

# National Judicial Academy's Human Rights Training: The Nepal Experience

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**P**RIOR TO THE 1990s, there was no autonomous training institute that would enhance the knowledge and skills of Judges and officials of the Nepali Judiciary, and would undertake academic research to address their needs.<sup>1</sup> But with the separation of Nepali Judiciary from the executive branch of government in 1990, the establishment of an autonomous judicial training institute was deemed necessary. Consequently, an executive ordinance in 2004 established the National Judicial Academy. The Nepali Parliament replaced the ordinance in 2006 with the National Judicial Academy Act (NJA Act). By then, NJA has become an umbrella institution for the training of judges, judicial officers, government legal officers, government attorneys and private law practitioners in Nepal.

## **The National Judicial Academy**

The National Judicial Academy (NJA) is an autonomous body that operates under the broad policy guidelines of sixteen-member Governing Council headed by the Chief Justice of Nepal.<sup>2</sup>

The NJA Act provides for an Executive Body representing clientele organizations, namely, the Supreme Court, Office of Attorney General, Ministry of Law and Justice, Nepal Bar Association, and the Judicial Council Secretariat.<sup>3</sup> An Executive Director, who is appointed by the Chief Justice of Nepal under the recommendation of the Judicial Council, heads the Executive Board of the NJA. S/he is also responsible for day-to-day activities.

NJA envisions to promote an equitable, just and efficient justice system for Nepal through training, professional development, research and publication programs that address the respective needs of judges, judicial

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officers, government attorneys, government legal officers, judicial officers, private law practitioners and others who are directly involved in the administration of justice.

In short, under the NJA Act, it has the following objectives:

- To conduct training, conference, workshop, seminar, symposium, interaction program for the purpose of enhancing knowledge and professional skills of the judges, judicial officers, government attorneys and private law practitioners and bringing about attitudinal changes that enhance competence.
- To undertake research in the field of law and justice and to make available legal literature of scholarly and practical significance to judges, judicial officers and others who are involved in judicial administration.
- To promote a competitive, professionally competent, service-oriented and effective private Bar.

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 facilities of NJA staff (both regular and those on contract basis). The Executive Board and Governing Council of NJA approve an annual plan in the beginning of each fiscal year for the training and research activities. The plan basically depends on training needs assessment in the clientele organizations and also on demands put forward by clientele organizations for the fiscal year. Basically, the program planning addresses the training needs of judges, judicial officers and prosecutors who are being promoted to higher posts, and also judges who are being transferred from one place to another. Some programs are designed as refresher courses. NJA also provides in-service training for the newly designated Officers of the Nepal Judicial Service after promotion to higher posts. There is no specific method or criteria in designing the programs, but the annual plans are based on the needs gathered from consultations with the clientele organizations.

After fixing the dates of the training activities for the whole year and preparing the respective curriculums, NJA sends request letters for nomination of participants in the training activities to the concerned nominee organizations.<sup>4</sup> NJA provides travel and daily allowances to nominated participants for taking part in the training activities.

NJA also provides training based on specific agreements with partner organizations. Plans under these agreements are set according to the convenience of NJA and partner organizations.

### **Human Rights Programs and Methodology**

The training program of NJA on human rights and other thematic issues is designed to provide all stakeholders 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 NJA training focuses on enhancement of knowledge and skills of the participants, and development of positive attitudes towards their professional life.

Trained judges, prosecutors and judicial officers from the Nepali Judicial Service implement the program. The NJA faculty members and other officers also lead the training sessions. Whenever the subject of the training requires specific input, experts from non-law sectors are invited to lead the sessions.

NJA usually trains the trainers on how to make their presentations more effective and interesting. The NJA also undertakes content-based training for the trainers focusing on particular thematic issues. Thus the NJA trainers have training on both the process and content of the training program. NJA proposes a list of trainers from among judges, prosecutors, lawyers and judicial officers from the Nepali Judicial Service. The respective institutions formally nominate the proposed trainers. The list of proposed trainers is made on the basis of academic and professional credentials, and the possibility of their future role as members of the extended faculty of NJA.

The pedagogical approach in the human rights education activities of NJA generally consist 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.

Each training session runs for one hour and a half. Three to four sessions are held each day. Resource persons for particular subjects are assigned in advance. Usually, topics are assigned to those who have relevant expertise

and experience. As to structure and delivery, NJA urges the educators, facilitators, and presenters to use adult learning methods in the delivery of teaching sessions to enable them to lead or deliver the training program more effectively. The trainers/facilitators use teaching aids (powerpoint and flip charts) and facilities (overhead projector and other equipments). They also distribute handouts or powerpoint printouts to the participants

The participants evaluate each session. The evaluation covers the performance of the resource person as trainer in the session. The participants fill up an evaluation form at the end of each training session. The aggregate score of the participants' evaluation is a major factor in deciding whether or not to invite the resource person as trainer in the next training program. Only those who receive high scores in the evaluation are invited in the next training activities.

The participants also evaluate the whole training program, filling up evaluation forms during the final day of the training. This evaluation covers the organization of the training activity, selection of the topics, resource persons, and venue. They are also requested to give feedback on the overall management of the training. This is mainly meant to help the NJA and the training coordinator to improve their management of the subsequent trainings. See Annex A for an example of a training workshop program.

### **Human Rights Education Activities**

A number of training activities and workshops on curriculum development for potential resource persons and trainers started immediately after the NJA establishment in 2004. During the 2004-2005 period, NJA held four Training of Trainers (ToT) workshops to train resource persons on how to lead training sessions. The curriculum development workshops developed a number of curriculums for different tiers of judges and other officials in the judiciary.<sup>5</sup> NJA also held orientation programs for District Judges from different districts and Bench Officers working in the Supreme Court. In addition, the NJA held a number of training activities on commercial law. All together, around five hundred participants attended the NJA initial training program. Though human rights training was not the main focus of the activities during this period, human rights training activities initiated the NJA human rights program for the judiciary in Nepal. Also, the then NJA Executive Director, Honorable Justice Kalyan Shrestha and presently a Justice of the

Supreme Court of Nepal, held a number of meetings with different international human rights organizations working in Nepal on this matter.

During the second year (2005-2006 period), NJA started to run two types of programs based on fund source (government budget and donors' fund). Government budget supports the program for the overall knowledge and capacity development of the stakeholders of the Judiciary, whereas programs in partnership with donors focus on different areas of human rights. During the second year, NJA held a number of programs on human rights issues such as combating human trafficking, and gender equality and justice. NJA worked in partnership with several donors such as the United Nations Development Fund for Women (UNIFEM), United States Agency for International Development (USAID), South Asia Regional Initiative/Equity (SARI/Equity, New Delhi), Mainstreaming Gender Equity Program (MGEP), etc. NJA was able to develop a handful of resource persons in the area of gender justice through its training for trainers activities. It even facilitated discussion with South Asian judges on combating human trafficking and also invited experts from other countries to share knowledge and experiences in combating human trafficking and gender justice issues. As a result, NJA was able to establish partnership with United Nations agencies and international non-governmental organizations for the enhancement of judicial capacity. Altogether around one hundred fifty Judges and officials of the judiciary took part in the combating human trafficking and gender justice training activities. Beside those partnerships, NJA has completed eighteen regular training and curriculum development activities. It also completed an assessment of the training needs of its stakeholders. The assessment showed that almost all respondents demanded training on human rights topics. In response, NJA designed a two-year training plan covering all areas of law and justice including human rights issues. From this period onward, NJA has been designing curriculums for different groups of stakeholders with a component on sensitization of participants on human rights and related issues whenever relevant in the courses.

During the third year (2006-2007 period) the NJA programs and partnerships continued to expand and have more focus on human rights and gender justice. Human rights sessions have been incorporated in the general training design for judges and other officials of the judiciary. There was a particular focus on juvenile justice training in view of the establishment of juvenile bench in pilot courts covering almost all district judges and other of-

ficers designated to work in such juvenile benches. This training was in partnership with the Central Child Welfare Board (CCWB), a statutory body for the realization child rights.<sup>6</sup> During this year, judges and high officials were trained in the University of Queensland Center for Public and International Law in Australia on management and chairing judicial sessions. In addition to training activities, NJA initiated research programs to support compliance with judicial directives particularly on human rights cases brought to the Supreme Court of Nepal through public interest litigation. Altogether there were thirty-one training activities, including eleven partnership-based activities, and most of them were related to human rights issues. Five hundred ninety-two participants benefited from the NJA program during this year.

On the third year (2007-2008 period), NJA held thirty-five training activities that included interactions, orientation programs, workshops and consultations. Twelve training activities were government funded and categorized as in-house programs and another twenty-three activities were partnership funded. NJA held these activities with the support from different agencies such as CCWB, United Nations (UN) agencies such as Public-Private Partnership for Urban Environment (PPPUE) Project of the United Nations Development Programme (UNDP), and other institutions such as Dewalka Foundation, and Danida-Human Rights and Governance Programme (HUGOU). Apart from the normal courses for the Judges, judicial officers, prosecutors and lawyers, NJA held a thirty-five-day long in-service training for the Officers of Nepal Judicial Service. In this course, apart from the other proficiency enhancement-related topics, human rights and humanitarian law related subjects were also introduced. Basic human rights concepts, international human rights instruments, implementation mechanisms of human rights instruments, fair trial issues, gender justice, juvenile justice, access to justice and many other human rights issues were discussed. Similarly, during this period NJA held a large number of juvenile justice-related five-day training activities covering one hundred twenty judges of different district courts and twenty-two judges of the Court of Appeal of the country. The objective of the training was to sensitize the judges on juvenile justice based on the Convention on the Rights of the Child and as part of state obligation to guarantee the rights of children. NJA worked with Danida/HUGOU and PPPUE for the different training activities. Moreover, the NJA prepared a comprehensive training-cum-resource manual and standard operating procedure (SOP) for the use of the Nepali Judiciary in view of

the Combating Human Trafficking Act passed by the Parliament. The manual incorporated national, regional and international, agreements, declarations, memorandums of understanding (MoU), conventions and charters that directly or indirectly relate to human trafficking and the human rights of women and children.

In addition to the activities under the regular and partnership-based activities, NJA organized talks on specific issues with the participation of special guest speakers. They were eminent scholars from different countries who delivered talks on different issues of human rights and justice.

During the third year (2007-2008 period), the respected former Chief Justice of India and United Nations (UN) Human Rights Committee member, Mr. P.N. Bhagwati, delivered a talk on “Justiciability of Economic, Social and Cultural Rights” on 18 December 2007. The Justices of the Nepali Supreme Court, Court of Appeal, judges of district courts, the Attorney General of Nepal, other high level judicial officials, and lawyers attended the talk. Similarly, another former Chief Justice of India, Mr. J.S. Verma, delivered a talk on the “Role of Judiciary in the Working of Indian Federalism.” Justice Verma also led the National Human Rights Commission of India and was known for judicial creativity in the field of gender and social justice, sustainable development and human rights. Judges and high-level judicial officials and lawyers attended the talk, and engaged in a fruitful discussion.

Moreover, a renowned feminist and Professor, Catharine MacKinnon, delivered a speech on “Mainstreaming Women’s Rights Issues in the Justice System” on 12 May 2008. Professor Suzannah Linton, Director of LL.M. Program at the University of Hong Kong, gave a speech on the “Role of Judges in Time of Transition” in March 2008. After her speech, the participants engaged the speaker in an extensive discussion. Judges of the Court of Appeal and district courts, senior prosecutors and other high-level judicial officials and lawyers were present in the talks.

On the fourth year (2008-2009 period), NJA held a total of fifty-nine training activities, workshops, seminars, and talks for the judges, government attorneys, officers and staffs of the courts, lawyers, police officers and officers of quasi-judicial bodies. A total of one thousand eight hundred thirty-three persons participated in the activities. NJA also undertook two research activities on government grants and partnership basis.

The activities during this year focused more on gender justice and equality in partnership with UNIFEM, United Nations Population Fund

(UNFPA) and UNDP/Enhancing Access to Justice Program. Three-day-long activities were held with a total of around one hundred fifty participants (judges, government attorneys, officers and staffs of the courts, lawyers, police officers and officers of quasi-judicial bodies). These activities covered different issues including gender justice and equality, gender discrimination and its effects, women's access to justice, national and international legal provisions to combat gender-based violence and their review, role of the judiciary and other institutions in gender justice, legal provisions against trafficking of women and children, provisions and secrecy procedures relating to in-camera hearing, and protection of victims and witnesses. In addition, a separate activity regarding in-camera hearing was held to make participants conversant with legal provisions and secrecy procedures that protect the right to privacy of victims in the judicial process. A total of sixty members of the judiciary directly benefited from this one-day activity.

During this period, different scholars delivered speeches on different themes on law and justice. Professor Diegfried Bross, a Judge in the Federal Constitutional Court of Germany, gave a talk on "Experiences of Constitutional Court in Germany" and answered the queries made by the judges and other participants. Similarly, Professor Jean Zermatten (then Vice-Chairperson and now Chairperson of the UN Committee on the Rights of the Child) gave a talk on "Global Trends on Juvenile Justice," while Professor John Gerrit Lammers, Director of Hague Forum for Judicial Expertise in the Netherlands, delivered a talk on the concepts of monism and dualism in international law.

On the fifth year (2009-2010 period), NJA held sixty-one different activities on law and justice involving three hundred fifty-four judges, five hundred ninety-eight officers, three hundred twenty-seven junior staff, one hundred forty-one private law practitioners, and one hundred forty-one other participants (members of the police, civil society members, professors, human rights activists, representatives of different organizations). NJA also prepared eleven studies and research materials. Like in the preceding years, NJA held in this year its regular programs including human rights-related activities.

NJA held induction training for judges of Court of Appeal, District Court judges who were promoted to the Court of Appeal, and District Court judges. The induction training included discussion of a number of human rights topics. A thirty-five-day in-service training for the officers of Nepal Judicial Service included discussion on major human rights instruments

and their implementing mechanisms along with humanitarian and international criminal law as part of the curriculum.

During this period, NJA undertook a number of activities that were directly related to human rights. They included the following:

**a. Manual on Human Rights in the Administration of Justice**

The perceived lack of manual on human rights training for the Nepali judiciary made NJA prepare a comprehensive manual on human rights in the administration of justice in Nepal based on the *Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers*, produced by the UN Office of the High Commissioner for Human Rights. Human rights experts and judges were involved in the preparation of this manual. This voluminous manual of seven hundred pages covers human rights-related cases decided by the Nepali judiciary. It is in Nepali script so that all judges and officials of the Nepali judiciary can read it easily. It covers the following topics:

- Concept of international human rights, legal provisions relating to fundamental rights in Nepal and assessment of other legal provisions related to human rights in Nepal
- Major Instruments on Universal Human Rights
- Regional Human Rights Instruments and Their Implementation Mechanisms
- Independence and Impartiality of Judges, Prosecutors and Lawyers
- Concepts on Fair Trial, Provisions relating to Fair Trial Issues (Pre-Trial, Trial and Post Trial)
- International Legal Standards for the Protection of Persons Deprived of Liberty
- Use of Non-custodial Measures in the Administration of Justice
- The Rights of the Child in the Administration of Justice
- Women's Rights in the Administration of Justice
- Some Other Key Rights: Freedom of Thought, Conscience, Religion, Opinion, Expression, Association, and Assembly
- The Right to Equality and Non-Discrimination in the Administration of Justice
- The Role of the Courts in Protecting Economic, Social and Cultural Rights

- Protection and Redress for Victims of Crime and Human Rights Violations
- The Administration of Justice During State of Emergency
- Concepts of Transitional Justice and their Uses.

NJA held three training activities on the subject “Human Rights in the Administration of Justice” prepared by learned experts in partnership with European Union’s Conflict Mitigation Program (CMP) II and taking different aspects of human rights concerns into consideration. District Court judges, officers of Nepal Judicial Service, private law practitioners and police officers participated in the activities. One training activity was held in the eastern region of the country and the remaining two were held in Kathmandu. Among the three activities, one was five-day long and two were three-day long. A total of eighty participants were trained in these three training activities. Apart from this, NJA held a three-day training activity on “Human Rights and Social Justice.” Twenty-four participants consisting of District Court judges, officers of Nepal Judicial Service and private law practitioners participated in this training that focused on the concept of human rights, international standards for the implementation of human rights treaties, comparative study on social justice in different countries, position and application of social justice in Nepal, measures for promoting social justice in Nepal, etc.

#### **b. Training on incorporating international human rights instruments into domestic judgments**

NJA undertook two two-day trainings for forty Bench Officers (Judges’ Assistants) at the Supreme Court in partnership with the UN Office of High Commissioner for Human Rights in Nepal on incorporating international human rights instruments into domestic judgments. The second training had improvements based on the feedbacks received from the participants in the first training. The first training included concepts of human rights law, the remedies for the victims of human rights violations, status of international human rights and their domestic application, serious human rights violations, relations between human rights law and humanitarian law, and role of Bench Officers in the human rights violations cases.

### c. Consultation on Right against Torture

Since the right against torture had not been discussed much in the training activities for the Nepali Judiciary, NJA focused on combating torture in a consultation held in 2010. The consultation discussed torture as one of the serious human rights violations and the state obligation to guarantee the protection of the right against torture in particular when persons were interrogated for any crimes. It also included the discussion of national and international efforts and mechanisms for the prevention of torture, judicial response against torture, and the role of judges. Twenty-five participants attended the consultation, which was held with the support from the Association for the Prevention of Torture, Geneva and Advocacy Forum-Nepal.

### d. Training on Juvenile Justice System

Beside those trainings, there were other partnership-based projects for other human rights issues such as juvenile justice and gender justice. During the 2009-2010 period, eight three-day training activities on juvenile justice have been held. In partnership with UNICEF, seven activities of three days each have been conducted in different places of the country. The participants were *Shrestedars* (Chief Administration Officers of the District Courts), other officers of the courts, lawyers and police officers. Similarly, in partnership with CCWB, one activity was conducted for junior staff designated to the Juvenile Bench in different parts of the country. In this training activity, contents like child development, juvenile delinquency and its causes, concept of juvenile justice and present situation of Nepal, restorative justice, the Convention on the Rights of the Child and other international instruments, the Child Rights Act and related instruments in Nepal along with judicial trends on juvenile justice were discussed. These training activities covered around two hundred participants.

### e. Training on Gender Justice

In partnership with UNIFEM, NJA held four training activities of three days each on gender equality and justice for the staff working in judicial sectors. The training included the following topics:

- Concepts of Gender Equality
- Gender Discrimination and Gender Justice

- International Frameworks on Gender Justice with Special Reference to Convention on the Elimination of All forms of Discrimination Against Women
- Recent Changes on Legal Regime on Gender Justice in Nepal
- Anti-trafficking Law of Women and Children
- Protection of Victims and Children in Judicial Process
- In-camera Hearing: Concepts and Process
- Developing Positive Attitude towards Gender Victims
- Right to Privacy and Supreme Court's Guidelines on Right to Privacy
- Judicial Trends on Gender Justice in Nepal.

On the sixth year (2010-2011 period), NJA expanded its activities and completed eighty-two activities involving two thousand two hundred eighty-two participants (judges of all tiers, prosecutors, judicial officers, law officers, lawyers, support staff and other officials).

NJA held activities focusing on human rights issues as in the previous year including the following:

**a. Training on Human Rights in the Administration of Justice**

NJA held five training activities in different parts of country in partnership with the International Commission of Jurists and Advocacy Forum-Nepal on "Human Rights in the Administration of Justice." The training activities used the manual on human rights in the administration of justice. Each training lasted for five days, and involved one hundred ten judges, prosecutors and lawyers.

**b. Training on Gender Justice and Gender-based Violence**

This three-day training was held twelve times, with two hundred fifty judges and other officers of the judiciary as participants.

**c. Training on Transitional Justice**

This two-day training aimed to facilitate justice to the victims of armed conflict, end the state of impunity, and find out the role of judiciary. It also covered discussion on transitional process and models to transform peace in a real sense. One hundred participants joined the training activities that were supported by Advocacy Forum-Nepal.

**d. Workshop on Human Rights and Social Justice**

NJA held the “Workshop on Human Rights and Social Justice in Nepal” to impart knowledge on jurisprudence and practice on social and economic rights including the rights of disadvantaged groups such as rights of women and rights of indigenous and marginalized groups developed at the international level in recent times. Further, it discussed the enforceability of socio-economic rights in Nepal. The workshop had an experience-sharing format. International resource persons from the University of Oslo as well as domestic resource persons facilitated the sessions. There were fruitful interactions and discussions between the participants and the resource persons. The participants were from different justice sectors including judges of Court of Appeal, District Court judges, prosecutors, high-ranking judicial officers and private law practitioners working in the field of constitutional and socio-economic issues in Nepal. A new partner, the Norwegian Center for Human rights, Oslo University worked with the NJA in holding the workshop.

**e. Training on right to privacy and in-camera hearing process**

NJA held several training activities on the role of the judiciary in minimizing violence against women and creating a just society that ensures women’s human rights. In this context, the training activities dealt with the means of ensuring right to privacy of women victims and their access to justice. They focused on the in-camera hearing process and its significant role. One hundred participants took part in these activities, with the support of UN Women (United Nations Entity for Gender Equality and the Empowerment of Women).

**f. Workshop on rights of migrant women workers**

The UN Women and the Ministry of Labor and Transportation Management worked with NJA in holding two-day workshops on the rights of migrant women workers. Eighty judges and other staff attended the program.

**Publications and Research Activities**

In line with its objectives, NJA produces publications that support the development of the legal system and enhance the capacity of judges and other hu-

man resources of Nepali Judiciary through upgraded knowledge and skills. The NJA publications aim to sensitize them and make them conversant with the international law jurisprudence. See Annexes B and C for the list of publications and research activities undertaken by NJA so far.

Since the NJA is an institution established for academic discussion and information dissemination to concerned organizations toward legal and judicial reform, it began the publication of its research activities through the *NJA Law Journal*. Articles contributed by eminent scholars, jurists, experts from the within and outside the country are published in this journal. It is also meant to encourage and strengthen serious legal research in Nepal and reach out to a larger community in Nepal and abroad. NJA sees the importance of research and judicial education going hand-in-hand to enrich each other through enhanced knowledge and skill and development of synergy for bringing about reforms.

Since the Nepali system of law and justice is still evolving, it requires academic discussion to internalize and adopt values developed in the field of international law and human rights. For this purpose, a sustained collaboration of academia and practitioners in research and publication is needed. NJA hopes that the *NJA Law Journal* is providing a platform for such collaboration. *NJA Law Journal* started as an annual publication in 2007. See Annex B for the list of *NJA Law Journal* issues.

NJA also publishes annually a report on its activities. See Appendix B for the list of Annual Reports that have been published.

### **Challenges and Conclusion**

Within the short span since its establishment, the NJA has undertaken a large number of trainings for judges and other participants as well as research activities that are needed by the judiciary. The research programs proved to be foundation of interventions to develop the legal and judicial systems in Nepal. So far, the NJA has trained seven thousand three hundred forty-four participants through the three hundred fourteen training activities held since its establishment. The training activities significantly increased in recent years. As mentioned above, NJA held eighty-two training activities covering a total of two hundred ninety-eight days during the 2009-2010 period alone. These training activities have significant impact on the professional life of the judges and other participants. The impact is seen in the form of

upgraded knowledge in international human rights law, advancement in the delivery of justice, incorporation of human rights standards in the court decisions, sensitization in gender justice and juvenile justice, and many others. There has been no survey undertaken to measure the impact, however.

NJA faces many challenges in its training program. First of all, the numerous training activities of NJA have not yet been evaluated on their effectiveness or impact. With regard to human rights training, the activities have varied modes of execution and courses due to the different partners involved and limitation of funding resources. There is a need for training on impact assessment on the work of the judiciary to make the training more effective. In addition, organizational change is needed to allow longer-term programming. Piecemeal programming may not bring change in a way that would be noted by the people at large. Therefore, the introduction of large scale and sustainable projects is required to see more positive signs in the Nepali Judiciary.

Having trained human resource has been a static problem at the NJA from its inception. The institutionalization of NJA depends on available trained human resources. The Supreme Court and the Office of the Attorney General have deputed few judges and high-level officers as trainers. These judges and high-level officers are deputed without fixed tenure, and therefore serve only for a year or two. With interim work period, they face lack of knowledge on training management and teamwork culture. Some of them also suffer in continuing to serve their superiors while acting as trainers at the NJA. In this context, since NJA was established as independent and autonomous body, it should expedite the development of its own faculty members. This will minimize the tension caused by deputation on ad hoc basis and will avoid the problem related to extreme lack of court judges.

Another challenge refers to the need for the NJA faculty members to be well verse with the knowledge, as well as skill, in teaching global trends on model judiciary. They need training in this regard such as through exposure visit and participation in the international programs on the subject. In addition, the faculty members can take academic courses such as LL.M. and PhD programs or Juris Doctor research programs that are worthwhile contributions to the institution-building of NJA. There is no doubt that the NJA needs highly skilled and research oriented faculty members. To keep them within NJA, a staff retention policy on providing attractive work package should be adopted. The 2006 NJA Act has a provision on the establishment of an

Academy Fund that can be used for this purpose. But this system is not in operation yet.

## Endnotes

1 A Judicial Training Centre that existed prior to 1990 was only for the officers of the Nepal Judicial Service who worked under the Ministry of Law and Justice, Government of Nepal.

2 The Chair of the Governing Council of the NJA is the Chief Justice of Nepal. The members consist of the following: the Minister of Law and Justice, the Vice-Chairperson of National Planning Commission; two justices from among the sitting Justices of the Supreme Court, the Attorney General of Nepal, one person from among the retired Justices of the Supreme Court, the Dean of the Faculty of Law at Tribhuvan University, one judge from among the sitting judges of the Court of Appeal, one person from among the professors of law having at least five years of teaching experience, the President of the Nepal Bar Association, one judge from among the sitting judges of District Courts, and three law graduates representing women, ethnic communities and *Dalits* (Nepalis who are discriminated based on their low caste) having fifteen years of involvement in the field of law and justice. The Executive Director of National Judicial Academy acts as Member-Secretary to the Council.

3 An Executive Director heads the NJA Executive Board, while the Secretary to the Ministry of Law and Justice, Secretary to the Judicial Council, Registrar of the Supreme Court, Senior-most Deputy Attorney General of the Office of the Attorney General, General Secretary to the Nepal Bar Association work as Members. The Governing Council as Member-Secretary of the Executive Board nominates a senior-most employee of the NJA.

4 For the nomination of Judges of all tiers and judicial officers in all courts in the country, a request letter is sent to the Supreme Court of Nepal; for the Prosecutors' nomination, a request letter is forwarded to the Office of the Attorney General; for the officers working under the Ministry of Law and Justice, a request letter is dispatched to the Ministry of Law and Justice; and similarly, for the lawyers' nomination, a request letter is sent to Nepal Bar Association.

5 NJA developed four curriculums including the Curriculum for Knowledge and Skill Enhancement in the Professional Life for the Officers of Judicial Service Working in the Different Tiers of Courts in Nepal, Curriculum for the Professional Capacity and Knowledge Enhancement for the District Judges, Curriculum for the Capacity and Knowledge Enhancement of Bench Officers Working in Different Courts, Curriculum for Knowledge and Capacity Enhancement of the District Attorneys (Government Prosecutors).

6 Created by the Children's Act 2048 BS (1992).

## **Annex A**

### **Program of Workshop on Combating Trafficking of Women and Children**

2006

Kathmandu, Nepal

#### **A. Workshop on Effective Implementation of the Laws and the Institutional Mechanism to Combat Trafficking of Women and Children in Nepal – Part I**

1. Inaugural
2. Field Visit - ABC Nepal, Koteshwor, Kathmandu
3. Session One - Conceptual Understanding of Human Trafficking, Migration and Prostitution and Role of Judiciary in Combating Human Trafficking
4. Session Two - Women's Human Rights, Violence against Women and Gender Justice
5. Discussion of the Observations from the Field Visit
6. Session Three - Psychological Impact of Violence on Women
7. Session Four - National Laws, International and Regional Legal Framework against Trafficking
8. Session Five (Joint Session) - Effective Implementation of Anti-trafficking Laws
  - 8.1 Victims' Perspective
  - 8.2 Civil Society's Perspective
  - 8.3 Police's Perspective
  - 8.4 Government Attorneys' Perspective
  - 8.5 Judges' Perspective
9. Session Six - Making Road to Justice Accessible: Victim Protection, Appearance and Examination and In-camera Hearing
10. Session Seven - Critical Assessment of the Judicial Responses on Trafficking Related Cases
11. Session Eight - Relevance of Victim/Witness Protection Scheme in Criminal Justice System Particularly in Trafficking Related Case
12. Concluding Session

## Annex B

### **Publications of the National Judicial Academy Proceedings of the Judges' Workshop on Combating Trafficking in Women and Children (2006)**

- Resource material relating to judicial capacity enhancement (2007)
- Resource materials relating to gender justice (2006)
- A research report on the situation of implementation of directive orders issued by the Supreme Court of Nepal (2006)
- A Study on Implementation of Directive Orders Issued by the Supreme Court (2007)
- Compilation of judgments of District Courts (2009)
- Concepts on in-camera hearing and its operating guidelines (2009)
- Standard operating procedure (SOP) for investigation, prosecution of the human trafficking offence (2008)
- Guidelines on judgment execution (2009)
- Resource materials on mediation (2009)
- Research on judgment execution: Problems and measure for solutions (2009)
- Compilation of landmark judgments of District Courts (2010)
- Compilation of landmark judgments of Court of Appeal (2010)
- A study on the review of Rome Statute of the International Criminal Court and existing Nepali criminal law (2010)
- Manual on Human Rights in the Administration of Justice (2009)
- The landmark decisions of the Supreme Court, Nepal on Gender Justice (in Nepali) (2010)
- The landmark decisions of the Supreme Court, Nepal on Gender Justice (in English) (2010)
- Concepts on in-camera hearing and its operating guidelines (2010)
- Resource materials on juvenile justice (2010)
- Sentencing policy: principles, practices and requirements for amendments (2010)
- Compilation of judgments on children rights and juvenile justice (2010)
- A Study on Domestic Violence Act, 2066 in line with International Human Rights Principles (2011)
- Present status of criminal justice administration by quasi-judicial authorities (2011)

- Laws to be amended for the accession of Rome Statute of International Criminal Court (2011)
- Status of Environmental Justice in Nepal (2011)
- Status of Gender Discrimination and Gender Justice in Nepal (2011)
- Truth and Reconciliation Commission and its Procedural Fairness (2011)
- Concept of Intellectual Property in the Context of Nepal (2011)
- Transnational Organized Crime: Effective Combating Measures (2011)
- Social Justice and Human Rights (2011)
- Compilation of Landmark District Court Judgments (2011)
- Compilation of Landmark Court of Appeal Judgments (2011).

In addition, NJA has also published the following issues of its law journal and annual reports:

### **I. Law journal**

- *NJA Law Journal*, 2007
- *NJA Law Journal*, 2008
- *NJA Law Journal*, 2009
- *NJA Law Journal*, 2010

### **II. Annual Report**

- Annual Report 2004/05 (in Nepali)
- Annual Report 2005/06 (in Nepali)
- Annual Report 2006/07 (in English)
- Annual Report 2007/08 (in Nepali)
- Annual Report 2007/08 (in English)
- Annual Report 2008/09 (in Nepali)
- Annual Report 2008/09 (in English)
- Annual Report 2009/10 (in Nepali)
- Annual Report 2009/10 (in English)

## Annex C

### Research Activities of the National Judicial Academy

The following are the reports on research activities undertaken by NJA in the field of law and justice. Some reports have been published:

- A research report on the situation of implementation of directive orders issued by the Supreme Court of Nepal (2006)
- Case-flow Status at the Supreme Court of Nepal (not published)
- Research on judgment execution: Problems and measure for solutions (2009)
- A study on the review of Rome Statute of International Criminal Court and existing Nepali criminal law (2009)
- Present status of criminal justice administration by quasi-judicial authorities (2011)
- A Study on Domestic Violence Act, 2066 in line with International Human Rights Principles (2011)
- Laws to be amended for the accession of Rome Statute of International Criminal Court (2011)
- A Study on Implementation of Directive Orders Issued by the Supreme Court (2007)
- A Study on Injunctions and Mandamus issued by the Court of Appeal in Nepal (to be published)
- A Study on Court Management No. 188 of National Code and Discretionary Power of the Judges (to be published)
- Impact Analysis of the Training on Case Management conducted by the National Judicial Academy (to be published)
- Cases decided under the Jurisdiction of the Judicial Review and their Implementing Status (to be published)
- Roles and Views of Judiciary of Nepal in Implementing of International Treaties and Agreements (to be published)
- Training Needs Assessment of Lawyers (to be published)