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Access to Justice

**Best Practices under
the Democracy Partnership**

The Asia
 Foundation

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Access to Justice

Best Practices under the Democracy Partnership

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Table of Contents

Introduction	1
Bangladesh Map	3
Constraints to Accessing Justice	5
Discriminatory Laws	5
Deficiencies in Good Governance	5
Inadequacies of the Existing Judicial Systems	7
Common Legal Problems	10
Three Approaches	11
Legal Awareness	11
Mediation or Alternative Dispute Resolution (ADR)	14
Legal Aid	16
Profiles of NGO Partners	18
Legal Awareness, ADR, and Legal Aid:	18
Madaripur Legal Aid Association (MLAA)	18
Banchte Shekha	20
Palli Shishu Foundation (PSF)	22
Palashipara Samaj Kallayan Samity (PSKS)	23
Kabi Sukanta Seba Sangha (KSSS)	24
Bangladesh Legal Aid and Services Trust (BLAST)	25
Legal Awareness:	27
Bangladesh Nari Progati Sangha (BNPS)	27
Bangladesh National Women Lawyers' Association (BNWLA)	28
Centre for Development Services (CDS)	30
Ain O Shalish Kendra (ASK)	31
Institute of Law and Development (ILD)/	
Ain O Uannayan Sangastha (AOUS)	32
Other complementary programs:	33
Legal Awareness Forum (LAF)	33
Bangladesh Center for Communication Programs (BCCP)	34
European Union Program	35
Lessons Learned	36
Looking Towards the Future	42

Introduction

Having an estimated population of 129 million, Bangladesh ranks as one of the poorest countries in the world, with a reported 35.6 percent living in poverty.¹ Stark deficiencies in food, housing, health care, education and job opportunities have led to chronic poverty among millions of Bangladeshis. For those lacking resources and knowledge of legal rights and processes, these conditions have also led in turn to inability to access judicial institutions established for the protection and enforcement of rights guaranteed to persons under the Constitution of Bangladesh. The formal legal system is inundated with corruption, delays in disposal of cases, complicated procedures, exorbitant costs, class bias which favors the rich and socially elite, and gender bias which favors men over women. These factors make access to justice exceptionally difficult for poor people, especially women. As a result, issues of land rights, wrongful termination of employment, dowry demands, failure to provide maintenance, domestic abuse, denial of rightful inheritance, and similar kinds of cases frequently exacerbate already adverse conditions for the poor, and in particular poor women.

The Democracy Partnership (DP), established in 1995 between The Asia Foundation (TAF) and the United States Agency for International Development (USAID), was designed to support local non-government organizations (NGOs) to work directly with community associations and local elected bodies to improve local governance and rural justice. The Partnership represented the first major donor effort to improve governance in rural Bangladesh. The Democracy Partnership also engaged the Bangladesh Rural Advancement Committee (BRAC) as a key decision-making partner in the first years of the program. Though most Partnership resources were directed to the local level, the Partnership also supported efforts to affect national policy, legislation, jurisprudence, and electoral process – issues thought to have a direct impact on governance, including representation and accountability. Specific objectives of the Democracy Partnership included promoting citizen advocacy; ensuring free and fair elections; improving the performance and accountability of local elected bodies; increasing awareness of legal rights; and promoting alternative dispute resolution through village mediation boards.

Because of the multitude of obstacles which disadvantaged persons face in accessing the formal legal system, many average citizens need and greatly benefit from legal awareness, alternative dispute resolution (ADR), and legal aid activities. Legal awareness helps people, especially the poor and women, understand what they can expect from the Constitution, and the laws and regulations that pertain to their everyday lives. ADR provides community-based, low-cost, fair means of reaching settlements and resolving conflicts in many cases. When ADR settlements cannot be reached or enforced, however, legal aid provided by professionals assists

¹Haq, Khadija, *Human Development in South Asia 2001*, Dhaka: The University Press Limited, pp. 163, 171. Source: UNDP.

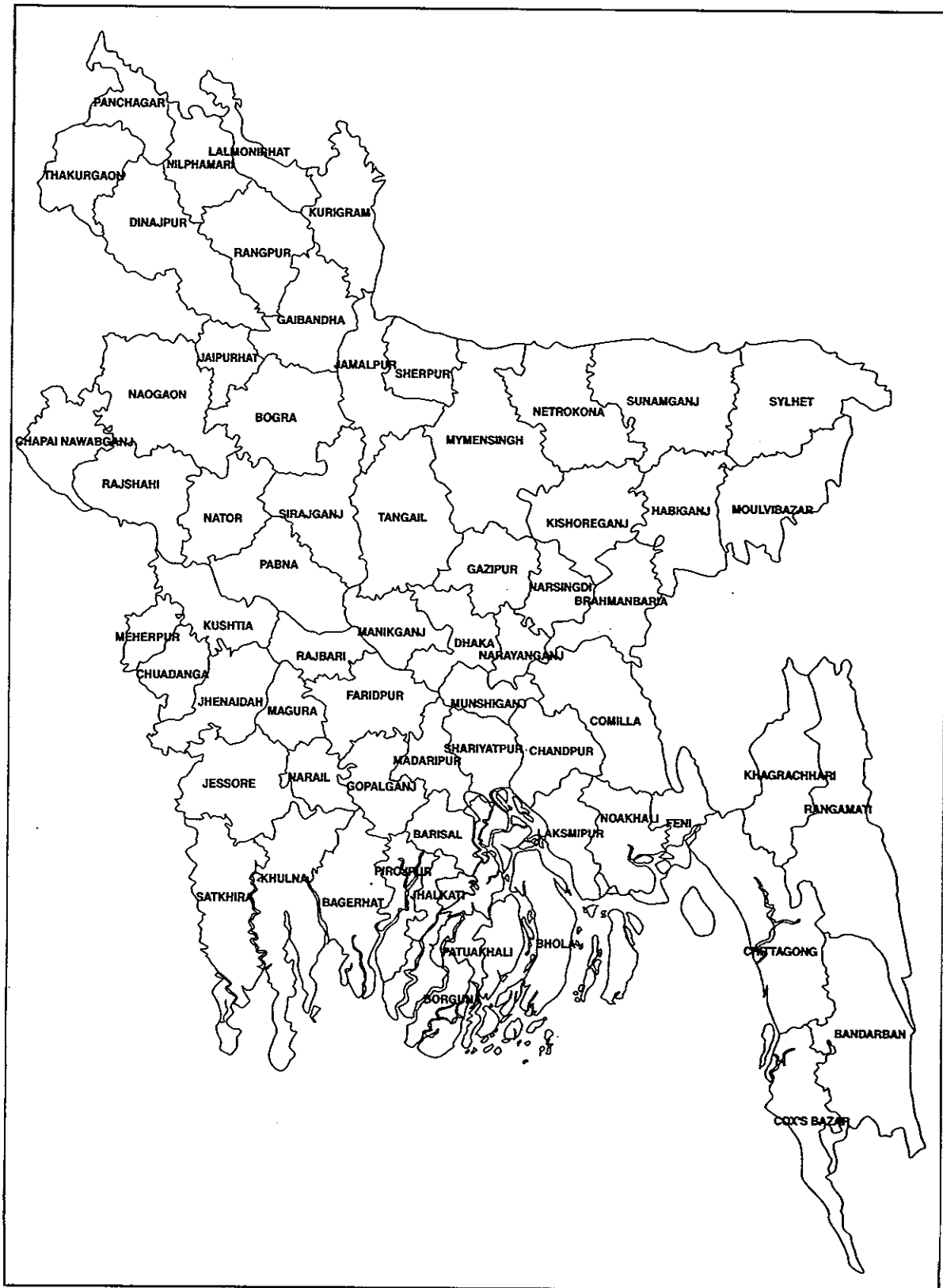
the disadvantaged in taking their cases to court and navigating the various legal processes to obtain satisfaction.

Through their long-time association with The Asia Foundation, six non-government organization (NGO) partners located throughout Bangladesh were identified to conduct legal awareness, ADR, and legal aid activities through program interventions. The implementing partners were Madaripur Legal Aid Association (MLAA) in Madaripur, Bangladesh Legal Aid and Services Trust (BLAST) and Palli Shishu Foundation (PSF) in Dhaka, Kabi Sukanta Seba Sangha (KSSS) in Gopalganj, Banchte Shekha in Jessore, and Palashipara Samaj Kallayan Samity (PSKS) in Meherpur.

In the existing legal and social context, these NGOs implemented legal awareness activities to empower poor people to attain the rights guaranteed them by law. The process of increasing awareness involved educating citizens through various means about their rights and the options available to them when their rights are violated. In addition, these interventions not only assisted the disadvantaged in identifying their rights, they also helped them to assert their rights through ADR or through the courts.



Bangladesh Map



Constraints to Accessing Justice

The rule of law is fundamental in a democratic society. True rule of law requires efficient and accountable mechanisms for creating laws, the means to execute and enforce them fairly, and the right to challenge the laws or their manner of enforcement. For the poor and marginalized populations of Bangladesh, all of the necessary elements have historically remained beyond their reach. Because the poor have traditionally been powerless at the decision-making level, the substance of some laws is inherently discriminatory against the poor, women, and other disadvantaged groups. Due to the lack of integrity of and political pressure on those who execute and enforce the laws, the agencies responsible for these duties are frequently corrupt and inefficient. And because the poor lack financial resources to pay court fees and obtain legal assistance, the judiciary is often inaccessible to millions. As a result, the formal legal structure does not always ensure citizens' rights and privileges.

Discriminatory Laws

Law plays a critical role in defining and identifying power relations based on age, gender, class, and other factors, often reinforcing the subordination of disadvantaged groups within society. In Bangladesh, the legal system perpetuates the inferior status of women by limiting their participation and access to economic and political resources through various legal sanctions. There are laws which institutionalize the social norms of male dominance over women, particularly with regard to family laws concerning marriage, dowry, and divorce, among others.

In addition, there are laws on the books which favor existing power structures of the wealthy and socially elite with regard to property and other assets. In a patriarchal, feudalistic society such as in Bangladesh, many women and poor people are brought up to think that they have no rights nor legal protections and that they are not entitled to have any. The first step, therefore, to making justice more accessible to these disadvantaged persons is to inform them about what the laws and the Constitution actually do and do not provide.

Deficiencies in Good Governance

A major problem throughout Bangladesh's public sector is the nearly complete absence of accountability. In general, government agencies face only weak accounting controls, escape

serious scrutiny by the legislature, and are above the financial discipline of the market place.² Public servants are not held individually accountable for their performance and decisions, which are often the result of personal interventions, and their actions are rarely examined for efficiency, appropriateness, or cost effectiveness. This lack of accountability is present at every level of the government, ranging from low-ranking bureaucrats who deal with the general public, up to those who engage in policy and decision making. The practice of maintaining secrecy in official undertakings engenders a culture of corruption, which further undermines the already weak structures of checks and balances. In order for citizens to develop the capacity to challenge injustices and effect change, they must first understand what the roles and responsibilities of government officials really are according to the law, and how they can take action within the existing infrastructure to ensure that good governance is taking place.

Non-compliance with rules and regulations are the order of the day due to the breakdown of accountability of public officials. Many officials are guilty of acts of omission or commission, such as suspending or refusing to deliver services, demanding bribes to perform services, and violating the rights of others with impunity. These offenses have led to a serious stagnation of service delivery and accomplishment of government projects. Economically disadvantaged people are particularly affected by this breakdown, as they do not have the resources to provide the additional payments necessary to motivate bureaucrats to do their jobs.

The formulation of policy, too, is rarely held accountable by the public, as it infrequently involves the participation of or dialogue with the people. Consultations with citizens about policy decisions that have a direct bearing on them are virtually non-existent. The entire bureaucracy is plagued by red tape and indifference and any attempt at circumventing the lengthy administrative procedure is met with frustration and failure. Furthermore, there is a pervasive sense throughout the general population that people have no right to expect more responsive government, so there is widespread acceptance of their own powerlessness.

Governance is also impaired when law enforcing agencies misuse the power vested in them by law. Steeped in inefficiency and corruption, the police force is no longer regarded as the protectors of citizens' rights and the vanguard of peace and security in society. Rather, their careless indifference to people's needs and the non-performance of their duties are indicative of the degeneration of the very institution that is entrusted to maintain law and order. In fact, police officers themselves are frequently found to be the perpetrators of human rights violations, to such an extent that the common man now prefers to either suffer in silence or take the law into his own hands rather than approach the police for assistance. This culture of police misconduct is perpetuated by the politicization of the entire system, in which they cater to the rich and powerful along party lines.

²*Bangladesh: Government That Works. Reforming the Public Sector*, The World Bank 1996, p.50.

Inadequacies of the Existing Judicial Systems

In theory, access to the courts is available to all. The Judiciary consists of the superior courts and the subordinate courts. The superior court is called the Supreme Court, and it is comprised of the Appellate Division and the High Court Division. The High Court is made up of subordinate courts, both civil and criminal. The civil court includes five classes with its lowest tier, the Court of the Assistant Judge, exercising specific territorial jurisdiction, trying suits and cases of limited pecuniary valuation. The Criminal Court includes five classes and tries criminal cases. In addition, the legal system also includes special courts and tribunals such as the Family Court, Court of Settlement, and Administrative Tribunal, constituted under special laws.³ In this judicial structure the lowest formal court is at the district level. Of a population of over 125 million, 80% live in village communities. The first tier of formal court is three administrative levels away from the ordinary citizen – i.e., village, union, thana, and finally, district.

Access to the courts, therefore, is very difficult. Legal procedures are also cumbersome, time consuming and costly. Average citizens in Bangladesh have virtually no awareness of their rights and their concomitant obligations, let alone the economic support to access the formal judicial process. Furthermore, travelling long distances, foregoing daily wages, spending money to collect evidence, engaging a lawyer, and paying court fees can seem overwhelming and completely prohibitive to many common people.

Even those who have the means to access the courts find the process more expensive than it should be, because the payment of bribes to their own lawyer, the judge, and even the opposing lawyer, often becomes a deciding factor in the settlement of cases. Furthermore, lawyers, in collusion with court officials, often charge clients exorbitant sums of money as fees and persuade court officials to change the dates of cases to gain an advantage. Such inordinate delays and procedural wrangles leave individuals embittered and frustrated, and physically, mentally, and monetarily exhausted.

A poor woman in Bangladesh is at a decided disadvantage in this patriarchal society. Having very little access to material resources, women lack autonomy and decision-making power, and are therefore disempowered within the family, community, and society at large. Because of the way they are socialized, many women do not perceive themselves as having any rights. Even if they know the parameters of the law, however, religious and cultural norms frequently prevent them from claiming their legal rights. Furthermore, women often face discrimination within the complex legal process itself. From a legal point of view, it is said that three factors are instrumental in sustaining women's subordination and powerlessness: discriminatory laws, gender-biased court judgments, and ignorance of the law and the law-making process

³Majumdar, Md. G.M., *Adalatshomuhur abong Bicharokder Khomota O Karjaboli* (in Bangla), Chittagong, no date, lists 40 different types of courts in operation.

itself.⁴ Based on these factors and the current judicial system in Bangladesh, women are particularly vulnerable to being deprived of their due protections under the law.

Traditional Systems

Given the limitations of the formal judicial system and the difficulties the average citizen experiences in accessing that system, most people rely on local informal systems and processes to resolve conflicts. The *shalish* to date has been the most enduring means of resolving conflicts at the community or village level.

Shalish

Shalish, the practice of gathering village elders and concerned parties for the resolution of local disputes, has been a principal mode of preserving peace and justice at local levels in Bangladesh. A *shalish*, which is generally exclusively male, does not have fixed membership — its size and structure depend entirely on the nature and gravity of the problem at hand. Sometimes, Chairmen and other elite members of the Union Parishad are invited to sit through the proceedings.

Local people have a tremendous faith in *shalish* as the most practical mechanism for seeking justice and as a way of settling disputes. It generally saves time and money, and it serves as a platform for airing grievances. It also allows community members to learn from the experience of others and to devise strategies to deal with crises in their own lives.

Although *shalish* members have the option of engaging in either mediation or arbitration to reach a solution, most commonly choose arbitration. This method involves unilateral decisions made by officiating members, whereas mediation engages opposing parties in reaching solutions of mutual satisfaction. In *shalish* the process is often marked by tension and heated arguments. Although the decisions are not always fair and equitable, they tend to carry a great deal of weight within the community because they are issued by well-known and powerful villagers. However, among those who lack respect for these decision-makers, it is extremely difficult to enforce rulings if the parties refuse to comply.

The traditional *shalish* system does have weaknesses which hinder the dispensation of justice in many instances. Sometimes solutions are arbitrary and imposed on reluctant disputants by powerful village or community members. Such "solutions" are based less on civil or other law than on subjective judgments designed to ensure the continuity of their leadership, to

⁴Hasan, Fatema Rashid, "Limits and Possibilities of Law and Legal Literacy: Experience of Bangladesh Women," *Economic and Political Weekly*, October 29, 1994, p.69.

strengthen their relational alliances, or to uphold the perceived cultural norms and biases. The *shalish* is also susceptible to manipulation by corrupt touts and local musclemen who may be hired to guide the pace and direction of the process by intimidation. Furthermore, because the traditional *shalish* is composed exclusively of male members, women are particularly vulnerable to extreme judgments and harsh penalties.

Union Parishad

The Union Parishad (UP) conducts arbitrations in rural areas in family disputes under the Muslim Family Laws Ordinance 1961 and settles petty civil and criminal disputes under the Village Court Ordinance 1976. In urban areas such disputes are settled under the Conciliation of Disputes Ordinance 1979.

Decisions at the UP-run Village Court evolve through arbitration based on the opinion of the majority of members. The Court constituted under this Ordinance has limited civil and criminal jurisdiction. It is composed of a Chairman, who is generally the UP Chairman, and two representatives from each party to the suit. Of the representatives, one from each side must be a member of the UP. The other members may be individuals who command a certain degree of respect in that community. The participation of women as members of the Village Court is rare.

UP Chairmen, who are often overwhelmed with many disparate responsibilities and little governmental support, tend to view family disputes and other violations of law as low priorities. Many UP Chairmen and members are also ill-informed in the law, and some are reportedly corrupt and politically motivated, causing them often to act with prejudice.



Common Legal Problems

The agro-based economy of Bangladesh makes land a critical issue for the majority of the rural population. Legal disputes often arise about ownership of land, or the rights to use water, trees, or other land resources. Particular cases often involve the issues of transferring title, falsifying documents, and encroaching upon neighboring land, among others. Calculating people take advantage of their unaware neighbors in many instances by circumventing laws through various loopholes and deceptive practices. Similarly, rights of fishermen over bodies of water often come into dispute as well.

Rights of inheritance of property and other assets by heirs are also often sources of dispute. There is a noticeable reluctance among rural families to part with shares rightfully belonging to women, orphans, or children and single mothers whose situation has resulted from desertion or divorce. The equitable distribution of resources among legitimate heirs is sometimes hindered by an ignorance of legal requirements pertaining to inheritance, and a confusion over the complex formulas generally utilized to calculate various family members' shares.

Women, especially poor women, must often cope with discriminatory laws, particularly with respect to personal matters like marriage, divorce, and inheritance. Domestic violence is also a predominant problem. Demand for dowry is the leading reason for men to physically abuse their wives. Although outlawed by the Dowry Prohibition Act 1980, the practice of demanding dowry is widespread and has actually taken root in the socio-economic and cultural psyche of the people. Furthermore, since Muslim Law permits men to have up to four wives at a time, men sometimes use dowry demands as a money-making scheme, practicing polygamy (serial or simultaneous) in order to acquire more money with each successive marriage.

When men do divorce their wives, sometimes arbitrarily, divorce brings problems of the payment of dower, maintenance, and child custody. Women are often unaware that they are entitled to such payments, and they frequently do not understand their avenues of recourse if their husband refuses to make provision for themselves and their children.

Other common legal issues that adversely affect women include child marriages and the lack of marriage registration. Marrying at a young age often puts women in a vulnerable position, especially if their husbands marry additional women. The practice of not registering marriages makes it even easier for men to avoid marital and other legal responsibilities, divorce their wives arbitrarily, and deny them rights of maintenance and inheritance.

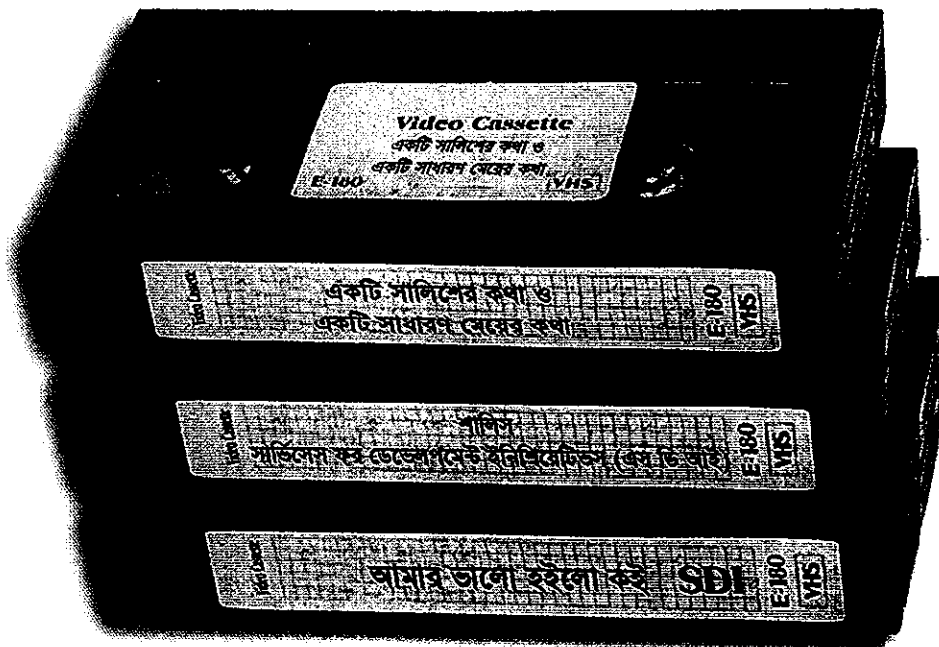
Three Approaches

Given the legal and social context in Bangladesh, TAF under the DP was able to expand three critical program activities to address the problems of access to justice. Through local implementing partners, TAF increased legal awareness as a fundamental beginning to empowerment. TAF also worked with partners to transform existing shalish options or offer alternative dispute resolution mechanisms to ensure a means for the poor of accessing fairer settlements. And finally, TAF supported the efforts of local NGO partners to eliminate the obstacles to the formal legal system by offering critical legal aid where other interventions were insufficient.

Legal awareness

Media

National media campaigns are a highly effective method of reaching large numbers of people, including the poor and women. TV and radio spots for public service announcements have been utilized effectively by TAF partner NGOs under the DP, and these messages are highly beneficial in educating people about their rights.



Video-taped dramas using music and dance have also been extremely effective tools used by partner NGOs for educating citizens about their rights, as well as entertaining forums which enabled people to retain the information they received. Such dramas are sometimes screened for public gatherings at large open-air venues. Thousands of people in a community come out to enjoy themselves and to learn about laws which impact their lives. The messages are especially meaningful because people can see how the laws fit into their own daily routines, through the situations of the characters in the dramas.

Print media have also been a vital part of the national campaign of partner NGOs. The publication of fliers, posters, leaflets, stickers, and newsletters has been widespread. These are targeted both toward providing general information about rights in order to catalyze a change in attitudes, and toward disseminating knowledge about specific legal issues, such as domestic violence, police brutality, dowry, divorce, voting rights, and reproductive rights.

In addition, NGOs use the mass media as an instrument for advocacy, to catalyze a change in attitudes which in turn puts pressure on public officials to better enforce existing laws. The media campaigns are usually accompanied by lobbying and sponsoring public dialogues with government officials, community leaders, and other civil society staff as well. For example, a TV spot informed the general public that the construction of brick fields on agricultural land causes the land to lose fertility and minimizes the amount of land available for farming. This message is important, as few people are aware of government sanctions against the establishment of brick fields. The TV spot helped to mobilize citizens for community advocacy against plans for brick fields in certain areas, and it informed people about their legal options if a brick field were set up near their homes.

Training

Training is an integral part of awareness raising initiatives by TAF's implementing partners. Training components concentrate on human development and aim at educating both NGO staff as well as the target beneficiaries and leaders within the community. Training modules cover issues of organization and management, domestic violence, women's empowerment, democratic processes, human rights and poverty alleviation. Training components aim at raising awareness and creating critical consciousness among local people, particularly women, about their rights in respect of marriage, divorce, maintenance, inheritance, and reproductive health. Training sessions also include information about dispensing local justice through mediation, and participating in the electoral process by voting or running for office.

The success of the program flows from the incorporation of a cross section of the community. To this end, all relevant actors, including local government officials, teachers, community religious leaders, and NGO staff participate in the training sessions. Classes on legal and human rights are also conducted among the student community to enhance the sensitivity of the younger generation.

Training sessions adopt a need-oriented, participatory approach and include brain-storming, group discussions, simulations, role-playing, case studies, and lectures. Experiences are shared through these exercises in an effort to gain first hand knowledge of the dynamics of social, economic, and legal forces that essentially shape the lives of poor people. Problems are addressed in context and strategies are devised to combat inequalities that circumscribe disadvantaged groups' access to justice.

Workshops, Seminars, and Meetings

With TAF support, the implementing partners conducted workshops and seminars on key legal issues with citizens, policymakers, public administrators, community leaders, law enforcement officials, academics, lawyers, activists, NGOs, and politicians. These forums facilitated the discussion of problems and expression of opinions, and they increased citizens' interactions with key people in governance. Recommendations that flow from these discussions are taken up by organizations for advocacy and future interventions.

In addition, *uthan baithak*, or open-air meetings, offered an excellent opportunity to members of local communities to share their problems and seek assistance from friends and neighbors. The relaxed environment enabled villagers to discuss their problems



without shame or inhibition, and engendered a sense of ownership among individuals who benefitted from the dissemination of general legal information.

Group Formation

Group formation is a successful strategy for disseminating information and providing support to people in rural communities, and it has been particularly effective in achieving sustainable results in legal literacy efforts. Several of the partner NGOs organize people into small groups to provide training on legal issues. This group participation facilitates rapport among individuals, which in turn fosters good communication, retention of knowledge, and the amicable resolution of disputes.

Women are particular targets of group formation and benefit in substantial ways from group mobilization activities. Women feel greater empowerment to realize their goals when they receive the support of large numbers of other women in their community. Working in these

groups has instilled self-confidence among women, who are often socialized to be shy, reclusive, and non-assertive. In these groups, they gain knowledge and the boldness to act on their knowledge.

Mediation or Alternative Dispute Resolution (ADR)

In addition to raising awareness about legal rights, TAF partner NGOs under the DP have engaged in the important vehicle of Alternative Dispute Resolution (ADR). To transform the means of conducting the traditional *shalish*, NGOs have provided training and technical assistance to *shalish* members, including training in law, provision of local advisors during *shalish* meetings, and providing paralegal and legal aid where more formal legal supports were required. Other approaches have included establishing parallel systems run and operated by partner NGO paralegal staff or an amalgamation of the two.



The NGO-initiated *shalish* generally acts as a mediation committee composed of village elders, community leaders, and others who have received training in mediation services. Actual mediators may be trained individuals, NGO workers, or relatives and neighbors chosen by the respective disputants. NGO staff often play a monitoring role, to ensure neutrality, while at the same time representing the interests of a particular client.

The primary distinction between traditional *shalish* and NGO-coordinated *shalish* is that the former utilizes arbitration while the latter employs mediation. In the win-lose situation of the traditional *shalish*, parties are bound by the decisions of the *shalishkars* (officiating individuals), who usually favor one side over the other. The NGO training in mediation enables the decisionmaking group to actively engage both parties in settling the dispute, with the goal of reaching a mutual solution. Conflicts are resolved and consensus forged through participatory negotiating exercises under the keen supervision of the mediator. The process, in other words, aims for a win-win situation. Evidence shows that given the option, an increasing number of beneficiaries prefer the NGO-assisted *shalish* and its more democratic practices.⁵

⁵Khair, Sumaiya, *Legal Literacy for Supporting Governance*. Bangladesh Country Study prepared for The Asia Foundation, commissioned by the Asian Development Bank, May 2000, pp. 23-24.

The basic ADR model used by TAF partner NGOs under the DP proceeds through seven stages, beginning with the lodging of a complaint and ending with a mutually agreed-upon solution.⁶

Stage 1: The mediation process begins when someone approaches an NGO staffer with a problem or complaint regarding a specific issue. From the very outset all particulars relevant to the complaint are recorded in a prescribed form. The notes include personal information about both parties and details about the complaint and the nature (family, property, violence) of the trouble.

Stage 2: The accused party is informed of the complaint and invited to submit to a mediation process. The invitation itself involves various stages. First, the complainant's position is communicated. The NGO staffer then offers a time and date for a mediation convenient to both parties. Individuals representing each side of the dispute are then selected and finally, the mediators who will follow the case are identified.

Stage 3: Once the preliminaries are complete, a mediation session is arranged. If parties fail to attend the first meeting, new dates are arranged. It sometimes takes as many as three attempts before the mediation process is actually underway.

Stage 4: The mediation worker begins the session by outlining the ground rules and by creating an informal, congenial, and non-confrontational environment within which both parties can feel relaxed. It is important that neither party feel threatened and that both are confident the mediator is their friend rather than judge. The mediator uses simple language and avoids resorting to legal jargon.

Stage 5: The parties are invited to tell their stories. The mediator — who is charged with the difficult task of maintaining order without offending either party — must ensure that neither party is interrupted. At this stage, the mediator's chief responsibility is ensuring that both parties have a fair chance to present their case in full.

Stage 6: Once both parties have stated their positions the mediator leads the discussion in an attempt to find a solution.

Stage 7: The final stage requires each party to sign a copy of the documented proceedings from each session. The status of the agreement and its implementation are checked every three months. If the parties are unable to conform to the agreement the mediator may choose to reopen proceedings at a later date.

TAF-supported NGOs encourage their personnel to abide by certain ground rules for the successful operation of mediation. Apart from having a voluntary spirit, an efficient mediator must demonstrate patience, impartiality, active listening and familiarity with local surroundings.

⁶This model was developed initially by MLAA and was later adopted through training and then modified by each of the partners.

Legal Aid

Legal aid is an essential complement to legal awareness initiatives and ADR as it provides opportunities to disadvantaged citizens to overcome some obstacles to the formal legal system to demand their rights. Lawyers and paralegals, who have specialized training in law, act as intermediaries representing citizens in formal and informal legal processes. These legal professionals act on behalf of clients to file cases, speak before the court, and negotiate settlements outside the court room in order to settle disputes and protect citizens' rights.

Because of the expense and effort involved in filing formal cases, most NGOs supported by TAF under the DP encourage their clients to try to reach settlements through other means. Yet sometimes even the NGO-assisted *shalish* reach decisions which prove to be unenforceable, and the NGO, in support of their client, must take the case to court to seek redress. The poor, especially poor women, would not be able to carry out such action without the legal aid provided by these partner NGOs, as they could not afford the services of a private legal firm or have the wherewithal to engage the legal process effectively on their own.

Historical Background

In 1985, The Asia Foundation identified and provided funding to two local NGOs – the Madaripur Legal Aid Association (MLAA) in Madaripur and Banchte Shekha in Jessore – who were attempting to remodel traditional *shalish* by adopting more innovative and moderate mediation approaches that encourage disputants to express their own views without bias or fear in search for a mutually agreeable solution.

TAF's goal in supporting community legal services was to provide greater access to justice for economically disadvantaged citizens, and to promote broader societal recognition and enforcement of fundamental human rights with particular emphasis on the legal status of women. By supporting new programs in ADR, TAF was ensuring that communities and individuals not reached by the formal legal system have access to alternative mechanisms of dispute resolution that are fair. NGOs were also able to diversify their programs and to improve their institutional capacity. They provided legal redress to pervasive social problems including polygamy, dowry, divorce, maintenance, and child marriage – practices deeply discriminatory towards women and pervasively embedded in the social fabric of rural Bangladesh. In the early days, these pioneer organizations often faced severe challenges, threats, and even violence in response to initiatives to support traditionally disempowered segments of the population.

Under a pilot effort in 1992, TAF provided financial support and assistance to four of its long-term NGO partners to conduct community legal services (CLS) as a complement to their primary activities in family planning. The pilot was conducted on the premise that providing

legal services and family planning can be highly complementary in terms of service delivery systems, and in program effectiveness, and findings revealed this mutual complementarity does indeed exist.⁷ The basic CLS program approach was modeled on the service delivery methodologies developed in connection with family planning programs, including preliminary baseline surveys of beneficiaries households, door-to-door household contact by CLS workers, and motivation and awareness building through village level meetings. In the process, CLS incorporated its own methodologies, such as small group formation, the appropriation and transformation of local dispute resolution systems, and the training and monitoring of key persons involved in traditional arbitration. NGO partners in this pilot program included Palli Shishu Foundation (PSF) and Palashipara Samaj Kallayan Samity (PSKS).

Building on the successes and lessons of its previous efforts in legal awareness, ADR, and legal aid, and recognizing the value of these activities and the overwhelming need to broaden the provision of these services around the country, TAF set out to encourage the expansion of legal awareness interventions, the replication and expansion of ADR models, and the increase in the availability of legal aid. To this end TAF under the DP continued funding to MLAA, Banchte Shekha, PSF, and PSKS, and initiated funding to seven additional partners. Kabi Sukanta Seba Sangha (KSSS), based in Gopalganj, and Bangladesh Legal Aid and Services Trust (BLAST), based in Dhaka, have programs with legal awareness, ADR, and legal aid components. Five other NGOs principally undertake programs in legal awareness: Bangladesh Nari Progati Sangstha (BNPS), Bangladesh National Women Lawyers Association (BNWLA), Centre for Development Services (CDS), Ain O Shalish Kendra (ASK), and the Institute of Law and Development (ILD) / Ain O Uannayan Sangastha (AOUS).



⁷Casper, Karen L. and Sultana Kamal, "Community Legal Services Conducted by Family Planning NGOs: An Evaluation Report Prepared for The Asia Foundation," Dhaka, 1995, p. 37.

Profiles of NGO Partners

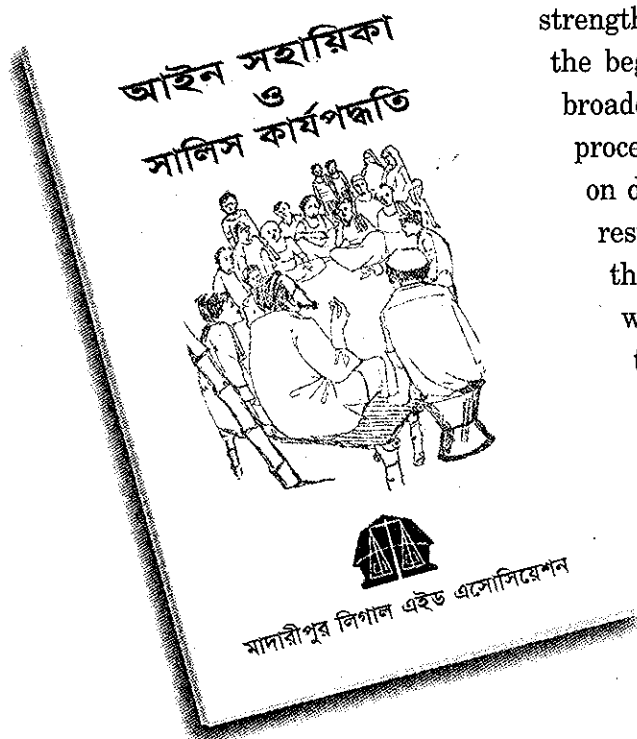
Legal Awareness, ADR, and Legal Aid:

Madaripur Legal Aid Association (MLAA)

With the support of The Asia Foundation, Madaripur Legal Aid Association has grown from a modest organization of a few volunteers providing legal aid to the poor in 1978, to a comprehensive and well-known mediation services organization. MLAA also provides legal aid for litigation and conducts legal literacy campaigns and training programs in addition to their broader development work in conducting human rights campaigns, facilitating enforcement of worker's rights, assisting distressed women in income generation, and undertaking advocacy for legal and policy reform.

The association aims to raise poor citizens' awareness about their fundamental rights, and to provide legal support and protection if these rights are violated. MLAA gives particular attention to women who are subjected to violence or involved in family disputes. It uses mediation in settling conflicts in an attempt to make the traditional *shalish* system more beneficial to the people who are involved.

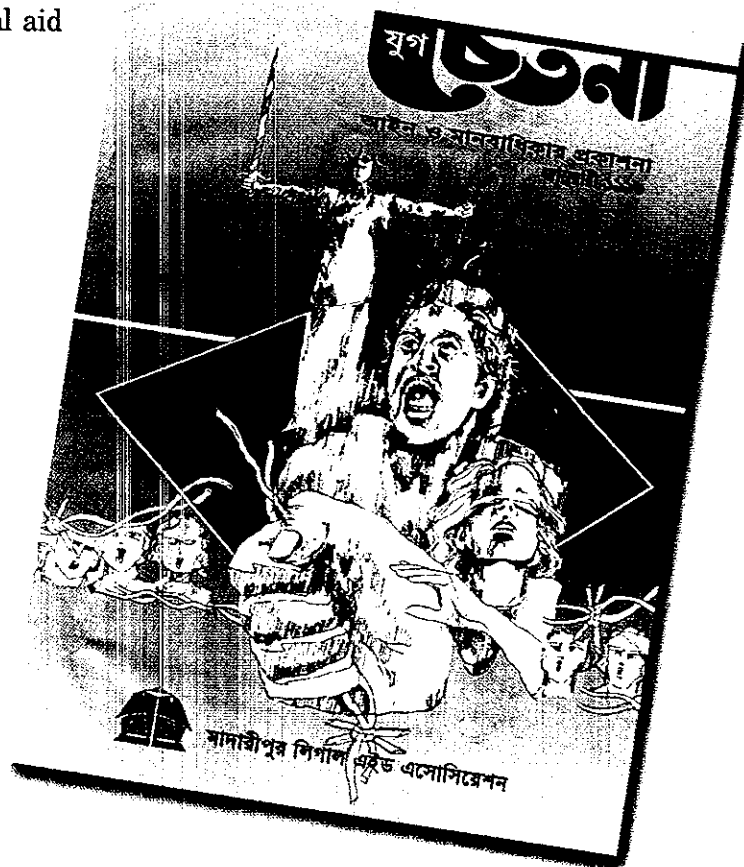
MLAA was a pioneer in the establishment of ADR as a viable means of ensuring access to justice and strengthening the rule of law in Bangladesh. From the beginning their distinctive model emphasized broader community involvement in the mediation process, aiming to increase community pressure on disputing parties to attend and abide by the results of the *shalish*. The model assumes that the success of the process relies entirely on the willingness of at least one party in the dispute to voluntarily approach MLAA for a settlement of his or her problem. This model also focuses on ensuring that mediation sessions are organized efficiently and with the participation of all concerned parties, and that the results reached broadly conform to the legal system of the country. Maintaining proper records of relevant transactions and resolutions is



also an important characteristic of the MLAA model, in order to facilitate the implementation of decisions.

With TAF support under the DP, MLAA worked with 55 partner organizations, achieving a coverage of 7,425 villages, 165 unions, 52 upazilas, and 48 districts. MLAA provided training of paralegals and technical assistance to its own partners as well as to other TAF-supported implementing NGOs under the DP. MLAA also directly set up mediation committees at both the village and the union levels, broadening the scope of its former activities. MLAA's ADR committees include the Chairman and members of the UP in the area of the dispute, *imams* (Muslim priests) and *madrassah* (Muslim religious schools) teachers, teachers from public and NGO schools, land owners, and other local elites, as well as MLAA affiliates responsible for monitoring and reporting mediation proceedings. MLAA also conducts training of mediation workers in social issues such as land disputes, violence against women, marriage, polygamy, and divorce. Knowledge of these issues is fundamental to ensuring a successful and unbiased mediation.

MLAA owes its success to an efficient and committed team, well-trained local mediation committees, and an effective public education program. The organization goes to great lengths to maintain impartiality during mediation and then creates community pressure for individuals to abide by the mediation process. It also works hard to generate and maintain good will among influential people in the community. Finally, when mediation fails, it is equipped to provide legal aid to take cases to court.

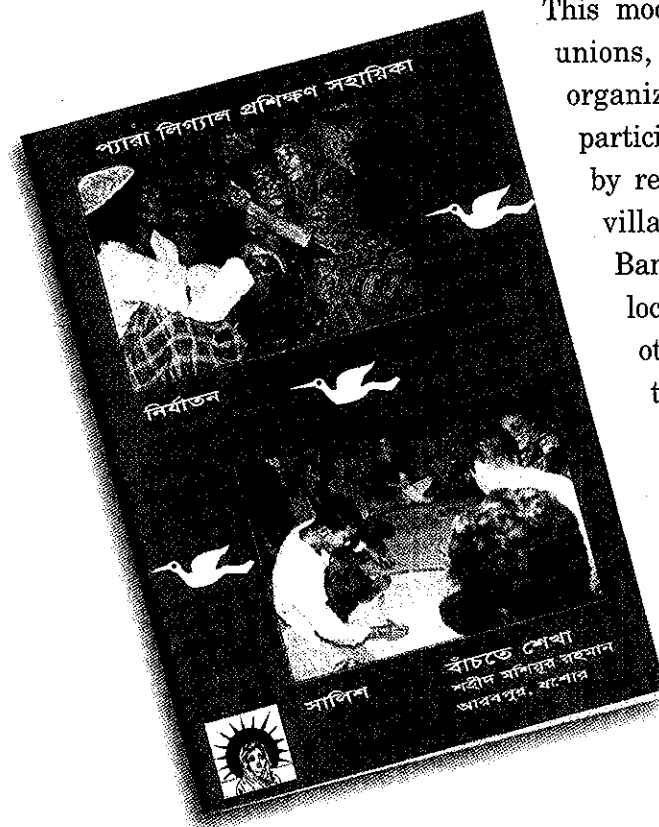


Banchte Shekha

Since its inception in 1976, Banchte Shekha has been working extensively for the advancement of rural women and children. It is engaged in mobilizing rural women in developing their capacity to realize their rights. Since economic dependence, social injustice, and religious and cultural norms impede women's development in Bangladesh, Banchte Shekha programs aim to empower women by making them economically self-reliant and aware of their rights. The organization runs a social development program in legal education, with legal literacy and legal aid components. It also provides an income generating program that focuses on credit and group savings, and trains women in various projects on agriculture, handicrafts, poultry, and livestock. In addition, it conducts an organizational development program that carries out training, research, publication, evaluation, and audit activities.

Banchte Shekha has an excellent record in group formation for women. The organization's objective in bringing women together in groups is to enhance their leadership capacities and encourage them to play an active role in decision-making regarding matters that affect them directly. Women are trained in groups to raise their awareness regarding issues like divorce, domestic and community violence, and child marriages. Adding legal awareness building to their existing initiatives is an example of the successful scaling up of an already effective program.

With the support of TAF, Banchte Shekha, having received training from MLAA, was one of the first organizations to offer a modified ADR approach to mediation in local communities.



This model was established in 560 villages, 140 unions, 25 upazilas, and 11 districts. This organization's model ensures the active participation of women in the mediation process by requiring that seven of the 11 members of village mediation committees be women. Banchte Shekha also actively seeks to involve local *mastaans* (gangsters), UP leaders, and other powerful villagers in order to insure that these influential persons in the community support mediation results. The organization equips individuals for their participation by offering training to *shalish* members on ADR methods and techniques.

Because the organization as a whole focuses primarily on women, in ADR proceedings Banchte Shekha also

emphasizes producing results which are particularly beneficial to women. This NGO, even more than others, tends to hold mediation committee participants to the letter of the law regarding women's rights, allowing less compromise for the sake of peaceful relationships and stricter adherence to justice for women. Banchte Shekha's insistence on women representing women also helps to ensure that the unique perspective of women is heard without hindrance. This approach, along with other program efforts to mobilize broader advocacy on women's issues in general, tends to ensure greater compliance with mediation results and to deter others from committing similar violations in intervention communities.

এ, ডি, আর কমিটি

এ, ডি, আর এর পূর্ণ অর্থ হলো - **Alternate Dispute Resolution Committee**

যাহার বাংলা অর্থ দাড়ায় বিকল্প পদ্ধতিতে সমস্যা সমাধান কমিটি। বাঁচতে শেখার কর্মশালায় প্রত্যেকটি গ্রামে এ, ডি, আর, কমিটি আছে। এই এ, ডি, আর কমিটির সদস্যগণই গ্রামে সালিস কার্য পরিচালনা করেন। এই সালিস কার্য পদ্ধতির মাধ্যমে এ, ডি, আর কমিটির সদস্যগণ বাঁচতে শেখার আইন সাহায্য সেলকে সাহায্য সহযোগীতা করে আসছেন। নিম্নোক্ত ৪ জন পুরুষ ও ৭ জন মহিলা নিয়ে এ, ডি, আর কমিটি গঠন করা হয়েছে।

১। চেয়ারম্যান / মেম্বার = ১ জন

২। স্কুল শিক্ষক = ১ জন

৩। গণ্যমান্য ব্যক্তি = ১ জন

৪। মৌলভী/ধর্মযাজক/পুরোহিত = ১ জন

বাকী ৭ জন গ্রাম পর্যায়ের গ্রুপ সদস্য।

প্রচারের ৪ আইন সাহায্য কর্মসূচী, বাঁচতে শেখা, বংশাব।

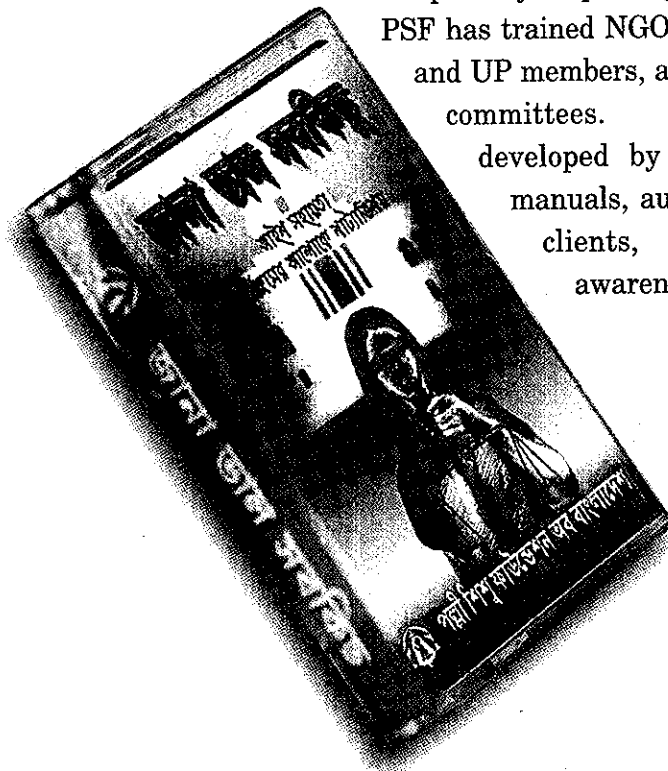
Palli Shishu Foundation (PSF)

Palli Shishu Foundation (PSF) works to increase legal awareness and protect the rights of women and the rural poor by improving the quality of mediation in 6 unions of Sylhet, Rangpur, and Naogaon districts. Throughout its history, PSF has focused on issues of child survival, maternal health, and family planning. To bring preventive and curative services to children and their mothers, PSF has conducted programs in primary health, population, and rural service delivery. PSF also encouraged beneficiaries to set up and manage health clinics on their own in different parts of Bangladesh. Other programs include offering non-formal education for children and credit to ameliorate the poverty of rural people.

PSF started its Free Legal Assistance Program (FLAP) in June 1992 with assistance from The Asia Foundation as a part of its pilot program to give legal support to the rural poor, particularly women, and to sensitize rural communities about their legal rights. The organization discovered a need for legal services when PSF programs on family planning were facing setbacks on program results due to internal family conflicts. PSF field workers found that the distribution of contraceptives alone was not enough to make their family planning programs effective. The target population benefitted more from an integrated approach that incorporated components of both family planning and legal awareness and services.⁸

In PSF's access to justice program with TAF support under the DP, PSF has worked with 24 partner organizations to increase legal awareness and protect the rights of women and the rural poor by improving the quality of mediation.

PSF has trained NGO workers, village mediators, and UP members, and formed village mediation committees. The training materials developed by PSF have included ADR manuals, audio cassettes for motivating clients, and posters with legal awareness messages.



⁸Ibid.

Palashipara Samaj Kallayan Samity (PSKS)

PSKS was established in Meherpur District in 1970 initially to provide support to the rural poor in education. In 1981, The Asia Foundation provided funds to PSKS for an integrated family planning program. PSKS also conducted activities such as group formation, functional education, and sanitation and sewing training in its intervention areas. Under TAF's pilot program in family planning and legal aid in 1992, PSKS initiated its legal aid program. The goal of the program was to improve the provision of timely, responsible, and accessible administration of justice through the formal legal system.

Under the DP, PSKS has provided legal literacy training to its group members, as well as legal aid services, in 257 villages, 19 unions, and 3 upazila in the Meherpur District. PSKS's special attention in its legal awareness program on marriage registration has increased the number of registered marriages, which in turn has reduced illegal divorce, second marriage, and assault on women. Furthermore, PSKS has expanded its access to justice program to include ADR, working to involve more women in mediation committees and to improve mediation processes by training key community members in ADR methods and techniques. To this end, PSKS holds weekly mediation camps with a legal advisor to train mediators, project staff, and UP Chairmen and members on how to conduct fair mediations. PSKS has formed mediation committees involving people of diverse backgrounds, including housewives, students, teachers, small businessmen, and farmers.



Kabi Sukanta Seba Sangha (KSSS)

Established in 1987, Kabi Sukanta Seba Sangha (KSSS) aims at socio-cultural, legal, economic, and educational development of local communities in the district of Gopalganj. Their programs place an emphasis on the plight of destitute rural women. In 1992, through TAF's pilot program, KSSS started a legal aid program as a complement to its family planning services. KSSS's initiatives were designed to improve the human and legal rights of vulnerable members of the community, particularly women and children, by training local elites and UP members in law and the Constitution. KSSS has effectively conducted mass awareness programs, including staged dramas attended by thousands of spectators.

KSSS has expanded its program with TAF support under the DP to include mediation, especially on the issues of dowry, maintenance, and second marriages. The organization achieved the coverage of 272 village, 10 unions, and 1 upazila in the Gopalganj District. Through their program they have made women more aware of their rights in marriage and more confident to demand maintenance in divorce cases. In an effort to broaden community involvement in mediation, KSSS has encouraged college students, school teachers, and *madrassah* (Muslim religious schools) teachers to participate in their legal awareness and mediation training seminars, and on mediation committees. KSSS also recruits and trains its own community-based mediators, and has provided legal aid for court cases when settlements cannot be reached or enforced through *shalish*.



Bangladesh Legal Aid and Services Trust (BLAST)

Bangladesh Legal Aid and Services Trust (BLAST) seeks to ensure opportunities for securing justice for disadvantaged groups. It primarily provides legal aid to poor litigants in an attempt to protect their fundamental rights through the judicial system. In addition to the core function of providing legal aid for litigation through its unit offices and the head office, BLAST engages in legal literacy research and training, public interest litigation (PIL), legislative advocacy, and rural mediation.

BLAST's three legal aid clinics, two in Dhaka and one in Chittagong, have proved to be an effective method of serving very poor clients, most of whom live in neighboring slums. An innovative aspect of these clinics is that one of them engages senior students in law from the University of Dhaka as service providers. These students conduct legal literacy training and campaigns, and help professionals to provide legal advice and legal aid to poor clients.

BLAST's primary focus on litigation has resulted in thousands of successful cases in labor law, especially for women garment factory workers, on the issues of compensation for wrongful termination, payment of wages arrears, and implementation of safer working conditions, among others. BLAST has also engaged in Public Interest Litigation (PIL) in the areas of abuse of police powers, rights to healthy living conditions, use of land, consumer rights, accident compensation, medical malpractice, family law, and discrimination. BLAST's research on marriage and divorce practices in Bangladesh has been significant in developing curricula for legal literacy training for women on their rights.


মাঝে মাঝে নয় সালিস মীমাংসায় এগিয়ে আসুন



- সালিস কোন জোর জবাবদিহিগত সমাধান নয়, তবে কোন বিবাদে এগিয়ে দেয়া হলে না।
- সালিসের মাধ্যমে বিতর্কের শান্তিপূর্ণ সমাধান হয় (কোন শর্তেই) বাড়ে না।
- সালিস ব্যবস্থার কোন টাকার পরিশোধ হয় না এবং সালিসে কম লাভ।
- সালিস ব্যবস্থার প্রত্যেকেরই মন খুলে কথা বলার সুযোগ থাকে।
- সালিসে কোন শর্তবিহীন নয়।

বাংলাদেশ লিগ্যাল এইড এন্ড সার্ভিসেস ট্রাস্ট (ব্লাস্ট)
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ন্যায়বিচার প্রতিষ্ঠা ও নারী শ্রমিকদের অধিকার সংরক্ষণে যুগোপযোগী শ্রম আইন প্রণয়ন অপরিহার্য



- নারী শ্রমিকদের নিরাপত্তা নিশ্চিত করার জন্য শ্রম আইন সংশোধন করা প্রয়োজনীয়।
- শ্রমিকদের অধিকার সংরক্ষণের জন্য শ্রম আইন সংশোধন করা প্রয়োজনীয়।
- শ্রমিকদের অধিকার সংরক্ষণের জন্য শ্রম আইন সংশোধন করা প্রয়োজনীয়।
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- শ্রমিকদের অধিকার সংরক্ষণের জন্য শ্রম আইন সংশোধন করা প্রয়োজনীয়।

নারী শ্রমিকদের অধিকারিক ও আইনগত অধিকার প্রকল্প

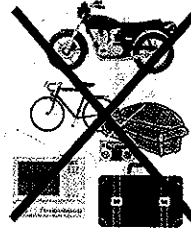
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With TAF support under the DP, BLAST has conducted training and workshops on ADR techniques and worked closely with UP members who encouraged abused women to file complaints for mediation. Most of the cases were related to family disputes, including divorce, second marriage, and land disputes. BLAST utilizes a people-oriented model for mediation which also adheres to the jurisprudence principles of the country. This model has taken precedence over the local traditional *shalish*, especially among rural women. During the course of the DP, BLAST has held many meetings for UP members and Chairmen, and other community elites, so that they can share experiences with mediation to highlight its importance and improve community awareness.

আপনি জানেন কি যৌতুক দেয়া এবং যৌতুক নেয়া সমান অপরাধ?
যৌতুকের অভিশাপ থেকে সমাজকে মুক্ত করতে-

আমাদের করণীয়

- যৌতুক প্রদান ও গ্রহণ করার মানসিকতা পরিহার করবো
- কোন অবস্থাতেই যৌতুক দিয়ে কন্যার বিয়ে দেবো না
- যৌতুক প্রদান ও গ্রহণে সকলকে নিরুৎসাহিত করবো
- যৌতুক বিরোধী সামাজিক আন্দোলন গড়ে তুলবো
- যৌতুক সংক্রান্ত আইনের যথাযথ প্রয়োগে সাহায্য করবো
- যৌতুক সংক্রান্ত অপরাধ সংগঠনের এক বৎসরের মধ্যে মামলা দায়ের করবো



- যৌতুক গ্রহণ করলে ৫ বৎসর পর্যন্ত কারাদণ্ড বা অর্পদণ্ড বা উভয়প্রকার শাস্তি হতে পারে
- যৌতুকের কারণে কোন নারীর মৃত্যু ঘটলে মৃত্যুদণ্ড হতে পারে
- যৌতুকের কারণে কোন নারীর মৃত্যু ঘটানোর চেষ্টা করলে যাবজ্জীবন কারাদণ্ড হতে পারে

আসুন আমরা সকলেই এ ব্যাপারে বিস্তারিত জানি
এবং অন্যকে জানতে সাহায্য করি

ব্যাপারোগ্যের তালিকা

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বাংলাদেশ লিগ্যাল এইড এন্ড সার্ভিসেস ট্রাস্ট (ব্লাস্ট)
প্রধান কার্যালয়: ১১০১/১, সেকেন্ড ফ্লাইং, ঢাকা-১০০০ ফোন: ১০১১১১১, ১০১১১১১, ফ্যাক্স: ১০১১১১১, ই-মেইল: blast@bangla.net

Legal Awareness:

Bangladesh Nari Progati Sangha (BNPS)

After conducting a baseline survey in 12 unions to assess the knowledge level of community members and UP members, BNPS focused its legal awareness programming primarily on pressuring the government, other NGOs, and many diverse players to ensure dissemination of more information on legal rights. To achieve this goal, BNPS has undertaken numerous meetings, workshops, and seminars, including national level meetings participated in by Ministers, Members of Parliament, political party leaders, and members of civil society; divisional networking meetings attended by journalists, lawyers, teachers, political activists, students, and NGO representatives; and workshops at the local level for ordinary citizens and for government officials responsible for birth registration. In addition, BNPS has developed and distributed thousands of posters and leaflets for distribution. BNPS works principally in the Chittagong, Jessore, Netrokona, Barhatta, and Sandwip districts.

**জন্ম নিবন্ধনের অধিকার
নাগরিক অধিকার**

প্রতিটি ইউনিয়ন, পৌরসভা ও সিটি কর্পোরেশন থেকে
বিনা খরচে জন্ম নিবন্ধন করা যায়

বাংলাদেশ নারী প্রগতি সংঘ
BANGLADESH NARI PROGATI SANGHA

Bangladesh National Women Lawyers Association (BNWLA)

Organized in 1979 by a group of women lawyers, BNWLA emphasized training programs and book publication in its legal awareness activities under the DP. In partnership with other organizations, BNWLA developed 12 legal aid books on specific topics and one training manual, and then utilized these materials in training programs for NGO staff, police officers, and local government representatives. In addition, BNWLA carried out a study on marriage registration; organized workshops for NGO staff on family laws, human rights, and women's rights; and printed folders of materials, booklets, posters, and leaflets on legal issues.





Centre for Development Services (CDS)

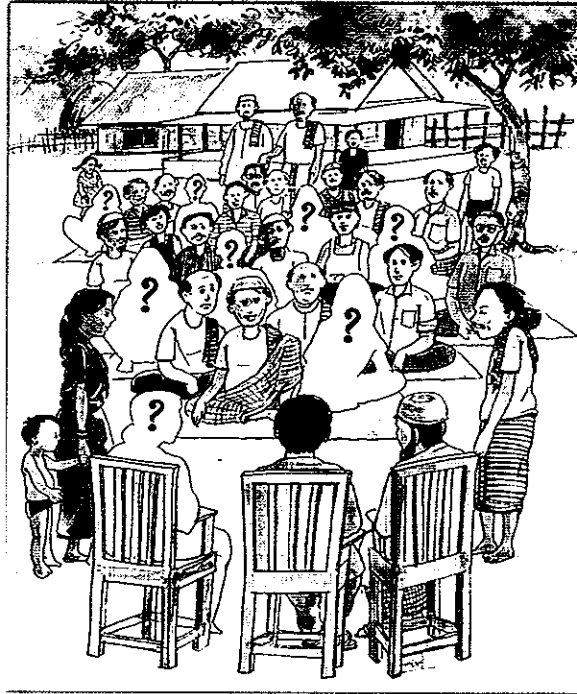
The Centre for Development Services is a support organization assisting other NGOs in the implementation of their projects through training, technical assistance, lobbying, and capacity building in various fields. It aims to assist NGOs to create awareness on legal issues by producing and disseminating communication materials through various media. With TAF support under the DP, CDS was instrumental in forming the Legal Awareness Forum (LAF), partnering with four other NGOs to create the LAF Secretariat. These other NGOs were Services for Development Initiative (SDI), Centre for Ethnic Children (CEC), Social Upliftment Network (SUN), and Participatory Communication Forum (PCF). These NGOs collaborated with four other NGOs to produce short TV and radio spots featuring popular actors and playwrights; to produce street theater shows on different legal issues; to sponsor outdoor screenings of a video dramatizing rights issues; to develop national workshops attended by donors, government officials, and members of civil society; to reprint books and posters on mediation, women's employment rights, and other legal issues. CDS' efforts through the LAF secretariat reach a wide audience in rural and urban areas throughout the country.



Ain O Shalish Kendra (ASK)

A leading women's rights organization, ASK implemented the Gender and Social Justice Project in the early stages of the DP. With six community-based partner organizations, ASK employed a variety of strategies to sensitize local government and law enforcement officials to the principles of gender justice and equality and to strengthen the capacity of local groups of women, journalists, and social rights activists to monitor human rights enforcement mechanisms. To meet these objectives, ASK was involved in education and communication through hundreds of union level workshops; monitoring of *shalish* rulings, law enforcement investigation processes, and the prevalence of successful prosecution in cases of violence against women; and conducting research in customary practices and existing laws.

সালিশীতে মহিলাদের অংশগ্রহণ খুবই জরুরী
কিন্তু তারা কোথায় ?



নারী পুরুষ সাম্য ও সামাজিক ন্যায় বিচার প্রকল্প
আইন ও সালিশ কেন্দ্র (আস্ক)

Institute of Law and Development (ILD)/ Ain O Uannayan Sangastha (AOUS)

The Institute of Law and Development (ILD), which is also known by its Bangla name, Ain O Uannayan Sangastha (AOUS), worked to convince NGO activists to focus on building awareness of legal rights among the people in their intervention areas. To this end, these organizations sponsored networking meetings in Dhaka and Barisal specifically for NGO activists. In addition, ILD/AOUS implemented meetings for journalists and columnists on positive media coverage of legal rights awareness, meetings with lawyers and NGO staff on women's rights, and meetings for young political party leaders and organizers. To reach disadvantaged beneficiary group members, ILD/AOUS conducted workshops on law and human rights, and to raise the awareness of LEB members and community leaders, the organization sponsored sharing meetings for these influential persons. For the general public, the organization also distributed thousands of posters on *fatwa* (religious edicts), *shalish*, and the village court.

Other complementary programs

Legal Awareness Forum (LAF)

In an effort to improve cross-fertilization of best practices and lessons, TAF supported the establishment of LAF in order to bring together all the implementing partners engaged in legal awareness, ADR, and legal aid. After a period of two years, the forum evolved into a self-managed association of NGOs. Its main objectives became collaborating to promote increased awareness of legal rights and obligations, and to strengthen the rule of law in Bangladesh, with special emphasis on women's legal rights awareness. Some 24 different NGOs participated in LAF activities.

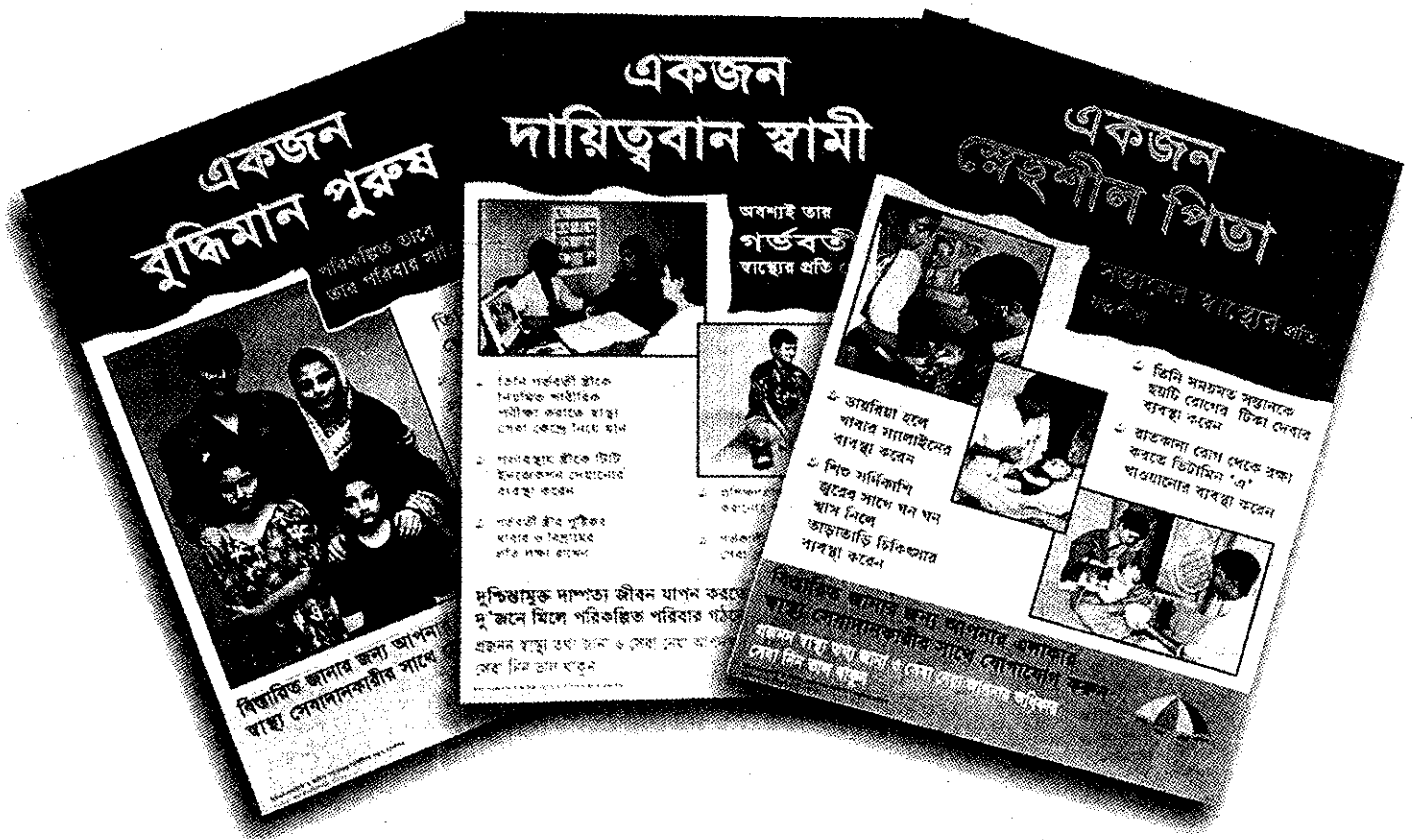
The NGOs which made up the Secretariat of LAF were Centre for Development Services (CDS), Services for Development Initiative (SDI), Centre for Ethnic Children (CEC), Social Upliftment Network (SUN), and Participatory Communication Forum (PCF). These organizations together produced television spots and videos shown on Bangladesh Television and screened for local communities throughout the country on issues such as divorce, birth registration, marriage registration, rural mediation, polygamy, and women's employment rights. LAF also held periodic coordination meetings for all of its members, as well as workshops on women's rights violations. In addition, LAF established a resource center, and published a quarterly newsletter on rights called "Adhikar."



Bangladesh Centre for Communication Programs (BCCP)

BCCP carried out an “Assessment of the Utilization and Impact of the Awareness Campaign on Reproductive Rights through Information-Education-Communication (IEC) Materials.” Using a comparative analysis between the baseline and follow-up surveys, the study sought to determine the impact of these materials used by BCCP. The findings revealed that the usage of IEC materials created remarkable awareness among men and women of reproductive age groups about contraceptive rights, especially in creating a sense of responsibility among husbands towards their wives during pregnancy; that the knowledge of married men and women of reproductive age about Reproductive Tract Infection/Sexually Transmitted Disease (RTI/STD) was very poor; that a large percentage of boys and girls expressed ignorance of the term “reproductive health,” although a substantial percentage did have knowledge of birth control, pregnancy, and child birth; and that boys preferred to learn about reproductive health from radio and television, while girls preferred to obtain advice from relatives and school friends.

BCCP prepared a detailed report on their findings, with a number of recommendations about continued message dissemination on small family size, contraception, RTI/STD/AIDS, pre-and post-natal care, male responsibility in maintaining reproductive health, child marriage, child pregnancy, access to health facilities, and sex education for adolescents. Based on the study, BCCP undertook preparing materials and conducting training and outreach programs especially for adolescents.



European Union Program

Other donors have funded projects that paralleled and supplemented Democracy Partnership activities. As a follow-on to the Trans Atlantic initiative between the European Union (EU) and the United States that proposed to develop a common agenda in the field of civil society a grant was made to The Asia Foundation by the EU which complemented the DP. This EU program coordinated by TAF, called "Support for Destitute Women in Rural Areas," reinforced DP initiatives in access to justice.

Special grants were made to ten NGOs over the duration of the project period. Eight of these grants supported various ADR initiatives, supplemented with a wide array of other legal aid services and legal awareness programs. Two other grants were made to support innovative efforts to address the broader environment and systems that expose women to legal and human rights abuses and to improve the conditions under which these rights can be upheld.

Under this EU project, TAF made grants to Madaripur Legal Aid association (MLAA), Palli Shishu Foundation (PSF), Kabi Sukanto Sheba Shanga (KSSS), Palashipara Samaj Kallyan Samity (PSKS), Community Development Centre (CODEC), Samaj Unnayan Proshikkhan Kendra (SUPK), Bangladesh Manobadhikar Sangstha (BMS), and Association for Community Development (ACD) in ADR, legal aid, and legal awareness. In addition, TAF supported Naripokkho and the Mukti Lawrence Foundation's "Child Women Relief and You" (CWRY) in human rights awareness building and advocacy.

Lessons Learned

TAF-supported NGO activities in access to justice under the DP had many far-reaching effects on society in general and the legal system in particular. Seeking to improve the representation of the interests of the poor, women, and others who are disadvantaged by helping them to understand their legal rights and to access procedures and mechanisms that assist them in protecting their rights, the broad results of these interventions are cited below.

Increasing the legal knowledge and skills of the disadvantaged

Becoming more aware of their Constitutionally guaranteed rights and the principles of the law is an important fundamental step for the marginalized towards accessing justice. Along with learning what their legal rights are, the poor, women, and other disadvantaged citizens need also to better understand the means of exercising these rights. One of the fundamental aims of the implementing partners' access to justice interventions, therefore, was to assist the disadvantaged in making use of the various options of legal processes available to them. From these programs, individuals learn exactly what kinds of protections the law affords them, where they should go for assistance if they are being denied proper treatment, how to ask for the convening of a *shalish*, how to gather evidence, how to deal with the police and/or the opposing party, what appropriate procedures are during a traditional or NGO *shalish*, and what legal recourse to pursue if all parties do not comply with the rulings of the *shalish*.

This information has very practical applications and is especially beneficial for women, who have been traditionally uninformed about such matters, or reluctant to explore all their options out of fear and lack of self-confidence. For instance, whereas a daughter may be vaguely aware that her family has some obligations to ensure her financial security, she may not understand that she is legally entitled to a particular share of her deceased father's property, or she may not want to disrupt existing arrangements for fear she is not worthy of claiming her rights. Without legal knowledge and understanding of village *shalish* or ADR mechanisms, such women are powerless in accessing the legal system. With legal awareness initiatives and ADR interventions, the disadvantaged acquire the necessary knowledge to demand their rights and take action to derive benefits for themselves. Furthermore, they learn that there are local paralegals and lawyers who will work to uphold the law to protect their interests, even to the point of litigating their cases in court.

Offering alternative methods of justice delivery

The formal courts in Bangladesh are few in number, physically distant from many citizens, and dependent on high fees and even extortion. The traditional *shalish* typically operates in

the interests of the most powerful and the elite, to the detriment of women and the poor. TAF partners under the DP addressed these shortcomings by working to change the traditional mediation system, ensuring the participation of women and persons other than the ruling elite on the mediation committees, and initiating training to sensitize community leaders to gender equity and issues involving the disadvantaged. These activities have transformed justice delivery to the poor by offering more accessible and beneficial alternatives.

The NGO-administered *shalish* is characterized by an emphasis on mediation over arbitration, a process which allows for both parties in a dispute to voice their concerns and discuss the matter with the goal of reaching a mutually agreeable solution. The advantage of this process over the arbitration procedures of the traditional *shalish* is that all those involved are enabled to speak freely and openly and participate in their own solution, rather than holding back their opinions and then having the views of more powerful people imposed on them. As a result, there are a greater number of rulings which are truly in the interests of the aggrieved party, and these more often create satisfaction with the outcome. This method is particularly valuable to women, who are often unheard in traditional, formal settings, but who are encouraged by partner NGO staff to describe the injustices perpetrated against them and express their viewpoints during mediations.

While mediation cannot be a substitute for the formal legal system, as it depends upon this system for establishing the parameters and the principles for resolving a dispute, mediation has nonetheless acquired considerable credibility as a practicable and inexpensive means of accessing justice. The process of settling disputes through mediation is so well received that even individuals from non-intervention areas vie for this service. Furthermore, local government authorities, law enforcing agencies, court and other state officials and members of the civil society often refer cases to these programs for assistance.

Enhancing enforcement of *shalish* rulings

Largely through the efforts of TAF under the DP, *shalish* mediations conducted under the guidance and supervision of partner NGOs have become popular and well-respected in local communities. This positive assessment is largely due to the impartiality that is maintained throughout the process. In contrast to the traditional *shalish*, which usually favors the rich and powerful and imposes somewhat arbitrary decisions from village elite, NGO-led mediations provide disputants the opportunity to articulate their needs and demands freely and arrive at mutually acceptable solutions. This process has generated a tremendous amount of confidence among program beneficiaries about the fairness of decisions, which in turn has led to a higher rate of compliance with the settlements reached at such mediations. Village and UP *shalish* rulings are often ignored, and there is little that UP members and community elites can do to enforce their decisions. Settlements that are mutually negotiated and arrived at with the assistance of individuals who are respected as fair, reasonable, and impartial are much more likely to be followed. Enforcement comes from the sense that justice

has been carried out, and that the entire community and all concerned parties respect the process.

Furthermore, because NGO workers are able to assist plaintiffs with formal legal action, even greater pressure is placed on parties to fully comply with rulings reached through ADR. In those infrequent cases in which satisfaction is not reached or a negotiated settlement is ignored by one side, NGO lawyers and paralegals assist their clients in filing formal court cases for resolution. Sometimes merely the knowledge that a legal case is the next step is sufficient to make parties voluntarily comply with a *shalish* ruling.

Improving the efficiency and quality of the formal court system

Cases submitted for mediation reduce the numbers of cases in the formal legal system, thereby relieving the backlog of court cases. Each time the police, lawyers, or court administrators refer cases to mediation and away from the courts, they are removing potentially time-consuming cases from judges' dockets so that they can spend time on the cases they already have. The entire mediation process also usually takes much less time to reach resolution than the formal procedures require, thus bringing greater efficiency to individual cases as well as to the system overall.

For those cases that do move from NGO-administered *shalish* to the formal courts, the preliminary groundwork that has already been laid by the NGO legal aid staff usually speeds up the process and enhances the efficiency as well. Furthermore, the reputation and dedication of lawyers from TAF-supported NGO partners also ensures that the courts will focus the requisite attention and diligence in administering a verdict, to the greatest benefit of the client.

Enhancing the rule of law

Legal awareness, ADR, and legal aid have contributed to an overall improved sense of justice in local communities in intervention areas of partner NGOs. Disadvantaged people who never before understood that they had rights under the Constitution and never had the expectation that the legal system would protect their rights and work to their benefit, are for the first time relying on the rule of law. This newfound reliance has led to a greater sense of security and well-being for many poor people, women, and other disadvantaged groups in intervention areas.

Confidence in the rule of law has led many to look towards the civil law, as opposed to local traditions and customs, to settle disagreements. For instance, Muslim Family Law and Bangladesh Civil Law are now used as the guidelines for determining justice, rather than unstandardized, disparate interpretations of Islamic law. In intervention areas, traditions

such as agreement to marriage proposals with high dowry demands have become much less common. This trend has resulted in a reduction of marital violence, divorces and polygamy. There is more harmony and less fear of oppression by the poor and women throughout entire communities now that they are informed about their rights and are enabled to utilize mediation and the courts to settle conflicts and reach fair solutions.

Similarly, more citizens have begun to demand that their rights with regard to property, service delivery by their elected officials, and adherence of others to laws against theft, graft, and violence be upheld. Access to justice initiatives have helped to create a greater willingness by individuals in many communities to assert their rights, which in turn has led to a pervasive attitude in society as a whole that the rule of law can no longer be easily violated or ignored.

Empowering women

The training of women in legal issues and their integration in ADR initiatives have transformed formal and informal justice systems in Bangladesh. After generations of being socialized to be submissive to men, many women for the first time understand that the law does guarantee them certain rights and entitlements with regard to marriage, divorce, inheritance, and other issues. The representation of women by women at village, UP, and NGO *shalish*, as well as women's greater willingness to take their cases to court, have led to more equitable verdicts and settlements and stricter adherence to the letter and spirit of the law. Women have also begun to understand the value of insisting on compliance with the law rather than giving in to compromise in order to preserve the status quo.

Furthermore, access to the unbiased and equitable dispensation of justice in their local communities has encouraged women to take a more active part in the political and economic life of the country as a whole. Access to justice programs have enabled women to play pivotal roles as paralegals, mediation workers and committee members, and members of locally elected bodies. Their domestic role has also undergone transformation as a result of access to justice interventions. Women now have the potential to challenge prevalent normative inequalities and fight for their own place within the family and the society. Consequently, more women have begun making concrete contributions to the development process, thereby bringing qualitative changes to their families, their communities and the nation.

Mobilizing groups

Access to justice interventions have been particularly successful where people were mobilized in groups to claim their legal rights. Whereas isolation often increases the vulnerability of disadvantaged groups, by collectively asserting themselves, citizens increase the possibility of having their needs met and their rights protected. Group cohesion enhances the bargaining

strength of citizens, improves the capacity of people to help themselves during a crisis, and enhances their ability to resist inequities and insist on proper implementation of laws.

Group mobilization is particularly beneficial for women or the marginalized poor who are otherwise reluctant to assert themselves. Socialized to be silent about their opinions and to endure hardship without protest, women who are brought together into groups under access to justice initiatives are much more likely to talk about their problems and seek practical solutions. The opportunity of sharing their experiences often fosters a strong bond among women with similar domestic and legal problems and empowers them to cope better with the challenges of everyday life. Through these groups, community-based advocacy initiatives have also helped to generate public outrage and additional community support to ADR and other NGO interventions.

Sensitizing government personnel

Access to justice activities by TAF partner NGOs have also educated government officials about various aspects of law and citizens' rights. It is commonly found that most government officials are largely unaware not only of the rights to which people are entitled, but also their limitations to act in protection of these rights. Since most of the crucial decisions regarding law and civil administration devolve on relevant officials occupying diverse positions in the government, especially at the UP level, it is vital that they have sufficient knowledge and sensitivity to deal with critical issues that have a direct bearing on citizen's rights and entitlements.

To equip government officials with this knowledge and sensitivity, implementing partners have ensured the incorporation and participation of government officials in their training programs, workshops, mediation committees, and other activities. The result has been increased interaction between citizens and various agencies of the government, and the enhanced assurance that government officials are administering justice responsibly.

Improving material conditions

One of the significant benefits of improving access to justice is the enhancement of the protection of rights and the prevention of the exploitation of beneficiaries, which often result in bringing about changes in their material circumstances as well. Legal awareness, ADR, and legal aid have encouraged poor people, particularly women, to seek out various services provided by the government and civil society, to demand proper implementation of laws which will positively impact their economic situation, and to make knowledgeable choices about many factors which influence their well-being.

For example, a woman who knows about her rights within marriage is aware that she is entitled to dower, maintenance, and right of property inheritance from her parents, husband,

and children. She is therefore better equipped to ensure her financial security if faced with divorce or the death of her father or husband. Similarly, farmers having knowledge of land laws, fishing rights, and agrarian reforms will enjoy an increased income and a better quality of life by ensuring that relevant laws are properly implemented.

Instituting predictable legal costs for the poor

TAF's ADR and legal aid programs under the DP have had the effect of introducing legal costs which are predictable and reliable, important characteristics for poor people as they seek to access judicial alternatives. Direct costs to poor people for assistance in setting up NGO-led *shalish* or offering legal aid or representation in court cases are usually non-existent, as NGO services are currently offered on a pro bono basis with the support of donor funding. But by virtue of relying on a mechanism of justice that is transparent and accountable and that works to serve justice, not special interests, the potential risk of being consumed by the escalating costs in time and the informal rents of bribes is reduced. If a client must go to the formal legal system, the NGO paralegal staff provide an important service of accountability that reduces the potential of graft in these cases. By eliminating the unpredictable and potentially escalating costs of seeking justice, the real costs of providing such services can more accurately be estimated and eventually a reasonable fee-for-service structure established.

Advocating for law and policy reform

Access to justice activities have contributed greatly to the identification of need-based laws and policies which directly and beneficially affect citizens' lives. Program initiatives of implementing partners have been successful in creating a critical consciousness amongst citizens across the board about the appropriateness and utility of existing laws and policies. Access to justice activities have galvanized citizens to lobby public officials to analyze the root causes of socio-economic and political problems and to initiate law and policy reform accordingly. By engaging in dialogue with the common people, the government can identify areas at the local and national levels that require immediate attention.

Access to justice initiatives by partner NGOs have led indirectly to the enhancement of women's rights in the context of a better general understanding about the rights of citizens. These activities have also contributed more directly to the enactment of specific laws such as the *Nari O Shishu Nirjaton Domon Ain 2000*, an act regarding the repression of women and children, and to the drafting of an improved *Gram Adalat (Village Court) Bill*.

Looking Towards the Future

Poor people's and women's access to justice has been successfully improved through the program interventions of legal awareness, alternative dispute resolution, and legal aid. As a result, great progress has been made in empowering disadvantaged persons to transform aspects of their lives that are particularly susceptible to oppression and exploitation, and to participate more fully in their own governance. TAF's partner organizations through the DP have learned from valuable experience that these kinds of access to justice programs can be further refined to provide even greater sustainability and increased impact in the future. Some suggestions for how these refinements can be accomplished are described below.

Collaborate to develop potential trainers and resource persons

Lawyers, paralegals, mediators, and legal counselors are in short supply to serve the organizations with access to justice programs, and to meet the needs of the vast population seeking legal assistance. Greater collaboration among organizations to find and share the skills of such people will improve the reach of these programs. Furthermore, a comprehensive, standardized education program for key government officials with judicial roles, and for development workers and lawyers would be extremely useful. Periodic follow-up training to keep officials and staff informed about changes and developments in the law is also crucial to their effective performance, as well as regular performance reviews of NGO staff using a common standardized system.

Emphasize monitoring impact and incorporate findings into project design

In activities which attempt to increase legal awareness, it is imperative to adequately monitor the amount of information gained, the level of understanding, and the capacity for application and retention of the knowledge. In the same way, interventions in mediation and legal aid also need to be provided with data regarding what kinds of disputes arise, how they are handled by *shalish*, whether they eventually go to court, and other useful information. More follow-up in these areas is definitely needed. This data can be particularly helpful in revealing gaps and weaknesses in program design and ensuring sustainable improvements in accessing justice. Emphasis must also be placed on assessing and ensuring high satisfaction levels among clients to ensure their interests continue to be properly represented.

Emphasize tightening gap between formal courts and common citizens

The gap that currently exists between the lowest level of formal courts in Bangladesh and the common citizens who need judicial intervention continues to be quite large and almost insurmountable for many. Access to these courts can be improved further both by streamlining the paralegal system, which is more easily accessible to ordinary persons at the village or union level, and by improving links to the courts themselves. As citizens increasingly demand the protection of their rights, and find easier access to the formal courts, citizens themselves will offer the means to hold their judicial system accountable.

Ensure credibility

As long as the average citizen remains far removed from the formal legal system – in terms of physical distance from court locations, unaffordable legal fees, procedural barriers, apprehension about and misunderstanding of the process, etc. – local mechanisms will continue to be the primary forum for conflict resolution. To ensure the ordinary person can obtain access to justice of an acceptable quality, the credibility of the process and the decisions must be ensured.

In many instances, the activities of NGO partners in ADR have gained credibility by the validation and endorsement of the formal legal system and relevant government bodies by participation from their representatives. The police and the courts refer certain cases to NGO-assisted mediations. Local government leaders, law enforcement officers and court officials participate in seminars, workshops and mass meetings. Because of the recognition by government and law enforcement personnel, additional authority and accountability are conferred to mediators trained and supervised by NGO partners – a fact which is critical to the continued credibility of these activities.

Other factors are also important in this regard: the NGOs' commitment to the newly transformed mediation process; their technical expertise about the law and human rights issues; the incorporation of good communication, transparency and accountability in dealing with clients; the quality of their representation of clients' interests; and strong commitment to the rule of law. All of these elements must be attended to, to ensure the future success of ADR.

Improve training methodology

One of the common drawbacks of access to justice initiatives is that there is no guarantee that the information disseminated will actually be retained. Because most mediation workers and ADR committee members are from rural areas and do not have extensive legal background, there is a limitation to how much legal knowledge they can absorb and apply. Training

methods should avoid complicated lectures on law and instead engage in more appropriate techniques like role-playing and simulations demonstrating real life situations. By identifying the most common problems and sharing their experiences about them, trainees can learn to apply the relevant law in context to allow for greater engagement and active participation. Furthermore, interjection of mass media and information campaign techniques into the formal educational curriculum in public and NGO schools can also be explored, reaching citizens at ever earlier ages in order to foster an environment of civic participation and awareness of legal rights.

Ensure sustainability

With the increased demand for and reliance on NGO services in legal awareness, mediation, and legal aid that has been created through TAF's work under the DP, the possibility of charging modest fees for some services has arisen. Some scheme of cost recovery would decrease NGOs' dependence on donor funds, and would strengthen clients' investment in developing their own access to justice. Moreover, the groundwork by NGOs may also lead to the emergence of private paralegals who create and maintain a market for their services, thereby relieving some of the dependence on civil society alone for such legal assistance, and further improving poor people's and women's options in accessing justice.