
MAKING JUSTICE MORE AFFORDABLE AND AVAILABLE TO THE POOR IN BANGLADESH

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ABSTRACT

Donors have funded justice interventions in Bangladesh for several years. Typical community work includes funding paralegals, alternate dispute resolution, village courts, and other services. Discrimination occurs in both traditional and informal justice processes, and is linked to wider political, religious, and economic contexts. Donors have already influenced who and what NGOs should work on, leaving them vulnerable to changing international budgets and priorities. Development NGOs have shown their willingness to change people's perceptions of the law and provide access to legal services, they are also entrenched in their project areas and have gained the trust of residents.

Key words: Jurisdiction, NGO, Governmental organization, women child etc.

Introduction

In Bangladesh, people still use the shalish, a common method of conflict resolution, to settle local issues. The shalish is a 'small-scale local council assembled for dispute resolution', with village elders, religious figures, political officials, and other prominent community members frequently participating. Although the shalish's activities are diverse and evolving, evidence indicates that it often discriminates against those who are wealthier or more insecure, especially for women who have been victims of abuse. (*Craig Valters and Ferdous Jahan, 2017, P. 10*).

For several years, donors have supported justice interventions in Bangladesh, granting activist NGOs limited authority, supporting large-scale national justice system improvements, and carrying out community-based work. Paralegal grants, alternative dispute resolution, and "village courts" are common examples of the above. The Community Legal Services (CLS) programme, a £17 million project funded by the UK's Department for International Development, is thrown into the mix. Over the course of a five-year period, CLS awarded grants to 18 non-governmental organizations (NGOs) to assist them in developing regional legal services. (*Craig Valters and Ferdous Jahan, 2017, P. 7*).

BD Jurisdiction

Both the Low Court and the Supreme Court hear civil and criminal litigations which compose the judiciary system. Administrative courts (magistrate courts) and session judges make up the Low Court. The Supreme Court is divided into two sections: a High Court that hears new cases and reviews Low Court decisions, and an Appellate Court that receives appeals from the High Court. The higher courts have lately rendered autonomous judgments, ruling against the government in a number of criminal, civil, and even political cases. The trials are open to the public. There is a right to advice and an appeals process. There is also a bail system. The judiciary system continues to be plagued by an enormous backlog of cases (*Bangladesh - Judicial system, No date*).

The government has embarked on an ambitious project to reform the judicial system with the assistance of the World Bank. The establishment of Metropolitan Courts of Sessions in Dhaka and Chittagong, as well as the creation of "Legal Aid Committees" to help the poor, are among the changes. The World Bank approved a \$30.6 million credit in March 2001 to help Bangladesh improve its judicial system and make it more effective and accountable. A

permanent Law Commission has been established to reform and update existing legislation, and the government is committed to creating a Human Rights Commission and an Ombudsman's Office (*Bangladesh - Judicial system, No date*).

The political economy of justice in Bangladesh

Bangladesh's politics and government was governed by two main political parties: Sheikh Hasina's Awami League (AL) and Khaleda Zia's Bangladesh Nationalist Party (BNP). (*Craig Valters and Ferdous Jahan, 2017, P. 15*).

The judiciary structure in Bangladesh is formal, with village courts at the beginning, district-level courts above them, and a Supreme Court above all of them. According to the literature, the integrity of Bangladesh's judiciary is eroding, with higher courts unable or unable to challenge the ruling party on crucial issues. However, there seems to be reason for optimism recently, with the current Chief Justice appearing as a strong supporter of the separation of powers between the executive and the judiciary. In the lower courts, there is widespread corruption and meddling, and village courts rarely function without donor support. In Bangladesh, party politics plays a role in both the formal and informal justice systems, with local party officials serving as both justice suppliers and having the authority to impact cases involving those close to them. In addition, since Bangladesh is predominantly Muslim, Islam-based socio-cultural values and views, as well as local religious figures, play an important role in influencing justice systems and results. Religiously based personal laws reinforce and deepen respect for religiously based social and economic practices. These are significant topics to consider for those organizations looking to changes how community justice operates, in addition to the wider social and economic obstacles to justice provision (*Craig Valters and Ferdous Jahan, 2017, P. 15*).

In Bangladesh, poor and vulnerable individuals are lawfully disempowered in a variety of ways. Nepotism, corruption, and predation plague the state's legal enforcement (like as courts and police). Women, in particular, are treated unequally in marriage, household and kinship systems. Local political elites are normally in charge of communities, and people rely on them for patronage. Most employers lack formal legal protection of their rights, making market structures unstable (*Craig Valters and Ferdous Jahan, 2017, P. 15*).

Equality before law and Legal Aid

Bangladesh is a developing country with poor levels of social justice and human rights respect and understanding. The poor, especially char and hoar people, indigenous peoples, ethnic and religious minorities, women, teenagers, and hardcore poor people, are in particularly bad position. They are the victims of inequity on both a social and economic level (*Nicholas Biswas, 2016*).

The Constitution guarantees that all people are treated equally in the eyes of the law and are entitled to similar protection under the law. On the other hand, in the reality is little different. A significant number of people are not stable by finance and have no other way of receiving adequate legal assistance. As a result, indigent citizens find themselves powerless in police detention or jail, unable to hire a lawyer to represent them, and civil rights and recourse to the courts have been just on paper. (*Nicholas Biswas, 2016*).

Legal aid is a mechanism used to ensure that people who cannot afford legal counsel or representation in traditional courts have access to the justice system. (*Nicholas Biswas, 2016*).

In the country's legal aid campaign, the government has become a pioneer. The Legal Aid Services Act (LASA) was passed in 2000 to ensure that the poor and indigent have access to justice. The National Legal Aid Services Organization (NLASO) was formed as a result (*Nicholas Biswas, 2016*).

NLASO provides legal services such as legal advice, free vocalatnama, attorneys to assist in legal proceedings, and lawyer fees. Fees for the mediator or arbitrator; free certified copies of orders, judgments, and other documents; cost of DNA test; cost of paper advertising in a CR case; and any other help or costs associated with a case. Any low-income person in the world is eligible for free legal assistance. Furthermore, anyone earning an old age pension, a distressed mother with a VGD card, women and children victims of human trafficking and acid throwing, insolvent widows, abandoned or distressed women, disabled people, and impoverished prisoners are eligible for free legal assistance (*Nicholas Biswas, 2016*).

Bangladesh Legal Aid Services Act of 2000 provides support at the state and district levels. On the state level, there is a National Legal Aid Board, district-level City Legal Aid Committees, upazilla-level Upazilla Legal Aid Committees, and union-wide Union Legal Aid Committees (*Nicholas Biswas, 2016*).

Who are eligible to apply for Legal Aid

The Legal Aid Services Act 2000's preamble states that it was passed to provide legal aid to the economically insolvent, powerless, and those who have been unable to obtain justice due to different socio-economic constraints. Legal aid means assistance in terms of legal advice, the cost paid to the Mediator or Saliskar for any Mediation or Salish under the Code of Civil Procedure 1908 or any other existing law, lawyer's fees as provided under Rules, litigation costs, and other incidental expenses, according to Section 2(a) of the Legal Aid Empowers the Critically Disadvantaged People of Bangladesh Legal Aid Services Act, 2000 (*Bisheswar Singha, Assistant Judge –Chapainawabganj, No date*).

The following associations of persons are eligible to apply for legal aid under Rule 2 of the Legal Aid Services Rules 2014: 1. Insolvent or economically insolvent person with an annual salary of less than Tk.1,50,000). 2. Individuals determined by the institute to be eligible for legal assistance due to insolvency, helplessness, or socioeconomic disadvantage. Detainees who are held in custody without being tried in a court of law. (*Bisheswar Singha, Assistant Judge –Chapainawabganj, No date*).

Disputes, crimes and where people go for help

In Bangladesh, it has been repeatedly stated that the vast majority of rural people tend to keep intra-family matters private or to resolve them through informal or community-led forums, such as the shalish. Many Bangladeshi academics have described the allmale shalish as a "repressive force" against women. As a way of disempowering women and NGOs, shalish and fatwas issued as part of judgments often foster an Islamist interpretation of behavior (*Craig Valters and Ferdous Jahan, 2017, P. 16*).

The village courts are a combination between formal and informal. They were established in 1976 under the Village Courts Ordinance, and they manage civil and criminal cases by informal dispute resolution procedures. While village courts are allowed by law to operate throughout the country, their existence and usage are often dependent on donor or non-governmental organization funding. There are also Arbitration Committees that deal with topics of divorce, polygamy, dower, and maintenance payments and are regulated by the Muslim Family Law Ordinance of 1961. Tensions exist within both of these community forums between formalized Bangladeshi rights and long-standing (if changing) religious and cultural values. These tensions influence how people communicate with the justice system and what they think and do (*Craig Valters and Ferdous Jahan, 2017, P. 16*).

Private organization

In addition to the National Legal Aid Organization, there are many non-governmental organizations (NGOs) around the country that offer legal help to the poor. The majority of human rights non-governmental organisations (NGOs) support people who have been wronged with legal assistance. The Bangladesh Legal Assistance and Services Trust (BLAST), the Bangladesh National Women Lawyers Association (BNWLA), the Human Rights Commission (HRC), BRAC, and Light House (LH) are some of the country's most prominent legal aid organizations (*Bisheswar Singha, Assistant Judge –Chapainawabganj, No date*).

The underprivileged's civil empowerment is growing by the day. Good partnerships and cooperation between government legal assistance agencies and non-governmental organizations (NGOs) can provide good outcomes and have an impact on the lives of the poor and vulnerable (*Bisheswar Singha, Assistant Judge –Chapainawabganj, No date*).

The role of NGOs

In Bangladesh, the role of NGOs has been varied, at times conflicting, and subject to significant change. NGO strategies in the 1980s included service delivery, "conscientization," and mobilization. Since their presence in political conflicts in the 1990s, the government has repeatedly debated the position of non-governmental organizations (NGOs). By the 2000s, a service distribution monoculture had emerged, fuelled in part by donor capital. The distinction between NGOs that offer service delivery, such as credit, education, or healthcare, and NGOs that follow a more political or rights-based empowerment approach blurs when it comes to legal services work. Service providers have tried to integrate rights-based models into their practice, with a focus on women's equality in particular. Perhaps no organization better represents this complexity than BRAC: one of the world's largest NGOs engaged in large-scale service delivery, with Freirean origins and a mission to challenge sexism and inequality standards (*Craig Valters and Ferdous Jahan, 2017, P. 16*).

NGOs sometimes attempt to change the shalish, create their own, or persuade disputants to go to a formal court. The aim of this type of work is often to aid or encourage the growth of a more equitable version of shalish. All of these choices include educating city officials, instituting new practices and standards, and/or establishing demographically balanced shalishkar panels (*Craig Valters and Ferdous Jahan, 2017, P. 16*).

As a result, in different regional areas, the shalish is less reliant on conventional village elders as the primary source of authority, incorporating elements of party political leaders and modern modes of women's participation. We think there is still a high prevalence of all-male shalish around the world, despite the fact that we haven't done a full mapping of the country. (*Craig Valters and Ferdous Jahan, 2017, P. 16*).

Flaws

According to the People's Republic of Bangladesh Constitution's preamble, "It shall be a fundamental aim of the state to realize through the democratic process a socialist society, free from exploitation, a society in which the rule of law, fundamental human rights and freedom, quality and justice, political, economic, and social, will be secured for all citizens," Article 27 of the People's Republic of Bangladesh's constitution of 1972 guarantees that, all people are same before the law and all are entitled to equal protection under the law. Regarding to Article 14 of the People's Republic of Bangladesh's Constitution of 1972, "it shall be a basic duty of the state to emancipate the toiling masses, peasants and laborers, and the backward sections of the people from all forms of exploitation." Our constitution enshrines all facets of a just and fair society in which all people's rights are protected. Providing legal aid to the most vulnerable people would pave the way for a country free of exploitation and where everyone has access to all constitutionally guaranteed rights (*Bisheswar Singha, Assistant Judge – Chapainawabganj, No date*).

But the formal legal system is very expensive; litigants must go through numerous formalities and spend a significant amount of money on appointing a lawyer to handle his case, court fees, and other requisite fees in order to issue summons to the other party. For the country's toiling masses, getting access to justice had remained a distant dream. They have been unable to obtain justice in a court of law due to a variety of socio-economic limitations. When their rights are violated, they have no recourse. They are powerless and secretly abused. The Legal Aid Services Act of 2000 was passed by the legislature in order to provide easy access to justice and protect the rights of indigent litigants. This Act gives free legal assistance to the most vulnerable members of society. People who are severely disadvantaged have easy access to the formal judicial system. They can get free, successful legal assistance; they can get proper legal advice and recommendations to solve an issue. They are well aware of their rights as a result of this Act, and they have the legal skills to protect their rights and seek redress if their rights are violated (*Bisheswar Singha, Assistant Judge –Chapainawabganj, No date*).

Reduce problems

The government has declared **April 28th as National Legal Aid Day** in order to raise awareness among low-income individuals about the importance of seeking legal help to protect their rights (*Bisheswar Singha, Assistant Judge –Chapainawabganj, No date*).

The Legal Aid Services Act of 2000 is enacted by the government to provide legal aid to disadvantaged populations. It provides vital disadvantaged individuals with access to justice. The Legal Aid Services Rules 2014 expand the scope of legal aid availability, as well as the financial limit for receiving legal aid and the number of people who are eligible to receive legal aid. Government has provided access to legal aid and spread the essence of legal aid to upozilla and union level grass root individuals by enacting National Legal Aid Organization (formation, duty and obligations of Upozilla and Union Committee) Regulation 2011. Legal Aid Services (legal proposal and alternative dispute resolution) Rules 2015 are now enacted by the government to provide legal advice and alternative dispute resolution (ADR) to poor individuals in order to alleviate their sufferings and safeguard their rights. ADR is a useful tool for resolving their legal issues. The legal assistance officer assists them in reaching a concrete decision as a result of the parties' mutual understanding. The Legal Aid Officer gives them legal advice on how to defend their rights. After reading and hearing their legal issues, he offers and develops a variety of successful options for them to get relief from their problems (*Bisheswar Singha, Assistant Judge –Chapainawabganj, No date*).

Conclusion

Legal aid is a tool for achieving social equality. The government has taken the initiative to provide this aid to the poor people and has enacted legislation and implemented several schemes to carry out these regulations through the efforts of the government and non-governmental organizations (NGOs). However, rules alone are insufficient to ensure that government and non-government initiatives are implemented properly. To reap the benefits of the legal aid system, public consciousness must be raised. Greater cooperation between the government and NGOs may result in improved implementation of legal aid laws and, as a result, increased access to justice for the poor.

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