

Information Sheet – Nepal Bar Association

I General Information

Nepal Bar Association (NBA) was established in December 21st 1956. At that time, legal education in Nepal was in primitive stage. Thus, most of the lawyers were licensed on the basis of their experience in the legal field and without any academic qualification in law. Gradually, afterward law graduates from the universities started replacing traditional lawyers and now a days most of the member lawyers are with formal academic degrees from the universities.



In its preliminary stage NEBA was functional without formal registration and formally in the year 1963 His Majesty's Government of Nepal registered it as a professional organization under the provision of National Guidance Act 1961.

Previously the Supreme Court of Nepal was the authority to issue a practicing license. Moreover, Disciplinary Committee of the Supreme Court of Nepal was responsible for any kind of disciplinary action against lawyers. As a result of continued effort of NEBA in the year 1993 Nepal Bar Council Act was evolved and Nepal Bar Council composed under provision of above act has full authority for issuing license to lawyers and to take disciplinary action against any lawyer. Bar Council Act 1993 has recognized NEBA and Vice-president of Bar Council is 'President of NEBA. Additionally, most of the Members of Bar Council are nominated/elected amongst members of NEBA. Legal Aid Act -1997 has also recognized NEBA. Government sponsored legal aid activities are also to be conducted through NEBA. Central Legal Aid Committee, a statutory body, chaired by HMG Minister of Law and Justice, comprises president of NEBA as ex officio member and secretary General of NEBA as ex officio member-secretary. Thus NEBA is not only a professional organization but also a statutorily recognized institution having responsibility of performing some legally specified duties.

Nepal Bar Association is the federal organization of Nepalese practicing Lawyers. The Central Executive Committee (CEC) is the supreme executive body of it, which is popularly known as NEBA. Direct voting of all members elects Central Executive Committee. In addition to CEC, NEBA has 84 units, spread all over the country. Composition of such units are based upon structure of courts. The CEC has 17 officials containing President - 1, Vice-President - 5(from 5 Regions), Secretary-General - 1, Treasurer - 1 and Members - 9.

1 Number of stakeholders in the Country

1-1-1 Population

Nepal lies between India and China. Nepal's population is 25 million.

1-1-2 Number of lawyers/attorneys-at-law

There are around 12,000 lawyers including senior advocates, advocates and pleader.

1-1-3 Number of judges

1-1-4 Number of prosecutors

2 Number of court cases handled by first instance courts

In the fiscal Year 2009/2010(2066/2067) total 82,631 cases were handled by first instance Courts. 82,631

1-2-1 Number of civil cases

50,383 civil cases

1-2-2 Number of family cases

1-2-3 Number of criminal cases

32,248 criminal cases

3 Attorneys for Defendants in Criminal Procedures

Please explain in what kinds of criminal cases attorneys must be appointed for suspects or defendants in your country. Please also explain who appoints and bears the costs for the attorneys appointed.

4 Profile of the Bar Association/ Organization and Attorney System

1-4-1 Location and contact information

Nepal Bar Association Ramshah Path, Kathmandu, Nepal, P.O.Box No 5502 Tel No: 0977-01-4254647, Fax: 0977-01-4218049 Web: nepalbar.org, email:neba@wlink.com.np, premkhadka_adv@yahoo.com, Cell: 0977-9851063356

1-4-2 History of Organization

History is available in general information.

1-4-3 Governmental Supervision of the Organization and Registration of Members (Please explain whether or not, and if so how, your organization is

supervised by the government.)

1-4-4 Main Activities of the Organization

Democracy, Rule of Law, Independent Judiciary and Human Rights activities.

1-4-5 Categories of Membership

Senior Advocate, Advocate, Pleader and Agent

1-4-6 Number of Members (as of 2011)

Senior Advocate, Advocate, Pleader and Agent are around 12,000.

1-4-7 Membership (voluntary or compulsory, please also explain where such registration should be filed)

NBA has no direct membership scheme. All the members of NBA units are members of NBA, Membership or Bar are Voluntary. NBA has its units all three tiers of the courts VIZ, Supreme Court, Appellate Court And District Court

1-4-8 Executives and Officers, Number of Positions

One President, Five Vice-President (Five Regional Office One Each), One Secretary General, One Treasurer and Nine Members including Seventeen Central Executive Committee

1-4-9 Finances and membership fees (Please provide the yearly budget amount of your organization and also the yearly membership fees in USD)

Each Bar Unit decided their membership fees according to their decisions.

1-4-10 Journal, Newsletter, Website

English and Nepali version Nayadoot, www.nepalbar.org

1-4-11 Other Bar Associations (including the provincial associations) in the Country and the Number of Members of such Other Organizations

Nepal Bar Association is sole organization of legal profession.

1-4-12 Qualifications To Become an Attorney

Minimum Bachelor Degree and 15 years practice in law field.

1-4-13 Laws, Decrees or Regulations on Attorneys (Please explain if there are any laws, decrees or regulations on attorneys in your country. Please provide the JFBA an English translation if they are available.)

1-4-14 Code of Ethics and/or Rules of Professional Conduct (Please provide the JFBA an English translation if an English translation of these is available.)

1-4-15 Disciplinary Functions (Please explain who has the power to take disciplinary action against members.)

Bar Council has the power to take disciplinary action against members. The President of NBA is Vice president of Bar Council.

1-4-16 Continuous Legal Education for Members (Please explain about the program, if any)

Mediation Training, Legal Awareness, Legal Education, Mobile Clinic, Para Legal etc

1-4-17 Challenges the Organization is Facing (Please briefly explain the problems and challenges your organization is currently facing.)

II Legal Aid

2-1 Please describe briefly the history of legal aid in your country.

Applying the principle of natural justice and equality of arms the Nepalese legal system has been providing legal aid to the poor, marginalized and disenfranchised groups in the society since the decade of 1960. Especially, after 1990 the legal aid has somehow grown up as Nepal Bar Association took lead to bring the legal aid system in extended form in more institutionalized. The Constitution of the Kingdom of Nepal, 1990 had provided that the right to consult and to be defended by a lawyer as a fundamental right. The constitutional development has placed right to legal aid for indigent as fundamental entitlement. These all instruct for a formal existence of legal aid. As the poor, marginalized and disenfranchised people cannot exercise this right where system of legal aid formally exist but does not operates actively to bring about the desired outcomes. Therefore it needs to be accessible, effective and efficient.

Recognizing this fact, the Supreme Court of Nepal, Appellate Courts, District Courts and Nepal Bar Association are providing legal aid in different parts of the country. Generally, there are four sources of legal aid in practice. They are Courts (*Baitanik*), Legal Aid Committees, Bar Units and NGOs. Among them some are providing legal aid since five decades. But, still legal aid in the country has not yet been firmly institutionalized.

The first source of legal aid is Courts, which provide the service through court-remunerated lawyer (*Baitanik Wakil*) appointed by the court itself. There are 75 District Courts, 16 Appellate Courts and Supreme Court in the country. In each of these courts, one court-remunerated lawyer is appointed by the courts for a period of one year. However, in the Supreme Court, normally there are two court-remunerated lawyers. The Courts have provided legal aid throughout the country but despite this strength the legal aid provided by the court is less effective and far from being satisfactorily.

Another source of legal aid in Nepal is the Central and District Legal Aid Committees (DLAC). There is a District Legal Aid Committee in each District where the Legal Aid Act, 1997 has been implemented. Presently the Act has been implemented in 33 Districts. In each of these Districts, a DLAC has been formed that has a single room office with one staff of His Majesty's Government (HMG). Statutory back up is one of the most important strengths of this type of legal aid but it is available only in limited Districts. Because it does not have its own lawyer(s) for providing legal aid, it depends on Bar for the legal aid lawyers. Bar assigns lawyers to provide legal aid but the lawyers are paid very low. The fund provided by the Government for legal aid is very nominal. Therefore, it is not being able to create tangible impacts.

Nepal Bar Association is another source of legal aid. It provides legal aid through different Bar Units. It has a Unit in the Supreme Court and each Unit in all of the Appellate Courts. It has District Units in most of the District Courts as well. To date there are 84 units having coverage across Nepal. It also has a Women Lawyer Centres under 29 Units where there are more than three women lawyers practicing. One of the most acute weaknesses of the Bar is that it does not have its own funding for the legal aid. It depends on donors for fund. Currently the Bar is providing legal aid with the assistance of the Norwegian Bar Association.

The fourth source of legal aid is domestic and international non-governmental organizations. The legal aid they provide has weaknesses such as over donor-driven, non-transparent financial transactions, short-term project-based

service and discontinuity, urban-area centric coverage of service and un-sustainability.

The fact is that existing legal aid in Nepal has not yet been widely used by the targeted groups, especially by the poor, marginalized, disenfranchised, minors and women. In most of the cases, the targeted groups are not aware or informed about the legal aid in place. On the other hand, who are informed and aware about the legal aid in place have no high confidence to it and therefore do not resort to it. One of the reasons of this is that legal aid in Nepal is not effective.

2-2 Please outline the legal aid organization and its programs.

Actually there is many governmental and non governmental organization provide the legal aid service for unprivileged people who have not direct access to claim their right. Basically Nepal Bar Association Access to justice Project has provided legal Aid service and legal awareness program for needy people. Under Access to Justice Project, 29 women Lawyers centers are assisting to providing legal aid services to unprivileged people especially for women. Access to Justice Project aims at improving accessibility of justice to weakest and most vulnerable groups in the communities. The Legal aid is specifically guided by objectives as:

- To provide court-oriented legal aid to the indigent and disadvantaged people,
- To launch a strategic legal aid campaign through legal literacy programs to arouse people's consciousness about their rights.
- Preparation of necessary petitions and application and representation in courts, tribunals and other quasi-judicial bodies on behalf of the indigent and poor persons.
- Collection of information about the women prisoners to provide them free legal assistance and representation of all indigent women by *Waris* (Authorized person to appear in courts at a given them) in courts.
- Providing direct financial help to indigent women, *Dalits* and ethnic groups to meet expenses like court fees, transportation and similar essential expenses. Settlement of dispute through conciliation and/or compromise. Training to the persons responsible for alternative dispute resolution or developing paralegal human resources. Launch community mobile legal aid clinic and awareness campaigns for deprived, remote area and communities. Policy and legal reform and advocacy. Promotion of legal knowledge by including information in educational curricula and paralegal training and awareness activities of legal knowledge.

2-2-1 Name of the legal aid organization/head office location

1. Central Legal Aid Committee
Secretariat, Nepal Bar Association,
Ramshahpath, Kathmandu Nepal
(Supreme Court Premises)
2. Nepal Bar Association
Access to Justice Project
(Cooperation between Norwegian Bar Association and Nepal Bar Association)
Ramshahpath, Kathmandu Nepal
(Supreme Court Premises)

3. The Supreme Court of Nepal
Ramshahpath, Kathmandu Nepal

2-2-2 When was the above organization established?

The court is being provided legal aid service to needy people through court salaried lawyer since 1958. Previously this service was provided by the Supreme Court only later on this provision is extended to Appellate Court and District Court as well. Nepal Bar Association, previously, had provided legal aid service through Legal Aid Project with the support of Norwegian Bar Association since 1988 to 2009. The project was renamed by Access to Justice Project since 2010 and it is mutually agreed to run the project upto 2014. The legal aid service is formally established by Government of Nepal since 1997 by enacting Legal Aid Act.

2-2-3 Please describe briefly the organization structure such as branches and other offices.

However the Government of Nepal has declared about the enactment of Legal Aid Act in all 75 district of the country, the district legal aid offices are established only 34 districts i.e. Kapilbastu, Baglung, Syangja, Jhapa, Sunsari, Rupandehi, Darchula, Siraha, Kaski, Dang, Pyuthan, Morang, Dhankuta, Saptari, Rauthat, Bardiya, Nepangunj, Palpa, Parbat, Kailali, Mahotari, Parsa, Chitwan, Dadeldhura, Kanchanpur, Janakpur, Kavre, Sarlahi, Sindhuli, Arghakhachi, Tanahu, Bara, Kathmandu and Dolakha.

The Access to Justice Project is established in central level and authority to handle legal aid cases of disadvantaged section of the society especially women and children is provided to 29 women lawyer centers (WLC). The WLC is established in Supreme Court WLC, Appellate Court WLC: Baglung, Biratnagar, Butwal, Ilam, Janakpur, Mahendranar, Nepalgunj, Patan, Pokhara, Rajbiraj, Surkhet and District Court WLC: Banke, Bardiya, Bhaktapur, Chitwan, Dhankuta, Jhapa, Kailali, Kathmandu, Kavre, Lalitpur, Morang, Palpa, Rupandehi, Sunsari, Tanahu, Udayapur and Dang. Similarly, through court legal aid is provided by Salaried (*Baitanik*) lawyer in 75 district courts, 16 appellate courts and two in Supreme Court.

2-2-4 Please explain about the organization's service delivery model such as salaried legal professional (staff attorney) and/or private legal professional (judicare).

The legal aid lawyer under Supreme Court, appellate court and district court deliver their service as salaried legal professional. The legal aid lawyer under district legal aid committees, under the Access to Justice Project in central level and in appellate/district level is handled by roster of lawyers / women lawyers working in respective WLC. They get very nominal fees (tips) for their service on work basis.

2-2-5 Please explain about the budget for the legal aid system.

Since the legal aid is provided through different source the budget is also allocated differently by different organization. For the fiscal year 2011/2012 the government of Nepal has allocated budgeted of NRs. 8500000/- (eight million and five thousand hundred), the budget of the NEBA Access to Justice Project is 15000000/- (Fifteen million). Similarly, the different organizations have their own budget plan.

2-2-6 How many recipients have received the legal aid assistance in main legal aid programs in recent years?

In district legal aid committees the distribution of cases varies from district to district. The registration of legal aid cases in some districts is very few where as some districts have very high ratio of legal aid cases registration. Calculating the registered cases and the population, in average each district legal aid committees handles 25 cases annually. This shows that tentatively 800 to 1000 needy people gets legal aid support through district legal aid committees annually.

The NBA Access to justice project central office handled 36 cases in the year 2010. Among them 12 were civil, 17 were criminal, and seven were writ petition. The central office of the project had provided counselling services to 79 needy people. Similarly, among 29 Women Lawyer Centers (WLC) four centres provided legal services to the needy service seekers and service received from those in 28 cases in the year 2010. The service was provided in civil and criminal litigations where 17 cases were of civil nature and 11 were of criminal nature.

2-2-7 Please explain about the main activities of the legal aid organization, including entitlement to legal aid and reimbursement of the assisted legal aid costs

There is not any provision of reimbursement of the assisted legal aid costs in our country.

2-3 What are the future issues or challenges with respect to the legal aid system in your country?

The major challenges of legal aid system are as follows:

- The legal aid provided by the court is confined only in the hearing of the case before a bench.
- The legal aid provided by Nepal Government is not extensive. The fund allocated by the government for legal aid is mere formal and extremely nominal.
- The legal aid provided by the Bar is basically supported by donor and still has not developed a sustainable base.
- Due to many factors including information, effective communication, financial constrains lack of coordination among various legal aid provider institutions and regulation mechanism and others the legal aid is still used in an ad hoc basis by the targeted groups.

2-4 Please let me know if the legal aid organization have an English language website.

Nepal Bar Association Access to Justice Project has its website in English language which is www.nepalbar.org.np

III Legal consultation (other than that covered by the Legal Aid system explained in above II.)

3-1 Legal Consultation Programs (Please explain if there are legal consultation programs managed by your organization (or other institutions) other than those covered under the Legal Aid system in your country.)

3-2 Fees for Legal Consultation (Please explain the fee structure for such legal consultation programs.)

3-3 Management of the Legal Consultation Program (Please explain how such program is run by the organization.)

3-4 Appointment of an Attorney for Legal Consultation (Please explain how an attorney (consultant) is appointed.)

3-5 Flow to the legal representation (Please explain how such legal consultation may lead to legal representation by an attorney)

3-6 Number of Consultations (Please provide statistics on how many legal consultations have been carried out per year.)

IV Shortages of Lawyers in Local Areas

4-1 Is there any figure of lawyers who work in local areas in your country?

4-2 Do you think that there are a sufficient number of qualified lawyers working for citizens in local areas in your country?

4-3 If the answer of Question 3-2 is negative, what have caused such shortage of lawyers?

4-4 Does the legal aid organization or the bar association/law society has any programs in dealing with legal services in local areas in your country?

4-5 If the answer of Question 3-4 is affirmative, please describe briefly such programs.

4-6 What are the future issues or challenges with respect to the shortage of legal services in local areas in your country?

V Other Obstacles to Hinder Access to Justice

5-1 Are there any obstacles to hinder access to justice other than the problems with the legal aid system and the shortage of lawyers in local areas?

5-2 If the answer of Question 4-1 is affirmative, please describe briefly such obstacles.

5-3 Please explain briefly the educational system to produce qualified lawyers in your country.

5-4 Do you think that your country has enough lawyers to substantiate the access to justice?

5-5 Do you think that your country produces newly qualified lawyers every year to substantiate the access to justice?

5-6 If the answer of Question 4-4 or 4-5 is negative, please describe briefly the reason for such shortage and your thoughts on how to solve such problems.

VI Cooperation with Foreign Organizations

6-1 Please explain the details of recent and future projects relating to any of the above discussed issues in your country, in regard to which any foreign (governmental or non-governmental) organizations are providing assistance.

VII Others

7-1 Recent Judicial Movement

Please describe briefly the recent movements or topics in the legal community, including the bar association/law society in relation to the topics above.

7-2 Comments

Please fill in any comments or your thoughts to way to achieve the well-organized access to justice in your country.