involve other important socioeconomic rights.

It is possible that they come in the context of cases of which the crucial facts are not necessarily linked to these issues in the beginning.

The case of *Godavari marble quarries* was brought in for discussion by the participants in Kathmandu. A lawyer who was engaged in the file preparation said some prior training on social justice would have helped significantly in the beginning. Despite the fact that the Supreme Court upheld the right to a decent environment in this case in the early 90s, the people affected have

still not been able to get justice. The case developed several complications, and one issue has led to another, and even now the case is hanging in the court.

Examples of social justice issues that participants referred to included compensation, settlement in unauthorized lands, eviction, and the use of *panighat* and other sources of water. The rights to health and community security are also sometimes connected to cases previously stated. Abortion rights are still not accessible to deprived women in far flung villages. The example of food crisis in the western region of Nepal was quite often cited by lawyers and judges in different places. The right to work also has social justice manifestations throughout the country. Many issues with links to economic, social and cultural rights of the deprived and downtrodden communities come for consultation, but only a few are picked up by private lawyers. They also talked about the rights of consumers, which are an issue for consultation, but finally do not reach the court as they are rarely pursued for several reasons.

Some of them are traditionally very known cases, while others were modern issues like HIV AIDS prevention and the right to health issues.

The focus group members emphasized that many individual rights that are being defended in the court have social dimensions. One such example was the disputes falling under Section 19 of the Muluki Ain Chapter on Partition (of Property). This provides for how the movable and immovable property of a deceased person is distributed between a wife, son and unmarried daughter or a widowed daughter-in-law and how their division of property should be dealt with at law. The other such example was the provision of relaxation of the sentence to be imposed by the court in criminal cases, under Section 188 of the Muluki Ain Chapter on Court Procedures keeping in view, among other things, the circumstance of commission of the offense.¹

Many judges and prosecutors thought the slow process of justice affects fair trial, and therefore, it is a social justice issue. In cases where the delay affects the bulk of the vulnerable petitioners, like women and children, the judicial decision makers have more intense pressure to respond as quickly as possible. This does not always happen.

3.2 Regarding proposed topics for further training in human rights and social justice, state which topics you proposed in your questionnaire response and why you have expressed a preference for those areas

The focus group members in all places recommended a diverse range of topics for further training in human rights and social justice. There was almost unanimity that such trainings must start with the basic concept of human rights and social justice, with adequate focus on how international instruments must be utilized along with legal provisions of Nepal. This should be a sort of refresher course for all judges, lawyers and prosecutors. It can be gradually expanded to include more current issues and concepts.

¹ Section 188 provides that despite a confession by the accused in a case involving life imprisonment with confiscation of all property or of just life imprisonment, where the sitting judge has grounds to suspect that the offence might have been an accident in the given situation, or, in view of the circumstance of commission of the offence, the punishment as provided in law, in his or her view, might look severe, then he/she may determine the punishment as imposable by law, and then explicitly refer in the attached memorandum to the grounds for such an opinion, and refer to the higher authority. Where there is such a referral, if the authority making a final verdict also concurs with the recommendation of the sitting judge, such a relaxation in the punishment will be allowed.

The areas preferred for further thematic training were not the same in all locations the team visited. There are local situations which give rise to the particular nature of cases. These situations are affected by the local socio-economic conditions and also the treatment/mistreatment given to them by the local administration. As some noted, freedom of religion was an important issue in Nepalgunj although not in Pokhara and Kathmandu as such. Therefore, preferences given by focus group members explain their own situations rather than national requirements.

It was generally agreed that there are many issues to consider, and it is difficult to highlight some while ignoring others. A District Court judge in Biratnagar pointed out that all the social justice topics mentioned under Q 9 are relevant.

On ESC² rights, for example, some lawyers and prosecutors emphasized in Kathmandu that the trainees no matter where they are from should be acquainted with how the concept of progressive realization should be applied. It is a very flexible concept, but there is no escape when issues that are to be resolved are to be decided accurately and in the context of social justice.

Another important point in this regard is the nature of the issue of social justice. Situations change. So it is possible that social justice issues once addressed will disappear, or there are new situations and they could surface again.

The problem is with the inferior courts, as opposed to the Supreme Court at the top which has powers to respond to the issue involved with appropriate writs or remedies. This is not always the case for the inferior courts, including the Courts of Appeal, throughout the country. These courts have to find appropriate responses to the litigants of the cause that they have submitted to the court within the confines of law. An appellate court judge in Nepalgunj, for example, made a point that the appeal courts do not have the advantage of Article 107, which allows the Supreme Court to issue any appropriate order to provide “full justice.”³

At times, providing justice to human rights and social justice plaintiffs within the confines of law might remain challenging. There are situations where the applicable laws are not helpful. In that case, only the Supreme Court can deal with this situation.

² Economic, Social and Cultural Rights

³ Article 107 (2) of the Interim Constitution states: “The Supreme Court shall, for the enforcement of the fundamental rights conferred by this Constitution, for the enforcement of any other legal right for which no other remedy has been provided or for which the remedy even though provided appears to be inadequate or ineffective, or for the settlement of any constitutional or legal question involved in any dispute of public interest or concern, have the extraordinary power to issue necessary and appropriate orders to enforce such rights or settle the dispute. For these purposes, the Supreme Court may, *with a view to imparting full justice and providing the appropriate remedy, issue appropriate orders* and writs including the writs of habeas corpus, mandamus, certiorari, prohibition and quo warranto.

Provided that, except on the ground of absence of jurisdiction, the Supreme Court shall not, under this clause, interfere with the proceedings and decisions of the Legislature-Parliament concerning violation of its privileges and any penalties imposed therefor.” (emphasis added)

3.3 Please describe in detail any materials about human rights and social justice you are suggesting would be useful to your profession and explain how they would be helpful in learning about human rights and social justice (Follow up to #12 (iii))

The focus group members in all places except Kathmandu where the need assessment team visited said that they have not looked into human rights and social justice materials for many years. Lack of impetus was clearly observed.

Some said that they referred to the laws which are relevant and precedents which could guide the decision-makers to go along. But they barely have the time and opportunity to look into the relevant literature in order to help judicial decision making.

As such, they said any type of human rights and social justice materials, ranging from international standards, practitioners' handbooks, and professional guides, to foreign sample judgments and international best practices, are welcome.

Barring the Kathmandu Courts, the prosecution offices and local bars associations, all locations that the team visited lacked organized libraries for the justice sector actors.

Whatever materials are provided, on occasions, they said, it is also useful to talk about the ways and means to use them and give the best possible returns to the stake holders.

There is a dire need of relevant literature including cases from similarly situated countries which show how the justice sector coped with the claims of social justice when they were invoked.

Some judges pinpointed that literatures are important, but what is more important is the skills to apply the concept. Some remarked that even if they have some knowledge of social justice, they are not yet aware of how they can employ that knowledge in the judicial decision-making process.

3.4 What has led you to believe that you need more training or orientation on human rights and social justice? (Follow up to #8)

In the group discussions, in all places that the team visited, the angle of social justice did not find much headway. There is plenty of knowledge and experience, but the participants acknowledged that training and orientation are helpful. Complicated cases keep coming to the court, which must be handled well keeping in view of the plight of vulnerable people. Some examples were cited.

In a divorce case, a woman did not get any property from her husband, because the husband did not have any property and at the same time by law she could not get property from her father and brothers. This was a real tragedy for the woman and an issue of social justice.

At present, the position of law is that a woman can inherit property from her father and husband as well. There is no equality of treatment for the man in this regard. Half of the population of the country is affected.

In some cases, there is pressure on the court to take the initiative against the culprit to render justice to the victims, for example, where the police deny registering crime information for a theft case, or fails to proceed further, even though the case has been registered. The person

affected thinks the court should move forward even where there is no charge-sheet from the public prosecutor. The difficulty of moving ahead is indeed tough.

There is confusion as to a limitation on bigamy cases. Even though there are compulsions to act in the interest of justice, the court is unable to respond to the situation.

The problem of enforceability is acute in human rights and social justice cases. The challenge is of maintaining balance and reaching the needy sections of society. There are instances where there are chronic injustices to the people in the society, but the victims could not come forward. The judiciary lacks resources, access to remote geographical regions is limited, and the informal mechanisms that exist in the society may not be just and to the advantage of vulnerable people. It is difficult to find proper judicial responses to these questions.

In recent years, it has been reported, there were opportunities for judges, prosecutors, and lawyers to learn more in several areas of their work. But these opportunities are seldom part of a strategy to bring change in the system in a planned way.

Very often these trainings are interesting but not much helpful to find solutions in a planned way. This is true of judicial trainings as well.

There is a dire need for training orientations for all judges, prosecutors, and lawyers on a regular basis.

As far as the area of human rights and social justice is concerned, there has been little on the job training although such trainings are highly awaited.

Many of the focus group members said that it very often appeared to them that the judges, lawyers, and prosecutors understand what social justice is, but many of the aspects that define it as a systematic thought are still incomprehensible to them. Therefore, they advised that it is good probably to kick off the training or orientation intervention from step one onwards until a level has been achieved which enables the trainees to decide cases independently and with full confidence.

3.5 Please describe in detail your suggestions and recommendations regarding this human rights and social justice need assessment. (Follow up to #13)

In all places where the needs assessment team visited, the focus group members spoke highly of the efforts in launching this needs assessment consultation. They said that this was probably the first time that this issue is being taken up.

One appeals court judge in Nepalgunj said that most of the cases which would have a significant bearing on the social justice situation in the country would hardly ever come to the court because the people who are affected are mostly vulnerable people who have no ways and means of going to the court to establish their rights. Similarly, another lawyer from Pokhara pointed out that the provision of public interest litigation has only empowered the Supreme Court, and not other courts, which could have the potential to respond to local requirements locally.

Access to the court is an important issue throughout the country and is also related to equality of opportunities. The assessment of need, therefore, is not possible without assessing the external situation.

Many lawyers who participated in the focus group had a feeling that they will value any amount of intervention by the National Judicial Academy to help the stakeholders with human rights and social justice.

Some judges in Biratnagar had a point that there are different areas in which need assessments have become necessary. These areas are inter-connected with each other. As an example, it was suggested that commercial benches in the courts have different needs than the needs of other benches. Sometime they are interrelated, but sometime they are not. In Kathmandu, a legal practitioner raised the case of *Godavari Marble quarries* which involved not only environmental issues, but also business rights.

3. 6 To contextualize this human rights and social justice need assessment, describe your legal or judicial reasoning if the following case came before you. (Interviewer will supply case details or a hypothetical human rights or social justice case for you to discuss.)

The team gave a presentation of sample cases on which the Supreme Court had delivered important social justice decisions in the past.

The cases included the judgments related to equality that had set a judicial trend in line with international standards, in which the Supreme Court had nullified several domestic legislative provisions. Also referred to were the cases of gender equality and rights against discriminations in different sectors where the judiciary intervened. *Mira Dhungana and others v. Ministry of Law, Justice and Parliamentary Affairs*⁴ was a case in point. In this case, the Supreme Court decided in 1995 that discriminatory provisions on dividing parental property between son and daughter must be revised, and instead of declaring them unconstitutional right away, the court ordered the government to comprehensively review these provisions, and introduce laws consistent with the Constitution and the CEDAW commitments of Nepal within the given time frame. Similarly, the case of *Prakash Mani Sharma v. Prime Minister*⁵ was referred to as another instance. In this case, the court had ordered the respondent to transport essential food items to 12 districts in the mid-western and western parts of the country which the public interest litigant claimed were starvation hit.

Some hypothetical cases like the media reported recent decision of the eviction of the illegal settlers from the bank of Bagmati River in the Kathmandu valley were also referred to during the discussion.

References were also given to the *Gujarat Riots cases*⁶ regarding 2002 Hindu-Muslim riots in the Indian state of Gujarat. It raised issues not only in the context of the capacity of the criminal justice system in operation, but also its discriminatory effects on the vulnerable people. The violence emerged following the Godhara train burning and resulting communalism between

⁴ NKP 462 (2052)

⁵ Writ Petition No. 0065 – WO – 149 of 2065

⁶ See Michael Mann, *The Dark Side of Democracy: Explaining Ethnic Cleansing* 474-501 (Cambridge: Cambridge University Press, 2005) (arguing that many ethnic conflicts do escalate murderously, but such sampling on the dependent variable might give a biased as well as an overly pessimistic impression, for many serious ethnic tensions exist but seem to get successfully defused. The author also pleads that the large countries of India and Indonesia can serve as laboratories).

Hindus and Muslims.⁷ The Indian Supreme Court has been strongly critical of the state government's investigation and prosecution of those accused of violence during the riots, directing police to review about 2,000 of the 4,000 riot related cases that had been closed citing lack of evidence or leads.

The participants appeared curious about the instances. They were able to comment on the cases in the context of their impact to the affected people. Some participants in Biratnagar and Nepalgunj argued that the Supreme Court in Kathmandu might have some more leverage in handling these cases, but the courts elsewhere have inhibitions. Not much legal reasoning was coming up on the floor (although side talk and consultation were observed). The backbenchers in the room in Pokhara, for example, had a couple of queries, but they too kept mum after they were answered. Lack of enough time might also have been the reason, but it is also the temptation to listen than to be involved in the discussion (particularly among judges).

One judge in Nepalgunj brought in the local 'load-shedding'⁸ case in which the court had issued the order to maximize electricity supply leaving it to the Authority how to accomplish it as such.

The problems of "directive orders" under writ jurisdictions were highlighted by public prosecutors in Kathmandu. They said such orders to ameliorate the plight of the vulnerable sections of the country also are related to the availability of resources at the disposal of respondents. A human rights director from the National Human Rights Commission pointed out that legal reasoning is not a problem. Cases could be developed built on the Constitution and laws, and also the international treaty standards. It is not difficult to convince judges and get the orders as required. The problem, however, is the inability of the state and its functionaries to implement the decision because of a lack of resources, and limited allocations from the state. This is the reason why, today, at least 76 directive orders touching on human rights and social justice are still awaiting implementation.

While some judges were seen nodding their heads on the presentation of the facilitators, others looked indifferent to it. A couple of them were not at all interested to join the discussion. It could have been either because they had little to contribute or because they were reluctant to engage in the discussion (as noted above).

Most of the focus group members were curious to know whether the subordinate courts could play a role that has been constitutionally guaranteed to the Supreme Court.

4. Conclusion and Recommendations

The Need Assessment was quite revealing. The following conclusions may briefly be drawn from the study of the Questionnaire and the Focus Group Discussion:

⁷ It prompted retaliatory massacres against Muslims and communal riots on a large scale, in which 790 Muslims and 254 Hindus were killed and 223 more people were reported missing. 523 places of worship were damaged: 298 dargahs, 205 mosques, 17 temples, and 3 churches. Muslim-owned businesses suffered the bulk of the damage. 61,000 Muslims and 10,000 Hindus fled their homes. Preventive arrests of 17,947 Hindus and 3,616 Muslims were made. In total 27,901 Hindus and 7,651 Muslims were arrested. Nearly 10,000 rounds of bullets were fired in police shootings that killed 93 Muslims and 77 Hindus. The nature of the events remains politically controversial in India.

⁸ 'Load-shedding' in Nepal means the rolling blackout where electricity delivery is stopped for non-overlapping periods of time over geographical regions. Rolling blackouts are a last-resort measure used by Nepal Electricity Authority in order to avoid a total blackout of the power system.

- Judicial personnel of all types irrespective of their age, status, educational background, experience and location need training/orientation on human rights. They are very much receptive to it. A very few respondents thought they were trained and efficient, but the rest demonstrated a strong desire for suitable interventions.
- While all levels of training/orientations are required, the participants must be given opportunity to select the level they need. If it is to be decided by the Academy, or the candidate's institution concerned, this may only be done in consultation with the candidate. Supply side decision making should be discouraged.
- Most of the respondents have some background for the initiatives to be undertaken. They were able to provide details about issues of human rights and social justice that were experienced in social life; speak about their preferences, their perceived need, and the explanation on their rationale. They were hesitant in the discussion on legal or judicial reasoning, but were quick about their references on social justice precedents established by the Supreme Court. They consider training and orientations necessary in order to discharge their professional responsibilities more efficiently. They have the motivation for professional development.
- It is advisable to start *all* training with some refresher orientation on concept of human rights and social justice, related international instruments, Nepal's obligations, and the situation of domestication and enforcement.
- There is clear need of focused training/orientation on:
 - justiciability of economic-social and cultural rights
 - judicial responses on human rights and social justice and comparative practices of different jurisdictions so that that could be the exemplary for the Nepali judges
 - socio-economic rights like right to food, work, health, education, housing, social security, water and environmental rights
 - rights of marginalized and disadvantaged groups including indigenous people, *dalits* and other deprived communities, the right to culture and practices, the right to equality and non-discrimination, natural resources, the right to development, and economic and social justice in transition
 - The rights of women, children and elderly people
 - Rights in criminal justice system, legal aid and access to justice constraints and social groups.
 - Right to property (as far as it touches vulnerable people and communities)
 - There is also the need of exposure trips, training on human rights and social justice, scholarship programmes in the human rights field and interaction with international experts, judges, prosecutors and other legal professionals of high repute who have delivered in the area of social justice (role model)
- Most respondents preferred 7 days of training and an evaluation exercise of some sort. They had clear thoughts on types of training, focus areas and the nature of the programme.

- Most of the respondents have shown enthusiasm to learn from the best practices of the world and felt the need of development of resource materials on human rights and social justice.
- Similarly, since judgment and directive execution in regard to human rights in Nepal is not satisfactory, the respondents recommended for the interventions and hold discussion with concerned organizations in Nepal.
- More or less all the legal personnel are clear on the area of research and what type of resources they need in order to upgrade their knowledge and skills on human rights and social justice. The need is all about the basics (a traditional library, law reports, books on recent advancement in law and justice sector, audio-visual facilities, etc) which generally remain unmet.
- The suggestions and recommendations regarding this human rights and social justice needs assessment are clear and specific. But there is suggestion for necessary evaluation as well. Most of the respondents agree that there should be consistent efforts and evaluation as a continuing process.
- Accept a few, most of all respondents have shown their interest in taking part in the capacity building programmes, in this sense, it definitely a need of development of a band of resource parsons for the NJA to conduct programmes and undertake any activities in the human rights field. Further, it is advisable to train in all aspects of the human rights to the persons who are core member or could be faculty member in the future at the NJA.
- As the NJA is an umbrella organization for the training and research activities in Nepal, it has been realized by the task force that the skills of the human resources working at the NJA are needed to be developed for the conducting needs assessment, training and impact assessments in the human rights particularly social justice issues. This can be done by short courses, such as training or by other activities in the country or in from the abroad.

Annex - A
National Judicial Academy
 Harihar Bhawan, Lalitpur, Nepal

Questionnaire for Training and Orientation Needs Assessment of Nepali Judiciary on Human Rights and Social Justice (मानव अधिकार तथा सामाजिक न्याय सम्बन्धी नेपालको न्यायपालिकामा प्रशिक्षण आवश्यकता पहिचान प्रश्नावली)

a. Introduction (Your name, if provided, and feedback will be kept confidential.)
 (तपाईंको नाम उल्लेख गर्नु भएमा पनि नाम र सुझावहरू गोप्य राखिनेछ ।)

1.	Name (optional) (नाम स्वेच्छिक):-	
2.	Designation (पद):-	3. Education (शिक्षा):-
4.	Office (कार्यालय):-	
5.	Address (ठेगाना):-	
6.	Telephone (फोन नं.):-	7. Age (उमेर):-
8.	Email (optional) इमेल (स्वेच्छिक):-	
9.	Gender (लिंग):-	
10.	Ethnic Group/Caste (जातीय समूह/जात):-	
11.	Religion (धर्म):-	
12.	Natal Language (मातृभाषा):-	

b. General (सामान्य)

1. How long have you been working in your post? (तपाईं कहिले देखि उक्त पदमा कार्यरत हुनुहुन्छ ?)

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2. Have you had professional experience or taught or trained in human rights and social justice issues? (मानव अधिकार तथा सामाजिक न्याय सम्बन्धमा तपाईंको अनुभव वा कुनै प्रशिक्षण लिनु भएको भए उल्लेख गर्नु होला ?)

3. (i) Do you think Nepal has a national obligation to ensure social justice raised out of international instruments? (के मानव अधिकार सम्बन्धी अन्तर्राष्ट्रिय सन्धि सम्झौताले नेपाललाई राष्ट्रिय दायित्व सृजना गरेको छ ?)

Yes (छ)	No (छैन)

(ii) If yes, can you name those of a few instruments? (छ भने, राष्ट्रिय दायित्व सिर्जना गर्ने ती अन्तर्राष्ट्रिय संयन्त्रहरु उल्लेख गर्नु होला ।)

4. (i) Are there any judgments relating to human rights and social justice rendered by the Supreme Court of Nepal? (नेपालको सर्वोच्च अदालतले मानव अधिकार तथा सामाजिक न्यायका सम्बन्धमा फैसला गरेका छन्)

Yes (छन्)	No (छैनन्)

(ii) If yes, can you name those which have guaranteed some rights in their judgments or the names of parties to the decisions? (यदि छन् भने, मानव अधिकार तथा सामाजिक न्यायका सन्दर्भमा सर्वोच्च अदालतले गरेको विषय वा पक्षहरुको नाम उल्लेख गर्नु होला ?)

5. How often have you come across issues of human rights and social justice in your professional life? (तपाईंको व्यावसायिक जीवनमा मानव अधिकार तथा सामाजिक न्यायका विषयहरु कतिको आई पर्छ?)

Frequently (प्रायः सधै)	Sometimes (कहिलेकाही)	Never (कहिले पनि आईपरेँन)

6. What are the major human rights and social justice issues that you confront on the day to day basis at your work? Indicate after each response how the issue has arisen in the law. (तपाईंको दैनिक व्यावसायिक जीवनमा मानव अधिकार तथा सामाजिक न्यायका सम्बन्धमा आईपर्ने समस्याहरु के के विषय हुन्?)

Procedural stage (कार्यविधिगत तहमा)	Substantive arguments and judgment (वहसको विषयवस्तु तथा फैसला)
Legal representation (कानूनी प्रतिनिधित्व)	Remedies (उपचारात्मक विषयवस्तु)
Evidence प्रमाण सम्बन्धी	Implementation (फैसलाको कार्यान्वयन)
अन्य कुनै भए	

7. How does your level of knowledge and skills with human rights and social justice help you efficiently discharge your job? (मानव अधिकार र सामाजिक न्यायका सम्बन्धमा तपाईंका जिम्मेवारी सम्पन्न गर्नको लागि तपाईंको आफ्नो ज्ञान तथ्य सीप कस्तो लाग्छ ?)

Very good (धेरै राम्रो)	Good (ठीकै)	Weak (कमजोर)

c. Training/orientation Needs (प्रशिक्षण आवश्यकताहरु)

8. (i) Do you think you need training/orientation on human rights and social justice (मानव अधिकार तथा सामाजिक न्याय सम्बन्धमा तपाईंलाई प्रशिक्षण आवश्यक छ ?)

Yes (छ)	No (छैन)

If yes: then indicate the following as appropriate: (यदि छ भने, देहायमा उल्लेखित कस्तो प्रशिक्षण आवश्यक छ ?)

(ii) Duration of the training (प्रशिक्षण अवधि)

One day (एक दिवसीय)	Three days (तीन दिवसीय)	One Week (एक हप्ते)	Other specify, if any (अन्य कुनै)

(iii) Types of training (प्रशिक्षण किसिम)

Lectures (प्रवचन विधि)	Lectures with interaction (प्रवचन तथा छलफल)	Lecture, interaction and group exercises (प्रवचन, छलफल र सामूहिक अभ्यास)

(iv) Focus areas (लक्षित विषय)

Knowledge (ज्ञान)	Skills (सीप)	Both Knowledge and Skills (ज्ञान तथा सीप दुवै)

(v) Nature of the program (कार्यक्रमको प्रकृति)

Specific (विशिष्ट ज्ञान दिने)	General (सामान्य ज्ञान दिने)	General/Specific (दुवै)

9. Please rank the following topics from: (1) most important to (5) least important. (देहायमा उल्लेखित शीर्षकहरुमा चिन्ह लगाउनु होला, (एकदम महत्वपूर्णलाई १ र त्यस्तै कम महत्वपूर्ण २, ३, ४ आदि)

Concept of human rights and social justice (मानव अधिकार तथा सामाजिक न्याय सम्बन्धी अवधारणा)	
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International instruments of human rights and social justice (मानव अधिकार तथा सामाजिक न्याय सम्बन्धी अन्तर्राष्ट्रिय संयन्त्रहरू)	
Implementation of human rights and social justice in international instruments (मानव अधिकार तथा सामाजिक न्याय सम्बन्धी अन्तर्राष्ट्रिय संयन्त्रहरूको राष्ट्रिय स्तरमा कार्यान्वयन)	
National obligations on economic and social rights (मानव अधिकार तथा सामाजिक न्यायका सम्बन्धमा राष्ट्रिय दायित्वहरू)	
Comparative practices on human rights and social justice (मानव अधिकार तथा सामाजिक न्यायका सम्बन्धमा तुलनात्मक अभ्यासहरू)	
Enforceability of human rights and social justice in Nepal and remedial measures (नेपालमा मानव अधिकार तथा सामाजिक न्यायका सम्बन्धमा उपचारात्मक उपायहरू)	
Judicial responses on human rights and social justice (मानव अधिकार र सामाजिक न्यायका सम्बन्धमा अदालती दृष्टिकोण)	
Economic and social justice in transition (संक्रमणकालीन अवस्थामा आर्थिक तथा सामाजिक न्याय)	
Rights of marginalized and disadvantaged groups (अल्पसंख्यक तथा पिछ्छाडिएका समूहहरूको अधिकार)	
Socio-economic and cultural rights (सामाजिक, आर्थिक तथा सांस्कृतिक अधिकारहरू)	
<ul style="list-style-type: none"> • right to equality and non-discrimination (समानता र अविभेदको अधिकार) 	
<ul style="list-style-type: none"> • right to privacy and dignity (गोपनीयता तथा सममानको अधिकार) 	
<ul style="list-style-type: none"> • right to food (खानाको अधिकार) 	
<ul style="list-style-type: none"> • right to work or employments and social security (काम तथा सामाजिक सुरक्षाको अधिकार) 	
<ul style="list-style-type: none"> • right to health and reproductive health (स्वास्थ्य तथा प्रजनन् स्वास्थ्यको अधिकार) 	
<ul style="list-style-type: none"> • Right to education (शिक्षाको अधिकार) 	
<ul style="list-style-type: none"> • right to culture and practices (सांस्कृतिक अभ्यासको अधिकार) 	
<ul style="list-style-type: none"> • right to enjoy and utilize fully and freely their natural wealth and resources (प्राकृतिक सम्पत्ति तथा स्रोतको उपभोग गर्ने अधिकार) 	
<ul style="list-style-type: none"> • right to property (साम्पातिक अधिकार) 	
<ul style="list-style-type: none"> • right to development (विकासको अधिकार) 	
<ul style="list-style-type: none"> • right to legal services (कानूनी सेवाको अधिकार) 	
<ul style="list-style-type: none"> • right to housing (बासस्थानको अधिकार) 	
<ul style="list-style-type: none"> • right to water (पानीको अधिकार) 	
<ul style="list-style-type: none"> • criminal justice system and social rights (फौजदारी न्याय 	

प्रणाली र सामाजिक न्याय)	
• environmental rights (वातावरणको अधिकार)	
• Others, if any (अन्य केही)	
•	

10. (i) Do you think after the training or orientation, a follow up program and an impact assessment program are necessary? (तपाईंलाई प्रशिक्षण पछि प्रशिक्षणको प्रभाव मूल्यांकन आवश्यक लाग्छ ?)

Yes (लाग्छ)	No (लाग्दैन)

(ii) If so, what form should the program take? (यदि लाग्छ भने, कस्तो प्रकारको हुनुपर्दछ जस्तो लाग्छ ?)

d. Other needs (अन्य आवश्यकताहरु)

11. (i) Are you aware of any research being conducted in the field of Human Rights and social justice in the context of justice delivery and the role of the judiciary? (मानव अधिकार तथा सामाजिक न्यायका सम्बन्धमा न्याय सम्पादन तथा अदालतको भूमिका सम्बन्धी अनुसन्धान भएको तपाईंको जानकारी छ ।)

Yes (छ)	No (छैन)

(ii) If so, what are you aware of? (Indicate location, approx. date and associated organizations or donors, e.g., Ministry of WCSW, Danida, Women for Human Rights, etc.) (यदि छ भने तपाईंलाई के जानकारी छ? कृपया स्थान, समय तथा अनुसन्धान गर्ने निकायमध्ये आफूलाई के जानकारी छ ? उल्लेख गर्नु होला ।)

(iii) If not, can you suggest some pertaining areas for the research? (यदि छैन वा आवश्यक महसुस गर्नु हुन्छ भने कस्ता विषयमा अनुसन्धान गर्नुपर्ला उल्लेख गर्नुहोस् ।)

12. (i) Are you aware of any materials (international and national instruments and case laws) on human rights and social justice that would be useful to your profession? (तपाईंले मानव अधिकार तथा सामाजिक न्यायका सम्बन्धमा तपाईंलाई आवश्यक पर्ने विषयहरू (अन्तर्राष्ट्रिय संयन्त्रहरू तथा मुद्दाहरूको संग्रह) उपलब्ध छन् ।)

Yes (छन्)	No (छैन)

(ii) If so, what are they? (यदि छन् भने ती के के हुन्?)

(iii) If not, can you suggest that what kind of materials would be useful for you? Please indicate the type of materials (books, journals, manuals, DVDs), titles and publisher if available. (यदि वा थप आवश्यक महसूस गर्नु हुन्छ भने छैनन् भने तपाईंलाई उपयुक्त हुने आवश्यक विषयहरू (किताब, जर्नल, स्रोत पुस्तिका, डि.भि.डि.) उल्लेख गर्नुहोला ।)

13. Do you have any additional suggestions and recommendations regarding this human rights and social justice needs assessment? (मानव अधिकार तथा सामाजिक न्यायका सम्बन्धमा थप सुझाव तथा सिफारिसहरू भए उल्लेख गर्नुहोला ।)

Annex – B

Human Rights and Social Justice – Focus Group Questions

1. Provide details about issue of human rights and social justice that you have experienced in your professional life
2. Regarding proposed topics for further training in human rights and social justice, state which topics you proposed in your questionnaire response and why you have expressed a preference for those areas
3. Please describe in detail any materials about human rights and social justice you are suggesting would be useful to your profession and explain how they would be helpful in learning about human rights and social justice (Follow up to #12 (iii))
4. What has led you to believe that you need more training or orientation on human rights and social justice? (Follow up to #8)
5. Please describe in detail your suggestions and recommendations regarding this human rights and social justice need assessment. (Follow up to #13)
6. To contextualize this human rights and social justice need assessment, describe your legal or judicial reasoning if the following case came before you. (*Interviewer will supply case details or a hypothetical human rights or social justice case for you to discuss.*)

Annex C

Names of Participants in the Consultation Program on Human Rights and Social Justice Needs Assessment of the Nepali Judiciary

Venue: Kathmandu

Date: Jan. 12, 2012

S.N.	Name	Designation	Office
1	Mr. Khadga Bahadur Shrestha	Under Secretary	Supreme Court of Nepal
2	Mr. Tara Kumar Shrestha	Section Officer	CoA, Patan
3	Ms. Anita Joshi	Member	Central Working Committee, Nepal Bar Association
4	Ms. Basanti Shrestha	Advocate	Nepal Bar Association
5	Ms. Jamuna Thapa	Advocate	Nepal Bar Association
6	Ms. Durga Gurung	Section Officer	Supreme Court, Nepal
7	Ms. Dikchhya Pradhanang	Section Officer	Supreme Court, Nepal
8	Mr. Bhim Kumar Shrestha	Registrar	Revenue Tribunal, Kathmandu
9	Mr. Shankar Rai	Deputy Government Attorney	Attorney General Office, Kathmandu
10	Ms. Sharada Gurung	Advocate	Lalitpur District Court Bar Association, Lalitpur
11	Ms. Sambhojan Limbu	Advocate	Nepal Bar Association
12	Mr. Sanjib Rai	Research Officer	National Judicial Academy
13	Mr. Diwakar Bhatta	Deputy Government Attorney	Attorney General Office, Kathmandu
14	Ms. Bimala Regmi	Section Officer	National Judicial Academy
15	Hon. Sushma Lata Mathema	Judge	CoA, Patan
16	Hon. Mr. Ram Chandra Yadav	Judge	CoA, Patan
17	Hon. Mr. Chandra Bahadur Saru	Judge	District Court, Kathmandu
18	Mr. Jyoti Pandey	Research Officer	National Judicial Academy
19	Mr. Prakash Maharjan	Advocate	Lalitpur District Court Bar Association
20	Mr. Nhuchhe Bahadur Maharjan	Advocate	Lalitpur district Court Bar Association
21	Mr. Achyut Acharya	Deputy Director	National Human Rights Commission

22	Mr. Raghav Lal Vidya	Executive director	National Judicial Academy
23.	Hon. Til Prasad Shrestha	Faculty Member	National Judicial Academy
24.	Dr. Bipin Adhikari	Consultant/Advocate	National Judicial Academy
25.	Mr. Shreekrishna Mulmi	Research Officer	National Judicial Academy
26.	Ms. Pamela Poon	Team Member/Taskforce	National Judicial Academy

**Names of Participants in the Consultation Program on Human Rights and Social Justice
Needs Assessment of the Nepali Judiciary**

Venue: Pokhara

Date 12 Dec., 2011

S.N.	Name	Designation	Office
1	Hon.Hari Ram Koirala	Chief Judge	CoA, Pokhara
2	Hon. Ram Prasad Khanal	Judge	CoA, Pokhara
3	Hon.Madhav Prasad Chalise	Judge	CoA, Pokhara
4	Hon.Bishwombhar Prasad Shrestha	Judge	CoA, Pokhara
5	Hon. Dilli Raj Acharya	Judge	CoA, Pokhara
6	Hon.Raj Kumar Ban	Judge	CoA, Pokhara
7	Hon.Bal Mukunda Dawadi	District Judge	District Court, Kaski
8	Hon.Swikriti Parajuli	District Judge	District Court, Kaski
9	Mr.Dharma Raj Paudel	Section Officer	CoA, Pokhara
10	Mr.Krishna Sharan Lamichhane	Section Officer	CoA, Pokhara
11	Mr.Din Bandhu Baral	Section Officer	CoA, Pokhara
12	Mr. Mahendra Raj Kafle	Section Officer	CoA, Pokhara
13	Mr. Sharda Paudel	Section Officer	CoA, Pokhara
14	Mr. Indra Prasad Paudel	Officer	CoA, Pokhara
15	Mr.Surya Bahadur Thapa	District Court Registrar	District Court, Kaski
16	Mr.Shom Prasad Parajuli	Judgment Execution Officer	District Court, Kaski
17	Mr. Shiva Bahadur Ranabhat	District Government Attorney	District Government Attorney Office, Kaski
18	Mr.Yak Narayan Gautam	Advocate	CoA Bar Association, Pokhara
19	Mr.Krishna Prasad Timilsina	Secretary	CoA Bar Association, Pokhara
20	Mr.Basanta Raj Paudel	Registrar	CoA, Pokhara
21	Mr.Jaganath Paudel	Section Officer	CoA, Pokhara
22	Mr.Rameshkant Adhikari	Deputy Registrar	CoA, Pokhara
23	Mr.Pushpa Raj Dahal	Section Officer	CoA, Pokhara

24	Mr.Govinda Prasad Baral	Deputy Government Attorney	Appellate Court Attorney Office
25	Mr.Bidur Kumar Upadhyaya	Section Officer	CoA, Pokhara
26	Mr.Bhumi Prasad Sharma	Section Officer	CoA, Pokhara
27	Mr.Krishna Raj Timalsena	Section Officer	CoA, Pokhara
28	Mr.Nanda Prasad Acharya	Section Officer	CoA, Pokhara
29.	Dr. Bipin Adhikari	Consultant/Advocate	National Judicial Academy
30.	Mr. Shreekrishna Mulmi	Research Officer	National Judicial Academy
31.	Ms. Pamela Poon	Team Member/Taskforce	National Judicial Academy

**Names of Participants in the Consultation Program on Human Rights and Social Justice
Needs Assessment of the Nepali Judiciary**

Venue: Biratnagar

Date: 5th Jan. 2012

S.N.	Name	Designation	Office
1	Hon. Mr.Gopal Parajuli	Chief Judge	CoA, Biratnagar
2	Hon. Mr. Raghav Lal Vaidhya	Executive Director	National Judicial Academy
3	Hon. Giriraj Paudyal	Judge	CoA, Biratnagar
4	Hon. Kumar Chudal	Judge	CoA, Biratnagar
5	Hon. S.N.Yadav	Judge	CoA, Biratnagar
6	Hon. D.G. Shrestha	Judge	CoA, Biratnagar
7	Hon. Rewant Kunwar	Judge	CoA, Biratnagar
8	Hon. Chandi Raj Dhakal	District Judge	District Court, Morang
9	Hon.Radha Krishna Upreti	District Judge	District Court, Morang
10	Mr.Rajan Prasad Bhattarai	Joint Attorney	Appellate Government Attorney's Office, Biratnagar
11	Hon. Madhbenra Raj Regmi	District Judge	District Court, Morang
12	Hon.Indra Bahadur Karki	District Judge	District Court, Morang
13	Mr.Kosha Hari Niroula	District Government Attorney	District Government Attorney's Office Morang
14	Hon. Mr. Narendra Kumar Siwakoti	Judge	CoA, Biratnagar
15	Mr. Yadab Ghimire	Registrar	CoA, Biratnagar
16	Mr. Kumar Bhattarai	Advocate	CoA Bar Association, Biratnagar
17	Mr.Shanti Prasad Acharya	Deputy Registrar	CoA, Biratnagar
18	Mr.Dilli Bahadur Karki	Chair Person	Morang Bar Association
19	Mr.Bhishma Raj Prasai	District Court Registrar	District Court, Morang
20	Mr.Nawaraj Dulal	Section Officer	CoA, Biratnagar
21	Mr.Bhim Adhikari	Lawyer	Nepal Bar Association, Biratnagar
22	Dr. Bipin Adhikari	Consultant/Advocate	National Judicial Academy

23	Mr. Shreekrishna Mulmi	Research Officer	National Judicial Academy
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**Names of Participants in the Consultation Program on Human Rights and Social Justice
Needs Assessment of the Nepali Judiciary**

Venue: Nepalgunj

Date: 21th Dec., 2011

S.N.	Name	Designation	Office
1	Hon.Keshav Prasad Mainali	Chief Judge	CoA, Nepalgunj
2	Hon. Prakash Kumar Dhungana	Judge	CoA, Nepalgunj
3	Hon. Bir Singh Mahara	Judge	CoA, Nepalgunj
4	Hon. Kishor Silwal	Judge	CoA, Nepalgunj
5	Hon.Shivaraj Adhikari	Judge	CoA, Nepalgunj
6	Hon. Arjun Adhikari	District Judge	District Court, Bankey
7	Mr.Dhruba Kumar Shaha	Registrar	CoA, Nepalgunj
8	Mr.Bishwojit Tiwari	Advocate/President	District Court Bar Association, Bankey
9	Mr.Dilli Ratna Shrestha	District Court Registrar	District Court, Banke
10	Mr.Girija Prasad Agrawal	Senior Advocate	Appellate Court Bar Association, Nepalgunj
11	Mr.Tika Jang Singh	Advocate	Nepal Bar Association, Nepalgunj
12	Mr.Sunil Shrestha	Advocate	Nepal Bar Association, Nepalgunj
13	Mr.Bishow Prasad Regmi	Judgment Execution Officer	District Court, Banke
14	Mr.Ishwari Prasad Gyawali	Advocate	Nepal Bar Association, Nepalgunj
15	Hon.Kabi Prasad Neupane	Judge	District Court, Banke
16	Mr.Bishnu Pokharel	Advocate	Nepal Bar Association, Nepalgunj
17	Mr.Abdul Ajet Musad	Advocate	Nepal Bar Association, Nepalgunj
18	Mr. Rajendra Subedi	Joint Attorney	Office of Appellate Court's Government Attorney, Nepalgunj

18	Hon. Shekar Paudel	Judge	District Court, Banke
20	Mr. Yam Bahadur Baniya	Assit. Dist. Gov. Attorney	Office of District Government Attorney, Nepalgunj
21	Hon. Til Prasad Shrestha	Faculty Member	National Judicial Academy
22	Dr. Bipin Adhikari	Consultant/Advocate	National Judicial Academy
23	Mr. Shreekrishna Mulmi	Research Officer	National Judicial Academy

**Names of Participants in the Consultation Program on Human Rights and Social Justice
Needs Assessment of the Nepali Judiciary**

Venue: Butwal

Date: 29 Nov., 2011

S.N.	Name	Designation	Office
1	Hon. Jageshwor Subedi	Chief Judge	CoA, Butwal
2	Hon. Narayan Prasad Dahal	Judge	CoA, Butwal
3	Hon. Baburam Regmi	Judge	CoA, Butwal
4	Hon. Neeta Gautam Dixit	Judge	CoA, Butwal
5	Mr. Janardan Nepal	Registrar	CoA, Butwal
6	Mr. Narayan Prasad Gyawali	Deputy Registrar	CoA, Butwal
7	Mr. Ananda Raj Pant	Bench Officer	CoA, Butwal
8	Mr. Mohan Bahadur Adhikari	Bench Officer	CoA, Butwal
9	Mr. Kuber Pandey	Section Officer	CoA, Butwal
10	Mr. Devi Dhakal	Bench Officer	CoA, Butwal
11	Mr. Chaturbhuj Pandey	Section Officer	CoA, Butwal
12	Mr. Ishwori Prasad Bhandari	Section Officer	CoA, Butwal
13	Mr. Khadak Bahadur KC	Deputy Government Attorney	Appellate Government Attorney Office, Butwal
14	Mr. Himlal Neupane	Advocate	Appellate Court Bar Association, Butwal
15	Mr. Nanda Ram Bhandari	President	Appellate Court Bar Association, Butwal
16	Mr. Kailash Chandra Gyawali	Secretary	Appellate Court Bar Association, Butwal
17	Mr. Kamal Raj Joshi	Senior Advocate	Appellate Court Bar Association, Butwal
18	Mr. Netra Bahadur Nepal	Advocate	Appellate Court Bar Association, Butwal
	Hon. Til Prasad Shrestha	Faculty Member	National Judicial Academy
	Mr. Shreekrishna Mulmi	Research Officer	National Judicial Academy
	Ms. Pamela Poon	Team Member/Taskforce	National Judicial Academy

Annex D

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|---|----------|
| 1. Hon. Kalyan Shrestha, Justice of the Supreme Court of Nepal | Convener |
| 2. Hon. Keshari Raj Pandit, chief Judge of Court of Appeal Patan | Member |
| 3. Mr. Pram Raj Karki, Deputy Attorney General | Member |
| 4. Mr. Bijaya Misra, General Secretary, Nepal Bar Association | Member |
| 5. Mr. Tek Tamata, Human Rights Analyst, United Nations
Development Programme, Nepal | Member |
| 6. Mr. Raghav Lal Vaidya, Executive Director, National Judicial Academy | Member |
| 7. Mr. Yubraj Gautam, Registrar, National Judicial Academy | Member |

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