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**Oxfam Novib/Tisco
Microjustice Action Research
ASK Bangladesh**

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I.

Introduction

A. *Research Goals*

According to the UN Commission on Legal Empowerment of the Poor, 4 billion people lack access to justice for their basic legal needs (Commission on Legal Empowerment of the Poor, 2008). Following this report, the UN General Assembly adopted a second resolution on legal empowerment of the poor and eradication of poverty (December 9, 2009). According to this resolution, with 68 co-sponsors from all regions of the world, the General Assembly:

“takes note of the broad diversity of national experiences in the area of legal empowerment of the poor, recognizes the initiatives undertaken and progress made by some countries in advancing legal empowerment of the poor as an integral part of their national strategies and objectives, and stresses the importance of promoting the sharing of national best practices (...);

“emphasizes the importance of access to justice for all, and in this regard encourages the strengthening and improvement of the administration of justice and identity and birth registration systems, as well as awareness-raising concerning existing legal rights (...);

“Encourages countries to continue their efforts in the area of legal empowerment of the poor, including access to justice and the realization of rights related to property, labour and business, addressing both formal and informal settings by taking into account those dimensions in their national policies and strategies, while bearing in mind the importance of national circumstances, ownership and leadership;

“Emphasizes that education and training are among the critical factors in empowering those living in poverty (...)”

“and calls upon countries in a position to do so to support the national efforts of developing countries in promoting legal empowerment of the poor through provision of adequate, predictable financial resources or technical assistance;”

Legal empowerment is basically a matter of bottom up processes that should be enhanced. It may be possible to take up this challenge by looking at similar approaches to other services. Like micro-credit and micro-insurance have shown, essential services can be affordable and sustainable without permanent subsidies. Microjustice can be next, by following similar principles:

- Focus on people and their crucial legal needs;
- Build on local capabilities, that is facilitate self-help and services provided by the local market;
- Go back to the essence of rights and legal protection;
- Standardize and use economies of scale, even across borders.

(see Barendrecht, 2009b and the literature referred to in these papers; Barendrecht & Van Nispen, 2008)

It is a long way, however, from broad sweeping statements to concrete improvements. Therefore, the goals of the current project are:

- Diagnosis and learning between six organizations providing legal aid in six different countries, with Oxfam Novib and the researchers as intermediaries providing structure and helping to exchange best practices;
- Assessment of interest in and opportunities for, a microjustice approach to be taken up by these six organizations.

This report is an interim report in this project. It reflects the action research that took place in relation to ASK (the Centre for Bangladesian Women’s Legal Assistance, Dhaka, Bangladesh) and its beneficiaries, which was the fourth site visit of this project.

B. Methodology

For the diagnosis and learning processes, the methodology of action research has been chosen. Action research aims to let a “community of practice” (a group of people who share an interest, a craft, and/or a profession, often created with the goal of learning) reflect on current practices, addressing issues, gathering data and solving problems. Action research is an interactive process, during which members of a community of practice share information and experiences in order to learn from each other (add references to literature in final version).

Data collection, interactions and observations took place in the following ways:

- Quick scan of access to justice for the target group of clients (beneficiaries and potential beneficiaries) by a survey of members of the target group. In the case of ASK, 76 responses were obtained. 61% was female and 39% male. 66% of the respondents live in an urban area, 17% suburban and 17% rural. The data were collected in March and April 2010. In the light of the research goals, a convenience sample strategy was selected for the sake of keeping the costs and time of data collection as low as possible. The questionnaire contained questions on the prevalence of legal problems, strategies for coping with these problems, legal empowerment and attitude towards key concepts of microjustice. Prevalence of legal problems and strategies for coping were surveyed with a standard methodology for legal needs studies (Barendrecht, Kamminga, & Verdonchot, 2008; Genn & Beinart, 1999; Genn & Paterson, 2001; Pleasence et al., 2004). For legal empowerment and microjustice, a new set of survey questions has been developed.
- 1 meeting with stakeholders in order to obtain a general understanding of issues concerning access to justice in Bangladesh
- 2 interviews with stakeholders (legal aid and human rights NGOs) in order to obtain a general understanding of the setting for providing legal aid in Bangladesh
- 2 focus groups with ASK clients during which legal needs and strategies of coping with problems were explored
- 1 focus group with non-clients during which legal needs and strategies of coping with problems were explored
- 1 workshop with ASK management during which the ASK strategies were scrutinized (SWOT analysis)
- 1 workshop with ASK facilitators in which the current working processes of the facilitators were mapped, problems and issues were identified and possible solutions for these problems and issues were identified and discussed.
- 1 workshop with stakeholders during which the preliminary results were discussed and feedback was collected

Subsequently, the data collected have been used to compare the intervention strategies with best practices used elsewhere. This part of the study is explorative in character. The points raised by us, are merely suggestions that legal aid organizations and their donors could consider when developing their organizations. It is certainly not the intention of the study to evaluate the strategies used. As said, the goal is to identify opportunities and willingness to pursue these opportunities.

As yet, there is no commonly accepted standard for assessing legal aid programs, or other legal empowerment interventions. The same is true for other justice policies such as setting up courts or procedure reform. Most evaluation is

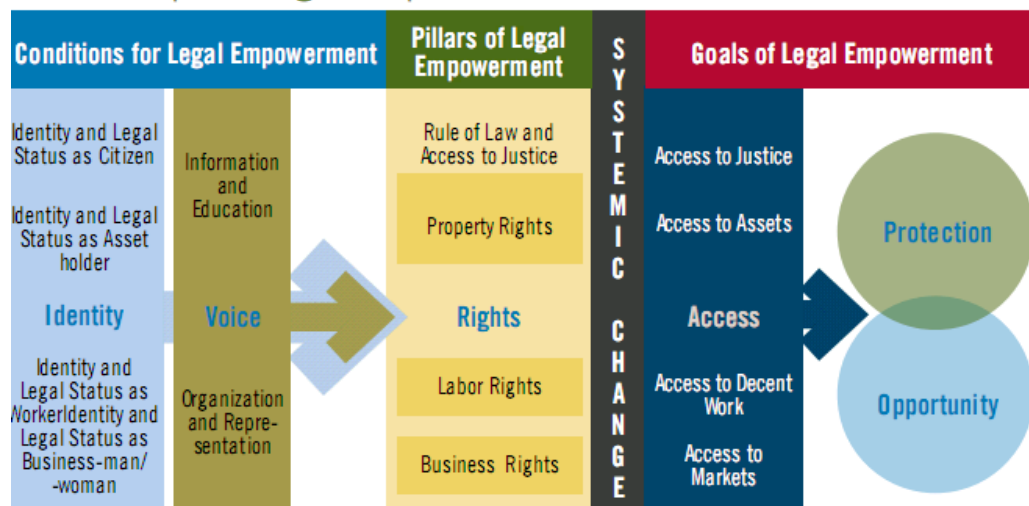
currently done on the basis of the number of beneficiaries, the number of interventions, the number of problems solved, and/or the number of beneficiaries. Even data on the costs per intervention are hardly ever presented. Whereas accountability may focus on input, processes, output, and outcomes for the beneficiaries (Bovens, 2005, 2007), most legal aid interventions are only assessed on the basis of input, and sometimes the processes used, but not on the basis of the quality of the output or on the concrete outcomes for beneficiaries.

One of the goals of the microjustice approach is to gradually fill this gap by providing theoretical frameworks and best practices as a benchmark. In this way, it allows stakeholders to compare their efforts and to learn from each other.

The microjustice approach is still developing (see box 1), but it departs from the following assumptions:

- Legal empowerment is most needed and useful, where it contributes most to economic and human development. Urgent 'legal needs' can be identified empirically, and are likely to be related to situations in which people invest in specific assets, specific knowledge, and specific social capital that cannot easily be transferred or taken with you in next relationships. People invest most in their homes, land, family, work, and business. Such investments create dependency. So property rights are a frequent legal need, together with protection of family rights, rights to work, and business rights. Demand for justice is likely to be highest in situations of transition: migration, death of a family member, dismissal of workers, starting up and dissolving a business. Protection in these situations makes people less vulnerable, enables them to specialize (instead of spreading their risk over many different activities) and thus to earn more (Banerjee & Duflo, 2007), and stimulates them to invest in their livelihoods.

The Concept of Legal Empowerment



- Legal empowerment is costly, and a major challenge is to create access to justice in a way that is affordable for clients and sustainable for justice providers. Legal empowerment has been defined as a process through which the poor become protected and are enabled to use the law to advance their rights and their interests (Commission on Legal

Empowerment of the Poor, 2008). Giving them identity and voice entails information, education, organization, and representation. Compared to the usual view of a legal system where professional lawyers and judges deliver justice, a quantum jump in quality versus price is necessary. Self-help, facilitated where necessary, and empowerment through information and education are thus key strategies. Standardization, even across borders and legal systems, is needed also. But this will not happen, unless providers of justice services can deliver these services in a sustainable way. They need sound business models for this, in which either the state, or ngo's, or the beneficiaries pay for the services.

- Legal empowerment happens in relationships to other people: family members, employers, business partners, or government officials. Access to justice is basically a matter of inducing them to cooperate. As a rule, the legal empowerment process can thus be seen as dispute resolution process. Effective dispute systems lead people through this process, and are therefore key to legal empowerment. They let people meet in order to solve the issues, communicate and negotiate (talk), establish what is a fair, just and reasonable outcome (share), come to a decision (usually by making available the threat of a neutral decision by a court or other adjudicator), and stabilize their relationships. Microjustice aims to provide clients with precisely the information, skills, and help that they need to steer through these five processes. Microjustice facilitators are both neutral and active, combining skills of a mediator, a lawyer (advocacy skills), and a judge.
- Information does not only empower clients. In the time of the internet, the mobile phone, and cheap printing, it can also be spread at relatively low cost. Suitable information relates to norms (what is the going rate for solutions that are fair and acceptable?), to processes (where and how to access my rights?), and to skills (how to communicate and negotiate with those involved?). The key challenge, however, is to collect and deliver precisely the information that clients need. This is costly, and there may be insufficient incentives for professionals to share this information.
- Legal empowerment processes are for many people a once in a lifetime experience. The stakes are high for those involved. Therefore, during the process, clients may be exploited by government officials, or by overzealous lawyers. They, and courts of law, may have insufficient incentives to help the poor, who are unlikely to be returning customers. Transparency and measuring performance is therefore key.

Some possible features of Microjustice (see www.microjusticeinitiative.org)

What Microjustice will be, is up to the clients and the providers of these services. Here are some contours we see emerging:

Microjustice is ...

Self organization of fair and just relationships in developing countries:

- » Around property and use of land
- » In families, at work, around businesses, in communities and their environment
- » Access to identity documents that enable participation in the economy

Aimed at ...

- » Relationships that are most important for economic growth, human development, and happiness
- » Effective dispute resolution: meeting, communication and negotiation, fair sharing, and creating a low cost option of neutral decision making
- » Stabilizing relationships with simple documents and sufficient incentives to respect rights
- » Affordable and sustainable (preferably local) services

Enabled by ...

- » Experiences from microcredit and micro-insurance

- » State of the art negotiation know how, conflict management techniques (law, social psychology, law and economics)
- » Organization studies and institutional economics
- » International best practices from courts, legal aid, mediation

Speedy and low cost processes + Reasonable solutions + Transparency

- » Facilitator model for local legal services
- » Making standard solutions and criteria for most common problems available through the web, mobile telephone
- » Measuring client costs, client perceptions of procedural justice/outcome justice, impact

When we discuss the opportunities for legal empowerment in Bangladesh, and the potential for the microjustice approach in particular, we start from these assumptions. Thus, when discussing the actual and possible future legal aid strategies, we center on the following five issues:

1. Focus on people and their crucial legal needs that are most essential for human and economic development: documents proving one's identity, protection of property and tenure, solutions for family disputes, as well as stable employment and business relationships.
2. Orientation towards legal empowerment in a way that is affordable and sustainable (self-help, local capabilities, services provided by the local market, in particular facilitator model for local legal services, standardization).
3. Use of state of the art dispute system know how, and in particular best practices for leading clients through five steps: meeting, communication and negotiation, fair sharing, and creating a low cost option of neutral decision making, stabilizing relationships with simple documents and sufficient incentives to respect rights
4. Legal information and education, and sustainable strategies to deliver them.
5. Measuring client costs, client perceptions of procedural justice/outcome justice, and impact of services.

The report is built up in the following way. In Section II we provide some background on the setting in which the beneficiaries currently receive the services. Section III describes the legal needs and the existing capabilities of the beneficiaries to cope with these needs.

In section IV we discuss the present strategies used by ASK and the other organizations in Bangladesh that we had contact with. We identify bottlenecks and limitations. For each of the five issues identified, we compare what we have learned about their working methods with best practices that have been found elsewhere (which we are only beginning to collect). Section V summarizes the interest in the community of practice for cooperation in the area of microjustice, and opportunities for co-development of new tools/processes. We conclude by critically revisiting our own assumptions and identifying what we do not yet know (VI).

II. Setting and Background Legal System

A. General Setting for Clients

With its frequent flooding and problems related to malnutrition, sanitation and education, the government of Bangladesh faces numerous challenges in reducing poverty. According to WorldBank estimates, in 2002, 40% of the population lived below the poverty line (http://devdata.worldbank.org/AAG/bgd_aag.pdf).

With the capacity of the government being limited, many NGOs are active in Bangladesh (over 26,000 registered NGOs (Lam, 2006)). Since the 1990s, Bangladesh shows a steady economic growth, a decline in population growth, an impressive growth of enrollment in primary education (to a current 98%), a dramatic fall of infant and child mortality and it is almost self sufficient when it comes to food security (Zaman, 2006).

Many of the NGOs in Bangladesh are involved in grass roots legal reforms focusing on access to justice issues for vulnerable people (Lam, 2006). A lot of these efforts focus on women's rights, since they are affected most severely (USAID, 2002).

With ASK focusing on the vulnerable, the main target group consists of women as they are deemed most vulnerable, especially in their family relationships. There is abundant literature that documents this (Begum, 2004; Chowdhury, 2010a), and the stories shared by the beneficiaries during the focus groups confirmed this.

"There is no help; men can do what they want." (focus group 1)

"Husbands can bribe lawyers to prevent divorces or going to court." (focus group 1)

"I have a tailors shop, but my husband wants me to run the shop differently to how I want it. I want to do my own designs but my husband just wants me to take care of the children. I have been beaten by my husband." (focus group 1)

"I have bad sight and hearing due to being beaten by my husband." (focus group 1)

"When my daughter was 3 my husband kidnapped her. I was cooking and my husband said that he was going to take her for a walk, but he took her away. My neighbour saw them go. My in-laws would not help me, instead, they beat me." (focus group 1)

"Because there is no punishment for the husbands, they do it more. They feel like they are entitled to it. I was married 5 years ago in a love match. I am a teacher. After four and a half years of marriage, my husband said he wanted to marry one of my students. I was against it, but he went ahead and married her anyway. My husband and the student's mother then tried to kill me three times. They would kidnap me and take me to a place I did not know, then throw me out of the car" (focus group 1)

"I was beaten by my mother in law because my daughter wet the bed." (focus group 1)

ASK seem to be disciplined in exclusively serving members of their defined target group, and there was no indication of any intention to broaden or more define the target group of clients.

"In Dhaka, conflicts relating to property are most common. These can be conflicts about registry, mortgages, deeds, claims, etc. however, since the people who have these conflicts usually do not belong to the target group of ASK, the vulnerable, we do not offer full support to the people coming with these problems. Sometimes, we assist in setting up a mediation, but we never support them in litigation. These people are usually referred to other ngo's, like BRAC" (Head of Outreach Unit)

B. Legal System in General

The legal system in Bangladesh is a common law system based on English common law. However, the laws of Bangladesh have a statutory form, which are enacted by the legislature and interpreted by the higher courts.

The Supreme Constitutional Court is an independent body and the highest judicial power in Bangladesh. The Supreme Court has the power to not only interpret laws made by the Parliament, but to also declare them null and void and to enforce fundamental rights of the citizens (<http://www.nyulawglobal.org/globalex/bangladesh.htm>). It has an Appellate Division with 7 judges and a High Court Division with 72 judges. There are 780 sanctioned posts in the civil courts and 600 magistrates in the criminal courts.

Bangladesh has several specialized courts, like, among others, an Administrative Tribunal, an Environment Court, Family Courts, Juvenile Courts, Labour Courts and a Labour Appellate Tribunal, and a Money Loans Court.

Most cases dealt with by ASK's legal unit are family problems. During the focus groups, a small number of participants explicitly stated that they engaged in a love marriage, which was presented as something rather exceptional. Marriage in Bangladesh is primarily a contractual arrangement with different duties for the husband and the wife.

The Bangladesh Law Commission is examining the feasibility of a Uniform Family Code, but as yet, there is a wide variety of sources of family law, each governing people with a specific religious background. For Muslims (approximately 90% of the population), family affairs are governed by the Muslim Personal Law (Shariat) Application Act of 1937, whereas for Hindus, *Smritis* are an important source of Hindu law. In Hindu religion, the law is considered as a branch of Dharma and the rights and obligations of Hindus are determined by the principles of Hindu law (BANGLADESH & COMMISSION, 2005). Buddhists are governed by Hindu family laws as well and Christians abide the canon laws from their churches (BANGLADESH & COMMISSION, 2005). During the action research, the focus was limited to issues governed by the Muslim Personal Law Application Act.

Many of the problems reported to ASK by its clients are related to dowry, dower and maintenance. These problems have deep impact on people's well-being. A longitudinal study on poverty dynamics and life trajectories of rural households in Bangladesh found that dowry and wedding expenses (which can include costs of a large marriage feast, bridegrooms clothes, full furniture, gold jewelry set, sometimes a television, fridge, cooking utensils, dinner set, clothes for the father, mother, sisters, brothers, nephews, nieces, sisters-in-law, brothers-in-law, grandmothers and grandfathers) have strong negative effects on family's capacity to escape or stay out of poverty, as well as crises associated with the division of households, other family disputes and court cases, usually over land, or marriage and dowry (Baulch & Davis, 2008). These problems fall under the jurisdiction of either the criminal courts (man and/or his family asks the wife for dowry)² or the family courts (man does not pay dower and maintenance).

Specialized Family Courts were established by the Family Courts Ordinance 1985. Family courts have exclusive jurisdiction for matters of dissolution of marriage, restitution of conjugal rights, dower, maintenance and guardianship and custody of children (article 5 Family Courts Ordinance 1985). They were established to serve the purpose of quick, effective and amicable disposal of some of the family matters (for example, article 7(1)(a) states that defendants have to appear in court within 30 days after the summons were received). The Family Courts Ordinance also introduced a pre-trial hearing. This hearing ought to take place within 30 days after the written statement of the defendant is filed (article 10(1)). At this hearing, the court shall attempt to effect a compromise or reconciliation between the parties (article 10 (3)).

The facilitators of ASK report that the procedures before the Family courts usually are very lengthy and that the goals behind the introduction of them are not attained in practice.

² The criminal justice system was out of the scope of the action research and thus the focus is put on the civil justice system, as far as relevant. However, ASK sometimes also facilitates mediation for problems relating to dowry (a criminal act). These alternative dispute resolution practices and processes are within the scope of the research and consequently are discussed as well.

“According to the law, family courts have to give a decision within 120 working days. In practice, in a common case that is brought before the Family Court, it usually takes 3-4 years before a decision is obtained. If the decision is appealed, it takes another 3-4 years.” (Facilitator ASK, Facilitators Workshop)

“With regards to court decisions in family law, the compliance rate is about 60%. For the other 40%, you have to start a new procedure, which takes about 3-4 years to result in an outcome” (Facilitator ASK, Facilitators Workshop)

Some authors state that this is caused by uncertainties about jurisdiction (can people from all religions, governed by different family laws file a case before the Family Courts?), , how the rules of the Code of civil Procedure relate to the procedural rules of the Ordinance, and other legal technicalities (Biswas, 2006). According to the facilitators of ASK, much of the delay can be explained by non-cooperative behavior of the defendant.

“The length of the procedure can take up to 6 years. The husband often does not cooperate and tries to stretch out the procedure. I had a case that took over 12 years” (Facilitator ASK, Facilitators Workshop)

There are also government-administrated village courts that have jurisdiction over family disputes. The Muslim Family Laws Ordinance 1961 empowers the members of the Union Parishad (the lowest unit of local elected government) to arbitrate family disputes (Golub, 2003). Some say that these may either exist only on paper or tend to be biased and ineffective in providing justice to women and the poor and that the members are frequently ill-informed about family laws (Ambrus, Field, & Torero, 2008). There is abundant other literature that suggests that the practice of the village courts leaves much room for improvement (Golub, 2003; Haque & Foundation, 2002; Khair, Casper, Chen, Ingram, & Jahan, 2002). Except for the observation that many members of staff of ASK and beneficiaries stated that they expected nothing from the UP’s and that there is widespread corruption among them, we have little data on the performance of the UP.

C. Dower

Like in many other countries in the laws governing marriage are based on religious tradition, in Bangladesh, dower is a common element of the agreement of marriage. The families of the husband and wife agree upon a sum of money at the time of marriage that is promised by the husband and his family to the wife and her family. Traditionally, this promise of payment was meant to provide economic security to the wife, to prevent the husband to lightly use his right to an unilateral divorce and also could be seen as a means for the husband to pay honor and respect to the wife and show that he desires to marry the wife with a sense of responsibility and obligation (Bates, Schuler, Islam, & Islam, 2004).

The amount of dower is variable, i.e. there is no standardized sum. The husband has to pay whatever amount has been agreed upon or assessed in the case no sum was specified at the moment the marriage was concluded. A distinction exists between the so called prompt dower and the deferred dower. The prompt dower becomes payable directly after marriage. Although women can claim payment of the prompt dower at will, at any time, in practice, this mostly is done in case of divorce or when a husband deceases (Chowdhury, 2010a). The deferred dower refers to (the part of) dower that is payable at the termination on dissolution or marriage either by death or divorce.

Several clients of ASK reported problems with payment of the dower by their husbands.

“I have a son who is three years old. I have a tailors shop, but my husband wants me to run the shop differently to how I want it. I want to do my own designs but my husband just wants me to take care of

the children. I have been beaten by my husband. Because of the children, I cannot leave my husband. He says that I should divorce him, but that he will not pay me the dower." (focus group 1)

"I heard that my husband got married to another woman, but his brothers said I am wrong about this. I went to the house and found him remarried. I went to ASK. My husband got jailed for one month. He got out because he paid bail to the police. He also paid me 20,000tk plus one year maintenance. Now he trades fish in Dhaka. When I saw him I went to ASK. A lawyer went to him. My husband said that he already gives money now, but this is a lie. After a few days he brought me fish, but he stopped with this. The lawyer now tries to get him in jail again. My husband has money and he can give me the dower money. This is what I want." (focus group 2)

D. Dowry

As opposed to the practice relating to dower, the practice of dowry is illegal. Dowry is the practice of payment of money, jewellery and other goods from the bride's family to the groom's family..

It is associated with property rights as a means to compensate the fact that in many societies, men have economic value and women do not. Wealthier parents tend to give higher dowries which in turn render their daughters more attractive to potential husbands. This causes women to become a financial liability to their families (Chowdhury, 2010a). Men who have higher incomes are more attractive to brides (Anderson, 2004).

According to one author, "the practice of dowry has been turned into 'demand, extortion, material gain, and profit maximization'. This writer states that the most common motives behind the dowry system are the grooms' and their families' greed, growing consumerism, excessive materialism, the need for status seeking, and rising expectations of a better and luxurious life, but it seems likely that asking your wives family for money is also a survival strategy for the (very) poor. The dowry practice has changed as a result of women's increasing paid labour activity. In many cases, husbands or in-laws seem to control and appropriate women's income. Husbands may consider their wives' income as a source of personal wealth accumulation (Chowdhury, 2010b).

Dowry is strongly associated with physical abuse, as studies and the experiences of ASK and their clients make clear. One study among 2,702 women from a population-based survey conducted in urban and rural Bangladesh in 2001 found that, in general, dowry demand predicts the extent, frequency, and severity of physical wife abuse regardless of the status of dowry payment. Refusal to pay dowry increased the likelihood of abuse, its frequency, and severity in households where dowry was demanded (Naved & Persson, 2010). During the focus groups, several participants indicated that they got physically abused by their husbands who tried to get dowry from them.

"I have a dowry problem. I am married and the first 3 years were fine. Then I gave birth. After 3 or 4 months, my husband started beating me, asking me for money. I was pressured a lot, and so I managed to get 3000, then 17000, then 6,000Tk from my family. My husband would wait until I got the money, then kick me out of the house and vanish. He vanished for a long period, then I saw him in the street. He suggested we go to a restaurant to talk, which we did. He then took my money and left again." (focus group 1)

"I am married for 16 years. Before I met my husband, he stole money from his parents and went to Dhaka. There, we met and got married. I did not know about the stealing. He left me and took my properties and money and went to his parents. He did not want to come back. My parents talked to his parents and gave him 15,000tk. Then he came back. Later, he left me at his parents house and said that this was better." (focus group 2)

"I got married and lived with my husband. After 4 months he asked for dowry, but I did not have it. He turned violent. One day, my brother in law severely beat me up." (focus group 2)

"I got married 25 years ago. We have 3 children. After 10 years, my husband left and got remarried. He only would come back if I paid 40,000tk. I got this money from my brother and gave it to him. He left with it and spent it on his other wife." (focus group 2)

Asking for dowry (as well as paying dowry) is a punishable offence under the Dowry Prohibition Act of 1980. According to the Act, dowry means ‘any property or valuable security given or agreed to be given either directly or indirectly (by one of the parties directly involved in the marriage, but also the ones indirectly involved like the respective families). The act is limited to payments from the bride’s family to the groom’s family and thus does not sanction payment and agreements relating to dower(Chowdhury, 2010a). Asking for dowry can lead to a five year jail sentence, according to Section 3 of the Act, with a minimum of one year.

E. Problems with Law Enforcement

The literature suggests police and prosecutors often ignore crimes against women (USAID, 2002). Among the clients that we spoke to, many had stories about having to pay money in order to let the police take action. They also report counter payments from their opponents to the police.

“Husbands can bribe lawyers to prevent divorces or going to court.” (focus group 1)

“There isn’t enough money for ‘the law’. You have to be rich. You also have to bribe “. (focus group 1)

“I have already spent 2000Tk with the police, but there has been no progress.” (focus group 1)

“The police also asked me for 2000Tk.” (focus group 1)

“If I give them 2000Tk, they come with me, but the other person gives them 2200Tk, so they go with him” (focus group 1)

“The police went to his house after I gave money. The family of my husband gave more money and now the police says they do not help her anymore. I do not have enough money to continue.” (focus group 2)

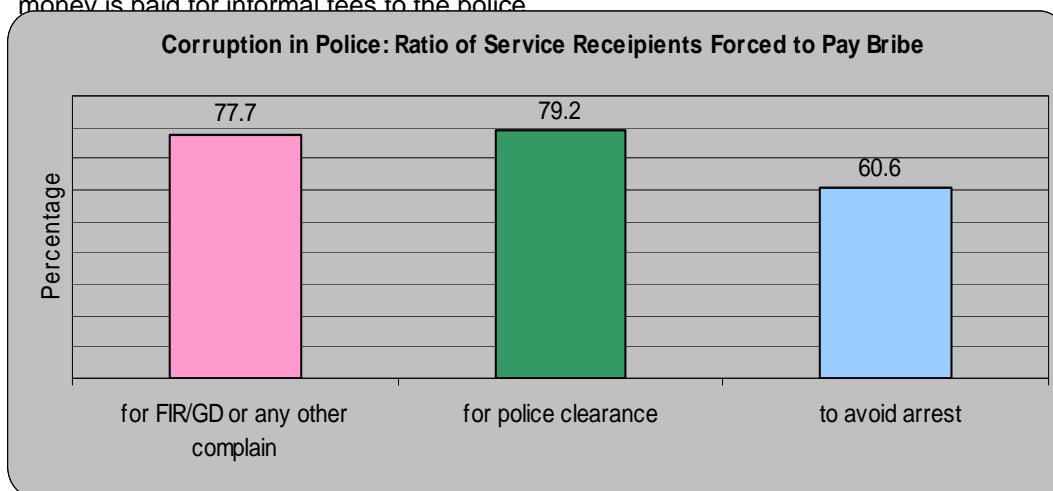
“People are giving us money, what are we to do about that? In a rape case, I did not want to take a bribe, but I was pressured to take it, although I did not. Who is in the wrong there, the police officer who is pressured to take a bribe or the criminal?” (police officer, assistant commissioner, stakeholder meeting)

“From individual families right up to state level. Corruption is everywhere.” (local leader, UP, stakeholder meeting)

“We need to think why there is corruption. The salaries of police officers are not high enough for them to survive, feed their children and keep their households. This is why there is corruption.” (journalist DishTV, stakeholder meeting)

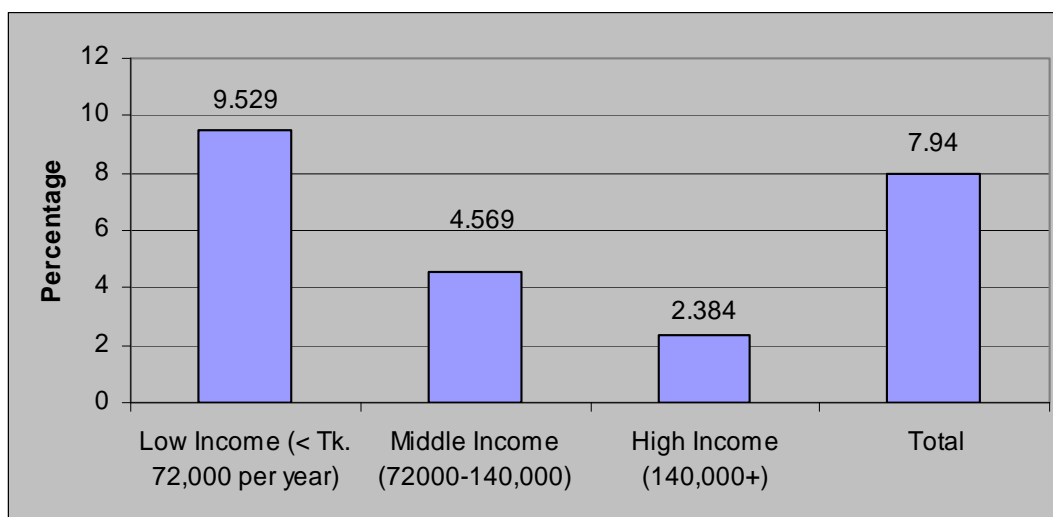
“If someone gets 8.000Tk, how then can I pay rent, feed my family? This is why there is corruption, to survive.” (local leader, UP, stakeholder meeting)

According to Transparency International Bangladesh, a considerable amount of money is paid for informal fees to the police



Ratio of service recipients forced to pay bribe to police: Transparency International Bangladesh 2006

Especially, people from low income groups are affected by the practice of having to pay bribes. The following chart shows the relative amount households in Bangladesh have to pay to bribes in general. These can be bribes paid to the police and government enforcement agencies, health care institutions, educational institutions, etc.



Household income lost to bribery: Transparency International Bangladesh 2006

F. Informal Mechanisms

Besides the paths of the legal system and its challenges, informal mechanisms of dispute resolution offer ways of solving disputes. There is a strong tradition of solving family issues through shalishes. These dispute resolution processes do not have a fixed procedure. The adjudicators (shalishkar) rely on their social authority (seniority, wisdom, economic and religious status or by way of village politics) and do not have any legal authority (Biswas, 2008). The procedures can take the form of arbitration, mediation or a blend of the two.

Three sorts of shalishes are described in literature: 1) traditional shalishes, 2) government-facilitated shalishes, and 3) ngo-facilitated shalishes (Golub, 2003). In its traditional form the practice of shalish is basically “a practice of gathering village elders and concerned parties, exclusively male, for the resolution of local disputes. Sometimes Chairmen and elite members of the Union Parishad are invited to sit through the proceedings. Shalish has no fixed dimension and its size and structure depend entirely on the nature and gravity of the problem at hand” (Khair, 2001).

The government-facilitated shalishes results from the Muslim Family Laws Ordinance of 1961 and provide members of the local elected government the position to arbitrate family disputes. The practice of these village courts, however, often does not differ from the traditional shalish. Both forms are reported to be either biased or ineffective at providing justice for the disadvantaged, including women (Golub, 2003). Representatives of two NGO’s mentioned as an important issue that women are often not heard in person, but only through men (fathers, brothers) representing them. There is no quantitative

research, however, that investigates how frequent these biases and problems are and how these forms of shalish are appreciated by the people who use them.

G. Situation as to Legal Aid

In 2000, with financial cooperation by the Canadian International Development Agency, the Ainoto Shahayata Prodan Ain 2000 (Legal Aid Act 2000) was passed. This act provides for legal mechanism and access to legal aid and the establishment of a Legal aid board. It provides financial support (to the extent of taka 300,000 in each district) for legal aid for insolvent persons. The fund covers lawyers' fees, court expenditure and additional charges. The District Legal Aid Committee allocates funds and cases to lawyers. The District Judge is the President and the Secretary of the Bar Association is secretary of the Committee that includes District Magistrates, Police Supers, Public Prosecutors, representatives of Department of Women and Child Affairs, Department of Social Welfare, local NGOs and others. Lawyers have to submit quarterly reports on their cases to the Committee.

There is very little information available about how effective and accessible the legal aid program is in practice. The lawyers of ASK report that the legal aid program is very much underused and neither one of the stakeholders and beneficiaries we interviewed referred to it. The lawyers of ASK indicated that the fund was underused due to ignorance of its existence. They advised that they referred individuals to the fund, but that individuals do not know that it exists or how to access it themselves.

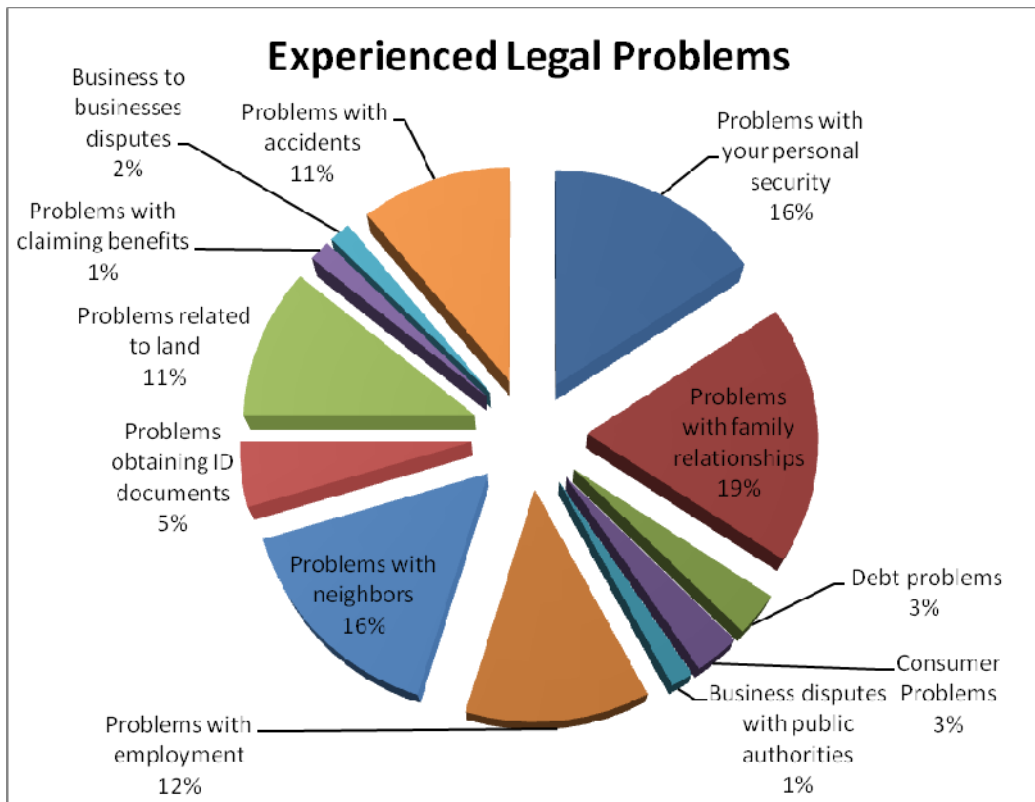
Several NGOs have developed legal aid programs that utilize the local capacity to strengthen the traditional informal mechanisms. NGO's give legal aid, mostly from a rights based or human rights perspective. NGO's provide more comprehensive advice and counseling. Some (like ASK) have developed some methods aiming to produce amicable settlements. Psychological and legal approaches are mostly in sequence: first psychological and settlement attempts; if this fails the legal treat. Often these NGO's also provide counseling, financial support or even more holistic approaches.

Organizations like ASK, also in cooperation with Brac, developed and implemented legal aid programs that closely link to informal mechanisms like shalishes, but aim to bring more fairness in the process and outcomes. They support clients who bring their civil cases to them in organizing a shalish with the other party and families. Often this happens in their offices. The NGO persons remain neutral in the process, do not impose any solution (mediation rather than arbitration) and provide information about rights. If this does not solve the problem, a more legal approach for the client is taken.

III. Legal Needs and Legal Empowerment of Beneficiaries

A. Legal Needs

According to the results of the quick scan (carried out with both 16 clients of ASK and also 58 individuals who were not clients of ASK), the most common and urgent legal needs that people face are related to family relationships, employment, violence, social problems and property in a relatively even split (see chart 1). However the large majority of problems ASK receive are to do with family relationships. Specifically ASK report that the problems are predominantly in relation to dower (money paid by the husband in the marriage contract) and dowry (illegal payment demanded by the husband from the wife).



As can be seen, problems in relation to violence, problems within families and those with neighbours each account about 15-20% of legal problems. Employment problems, property issues, and accidents and each account for 10-15%, while the remainder of the problems each account for 1-5% each. This discrepancy between the responses of individuals and the perceptions of ASK can probably be explained by ASK's focus on the poorest and most vulnerable in society. ASK's almost entirely female client base are very likely to experience domestic and family issues disproportionately higher than the general population.

Also of note in Bangladesh is the low level of Identification problems (5%). In other low income countries (particularly in the aftermath of armed conflict) ID problems are more prevalent. In Bangladesh the government issued ID cards to every citizen in a program that lasted a year, and this appears to have been a success both from the survey results and from information gathered through the action research visit.

The family problems identified during the action research predominantly involved three issues: dower, dowry and maintenance payments. Each of these problems were highlighted in the focus groups with ASK clients.

"I have been beaten by her husband. I can't leave my husband because of the children. My husband says that I should divorce him, but he will not give me the Dower. I don't know about other people, but I think that there are many people in a similar situation." (Focus Group 1 member)

"I am married. The first 3 years were fine, and I gave birth to our first child. After 3 or 4 months, my husband started beating me, asking for money. I was pressured a lot, so I managed to get 3000, then 17000, then another 6,000Tk from my family [*\$30, \$170 and \$60 respectively*]. My husband would wait until I got him the money, then he would kick me out of the house and vanish. He vanished for a long time, then I saw him in the street. He suggested that we go to a restaurant to talk. When we were in the restaurant he took my money and left again. I have sent notices to my husband through ASK twice, but nothing has happened. I have suffered jaundice

which has been difficult, and despite the notices there is still nothing finished.” (Focus Group 1 member)

“When I was 7 months pregnant with my son, my husband told me he was going away for business to make money. He went to his home village and did not return. I asked relatives about him and they said that he had another marriage to a girl in that village. My sister has helped me with money, and then after I gave birth she looked for work but I had to go to my in-laws. My relations were no help, they gave me just a small bit of bread to eat. I was then on the street. I had laid down sick at the side of the road and a driver picked me up. He took me home and looked after me and arranged for his wife to care for me for 2 months. After that I went home and asked my mother to come to Dhaka so that she could care for my son while I worked. I had to sell my blood to raise money to feed my children, and sent my son to my mother-in-law while I worked. My son returned to me as his step-mother wasn't caring for him. Some neighbours brought my son here [*focus group is being held in a school for working children*] and I found out about ASK. ASK have helped me file a case, but it is still pending.” (Focus Group 2 member)

Other family issues were also brought up by a number of interviewees:

“There can be problems splitting land between brothers. If one brother is more powerful, he will always take more. Equal power means an equal split. If the parents have said what will happen it is ok, but if they die before they do that, there can be difficulties. The powerful one will always demand the side of the property that they both want, the good side.” (Focus Group 3 member)

“3 months ago, a servant was beaten with a stick in my neighbourhood. A neighbour saw this and brought the police to the house. The head of the house has power, so he did not want to go to the police because of his image, and because it takes time and money. Instead they wrote down that they would not do this in the future, and gave the victim compensation, which solves the problem. The police take strong action when it comes to abuse of domestic workers, but the length of time it takes local people to get to court is too long.” (Stakeholder Meeting)

During focus group interviews with non-clients of ASK, issues in relation to other topics were raised. When we asked them for their experiences, they highlighted threats and acts of violence, which frequently involved an element of extortion. The experiences, however, might not be experiences of their own, given the language used, but reflect their basic attitude towards the legal system:

“There was a problem with a man's relatives. They took him, tied him up, beat him and asked for money. They told the chairman and also other people, but money was used by the kidnappers to bribe the relevant people.”

“A threat was received by someone in my neighbourhood on his mobile phone, to pay 7.000Tk. Later the man's children were killed after school as they were leaving, they were shot. Despite the police being there, on the spot, no-one did anything.”

“Whenever you start a business it is life-threatening. For example there was a man who lives in a shack, he works and gets 2000Tk a month, with his wife, making packets that they sell. Someone called in the night, kidnapped the husband and held him for 2 days. Someone met the kidnappers and asked where the guy was, and found out that they had taken him to a restaurant and killed him, and cut him into 4 pieces for disposal. They had 2 children. What will they do? The police did nothing, because there is no law.”

Property problems were also brought up, with individuals experiencing difficulties enforcing their claims to land, even when the appropriate paperwork was available.

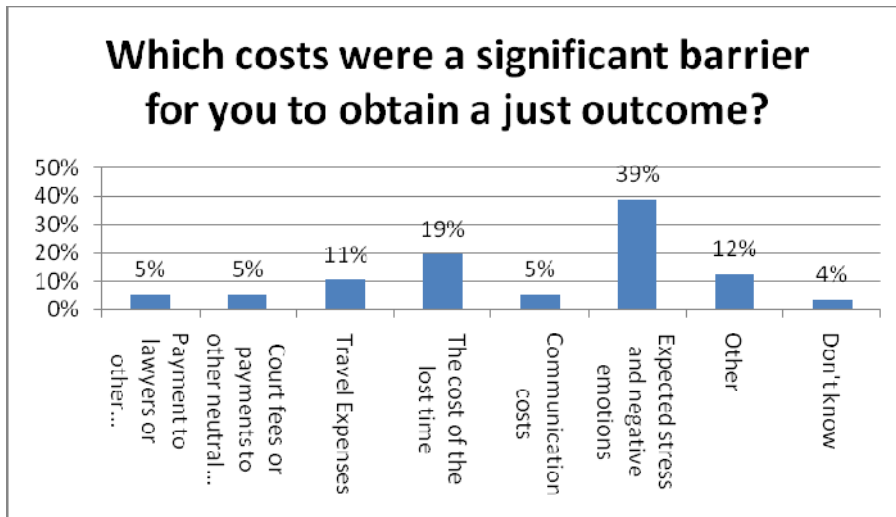
“I have a solid claim to some land, but my neighbours had trouble with people who took over their land. Now they are trying to do the same thing with mine. When the price of the land went up, it was simply taken by people. I have the papers to prove it is mine. Some people have claimed my land and threatened me. Now if I try to build anything on it they destroy it. I do not feel well protected at all. There is no-one who can help. There is only one person who is against me, but they have a lot of power.”

“Chairman [*chairman of the Union Parishad*] and other people in my area took away the occupied lands. My father and another relative went to get the land, and the people who had taken it asked them to show them the papers. My mother-in-law went to get the papers - which was difficult and cost some money - but it didn't make any difference. She tried paying money to them but that didn't work either. I don't know if there is anyone who can help me, everyone is afraid of the chairman. My father-in-law is now passed away, is it still possible to get the land back?”

B. Legal Empowerment

There is a general reluctance to use the legal system, which was spoken of in the client focus groups and demonstrated in the legal needs survey. This reluctance is probably best understood as the combined effect of several factors:

- High costs in terms of emotional stress caused by the court proceedings



Clearly the stress and negative emotions are a high barrier to engaging with the legal system.

- High costs in terms of time. Court cases can take a long time to be resolved due to the large backlog of pending cases.

"My husband was married before, which I knew. He pressed me to marry him. I was working in a restaurant and he always ate there. He was a gambler. I tried to prevent him from playing and therefore he beat me up. He is a cheater. He worked really hard. He worked in 3 places. When he got dismissed, he received 700,000Tk as compensation. He gave me 140,000tk. He died. The other wife and her daughter wanted money from me. They drafted a contract and forced me to sign. They deceived me. When my husband died, the other wife did not allow me to say goodbye to him. I went to the employer of my husband and asked for his pension. He said that both me and the other wife would get some. All of it went to the other wife. That was what I then reported to ASK 10 to12 years ago."

- High costs of access in terms of possible side-payments to officials being required.

"If we go anywhere else, we need a lot of money. We do not have that ability."

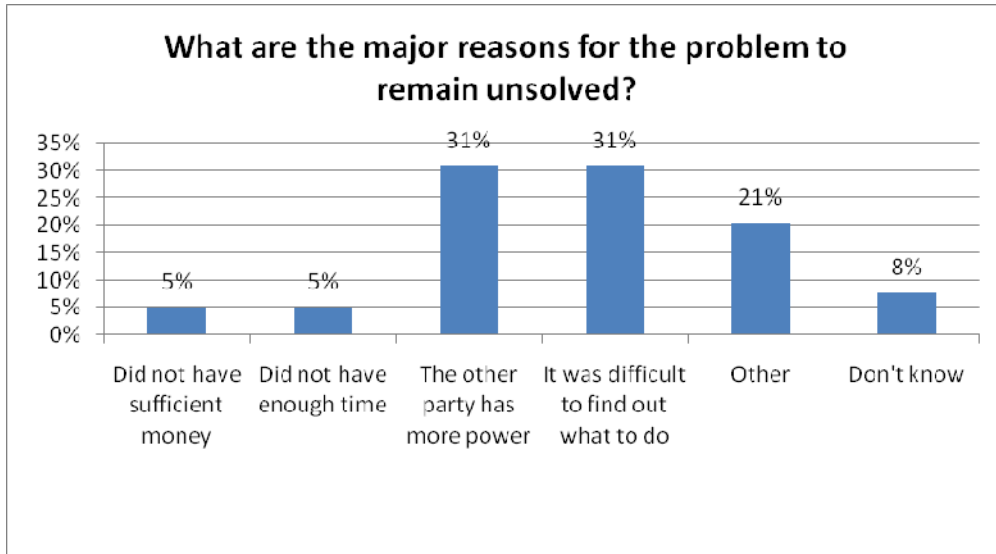
- Little expectation of success due to likelihood of the result being 'purchased' by the opposite side using bribery

"Husbands can bribe lawyers to prevent divorces or going to court."

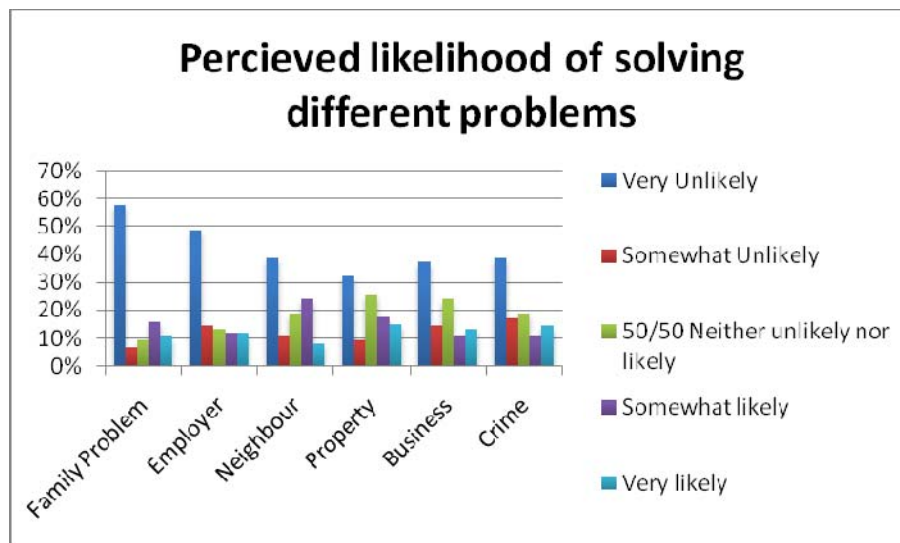
"ASK has sent 3 notices, but he did not respond and there has not been contact. People say he does not live there. The special court says that they cannot help because they have no jurisdiction. The police went to his house after I gave money. The family of my husband gave more money and now the

police say they do not help me anymore. I do not have enough money to continue.”

Further, when asked why they thought their problem remained unsolved, the two most frequent responses were the other party having more power, and it being difficult to find out what to do.



Measuring legal empowerment was done by asking clients to what extent they felt able to cope with problems. For employment relationships, for example, we asked respondents to imagine that they would have a serious and difficult to resolve problem in the relationship to their employer (a person they regularly work for) in the coming year. We then followed up with the question: “How do you assess your chances that you will be able to solve the problem with the money, power and contacts that you have?”



The responses demonstrate the empowerment felt by the respondents, from very empowered ('very likely' to solve the problem) to very unempowered ('very unlikely' to solve the problem). The different categories indicate different types of problems that individuals might have.

The answers to the survey questions indicate that the respondents feel a low level of empowerment. The number of people reporting the lowest level of empowerment is particularly worrisome in relation to family and employer problems. In other countries visited, the distribution between lower and higher levels of empowerment was generally more even, with many people feeling quite empowered.

IV. Intervention Strategies Used

A. General Information About ASK

Ain o Salish Kendra (ASK) is an NGO formed from grass-roots activism. In 1986, the founders began as a collective with no formal structure or institutional order. Originally delivering only legal aid services, ASK has developed and diversified since these beginnings to cover a wide range of activities related to the protection and promotion of human rights, and the protection of the most vulnerable people in society, especially women.

ASK is an active member of several regional or international human rights fora, in particular the Asian Forum for Human Rights and Development (Forum-Asia), the Asia Pacific Forum for Women, Law and Development (APWLD), the International Women's Rights Action Watch-Asia Pacific (IWRAP-AP), the South Asia Forum for Human Rights (SAFHR), and Women Living under Muslim Laws (WLUML). ASK has special consultative status with the United Nations Economic and Social Council (UNECOSOC) (since July 31, 1998) and engages in advocacy with UN agencies, treaty monitoring bodies, and special procedures, on issues of concern (<http://www.askbd.org>).

ASK has their main offices in Dhaka, with a staff of approximately 120 individuals working from a 6 story building. This includes lawyers, administration, researchers, psycho-social counsellors, outreach workers, advocates and trainers. In addition ASK carry out outreach activities to develop groups in local communities who act both as an information source for people suffering from rights abuses, and also as watchdogs to bring any major human rights abuses to the attention of ASK. In 2008, it receives funding from Oxfam Novib (Netherlands), The Royal Norwegian Embassy, Dhaka, The Swedish Embassy, Dhaka (Consortium partner, which plans to renew funding in 2009), NETZ-Germany, Save the Children Sweden-Denmark, Swiss Agency for Development and Cooperation (SDC), Concern Worldwide (ASK, 2008).

In the year 2008, ASK had approximately 2769 beneficiaries. These beneficiaries received a variety of different interventions. The table below highlights the major categories used by ASK, with data collected from the Annual Report:

Activity	No. of beneficiaries	Comments
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Mediation Service	645	
Litigation Service	541	191 new litigations, 350 litigations continued from the previous years
Counselling Service (Psychological counselling for victims)	137	
Half-way House Service (Safe-house for victims of domestic violence)	283	
Outreach Services	2796	85 Clients registered by Partner NGOs 26 Clients provided with mediation 10 Litigations through panel lawyers 1392 Individuals received a legal awareness workshop

ASK also carries out advocacy work targeted at the national and international level. It highlights human rights abuses which come to light through their network of partner organisations, watchdog groups, clients and newspapers. These are then used to inform their annual human rights report on Bangladesh as well as sometimes forming the substance of special reports. ASK also has reporter status to the UN, which helps them to exert pressure upon the government and local authorities from both a bottom-up, direct advocacy, approach, as well as a top-down approach using international bodies to exert pressure on the government.

B. Intervention Strategies as Mapped by ASK Lawyers

During the focus groups with facilitators, the two main work processes of ASK have been mapped (in blue). The facilitators were asked to identify the major challenges (in red). The facilitators seem to have reflected well on their work processes before, since they had little difficulty explaining them.

The intervention strategies mapped and the ones discussed in the following paragraph are the ones explicitly discussed between the researchers and the facilitators. ASK uses a wide range of approaches for delivering legal aid and information in Bangladesh. Therefore this section obviously does not give a complete picture of all the intervention strategies used or considered by ASK. Our suggestions for exploring additional strategies should be read with this in mind.

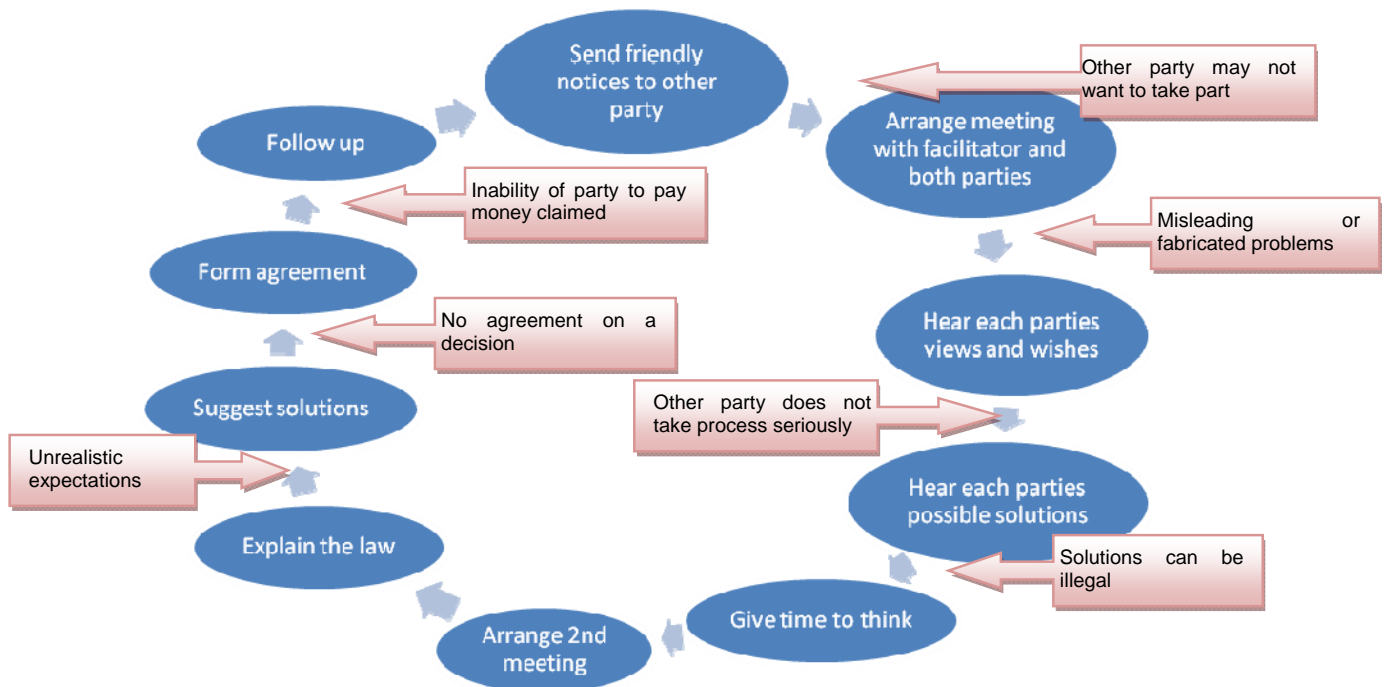
1. Initial Steps

The facilitators identified the first steps in assessing a case when it is presented to them by a client:



Following this process, we focused on the two most common actions taken after this stage; mediation and litigation. The facilitators created a work process for each of these actions.

2. Mediation



This system was identified as encompassing the processes which are gone through by the ASK lawyers when carrying out a mediation. The difficulties were also highlighted as the biggest challenges in carrying out the mediation process.

Although, in principle, only civil cases are deemed to be suitable for mediation, dowry problems (which are criminal cases) sometimes also are mediated with the support of ASK. This is done because clients are very reluctant to report their problems to the police and might not want to divorce and/or see their husbands ending up in jail, but the women usually want the violence to stop.

The ASK lawyers who carry out mediations reported that they did not ask questions which investigate the interests of the parties, (like, for instance, why a man asks for dowry, or why a woman wants her dower) but stress the rights and obligations that the law defines.

"We do not ask questions about their interests, we are rights based" (Facilitators during workshop)

"We do not ask the women why they want the dower paid, because they have a right to it." (Facilitators during workshop)

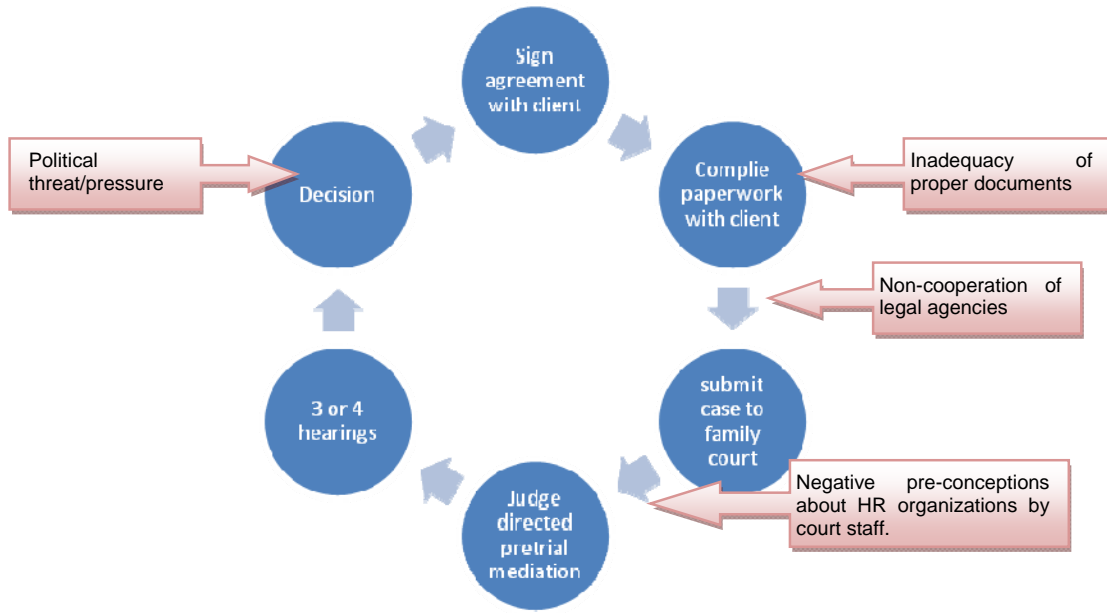
The facilitators also stress that they do not impose anything, but merely suggest at a certain stage. Thus, they sketch a picture of the mediations they organize as a lawyers-led shalish, in which the natural dynamics of the discussion between the two families present is leading.

There was some discussion around the issue of whether alternative payment methods might be allowable in mediation. A general consensus was not reached between the different facilitators.

"Some are proposing that if you [husband in a dower case] cannot pay in cash then you can write down your property in her [wife's] name. But others deny this, and say that ASK do not have this practice." (Facilitator during workshop)

Further discussion was also held with the facilitators about the appropriateness of mediation practices in some cases. In Bangladesh there are laws which determine the appropriateness of mediation to solve a legal problem. This legislation identifies those problems that are appropriate and those that are not. There was strong agreement from the facilitators that this legislation was appropriate and ensured that serious problems were dealt with by the courts to ensure that there was an appropriate punishment for the wrong-doer. Despite the acknowledgement that there were difficulties in using court procedures in these cases (such as the time taken), the protection of basic rights (such as being free of physical threat) were thought to be best served through the use of litigation.

3. Litigation



While this system is much simpler than that identified for mediation, it is also beset with a variety of problems which are very difficult to overcome.

The main difficulties identified by ASK staff in relation to these two processes are:

Mediation Process	Litigation Process
<ul style="list-style-type: none"> • Opposite party not attending mediation (can be due to social status or unwillingness to find a solution) • Non-binding force of mediation • Party not paying dower money due to financial inability • Agreed upon solutions are not legal • Non-cooperation with agreed solution • Length of time taken 	<ul style="list-style-type: none"> • Difficulty gathering appropriate documents together • Length of process (3 or 4 years for a standard case, up to 8 years with appeals) • Political threat and pressure on lawyers, judges and processes • Physical threats to NGO lawyers

During the workshop, further discussion was held about possible solutions to these problems. Most suggestions were the type of solutions that professional lawyers would typically think of, which is not surprising taking into account the legal background of most of the people present. The solutions suggested by the three groups formed are given below:

Group 1	Group 2	Group 3
<p>“Solutions to problems related to mediation and litigation</p> <ul style="list-style-type: none"> • Delivery of information to people of different sectors by GO [Government Organisation] or NGO 	<p>“Legal Information</p> <ol style="list-style-type: none"> 1. Legal awareness raising programmes (Workshops, training , posters, leafleting) 2. Campaigning by all legal 	<p>“To overcome the challenges:</p> <ul style="list-style-type: none"> • Awareness raising in grassroots levels • Increase accountability of police and other

<ul style="list-style-type: none"> • Convincing towards the benefits of mediation (for both the parties) • There should be some binding measures to follow the decision of agreement by the help of government or legal organization • Government should strictly follow the ADR system where it is applicable <ul style="list-style-type: none"> ○ through lobbying and campaign with persons engaged in the judicial system • Monitoring Court activities by GO, HR Organisation • Reporting with recommendations to concerned higher authorities • Communicate with local authority (Union and Upozilla Parishad) • Awarding concerned authorities for successful mediation • All the subordinate courts must be supervised and monitored by higher court/authority strictly and regularly • Each and every case must be completed within logistic timeframes and court should be accountable if it fails. • Salary and facilities of law enforcement agency staff should be increased” 	<p>aid organizations</p> <ol style="list-style-type: none"> 3. Legal camp 4. Law and rights should be included in educational curriculum 5. Newspaper, visual media, radio, websites can be used <p><u>Make other party respond</u></p> <ol style="list-style-type: none"> 1. Local government and administration may be used 2. Imam of mosque, teachers, may be used 3. Legal notice 4. Establishing ASK as a good mediation service <p><u>Make other party live up to agreement</u></p> <ol style="list-style-type: none"> 1. Regular Follow-up 2. If needed, another mediation <p><u>Make judges work faster and fairer</u></p> <ol style="list-style-type: none"> 1. Workshop with judges 2. Governments strong monitoring system” 	<p>legal agencies</p> <ul style="list-style-type: none"> • Implementation of existing law • Government active monitoring sale increase • Provide active and strong monitoring system so that corruption would be decreased”
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Solutions in terms of improving the work-processes of the facilitators were not easy for the facilitators to identify. They were acutely aware of the difficulties posed by external factors and of how these impacted on the aims they hoped to achieve. The solutions that they suggested were primarily top-down interventions, focusing on changing institutions or removing obstacles.

“All the subordinate courts must be supervised and monitored by higher court/authority strictly and regularly” (Facilitator in facilitators workshop)

“Laws and rights should be included in the educational curriculum” (Facilitator in facilitators workshop)

“Implementation of existing law” (Facilitator in facilitators workshop)

“Provide active and strong monitoring system so that corruption would be decreased” (Facilitator in facilitators workshop)

In addition to these large-scale solutions, some possibilities were identified for ASK to change their working practice so as to overcome some of the challenges identified.

“Imam of the mosque, teachers, may be used to make the other party respond” (Facilitator in facilitators workshop)

“Awarding concerned authorities for successful mediations” (Facilitator in facilitators workshop)

“Establishing ASK as a good mediation service. Letting people know we have carried out over 4000 mediations” (Facilitator in facilitators workshop)

Finally, the strengths and weaknesses of ASK strategies were mapped by management in a SWOT analysis, which resulted in the following picture for the mediation and litigation strategies.

Strategy 1: Mediation and Litigation	
Strengths	Weaknesses
Skilled Staff	Staff turnover rate is high
HR and Gender sensitised	Lengthy justice system
Holistic Approach	Non-cooperation of law enforcing agencies, judges, police, administration etc. they are also gender insensitive. Patriarchal mindset
Well planned monitoring, supervision and follow-up system	Social stigma
Prompt service delivery by organisation	
Strong networking	
Cost Effectiveness	
Opportunities	Threats
Acceptance of our service	Political Instability
Popularity (no. of clients and their satisfaction is increasing)	Bias of different agencies
	Discriminatory law
	Shortage of funds

C. Advocacy, Community Organizing, and Monitoring

A further discussion of the strategies used by ASK was held during the workshop with ASK management staff. We presented preliminary findings from the action research in which we identified 5 strategies, this sparked discussion about the content with members of the management arguing that outreach as an important strategy straddled two of the identified strategies, and that these should be merged into one.

We then asked the participants to carry out a SWOT analysis of these four strategies. The strategies as agreed following this discussion were:

1. Mediation and Litigation
2. International and National Advocacy (thought to be representative of ASK in general)
3. Community Organizing
4. Monitoring Human Rights Violations

The following tables show the SWOT charts in relation to each strategies 2-4.

Strategy 2: ASK in general (and international and national advocacy in particular)	
Strengths	Weaknesses
Knowledge	Taking up so many issues

Commitment	Staff turn over
Reputation and credibility	Little use of modern technology
Face value of the leadership	Limited working area
Transparency and accessible leadership	
Good donors	

Opportunities	Threats
Access to different national and international forums (policy making, legislation)	Government Bodies may feel discomfort
Scaling up activities	Religious extremists
Develop staff and mobilize more resources	Ensure the quality of work and service
Documenting working methods and dissemination	

Strategy 3: Community Organizing

Strengths	Weaknesses
Skilled trainers group	We are working in a limited area (place, cases)
Sensitized, organized groups of powerful people	Limited funds
People friendly working approach	Lack of coordination among the networking partners (Partner NGO's)
Cost-effectiveness	Lack of accountability and responsiveness of local government institutions
Volunteerism	Local resources are limited
Local people handling local problems	Limited funds by donors
Local resources are used	Weak documentation
Bridge between community people and other institutions	
Practicing Human Rights culture in the family, work, mediation, cases, advice	

Opportunities	Threats
Involving more networking groups	Fund flow
Capable ASK team	Political instability
Capable Community Based Organizations	Local disturbances, such as strikes
Capable Civil Society Organizations	Religious values, such as fatwa's and patriarchy
A strategy change towards more self-help locally will be accepted by implementers and target groups in consultation	Discriminatory laws (inheritance)
Program can be replicated to other areas	Laws and policies are not sensitive
Trained groups can challenge and react to human rights violations	Absence of laws and policies that protect women's rights (domestic violence)
	Groups with counter interests
	State mechanism at local level not functioning properly (Union Parishad)
	Misuse of power by ruling party or opposition
	National media not interested in stories at local level

Strategy 4: Monitoring Human Rights Violations

Strengths	Weaknesses
Well planned working strategy	Shortage of human power
Effective network with Government organizations and NGO's	Donor dependence
Skilled man power (human power)	Lack of modern equipment
	Lack of legal authority

Devoted supervision and monitoring	Reporting weakness
Well funded (for present work)	
Acceptance by the judicial system partners	
Opportunities	Threats
We are now working in a democratic system, which gives freedom to work in this area	Risks in work
Increased demand	Insustainability (related to funds)
Freedom of information act	Negative reactions from government to reporting (statistical report/cross fire)
More positive response from the mass people	Misleading/fabricated information

There are some links between the SWOT analyses of the four identified strategies. The knowledge and skills of the workforce at ASK were highlighted repeatedly as strengths of the organisation, and this was complemented by the identification of a weakness in high staff turn-over rates.

Money flow was also brought up in a variety of ways. It is included in different SWOT analyses as a weakness, a threat, and a strength. Although current funding was seen as sufficient for the current activities, there was an awareness of the vulnerability of relying on external funding.

V. Discussion of Intervention Strategies

We now discuss the intervention strategies, looking at the opportunities for legal empowerment in Bangladesh, and the potential for the microjustice approach in particular. The first issue we center on is the focus on clients and the crucial legal needs that they have.

A. Focus on Crucial Legal Needs

As we saw in Section II, the most common and urgent problems beneficiaries of ASK mention are family issues, including domestic violence, maintenance, dower and dowry. For women, these problems in family-relationships seem to be crucial. ASK focuses heavily on family matters and is specialized in resolving these issues. This has enabled the organization to develop a reputation in this area that has seen the number of individuals presenting themselves for assistance increase dramatically.

"Originally 1-5 people a day would be contacting us, now there are 35-40 people a day." (Board member, initial meeting)

This specialization has developed a reputation for being able to help, which, according to the beneficiaries that participated in the focus groups, contributes to word of mouth referrals and hope amongst their clients.

"I filed a case against my husband at the family court of Jordana since he was oppressing me. He appeared in court and had to pay 23,000tk, which he eventually did. We got divorced and the case was solved. I am really happy with ASK and I sometimes still visit them." (Client Focus Group 2 Member)

"I tried a lot but I do not know what to do. ASK hopefully can help me. My friends sister referred me to them." (Client Focus Group 2 Member)

In the focus groups and workshops, the following issues became apparent. Many of the ASK interventions seem to primarily have a legal approach and focus on the clients' rights when they mediate and litigate. In addition, ASK delivers services that give the women a trusted place to share their worries and emotions (psycho-social counseling) and provide in their basic human needs (the Halfway

Homes providing temporary shelter). In many countries, lawyers and paralegals combine techniques and skills of a legal and a psycho-social approach.

Family problems are complex and personal. We learned that most women who come to ASK do not want a divorce. They normally also do not want to pursue their husband through the criminal justice system, but would prefer a solution where the husband simply upheld his side of the marriage contract. If women do want to file a case against the husband, it is normally for civil law cases, like payment of the dower money and/or maintenance money. Rarely do the women petition for divorce, even though, since the law grants them a right to payment of dower and maintenance, they often have ample legal grounds to do so.

"I lived here [Dhaka] for a few months, then went to my husband's village home and spoke to the chairman of the village. He told y husband that he must look after me. My husband says he wants a divorce, and the Chairman said that he must pay me the Dower of 50,000Tk. He took me to his mother's house and gave me 1000Tk and said he would be back, but wasn't. I came here in 2007 after my husband beat me. ASK sent him a notice. He attended the meeting and they said he must pay the 50,000Tk. He paid her 35.000Tk, but the remainder is still pending, I want to get both the remainder of the Dower and also child support for her child." (Focus group 1 member)

In some cases of ASK where there is no agreement to meet the legal right, a legal approach could be combined with a psycho-social approach. This type of approach may be able to develop a solution which, although it is not a perfect enactment of the claimant's rights, non-the-less provides the claimant with a solution to some of her needs and is manageable for both parties.

If women do not want to divorce and put their husbands in jail, more focus on their interests and their worries could help to further improve the working processes in the direction of better meeting the needs of the clients. Asking questions during the intake and mediation phases regarding why women want their dower now (do they need the money urgently, do they think it will put some pressure on her husband so he will adapt his behavior?) could help to find practical and fair solutions that contribute to ending the violence.

Development of standard information pertaining to a range of issues may be of benefit to both ASK and their clients. Areas of interest might be:

- Information on how long the average litigation for dower money and/or maintenance takes
- What portion of a husbands income is normally paid as maintenance
- How often when a judge makes a decision is it enforced

B. Empowerment and Sustainability

The second issue to discuss is the orientation towards legal empowerment in a way that is affordable and sustainable (self-help, local capabilities, services provided by the local market, in particular a facilitator model for local legal services, standardization).

With respect to sustainability, the following four work processes can be distinguished

- Individual consultation, mediation and litigation;
- Providing legal education, information and outreach;
- Monitoring human rights violations
- Advocacy at a national and international level

Consultation, mediation and litigation

The providers of the services are trained and professional lawyers. In partner organizations, non-lawyer volunteers are used and trained. There may be some

opportunities here. There is a lot of experience in other organizations with having paralegals delivering mediation and negotiation based services. This reduces the costs for supporting clients and leaves more time and energy available for the lawyers to focus on litigation issues.

Currently ASK works with partner organizations in regions outside of Dhaka to provide legal aid services. ASK provides training and education to the members of the partner organizations and cooperates with a panel of lawyers that provides legal services should the case require litigation.

“After selecting an organization, we close a memorandum of understanding and start to train a paralegal/staff member. These are trained to train 2-3 other paralegal/staff persons and other paralegals. The Outreach unit focuses on training paralegals/staff in developing staff capacity, shalish skills, client supporting skills, skills for dealing with cases and monitoring skills. We give a 3-6 day training, but monitoring takes place continuously. “

“In every organization, we establish a legal aid clinic where the paralegal holds office. These are funded by ASK. When a client comes in with a complaint they investigate and write a report. If it is a mediable problem, they organize a mediation. If it is not, they go to the police or go to court.

The local NGO's are supported by lawyers from ASK Outreach. They are also supported by a local lawyer. There are local panels for human rights lawyers who support in case of human rights violations. Each panel consists of about 10 lawyers. There are panels in every district that are organized by ASK. The lawyers get a small remuneration from ASK, just enough to cover costs. “

The ASK interventions are thoughtful and seem to be of high quality. They are offered by facilitators with valuable degrees in law or other academic subjects. Within the organization, there is certainly standardization.

The business model is based on ASK obtaining funding for these activities. The services are free for the clients (except for a small payment of 5tk that ASK asks from the clients in order to let them commit to the cooperation).

An interesting result with regards to orientation of ASK towards legal empowerment in a way that is affordable and sustainable (self-help, local capabilities, services provided by the local market, in particular a facilitator model for local legal services, standardization) are shown from the survey. In the survey, many respondents reported some willingness to pay for legal aid. These results should be interpreted with caution, however, because reported willingness to pay is usually much higher than actual payment behavior.

Would you be willing to pay for such helping services afterwards, provided that you are satisfied with the way such a problem is solved? To what extent?	Responses	Percentages
Equivalent of \$1 or less per problem	17	23%
\$1-3	12	16%
\$3-10	11	15%
\$10-30	7	10%
\$30-100	17	23%
\$100+	9	12%

Legal education, information and outreach

ASK provides education and information through outreach activities with a variety of partner organizations as well as through establishing their own groups and human rights watchdogs. These organizations are initially funded by ASK,

however they are encouraged to develop as independent groups of interested members.

"We also encourage the exchange of ideas between locations, and in 2009 there was a conference of all of the different groups, who could then exchange ideas. The groups are organised into 'federations' who now organise and motivate themselves. ASK no longer gives them any money or much support, they organise their own meetings and get-togethers."

The workshops and trainings given to women and local important people are certainly oriented towards empowering them to cope with their problems, and thus stimulating self help. Also, the creation of various networks can be described as a successful and potentially impactful approach.

ASK financially supports the legal aid activities of all the local partner NGOs that are trained. This causes that the program becomes more and more costly and the challenges in the area of sustainability increase. Some ideas were coined during the action research for tackling this issue. Direct donations from people in developed countries to the legal aid centers, small contributions from the clients.

Nagorik Uddyog, also based in Dhaka, has developed a system of charging people for training packages. These are provided for a registration fee which is paid by the participants. Such a model based on payments for training, payments for services, seems to be an interesting model for ASK to further explore.

The standardization and knowledge sharing that is reached with the Outreach program is impressive. Many different organizations and clients benefit from the years of experience of ASK. ASK smartly reduces costs by linking up with existing local NGOs.

There may be potential, however, for making the services more sustainable and reaching a broader group of clients.

Monitoring human rights violations

ASK creates an annual report on the state of human rights in Bangladesh, as well as specialized reports on particularly pertinent issues. These are valuable functions, which require time and resources. This activity is currently funded entirely by ASK through their research unit.

They also have watchdog groups who provide a monitoring service, reporting human rights violations to ASK offices, and these groups work independently of support from ASK. This, obviously, increases sustainability in terms of having people permanently educated and information disseminated.

However, it is a bit more difficult to see how this function can be made financially sustainable without some form of external support.

National and international advocacy

One of the methods of national advocacy used by ASK is public interest litigation. This has produced a number of successful cases, and there is a sustainability plan built in. ASK uses lawyers who contribute their time and expertise *pro-bono* to pursue the case on through the court system. ASK provides initial evidence, gathered from the field, and prepare the initial court submissions, however from there on it is passed over to the pro-bono lawyers to pursue. This system enables public interest litigation to be processed at a minimal cost to ASK, and is a procedure which has had a number of successes (see http://www.askbd.org/web/?page_id=668).

C. Use of Effective Dispute Resolution Methods

The third issue is use of state of the art dispute system know how. TISCO developed a model for comparing best practices that leads clients through five tasks: meeting with the other party, communication and negotiation, fair sharing, creating a low cost option of neutral decision making, and stabilizing relationships (with simple documents that make the expectations and obligations transparent and with sufficient incentives to respect the solution obtained).

This model is a framework for collecting good working methods providing access to justice. The model approaches the process of solving legal needs problems from the position of the user. It identifies the necessary and sufficient steps for solving a dispute. It shows how and where legal aid providers, mediators, or judges can contribute most to legal empowerment.

Best practices for each of these steps have been collected from the international research literature (Barendrecht, 2009a). During the current action research project, additional good practices come up that are being used by the legal aid organizations.

The following five tables give an overview of the two way learning process, by comparing the outcomes of the international literature review with the problems faced by ASK and solutions developed for them. As we will see, providing legal empowerment in circumstances like the ones ASK is working in, is very difficult work. ASK and other organizations involved in this work have developed many good practices to cope with the countless challenges.

Without some way of meeting between the two parties involved, there will be no solution. With respect to this (involving the other party in the process of changing the status quo; Task 1) there are some very effective innovations ASK uses. The table below lists how ASK uses a systematic method to show their clients the possibilities to regain control over their lives. Both the client and the other party are opened up to a cooperative approach by sending open invitations. ASK lawyers does not impose anything or acts dominant. At the same time, the other party is informed about possible steps the client will take if there is no amicable settlement, creating incentives for him to participate.

There also are some major challenges. In Bangladesh, as in other countries, many problems remain unresolved because one of the parties does not participate in finding a solution. Many beneficiaries hesitate to use their rights (see Section II.A) and it is often difficult for them to know who can actually help them.

ASK does not have a separate meeting with the other party before the mediation takes place. Organizing such a thing could help to position oneself as being neutral and gain trust. People tend to feel safer if they are enabled to tell their story in private first, before discussing it in presence of the other party. This could be done on a less high profile location than ASK's head office. Chance is that the other party does not perceive of the office as a neutral place, which could be a barrier for participating in the mediation process. What several organizations do, is visit the other party and orally invite them to talk and further cooperate.

Without some way of meeting between the two parties involved, there will be no solution. Several practices have been developed to make it more likely that clients and their 'opponents' start a process to solve the problem. Facilitators work from both sides. They inform the clients about where to apply and how.

Task 1: Meet	International	Literature	Learned at project visited
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	Review	
What is the issue?	Involving the other party in the process to solve the problem (creating information channels).	<ul style="list-style-type: none"> - Government creates rights for citizens through legislation - Local government officials may not or not promptly respond after they have received a request due to corruption or power issues - Dower payments are an issue where the husband does not want to pay the money owed to the wife. - Dowry is also a problem, where illegal payments are demanded by the husband. - Many clients do not use their legal rights - Bottlenecks (facilitator workshop): Often talk is not possible – the client has to turn to the legal institutions. - Both parties seek to avoid court out of fear for costs and delay - Yet, for some men using court procedures is tool to make it difficult for women to obtain dower or maintenance - Fear, stress, and hesitance to involve outsiders are important obstacles to taking action
General approach for this issue?	Make costs and benefits of participation for defendant (and plaintiff) higher than costs and benefits of fighting, appropriation, or avoiding	
What are best practices for dealing with this issue in a low cost and effective manner?	<ul style="list-style-type: none"> - Local meeting places - Pre-mediation skills - Social norms to solve conflicts cooperatively - Enhance incentives that link to reputation of defendants to solving conflicts cooperatively - Option of default judgment 	<ul style="list-style-type: none"> - Pressurising using the threat of litigation: Initially a friendly invitation to take part in mediation is sent out. If no response is received, a 2nd friendly invitation is sent. If there is still no response, a 3rd invitation mentioning the possibility of litigation is sent. - Informing parties of their rights and of the law, to encourage registration of problems and engagement with mediation. - Use of powerful local people to get the other party to cooperate in finding a solution (for example chairmen and Imams) - Involving people in the back ground who influence the parties (father, mother, relatives, partner) - Emphasize neutrality - If no cooperation, make clear that client has to make moves, may have to go to court - Set deadline in a friendly manner - After making a legal analysis, first referring the case to facilitator who will try to settle amicably
What are possible microjustice tools (formats or other tools that standardize the best practice and make it possible to deliver it at lower cost)?	<ul style="list-style-type: none"> - Standard way to contact the other party - Letter, protocol for oral communication - Neutral description of problem as perceived by client - Invitation to talk - Neutral indication of what may happen if no solution 	<ul style="list-style-type: none"> - Publish information where client can find help and how (on website, leaflet). - Simple 3 step method for engaging other parties. (facilitator workshop)
Other remarks?		

If disputes are solved, this happens in 70-90% of cases by improving communication and negotiation (Task 2). This is the second step in a dispute

resolution process that the parties usually go through. The lawyers from ASK did not mention communication problems with clients or opponents as difficult issues in their advocacy work. Once clients and opponents are in the same room, they have simple systems to make sure that the information that they think is important is gathered and discussed.

As discussed in Section IV C, the facilitators of ASK use methods for mapping the problem. They seem to use rights based approach for this, without being really and actively interested in the interests, needs and worries of the other party. Conflict resolution such as summarizing, questioning, active listening, reframing and mediation versions of this do not seem (widely) known in Bangladesh. ASK's facilitators do recognize the importance of emotions as signals of the underlying interests that have to be discovered, because finding ways to protect these interests is key to finding durable solutions. However, if clients are really emotional, they get referred to a psycho-social therapist.

The importance of framing disputes about dower and maintenance, or stopping violence, as a joint challenge or problem instead of as a conflict with opposing parties is a big challenge. Some lawyers acting in court for ASK's clients and facilitators tended to frame the problem more as a conflict involving rights rather than interests. Several lawyers also tended to avoid discussing emotions.

Facilitators certainly showed skills and talked about methods for creating a good negotiation climate, they did not yet seem to systematically examine how this can be done most effectively. For instance if working methods can be developed that frame problems more systematically as a matter of interests (needs, wishes, fears). Focus on rights and legal rules may not always lead to processes and solutions that fit the interests of the clients.

There is further complication in the form of legislation which details which offences or torts can be the subject of mediation, and which cannot. This prevents many problems from being mediated at all, forcing litigation to reach a solution.

During mediations, many family members from both sides often are present. We do not know about the groups dynamics that take place during these sessions, but many people divided into two sides could result in hardening of the conflict. It reduces the speaking time for the parties directly involved.

Task 2: Talk	International Literature Review	Learned at project visited
What is the issue?	How to communicate, negotiate and solve the problem with the other party?	<ul style="list-style-type: none"> - Parties may develop solutions which are not in accordance with the law, which ASK cannot support - Documents and other information may be incomplete. - Difficult to find a trusted third party - Difficulties to connect psychological and legal approach
General approach for this issue?	Support integrative negotiation (interest based, problem solving)	
What are best practices for dealing with this issue in a low cost and effective manner?	<ul style="list-style-type: none"> - Communication, active listening, questioning techniques - Reframing and adjusting perceptions - Managing emotions and interaction - Improving relationship, recognition, apology, supply of coping skills - Standard format integrative negotiations (identify interests, issues, explore win-win solutions) 	<ul style="list-style-type: none"> - Creating a friendly atmosphere - Parties are congratulated for coming to the mediation and taking part - Objective viewing of the information aids in coming to a solution - Ensuring the parties have their views and opinions heard - Applying a set of 'ground rules' to which the parties must adhere during the mediation - Ensuring potential solutions from each party are heard - Providing time and space for information to settle in. - Build a bridge from a neutral perspective - Provide information about the law and legal solutions in order to incentivize parties to talk and find a solution
What are possible microjustice tools (formats or other tools that standardize the best practice and make it possible to deliver it at lower cost)?	<p>Questions and formats for uncovering and making transparent:</p> <ul style="list-style-type: none"> - Problem as experienced by client - Problem as experienced by other party - Communication barriers - Interests of each of the parties - Possible solutions - Distributive issues - Outcomes - Ways to induce compliance <p>One document processes information for all tasks</p>	<ul style="list-style-type: none"> - Standard rules for communication that parties have to follow of during the mediation - Ensuring that multiple meetings are possible to aid decision making - Methods can be professionalized and scaled up - Tools from other countries can be added
Other remarks?		

Negotiating a solution is not only a matter of communicating and finding solutions that suit the interests of both parties. Many issues are distributive (maintenance, child support, amount of share in inheritance disputes, amount of dower when no concrete figure is agreed upon). ASK facilitators often focus on the amount of

dower that is agreed upon and tell parties the woman has a right to it. For maintenance, no clear and concrete guideline or formula exists.

Clients need a fair and reasonable solution of their problem. They need to know what they are entitled to and what an acceptable outcome (Task 3) is. Knowledge about rights and communicating this to clients are a big issue for the legal aid providing community in Bangladesh.

Task 3: Share	International Literature Review	Learned at project visited
What is the issue?	How to determine what is a fair, just outcome for the problem, in particular for the distributive issues (how much does the client get, when, etc.)? How to determine whether an offer by the other party, or an outcome achieved by a lawyer or judge is sufficiently fair?	<ul style="list-style-type: none"> - Sharing rules for maintenance are not clear - Judges have no clear policy in these issues - High uncertainty - A clearly defined guideline for inheritance issues exists - ASK deal overwhelmingly with women who are suffering difficulties due to marital problems. These include domestic abuse, but also include dower problems. Enforcing such dower issues is a matter of facts. If the dower has been agreed upon at marriage, the wife is entitled to it, and so negotiation on the amount to be paid is difficult.
General approach for this issue?	Supply information about fair shares/solutions (sharing rules, objective criteria) as obtained by others in similar situations.	<ul style="list-style-type: none"> - Information about rights
What are best practices for dealing with this issue in a low cost and effective manner?	Supply objective norms and criteria for three/five most common issues in most common disputes that: <ul style="list-style-type: none"> - can be applied easily; - weigh similar elements for both; - give a continuous range of outcomes, not binary answers (yes/no); - belong to the parties (legitimacy, fairness, appropriateness); - allow for adjustment to situation: - are not exclusive; - show what others did in similar situations; Make this information widely available through internet or other means	<ul style="list-style-type: none"> - ASK can act as a money-handling service between the husband and wife. The husband will give the dower money to ASK, who will then give it to the wife. - Use of installment payments where money is due to make it possible for the husband to pay the dower.
What are possible microjustice tools (formats or other tools that standardize the best practice and make it possible to deliver it at	<ul style="list-style-type: none"> - Description of standard issues (f.i. child support, house, in case of divorce) - Norms, criteria, formulas for fair outcomes - Web interface, plastic cards, mobile phones to spread this information 	<ul style="list-style-type: none"> - Tool to make sharing rules more transparent - Tool to support norm articulation by parties - Simplification of legal information so that clients and other parties know what they are legally entitled to or responsible for.

lower cost)?		-
Other remarks?		

There may be opportunities here, if ASK and other legal aid organizations could focus on publishing the information that has been found to be most useful for beneficiaries; what are the processes that they are likely to go through, and what did other people in similar situations receive? Such information would help to prevent or adjust the unrealistic expectations or even illegal solutions that parties have and propose according to the facilitators. If ASK can objectively show what the concrete outcome can look like, parties probably are more willing to accept it.

Using objective criteria (formulas, schedules that help to calculate a reasonable sum for maintenance or payment of dower in case the husband cannot afford it now) as a focal point for distributive negotiations is relatively new for them. This might be a helpful tool that could be developed.

In order to get a fair result, beneficiaries also need the option of a decision by a court or another neutral decision maker (Task 4). In this way, legal aid providers may put pressure on the other party to cooperate to a fair solution. If existing procedures can be streamlined, or new procedures before neutrals can be created, access to fair and reasonable solutions can be increased. Besides streamlining their own processes when bringing cases to court, organizations providing legal services may also be able to influence how courts operate.

In Bangladesh, court procedures are slow and bureaucratic. ASK's lawyers try to speed up court proceedings in individual cases, but they feel this is not very effective. A more coordinated strategy to simplify and speed up court procedures would be helpful.

Task 4: Decide	International Literature Review	Learned at Project Visited
What is the issue?	Decision making procedure	
General approach for this issue?	<p>Make option of a neutral decision available (at low cost) so that</p> <ol style="list-style-type: none"> 1. there is an additional reason to meet and start talking (Task 1), particularly for those defendants who are better off in the status quo than they expect to be after a fair solution of the dispute. 2. The defendant has reasons to make moves towards a reasonable solution. 3. There is supervision of the negotiations (Task 2 and 3), because both parties know they can be called in to evaluate their conduct in negotiations. 4. Someone can decide if negotiations continue to fail. 	<ul style="list-style-type: none"> - Court decision processes have many problems, including the length of time processes take due to the backlog of cases, the costs in terms of stress and negative emotions (see section IIIB), and the possibility of corruption affecting the outcome. - Local decision makers are available (in the local shalishes, chairmen) but that they are not trusted by clients or NGOs to make fair decisions. They are thought to only make decisions which correspond to the interests of the powerful party. - Courts are not always stimulating settlement, see procedure as one of deciding on claims
What are best practices for dealing with this issue in a low cost and effective manner?	<ul style="list-style-type: none"> - Simple procedure (oral presentation, hearing, decision) - Judicial/neutral case-management and information processing - Online formats for defining interests, distributive issues, possible solutions, decisions - Stimulate cooperative attitude - Procedural justice: voice, participation, trustworthiness, neutrality, interpersonal respect. - Discussion of possible objective criteria for outcome - Integration of decision making and settlement - Mild time pressure - Preliminary judgments in more difficult cases - More generally: minimize sum of decision costs and error costs 	<ul style="list-style-type: none"> - Family members are invited to the mediation procedure, and may be able to assist in helping the parties come to a decision.
What are possible microjustice tools (formats or other tools that standardize the best practice and make it possible to deliver it at lower cost)?	<p>Protocol for organizing neutral forum if no accessible forum exists</p> <p>Protocol for questions, dialogue with judge/existing neutral forum that shows clients procedural needs (empowerment) and invites neutrals to reorganize procedure to meet these needs</p> <p>Web</p> <p>Materials for NGO's such as Amnesty and others that can influence neutrals</p>	-
Other remarks?		

Once a solution has been obtained, it should be made clear to all the participants. Also, compliance with the agreed (or imposed) solution should be ensured (Task 5).

The lawyers working for ASK do not have systematic approaches for organizing compliance. The desire to have more regular follow up meetings with their clients was expressed several times by the facilitators. New strategies to increase compliance may have to be developed so that the services of ASK can become more effective.

Task 5: Stabilize	International Literature Review	Learned at Project Visited
What is the issue?	Transparency of the outcome (what has been decided by the parties and/or the neutral) and organize compliance	<ul style="list-style-type: none"> - Enforcing decisions can be difficult as uncooperative parties know that the court system is very long - Little help police and authorities
General approach for this issue?	Supply tools to make arrangements explicit; Make costs and benefits of compliance higher than those of non-compliance	<ul style="list-style-type: none"> - Use moral influence to move bureaucrats. - Stimulating settlements (evidence that compliance to settlements is higher than to judgments). - Increase social pressure by engaging third parties such as local leaders Imam, etc. (one of the ideas suggested during the facilitators workshop) -
What are best practices for dealing with this issue in a low cost and effective manner?	<ul style="list-style-type: none"> - Standard online negotiating, settlement, and decision documents for most common disputes and issues; - Informal compliance mechanisms (reputation, reciprocity, identification, authority) - Registrations (may be costly) 	<ul style="list-style-type: none"> - Use of follow-up to see how the agreement has been upheld by both parties. If there is a problem which is discovered during the follow-up, then another mediation session can be used, with an ultimate possibility of litigation.
What are possible microjustice tools (formats or other tools that standardize the best practice and make it possible to deliver it at lower cost)?	Protocol with description of steps for inducing compliance gradually Web transparency (gradual shaming) Local publicity	-
Other remarks?		

D. Legal Information and Education Strategies

ASK have a number of legal information and education strategies. These are an important part of the legal empowerment strategy of ASK, and there are similar strategies for other legal aid providers in Bangladesh.

Many different methods are currently in use to distribute information about legal aid, the law and rights to people throughout Bangladesh:

- Information about general rights, such as constitutional rights

- Workshops with beneficiaries to share information
- Training women about their rights
- Training influential persons (Union Parishads, teachers, village elders, doctors, ward councillors, local representatives)
- Training sessions with police and military cadets
- Creating community Legal Aid Groups (CLAIGS) who spread knowledge
- Individualized advice to beneficiaries
- Drama groups providing information about rights through acting
- Local Legal Aid clinics with partner NGOs which provide assistance in accessing government legal aid

Developing the groups which disseminate information further can be a time consuming business:

"In 1999 we had only one mixed group. The group was mixed as we met resistance from families to allowing women to attend and become involved. We set up trainings and workshops as interventions in various communities. In 2003/4 the communities began asking for female involvement as they felt that it was important that their perspective was being taken into account. Now we have set up all female watchdog groups. Women are becoming more aware, and willing, to speak up about abuses. The process is and has been slow, but there is steady development in both the people and organisations involved. Women become more visible in the communities. We also encourage the exchange of ideas between locations, and in 2009 we held a conference of all of the different groups, who could then exchange their ideas. The groups are organised into 'federations' who now organise and motivate themselves. ASK no longer gives them any money or much support, they organise their own meetings and get-togethers." (Initial meeting)

Additionally, there are further difficulties in developing an awareness of rights and the law among vulnerable women:

"We train women to know their rights, but they go back to their husbands, and tell them what they have learned. Their husbands then realise they are learning a lot and they don't like it, so they beat them and prevent them from coming to the training." (Partner Legal Aid Practitioner)

Information dissemination was a frequent topic discussed during the meetings. Issues identified by the facilitators and management of legal aid organizations as problematic were:

- The large target audience (150m people)
- The rural location of the majority of the population.
- Organizing the process of dissemination of information in a low cost manner
- Sharing this information with other organizations. How can this be done?
- Is information sufficient to empower people? What other backing to they need?

Legal awareness is seen as an important strategy, contributing to empowerment. Many of the activities of ASK are aiming for this (theatre groups, movies, training of local women and important persons).

In addition to this, a need for more practical information about how to determine maintenance also emerged from the facilitators workshop. All facilitators know that the wife has a right to maintenance, but no one knew how to concretely determining this or support their clients in determining what is fair. More systematic efforts in developing objective criteria for this, could help them.

In this respect it is also interesting to note that the respondents to the survey also indicated their dispute resolution needs. The order of preference from the survey clearly pinpoints their need for legal information:

1. Having more information about fair and just solutions to such problems ;
2. Getting more help with contacting, talking, and negotiating with the other party;
3. Improvements in the way neutral persons investigate the problem and make the other party cooperate to a fair solution;
4. Receive help with letting the other party do what he/she has promised or should do.

E. Measuring Performance from Perspective of Clients

ASK has a good practice of follow up: contacting clients after 6 months to 2 years in order to find out whether the services delivered were satisfactory, and solutions reached have worked in practice. Building on this, the research unit of ASK is preparing a client satisfaction study. This is rather unique, not only for an NGO, but for a legal service provider in general. ASK is taking a leading position in measuring their performance and learning from this.

The impact of this study could be enlarged by comparing the perceptions of ASK clients to people who did not seek assistance of ASK but followed a different strategy. For instance, people who dealt with their case through a shalish or a village court.

VI. Opportunities

In this section, we discuss the opportunities for further development of the legal empowerment strategies of legal aid organizations in Bangladesh, and for ASK in particular.

A. Legal Information and Education

The development of standard information in a more structured manner, may benefit both legal aid providers and their clients. The survey clearly identifies that clients give obtaining more (legal information) a high priority (see Section V.D). They especially like to receive more information about fair and just solutions to problems. The facilitators also suggested delivery of information as a priority (Section IVB and VD). Making this information widely available through the outreach, media and the web can lead to people coming to solutions between themselves at an earlier point in the process. Information on key issues for clients such as how long average litigation takes, how often and effectively judicial decisions are enforced, and what level of payment they can expect provides the clients with valuable information that can help them and the other party in coming to a decision together, in the shadow of the courts, rather than requiring litigation to find the answer. Objective criteria such as these as a start of negotiations can also prevent clients having unrealistic expectations in regard to both the process and also the anticipated outcome, and may prevent clients looking for solutions that can be illegal in some circumstances.

When informing the women about their rights, the state of the art way of providing information moves towards a form that is understandable for the clients without having to consult an expert (Buck, Pleasence et al. 2008). Examples and stories are essential ingredients. Moreover, the information is tailored to the problem at hand, arrives just in time (when needed to act upon) and is sufficient to cope with this problem, promoting self-reliance. So it will contain information about the process and about the likely outcomes, and offer a (limited) number of options (Lawler, Giddings et al. 2009). In case of a divorce, the package may entail information about how to cope with the divorce situation at home, legal information about what are normal outcomes for child support, custody, and

property division, as well as the processes of negotiation and addressing a court, which is sufficient for a litigant who does not have a lawyer (Van Wormer 2007).

Organizing the supply of legal information requires a specific organizational model, however. It requires economies of scale, because collecting and presenting the information in an accessible form (a leaflet, a film, on line) can take a lot of time and effort. Once this has been done, however, the costs of distribution of the information to an additional client are usually quite low. For an NGO (or a law firm) that serves a limited group of clients, this is hardly a feasible model. The costs per client served with the information will be high, and the information can easily be copied by other NGO's or commercial competitors. In some other countries a specialized NGO takes care of this, that is funded through membership fees. Some western countries have also set up government legal information programs.

When considering such a program, the following types of information can be distinguished. Each of them may require a different approach, and a different organizational model.

- There is *general (international) knowledge* (skills of negotiating, preparing a case for court, putting pressure on people, good solutions for domestic violence and other frequent legal needs, procedural justice norms). This information can be shared across borders, making huge economies of scale possible, but there are additional costs of translation and possibly of adapting to local tastes.
- Much legal knowledge is *country-specific knowledge* (the rules of substantive law that are really needed to solve the problem, some rules of procedure, generally observed social norms, going rates at courts and in negotiated settlements). Here the format for presenting the information can be similar across borders (adaptation to language and local tastes is necessary), but the content differs from country to country.
- There is also a fairly substantial amount of *local knowledge* involved (where to apply in this municipality, how does this particular court work); this is the type of implicit knowledge many lawyers offer to their clients. Economies of scale are much more difficult here, although local social networks may provide them.
- Finally, there is *client- and case specific knowledge* (facts of the case, interests and characteristics of the parties involved, people who may influence the other party). This information is usually provided by the client, by the lawyer contacting the other party, and hearing his perspective, or by experts collecting evidence. The know how involved here is mostly asking the right type of questions. Formats for collecting this knowledge can be fairly general, and may be provided on line. Lawyers who help clients in individual cases ask similar questions throughout the world and use rather similar formats for their documents. So some economies of scale are possible here again.

B. Dispute methods: Integrate approaches

Strong points of the mediation and litigation services offered by ASK are the prompt delivery and the well planned monitoring and supervision. The follow up system (asking clients 6 months to 2 years later about their present situation) is very advanced in comparison with similar services elsewhere. ASK also offers mediation and litigation services as complements, but there seem to be some opportunities here. Presently, the mediation is offered by lawyers, and is somewhat focused on what the law has to offer and on what the law allows (see Section IVB). Interest based mediation is becoming the state of the art internationally, and is at the basis of a more problem solving approach to (legal) negotiation.

Specific opportunities for using best practices from other countries are:

- More awareness and building in the process of husband's needs. If the husband feels his needs are acknowledged, it may be possible to reach more durable solutions for clients). This will also allow the facilitator to take a slightly more neutral perspective, which can be very effective.
- Domestic violence and dowry-type cases can be negotiated and mediated, because the couple has to live with the consequences, and has a keen interest in dealing with these problems in the future. This

does not imply a compromise on illegality or acceptability of these practices. This is especially true in situations where clients can expect little from law enforcement by the police, or when they are seeking to continue the relationship, in spite of these illegal acts by their husband.

- ASK started with courses on counseling for all personnel, and this is in conformity with international best practices that indicate more use of counseling/mediation techniques (questioning, interest-probing (what are needs, wishes, fears?), summarizing).

ASK may thus be able to benefit from an integration of legal and psychosocial approaches. In many countries, lawyers and paralegals combine these techniques and skills to create added value for service users. As ASK already have carry out both the legal and psycho-social approaches independently, there is an opportunity for the skills to be shared between the groups to develop a service that adds to the experience of service users through developing a 'one-stop' services. This type of service provides an opportunity for the development of solutions for the client which are sustainable and manageable for both parties.

Increased use of psycho-social skills in the mediation process (active listening, re-framing, identifying win-win solutions) can also enhance the effectiveness of the facilitation. Asking questions that establish the reasons for the clients claim and the interests that they have can help the development of practical and fair solutions.

This would even have a bigger impact if ASK and partners could influence judges to use a more problem solving approach. Just as legal aid providers, judges intervene in people's lives. Knowledge about basic psychological processes in divorce cases can make family courts more effective.

C. Improving Court Procedures

During the action research there were many complaints about the court procedures in family law. The major problem seems to be the time taken for a case to reach a conclusion. The clients of ASK and other legal aid providers are clearly suffering from the length of time it takes to resolve a dispute. It is essential that courts decide cases faster because the effectiveness of mediation depends upon a credible threat of a solution through litigation, should the mediation fail. If every man in Bangladesh knows that litigation will take many years, it is likely to encourage non-cooperation in the mediation process and where there is cooperation, allows the man to dictate what he is willing to offer, rather than what is a just outcome that reflects the legal rights of the partners.

Simpler court proceedings (e.g. oral presentation, hearing, decision) combined with better case management processes can greatly reduce the time taken to reach a decision. Providing standard formats (for example online) for submissions to the court can also speed up the process once it reaches court.

In Bangladesh the compulsory mediation period with the judge in family cases provides a clear opportunity for this work to be developed. This procedure is happening in other countries as well, and it has shown to reduce conflict in divorce cases and to improve the welfare of children of divorced couples. Additionally, the added presence of the judge can help to convince the other party to engage in constructive negotiations.

It is clear that ASK's lawyers by acting in individual cases will have little impact on the court procedure. But ASK's well developed advocacy skills (see Section IVC) may be used to pressure the courts to give a better service and to show them experiences from elsewhere how to organize their work (see Section VC, Table 4, Decide).

D. Scaling Up and Sustainability

There are opportunities for ASK in the area of scaling up the legal aid services and making them more sustainable (see Section VB). The current business model of ASK is based on funding being sought from donors to support activities in the field. These activities are therefore subject to changes in funding sources and to the needs and wishes of donor organisations. Sustainability may be facilitated by looking to find more sustainable sources of funding.

In many countries the use of non-lawyer paralegals has enabled mediation and legal advice services to be spread far beyond the reach of staff lawyers. Utilising volunteers for mediations and legal information reduces the cost of supporting clients. Developing the existing outreach services into the direction of a more neutral model for interventions through facilitators seems to be possible. The strategy suggested by the existing ASK approach and by best practices from elsewhere is that legal information and education can enhance self-help, that local facilitators can offer a first line of help by assisting with contacting the other party, mediation and mobilizing local processes (shalish or village courts), whereas a back up is provided by lawyers giving more specialized advice, and/or doing non-standard litigation.

Gradually, sustainability can also be developed in this way. The survey of legal needs demonstrated some willingness to pay for legal aid. Although these results should be viewed with caution, they indicate that there may be a future in utilising paralegals in mediation work which is funded at least in part by contributions from the clients. Additionally, other aspects which can be considered for ASK include direct donations from people in the developed world to the legal aid centres. Other organisations in Bangladesh also make a small charge for training packages, which can help develop the sustainability of these activities.

VII. Conclusions

The situation in Bangladesh in general and at ASK has produced a setting with a variety of needs. The huge number of individuals in the target group of ASK creates a need to develop ways to scale-up legal aid provision and deliver high quality services to a larger number of individuals. There is also a need to improve the working of the formal legal system to ensure that it provides the solutions necessary for some clients, and to improve the problem solving approach utilised within ASK to ensure that sustainable solutions are reached in all possible instances prior to use of the formal system.

This report supports the views voiced during the research that the formal legal system does not deliver solutions for the most vulnerable clients. Time delays, expense and corruption all combine to produce a system which is loaded against poor and vulnerable clients. ASK provide extensive services to 'level the playing field' for poor and vulnerable clients, but these services require a large time and resource investment which is difficult to sustain as a greater number of individuals are helped. To reach a greater number of the target group, more emphasis must be placed on working towards solutions outside of the formal system.

A. Organization specific Innovations

Through the action research with ASK, practices which represent innovations specific to ASK were identified and are highlighted here as practices which other organizations throughout the world may find useful.

Area of practice	Specific Activity
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Measuring performance	ASK systematically conducts client satisfaction level by surveying people that made use of their services.
Dispute Resolution Know-how	Paralegals of ASK pay former clients a periodic visit to ask them whether everything is fine, if the previously found solution still works, and if they are currently experiencing any other problems.
Enforcement Mechanisms	ASK act as a 'middle-man' in the financial transaction between husband and wife, to ensure that the wife receives the money that is agreed.
Engaging the Parties	Involving people around the client and the defendant to motivate parties to take part in the mediation

B. Opportunities for exchange of good practice between legal aid organizations

The investigation of ASK's working methods have enabled us to identify ways in which ASK might benefit from international co-operation to further improve both their own, and other organizations', working methods. During the action research, the desire to learn about working methods and legal aid provision in other countries was frequently expressed, and it is clear that there are a variety of opportunities for ASK to follow this up. The table of organization specific innovations highlights the contribution that ASK can make to the community of legal aid providers, and the comparison of the various strengths and weaknesses of the organizations in the overall conclusions paper demonstrates the availability of techniques that ASK may benefit from.

Participation on the microjustice workplace (to be established August 2010) will provide a forum in which they can both provide information from their own practice and experience, as well as learning from the ways in which others carry out legal aid provision. This may be of particular interest to ASK in relation to developing enforcement mechanisms following mediations, as well as methods to identify and utilize a neutral decision maker in the case of a deadlock between the parties.

C. Suggestions for improvement and further research

i) Specialization of activities

ASK currently carry out a wide range of activities to assist the poor and vulnerable in protecting their rights. This wide range of practices can be an asset in terms of spreading organizational risk, however each activity may require different business models. The model which best fits delivery of legal aid on an individual basis may be very different to that which best fits public interest litigation. Maintaining the large variety of activities of ASK under one model can make reaching a larger number of the target group very difficult.

ii) Strengthening mediation techniques

There is a lot can be gained form increased reflection on, and professionalisation of, practices and techniques. This is relevant for ASK lawyers who carry out mediation, and it would be useful if best practices were further developed and organized. Mediation focused on practical solutions has been highlighted as a useful practice in other organizations studies (Haguruka), and may be of use where mediation is permitted by law in Bangladesh. Further collaboration

between ASK and other organizations both within and outside of Bangladesh could facilitate the development of such practices.

iii) Investigation of alternative funding models

Alternative methods of deriving funding may help reduce ASKs reliance on external funders, an area of concern that was identified during the management workshop. Examples are provided by Nagorik Uddyog who charge participants a registration fee for training courses, and Deme So/Wildaf in Mali who charge small fees for certain services provided.

iv) The following issues may have to be explored further

- Integration of problem solving approach (psycho-social, interests based and negotiation oriented) and legal approach during the entire process from intake to court decision.
- As discussed above, family courts may be stimulated to adopt an approach where clients are encouraged to focus on the interests of the parties. If courts expect from the clients that they agree on a good way to solve a problem, this is likely to influence their behavior.
- The various options to make the services available to a bigger proportion of the target group.

VIII. Literature

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