

# MOBILISING COMMUNITIES FOR ACCESS TO JUSTICE

*hand in hand, 'we' are opening the pathway for justice*



9

## Good Practice Report Series:

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# MOBILISING COMMUNITIES FOR ACCESS TO JUSTICE

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## Forward

The Community Legal Services Programme ends in July 2017. In the preceding five years, we have expanded access to legal services to an estimated 13.9 million Bangladeshis in an additional 16% of the country covering 1232 rural unions and urban wards. Most of our beneficiaries, over 74%, have been women and girls and survey research indicates significant increases in awareness of key legal rights and satisfaction with dispute resolution services in the communities in which we work. Our work has also improved use of legal aid assistance to the poor provided by the Government of Bangladesh. All this was possible through partnering with our NGO partners, drawing on their established expertise and building their capacities and skills to pursue high quality standards for legal service provision. Their remarkable improvements have yielded many examples of good practice that the team wishes to acknowledge and share with the broader community of stakeholders working on improving access to justice in Bangladesh and globally. This series of Good Practice reports is our attempt to do so.



Sincerely,

**Jerome Sayre**

Team Leader

CLS Programme

## Preamble

Community Legal Services (CLS) is a five year programme funded by UKaid through the Department for International Development (DFID). CLS is implemented by a consortium consisting of Maxwell Stamp PLC, as principal contractor, with the British Council and the Centre for Effective Dispute Resolution (UK), as partners.

The programme aims to provide greater access to justice for poor, marginalised and socially excluded communities in Bangladesh, with a specific focus on women and girls. Its overall objectives are to improve the quality and coverage of CLS in Bangladesh, build sustainability into the CLS Programme interventions of potential grant partners, and encourage and create an enabling environment for legal services NGOs and community based organisations to coordinate their activities for improved delivery of CLS to target beneficiaries.

CLS provides grants to local and national NGO partners to deliver programme activities. NGO grantees include both specialised legal services organisations as well as development-focused organisations that are being funded to extend the reach and access of legal services for the poor.

During the course of the programme, the CLS team has recognised partners' strengths in providing different CLS modalities with a series of BEACONS awards for 'shining lights of good practice'. The awards process set a number of performance categories for good practice and research has been carried out to document each of these. This publication is one of 13 that demonstrate how good practice can be developed and results achieved that improve the quality of community legal service delivery.



## ***what the good practice is and how it is used in the organisation***

As grants partners of the Community Legal Services (CLS) Programme, Sabalamby Unnayan Samity (SUS) and Community Development Centre (CODEC) implemented projects to ensure access to justice for poor and marginalised people in selected areas of Mymensingh, Netrokona and coastal areas of Chittagong.

Both organisations promoted community legal services through Community Based Organisations (CBOs) and the Union *Parishad* Arbitration Council. They also improved access to the government's legal aid fund, aiming at maximising its use for justice seekers living in poverty. Community legal services were provided under three modalities i.e. Legal Information and Advice, Mediation and Referral Services.

The major activities of the projects were raising awareness through interactive community dialogues, courtyard meetings, dissemination of awareness raising and Information, Education and Communication (IEC) materials; providing legal information and advice through legal camps; conducting mediation; strengthening legal aid services committees from Union to *Upazila* to District; and providing capacity development inputs to all stakeholders.

To achieve this work, they created, formed and nurtured CBOs/*Manobadhikar Shongrokkhon Parishad*<sup>1</sup> (MSP) as SUS named it – as an innovative process.

## ***why and how the practice was developed***

Self-advocacy is the most effective way to advocate for our rights, community people believe, after the projects' interaction with them during the project period. Active and committed project workers remain vigilant in the community, to conduct courtyard sessions, organise legal camps, receive cases, conduct fact finding on cases, facilitate mediation and ensure follow-up with clients etc.

More than a thousand MSP/CBO members had been engaged in disseminating relevant information, conducting mediation and sending cases to project hubs. Beneficiaries were also proactive in promoting the legal services that are available through government and the CLS Programme in their communities.

### **We know, so we promote**

Both projects created awareness on legal rights, and the options available through free legal services. This awareness was promoted through courtyard meetings and project activity shared with stakeholders. They also distributed information through brochures, posters, flyers, and stickers, as well as installing billboards and signboards in key public places in the community. People were provided with a helpline number for legal services through stickers, flyers and posters. Many cases came from participants in courtyard sessions.

### **We care, we share**

The DLAC<sup>2</sup> was used by the MSP when necessary to provide for litigation for service users. Building a good relationship with the DLAC was important and this enabled a positive response to be received from that body. MSP ensured that every beneficiary was followed up, right to the end of their case and maintained case status records, which helped with the tracking of actions and progress. The fact that the MSP did this raised their credibility in the community.

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<sup>1</sup>To protect human rights

<sup>2</sup>District Legal Aid Committee

## step by step we become self-reliant

The MSPs were based at Union and *Upazila* levels, with representation from the different villages of a Union. They met once a month, to discuss incidences of rights violations, and to share experience in addressing these violations. Mediation sessions were conducted through MSPs, in collaboration with community traditional mediators. As part of the work with MSPs, gender sensitive mediation training was given to the MSP, and these bodies then transferred their learning and skills to the traditional mediators, through involving them in conducting community mediation.

## we are now a part of the process

The organisation became an Observer Member of the DLAC and regularly attended its bi-monthly meetings. This provided an opportunity to raise concerns and suggestions, as appropriate. Gradually, through the project, the MSPs became an integral part of the DLAC process. Before the project interventions, legal aid committees did not exist at either the Union or *Upazila* levels.<sup>3</sup>

### *the difference that this good practice is making to the work of the organisation*

#### we dream, do, we grow

Both these organisations were created to work with, not just for, the people. Their inherent philosophies of existence have always guided them to find ways that will engage people and light their pathways. The process that they followed, in this project, in mobilising people, has helped them to grow. This growth has involved become more receptive to people, and in designing their activities, both current and future, using the the learning from this project.

#### we grow within

Thus, peoples' forums are now a common factor in all their actions. Both organisations are in a process of moulding themselves with peoples' needs, and expectations at the centre of their work. And this will make sure that 'this Project' will remain alive, being an integral part of the organisation, and continuing into future projects.

The significant shift in emphasis and philosophy has been in moving from doing things for people to working with people. Additionally, this philosophy has extended into other kinds of partnership working – to work with, and not against, the state. What this has meant is that local elected representatives and administrators also feel more closely connected to the projects and their work.

### *the difference that this good practice is making to and with other stakeholders*

#### we grow together

These projects were designed to include secondary stakeholders in the project processes and activities. As a result of this deliberate design, local elected representatives, local administration, community leaders and local media have started becoming a part of the project.

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<sup>3</sup>Union Legal Aid Committee (ULAC) and *Upazila* Legal Aid Committee (UzLAC)





Elected representatives have become more responsive to an increasing level of ownership. The administration has extended its cooperation. The Media has started using stories from the project. Above all, community leaders have started considering this project as their own responsibility.

**it is hard but we will make it**

The key challenge is what will happen after the end of the project. All of the stakeholders are adamant that they will keep the initiative going

'We can make this happen. This is our problem. And we will solve it'

This is a significant achievement of the project, that its stakeholders see its value and want to take the ownership to keep the work going.

### ***the learning from the process of developing this practice and from its implementation***

**active and independent forums**

Both the Union Legal Aid Committee (ULAC) and *Upazila* Legal Aid Committee (UzLAC) have been dependent on the projects. The projects have supported both to organise regular meetings, and therefore both have been dependent on the projects for carrying out their roles. Until and unless ownership is developed, these processes will end. Some significant challenges were encountered with legal aid committees - it was found that ULACs were not receiving cases, whilst the projects were also not referring clients through the UP to DLAC, to avoid delay.

The UzLACs had an impression that their role is very limited, in referring clients to DLAC. A lack of monitoring and supervision of the UzLAC by the local administration was also found.

**a potential forum unutilised**

The projects organised Legal Camps in the community, with a team of professional lawyers. But very few service-seekers attended the camp. This was in the main due to the lack of effective

publicity through the MSPs. There were also some issues about the supervision of the lawyers and how effectively they created an interest on the part of the beneficiaries who came to the camp. As a result of evaluating this failure, these gaps were identified and the organisations are planning to identify ways to improve this type of provision.

### *areas for further improvement, if any*

#### **We look forward to improving**

Capacity development is a process. And any process should be capable of improvement. MSP Leaders are growing, growing gradually to develop their knowledge and skills to become more efficient rights leaders. Progressively, they are increasing their knowledge about the steps and documentation of conducting lawful, participatory and gender-responsive mediation. This will enable them to play a more effective role as community mediators. Continuing professional development of these MSP mediators will be important, as will supervision and coaching. These mediators are an important community resource for the future.

#### **we need active forums**

Village Courts and Arbitration Councils need to be active at UPs. UP secretaries should have a clear understanding about the roles and activities of both. The projects have worked to activate the ULAC to provide a referral service. The more that ULACs receive clients, the more it may refer cases to the DLAC, as and when required. The same process applies to the Village Courts. Therefore, orientation is necessary for UP functionaries, on the functions and operational procedures of both Arbitration Councils and Village Courts and the required documentation for effective process monitoring.

#### **what next...**

Both organisations need to increase the inputs and efforts in their awareness-raising programmes to maximise their coverage through multiple channels e.g. peoples' theatre, folksong, announcements through colourful three wheelers etc. They should also work in cooperation with elected representative to make courtyard sessions effective. Unless discussions are followed up with actions by the Ward Members, they will not be sustainable.

Both organisations should provide practical orientation on laws and the operations of Arbitration Councils and the Village Courts. They should guide the MSPs, how to manage the processes, provide secretarial support for case recording, the formation of these forums and how to conduct hearings in both of these forums.

They should organise gender-responsive mediation training for the MSPs, UP representatives and field-level staff, focusing on developing an environment for gender responsive, participatory and lawful mediation, which includes a case handling system by UP and MSP members. A detailed Salish manual, with the processes and good practice, should be provided to MSP members and UPs.

Cases to be referred to the ULAC should start coming from the MSP for legal aid services, so that the ULAC becomes more familiar with the process. At the same time, female UP Councillors should be engaged to promote MSPs, their courtyard sessions, and legal camps. Practice learning and knowledge management should become an integral part of the organisations - involving staff, stakeholders and service recipients - using the tools and techniques that were provided by CLS.

### Case Study 1 - CODEC:

AB is 27-year old. Her father is a farmer, who lives in Kanaimadari under the Barkol Union of Chandanaish. As the family was extremely poor, AB did not go to school and she cannot read or write, except to write her signature.

AB was pursued by a married man, J, who already had two wives. Believing his promises of marriage, she was involved with him for three months in an extra marital affair. When AB became pregnant she asked J to marry her but he refused to take any responsibility for the pregnancy. He tried to force AB to have an abortion but she refused to do it. AB said about J that he is a characterless man. "He married twice before marrying me. He just cheated me and took a benefit from me. The whole society stood against me and my family but no one blamed J. I ran door to door for justice but all refused me with negligence. I faced extreme verbal abuses from community people and family members but I was determined not to have an abortion."

When J refused to take any responsibility, AB went everywhere for justice but no one stood beside her. At that critical time, AB got full support from CODEC under CLS Programme. She came to know about the programme through a courtyard meeting in her village. AB went to a Legal Aid Clinic and filed a complaint against J. The Legal Aid Clinic sent notices for a hearing but J refused to comply with them. After three notices had been sent, the Legal Aid Clinic referred the case to the District Legal Aid Clinic. J refused to answer notices sent from here, as well, and as a result the case proceeded to court. The court issued an arrest warrant for J and he was arrested by the police. After 11 days in jail, he agreed to a mediation, He confessed his guilt and agreed to marry AB, with a dower of BDT 100,000/-. The marriage did not last for long, as due to ill health, he died within two months of the marriage.

AB is very grateful to the CODEC for standing beside her during this bad time of her life. Thanks to the project, she was ensured recognition as J's wife and the recognition of her marriage enabled her daughter to get a birth certificate that acknowledged J as her father, and with a birth certificate, she was able to get admission to school. AB wants to ensure that her daughter gets a proper education. AB participates in every courtyard meeting now, and shares her experience with the community.

### Case Study 2 - CODEC:

AL is a 21-year old woman, who studied up to class V. Her father is a day labourer. She wanted to learn sewing so that she could be independent, but she did not achieve this, as she got married when she was 16-year old. Her husband was a waiter in a hotel, and he received BDT 30,000/- and a full set of furniture as dowry. Her husband's family also demanded five gold rings, for her five sisters in law. This demand was totally unexpected by AL's family. On the first day of her marriage, she was verbally abused by her mother in law and sisters in law, with demands for gold. She could not enter the house of her in-laws until neighbours intervened.

Her husband tortured her for more dowries. She was beaten up by him almost every night. Many times, she was forced to leave her law's house to get money from her paternal house. To be able to survive, AL was forced to work as a maid servant. After she had given birth to a daughter, she returned to her parent's house. Her parents paid all of the expenses for the birth, her husband having deserted her at this time. But she subsequently returned to her in-laws house when her husband wanted to contract a second marriage. But the torture started again.

AL and her family tried to resolve matters with the help of the local Union *Parishad* but Ramjan

did not attend the hearing. As a result of learning about CODEC under CLS Programme, she went to a Legal Aid Clinic and filed a complaint about her husband and her mother in law, citing domestic violence. It appeared that her husband did not receive the first notice to attend a hearing. But as the result of a second notice, which was enforced by local Union *Parishad* and Coordination Community leaders, her husband had to attend the Legal Aid Clinic. For the mediation, the local UP Chairman, two UP members, Coordination Committee leaders, lawyers and family members of both sides were present. During the mediation, AL's mother in law and husband confessed to their guilt. They promised not to torture AL for dowry. Her husband also promised not to remarry and to take responsibility for his family. AL does not feel helpless – and she and her husband are living together. She now knows that the law can be used to ensure support for people like her, faced with the abuses that she was subject to.

### Case Study 3 – CODEC:

BP is a 48-year old woman, who is married to a fisherman. They live in Nayori Para village under Latachapl Union of *Kalapara Upazila*. Twenty one years ago, she leased 1.81 acres of land that she owned to four men, for share cropping. Initially, they paid her in paddy, as agreed. However, in the fourth year of the lease, they claimed the ownership of the land, provided fraudulent documents and forcefully took over the land. They threatened BP that if she claimed her land, they would murder her, along with her husband.

The dispute was impossible to resolve. The local UP chair tried many times to mediate the case, but the fraudulent claimants to the land refused to attend. They started abusing BP and her family members. This had a significant effect on the family – her son gave up school after threats, and three times, her daughter's marriage prospects were affected by whispering against them. BP felt helpless.

BP came to know about the CODEC free legal support from a courtyard meeting at her village. She went to the Legal Aid Clinic and filed a complaint against the four men on 17 January 2015. The Legal Aid Clinic issued a notice to the opposite party for a hearing. As a result, the Legal Aid Clinic lawyer tried several times to achieve a mediation but could not resolve the matter.

At this stage the Lawyer took the initiative to involve the Kuakata municipality chairman to mediate the issue between the two parties. The mediation meeting was held in the n Union *Parishad* hall, in the presence of the two parties, the municipality chairman, the local UP chairman, UP members, community leader and members of the coordination committee. Both parties presented their proof documents in relation to the land claims. The jury examined both documents and found that BP had a rightful claim to the land. The opposite party confessed that they had cheated Arul Begum with fraudulent documents. A Coordination Committee member of the CODEC took the responsibility to ensure that possession of the land passed back to BP.

BP and her family members are very happy with the support they received from the CODEC. No one else was interested in helping her, mainly due to the social influence of the men who had fraudulently stolen her land. BP said, "I was helpless. I ran from door to door for local arbitrators for years but the result was zero. But with the professionalism of the CODEC, I got back my land after 21 years. It is a great joy for me. All of our family members were feeling insecurity for years and years, due to those who took my land, but now we are mentally strong enough to fight against illegality and obtain our rights." Now BP is participating in each courtyard meeting and sharing her success story to all.

#### Case Study 4 – SUS:

SK is 25-year old. She got married on 3 June 2008. SK and her husband have one daughter, aged about 6-year and one son, about 18-month old. While SK was pregnant with her second baby, her husband went to Dhaka to look for work. He was not away for long, but SK realised on his return that he was showing less interest in her. And he started to mentally abuse her. The situation was deteriorating day to day.

Once, her husband came home from Dhaka with a woman. He introduced her as his second wife. At first, the members of his family did not accept his second marriage. But after some days, they all accepted his second wife. Then he started increasing the torture of SK, to provide written permission for his second marriage. But she did not agree. So her husband confined her inside the house. SK was effectively a prisoner. She was not allowed to communicate with her parents. Her husband also issued threats to kill her guardian if she told him about the second marriage. But SK's mother was informed by some neighbours about the situation SK had been placed in. She communicated with two members of the local Manobadhikar Sangrokkhon Parishad (MSP) which was organised with the assistance of the project of Sabalamby Unnayan Samity (SUS). This forum was set up to work for the establishment of human rights of distressed people. After hearing the complaint, the MSP members went to the Officer-In-Charge (OC) of Madan Police station, with SK's mother. On receiving the complaint, the police went to the house where SK was being held captive and rescued her. The Police advised her to file a case against her husband.

SK contacted the union legal aid committee with the assistance of MSP. In August 2015, she filed a case to Nari O Shishu Nirjaton Doman Tribunal Court against her husband. Later, the court issued warrant order against him. Despite witnesses being ordered to attend the court, the husband requested delays in the date of the hearing. He then went to the High Court and obtained a writ to stay the case in the lower court for six months. SK will be supported in this case by Ain o Salish Kendra (ASK). SUS is helping her communicate with ASK.

SK also filed another case in the Family Law Court, demanding maintenance for her and her children. SK said, "It was not possible to file a case against my husband if SUS, MSP, Legal Aid Committee did not help me". SK's mother said, "It was impossible to protect my daughter if MSP Members did not help me. I never thought to go to police station alone". SK is currently waiting for judgments in both of the cases.

#### Case Study 5 – SUS:

AS is 24-year old. She studied up to class five. When she was 19 her parents arranged a marriage for her. Her husband (J) was an agricultural worker, who subsequently went to Dhaka to work in the garments industry. They lived together for four years, having a son after three years of marriage. The problems arose when the husband went to Dhaka to work in the garments factory. There he became involved in an illegal relationship with D, the wife of a Bangladesh Border Guard. At one point D got married to J through registry, after divorcing her previous husband. J did not get permission for this second marriage from his first wife; he initially hid the relationship from her and his other relatives. For the last two years, he did not pay any maintenance for his family, even when he went to the family home from Dhaka.

J's father was struggling to maintain the family and AS found out about the second wife J returns from Dhaka and is physically abusive to AS. Her father-in-law arranged arbitration by the Union Council Chair, in his (father-in-law's) house. The arbitratin decided that JI will

maintain two wives, but the second wife, D, will not come to her father-in-law's house. Despite this decision, it was clear that J had no interest in providing maintenance to AS. J and his second wife D quarrel with her over the phone. Her father-in-law was also not willing to maintain AS and her child, as he was not a rich man. AS at this stage decides to return to her parent's house.

It was now suggested to AS that she takes out a case against her husband through the court. She was concerned that this would be a long process. However, with the support of the Union MSP, she gets in touch with SUS. In August 2016, she submitted a complaint against her husband. The case was then referred to the Union Human Rights Council and *Upazila* Human Rights Council. They decided that they will arrange arbitration jointly. The consent of both parties to the arbitration was provided and in September 2016, the arbitration was arranged in a local SUS office.

Local elites, the local journalist, *Upazila* and Union council MSP members, SVAW committee members and Kohinoor Begum from the head office of SUS were present at the arbitration, along with the complainant and the defendant. The Chairman of the Union Council was also the Chairman of the arbitration. After hearing the argument of two parties they reached a decision. J would bring AS back from her father's house with some degree of ceremony. He would remain with her for seven days and then he can go to Dhaka. He would send his second wife away and return to his home village to continue his conjugal life with his first wife, live with his parents and also earn money. In this regard, the chairman and other family members will help him. Within one year he will divorce his second wife as per the law. In this transitional period, he will send BDT 3000/- to his second wife as maintenance. Agreement to this decision was reached by both parties, and it was formalised and signed. A Union Council member and an MSP member took the responsibility for implementing the decisions.

After the arbitration, J says that he was wrong. He now wants to return to his previous life with his first wife and child. AS is content and thankful to the project and SUS officials.

#### **Case Study 6 – SUS:**

N was a victim of dowry. She was married to R and their marriage appeared to be happy apart from the issue of dowry, which was being pursued by R. On one occasion, R grabbed their child and forced N out of their home. She at this point had to move to her parent's house.

Legal Aid Support Officer, Mahbul Alam, found out about the situation and he helped N submit a case for rescuing her child. The case was submitted for criminal procedure under Section 100 of the Dowry Prohibition Act in April 2015. The case is supported with legal aid. A warrant being granted by the court, it was taken to the police for execution. The relevant Union *Parishad* chairman was informed and the child was rescued by the police. The mother (N) had been given custody of the child by the court.

R and his family understood what they had done wrong and were interested in bringing N back into their family. They appealed the decision to the court in July 2015, to restart a conjugal relationship. Their appeal was granted. N has therefore returned to her husband and his family, where she is now treated with respect. The role of SUS in resolving this issue is duly acknowledged.

## Methodology

what was the process...

The process was divided into the following three stages:

- a. Preliminary Research
  - b. Field Study
  - c. Analysis and Drafting
- a. Preliminary Research: This was based on documents that were provided by CLS and y the organisations. This covered baseline reports, periodic reports and other publications with IEC materials.
- b. Field Study: Field study was at the heart of this process. The field mission started with a dialogue with the heads of the organisations, their senior leadership and the project lead. We needed to understand why they created their projects. Then we had focus group discussions with the project teams. This was intended to learn about the excitement, enthusiasm, challenges and learning that they went through.
- Then we went out to meet with the secondary stakeholders to hear their views, their feedback and expectations. Finally we met with the primary stakeholders. All that we have read and heard was checked out in conversation with people. Our interviewees in the field gave us insights, gave hope, gave belief that this process will continue...
- c. Analysis and Drafting: It is not easy to capture peoples' lives in few pages. The hardship, the daily challenges- crossing hurdle after hurdle, in few pages. So, the story should be absorbed with information, facts and words. The full story may not be, but the told, but it is hoped that some sense, some essence of it will be conveyed by the report.

## CLS PROGRAMME

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