Evidence-based e-government policies for advancing governmental service delivery and accountability in support of the Sustainable Development Goals

A joint project of
- United Nations Department of Economic and Social Affairs (UNDESA), and
- Access to Information Programme, Government of the People’s Republic of Bangladesh

Rule of Law and Access to Justice in Bangladesh

A Concept Note

This concept note is prepared as part of an ongoing action-oriented project entitled ‘Evidence-based e-government policies for advancing governmental service delivery and accountability in support of the Sustainable Development Goals (SDGs).’ It is a joint initiative of the United Nations Department of Economic and Social Affairs (UNDESA) and the Access to Information (a2i) Programme at the ICT Division, Government of the People’s Republic of Bangladesh. The broader goal of the project is to identify how people, processes, tools, and techniques related to information communication technology (ICT) can support the implementation of the Sustainable Development Goals (SDGs) by concerned lead ministries and agencies in Bangladesh, including through identifying data and policy gaps. The project team has identified access to Justice, amongst others, as a priority area for Bangladesh.

This concept note is prepared on the basis of data collected from five sources: (a) desk research on open source materials such as published reports and review of SDG Tracker data; (b) consultations with the Law and Justice Division of the Ministry of Law, Justice, and Parliamentary Affairs, Government of Bangladesh, the lead agency in Bangladesh for implementing SDG 16.3.1; (c) SDG Action Plan for 16.3.1; (d) field visit to Kishoreganj district; and (e) review of the proceedings of a national capacity development workshop held in Dhaka in 2018.

This concept note has six parts as stated below:

1. Background
2. Issues and Priorities
3. Measuring progress with available data
4. Lead agencies and actors
5. Data collection and data gaps
6. Recommended actions.

1 For the UN system, the project code is DA 1617B-Bangladesh.
2 The field visit was conducted on 5-6 June 2018. During the field trip, the project team met concerned stakeholders at the District Employment and Manpower Office (DEMO), a agency that facilitates the process of international labour migration from Bangladesh. DEMO operates under the authority of Bureau of Manpower, Employment and Training, a lead institution under the Ministry of Expatriates’ Welfare and Overseas Employment, Government of Bangladesh.
3 The second national capacity development workshop on ‘Building Institutional Capacity for E-Government Data Analysis and Evidence-based Decision-Making to Support Sustainable Development Goals’ was jointly organized by UN DESA and a2i on 26-27 June 2018.
1. Background

Access to justice is a basic human right, and this is intricately related to the rule of law and good governance in a country that allows victims of violence to seek redress against injustice. The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights form the core of international human rights laws (IHL) and the foundations for a global regime for access to justice. Collectively, the IHL instruments emphasize right to equality before law, equal legal protection, and the right to legal remedy before an accessible, affordable, and effective legal-judicial authority.

Bangladesh Constitution, the highest source of law in the country, is fully consistent with the IHL in emphasizing access to justice for all citizens. Article 19 (1) of the Constitution stipulates that “The State shall endeavor to ensure equality of opportunity to all citizens.” Article 27 further stipulates that “All citizens are equal before law and are entitled to equal protection of law.” Article 33 (1) Constitution notes “No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall he be denied the right to consult and be defended by a legal practitioner of his choice.”

Legal aid represents a key factor in promoting access to justice. According to the United Nations, “One of the major obstacles in accessing justice is the cost of legal advice and representation. Legal aid programs are a central component of strategies to enhance access to justice.” The Seventh Five Year Plan (7FYP), a national development framework in Bangladesh, also refers to legal aid as an inherent component of access to justice, especially for the poor, women, and marginalised. It sets a target to provide legal aid to at least 37,000 victims annually by 2020. It also calls for the creation of legal basis for alternative dispute resolution (ADR) to facilitate mediation as a mechanism for justice delivery. The 7FYP sets an annual target of settling 25,000 cases under ADR by 2020.

Among the target beneficiaries of legal aid, the victims of violence against women have drawn special attention in Bangladesh. The 7FYP notes “Violence against women [VAW] will become a key focus of local justice institutions, requiring greater investment in capacity building at the district and upazila level, as well as the effectiveness of one-stop crisis centers where VAW victims are taken …”

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9 General Economics Division, Planning Commission, 7th Five Year Plan FY 2016-2020, p. 159.
10 General Economics Division, Planning Commission, 7th Five Year Plan FY 2016-2020, p. 158.
This concept note aims to examine how the Government of Bangladesh conceptualizes access to justice and what progress it has made in implementing SDG 16.3 and indicator 16.3.1 (Table 1).

Table 1. SDG Target and Indicator related to Rule of Law and Access to Justice

<table>
<thead>
<tr>
<th>SDG Target 16</th>
<th>Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.</th>
</tr>
</thead>
<tbody>
<tr>
<td>SDG Target 16.3</td>
<td>Promote the rule of law at the national and international levels and ensure equal access to justice for all.</td>
</tr>
<tr>
<td>SDG Indicator 16.3.1</td>
<td>Proportion of victims of violence in the previous 12 months who reported their victimization to competent authorities or other officially recognized conflict resolution mechanisms.</td>
</tr>
</tbody>
</table>

2. Issues and priorities

The GoB has prioritized providing legal aid as an important step toward promoting access to justice. Against this backdrop, the National Legal Aid Services Organization (NLASO) was established in 2000 by enacting the Legal Aid Services Act 2000.\(^{11}\) Under the Legal Aid Services Act 2000, the Government of Bangladesh has established legal aid offices at all the district-level Judge Court premises and at the apex Supreme Court. In addition, the Government has also established legal aid committees at the Upazilla (sub-district) and union council levels. In addition, there are special legal aid committees at Chowki Courts and Labor Courts.

NLASO has its origin in a national legal aid fund established in 1994 and legal aid committees founded at the national and district levels in 1997. NLASO offers three broad categories of services: (a) Legal Counselling; (b) Alternative Dispute Resolution through Mediation; and (c) Covering legal expenses including lawyers’ fees and other relevant costs in court cases. The list of beneficiaries for legal aid included any Bangladeshi citizen who is considered helpless or insolvent by the court or the prison authority or any worker whose yearly income is not more than 100,000 BDT. It includes children, victims of human trafficking, victims of violence against women, members of tribal communities, indigenous communities and small ethnic groups. Those who are receiving social protection supports or have disabilities are also covered by the legal aid services.\(^{12}\) NLASO has a national helpline 16430 which offers a call centre to secure legal counselling to any citizen. Between 2009 and 2017, the NLASO offered financial support to 200,000 Bangladeshi citizens. 51 per cent women and 49 per cent men. During this time, 500 children also received legal aid.\(^{13}\)

\(^{13}\) NLASO, Annual Report 2018, p. 6.
A review of the Law and Justice Division’s ‘SDG 16.3 Action Plan’ provides useful insights into the ongoing and long-term priorities in access to justice. The GoB has the following ongoing projects under the 7FYP (2016-2020), which are aligned with SDG Target 16.3:

- Legislative Research & Reform for Promoting and Enforcing non discriminatory Laws and Policies Project (2018-2020);
- Capacity Building of LPAD officials; and
- Reform (identify discriminatory laws and policies and their amendment).

Other long-term projects (2021-2030) aligned with the SDG Target 16.3.1 are:

- Legislative Awareness for Promoting and Enforcing Non-discriminatory Laws and Policies Project (January 2021-Dec 2025)
- Publication of law bulletin;
- Translation of laws from English to Bengali and Bengali to English; and
- Seminar, symposium, workshop all over the country.

3. Measuring progress with available data

According to SDG Meta Data Analysis, crime reporting to competent authorities is an initial step in establishing rule of law since legal actions can be taken against perpetrators in the absence of reporting. In addition, crime reporting trends can also give an idea about the public’s trust in the institutions of law enforcement and justice.\(^{16}\)

VAWs remains a concern in Bangladesh\(^{17}\), and hence, victims of VAWs are included as a key factor in measuring Bangladesh’s progress toward achieving SDG 16.3. According to the Bangladesh Bureau of Statistics (BBS), in 2015, less than 3% victims of violence against women reported their victimization. In an effort to ensuring access to justice, the Government of Bangladesh plans to increase this proportion to 30 per cent by 2030 (Figure 1).

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\(^{14}\) Law and Justice Division, Ministry of Law, Parliamentary Affairs and Justice, ““SDG Action Plan through National Mid-Term and Long-Term Development Plans,” p. 1.

\(^{15}\) Law and Justice Division, Ministry of Law, Parliamentary Affairs and Justice, ““SDG Action Plan through National Mid-Term and Long-Term Development Plans,” p. 1.


4. Lead agencies and actors

The Government of Bangladesh has designated the Law and Justice Division at the Ministry of Law, Justice and Parliamentary Affairs (MoLJPA) as the lead agency, and the Legislative and Parliamentary Affairs Division at the same ministry and the Ministry of Home Affairs as the co-lead agencies for implementing SDG indicator 16.3.1.  

The National Legal Aid Services Organization and Bangladesh Police are the principal implementing agencies for SDG 16.3.1. The logic behind this shared responsibility is clear: The Police are a competent legal entity to which complaints on victimization can be reported; and the NLASO offers a conflict resolution mechanism by legal counselling, ADR, and financial support.

One should also note that the legal and justice system in Bangladesh comprises many other institutions and actors, whose role cannot be ignored in promoting access to justice. According to a report of the Justice Sector Facility Project of LJD, Bangladesh has a dual legal system comprising formal and informal institutions and stakeholders in justice delivery. The formal justice system includes two sub-components: criminal justice and civil justice. The criminal justice component includes the police, prisons, prosecutors, ministers, NLASO, lawyers, and the criminal courts; the civil justice component includes lawyers and civil courts. The informal justice is provided by traditional shalish by community leaders and village courts of Union Council chairman, arbitration councils, ADR by religious leaders, customary system, and NGO-led mediation.

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5. Data collection and data gaps

According to the SDG Monitoring and Verification Framework, the Violence Against Women (VAW) Survey conducted by the Statistics and Informatics Division of BBS, provides relevant data for SDG indicator 16.3.1. In addition, Bangladesh Police, under the Ministry of Home Affairs, is also responsible for providing administrative data on crime reporting.

There appears to be a gap in the definition and measurement of access to justice for the SDG purposes. Although the Law and Justice Division of the MoLJPA and the 7th Five Year Plan define legal aid and alternative dispute resolution (ADR) as the key elements of access to justice, and the NLASO provides up to date administrative data on these two aspects (legal aid and ADR), such data are not used for measuring progress in SDG 16.3.1 in Bangladesh. Similarly, the Women Support and Investigation Division of Dhaka Metropolitan Police provides administrative data, albeit on a limited scale, on the number of beneficiaries at the Victim Support Centre (VSC) managed by Bangladesh Police in collaboration with 10 national NGOs. The project is supported by UNDP. While such data from VSC can add values to measuring SDG 16.3.1, it is currently not considered relevant for monitoring and evaluation of SDG 16.3.1.

Another gap concerns the exclusion of various vulnerable groups such as victims of various forms of crime and human rights violation (in addition to victims of violence against women) from the SDG 16.3.1 measurement process.

The Action Plan for SDG 16.3.1, drafted by the Law and Justice Division of MoLJPA, does not show any ongoing and future projects and priorities taken by the co-Lead agencies, especially Bangladesh Police. This is primarily due to the fact that the Law and Justice Division has not received any feedback from the co-lead agency Bangladesh Police. Data on inter-agency coordination between lead and co-lead agencies are not available as well.

6. Recommended Actions

The expected accomplishments in supporting the implementation of SDG 16.3.1 are:

I. Identify data gaps, especially those related to disaggregation in VAW data.

II. Address the discrepancy in the definition and measurement of access to justice. A2i and UNDESA may explore how the discrepancy between LJD’s definition and BBS’ measurement of access to justice can be mitigated. One way of doing this is to accept the administrative data on legal aid and ADR provided by NLASO.

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III. **Assist lead agencies**—Law and Justice Division at the Ministry of Law, Justice, and Parliamentary Affairs to **develop plans and strategies** for systematic collection, analysis, publication, and visualization of data related to SDG indicator 16.3.1.

IV. **Conceptualize and implement one ICT-enabled application and service** to support the implementation of SDG 16.3.1. It is not clear at the moment the extent to which ICT tools, techniques, and policies are used for implementing SDG 16.3.1. Although the GoB has an ongoing E-Judiciary project aimed at digitizing court proceedings and making court services more accessible to the general people, there is lack of data linking E-Judiciary to the broader goals of access to justice as defined by SDG 16.3.1.

V. **Promote awareness building** among the justice-seekers, expand the scopes for **capacity building training** for mediator and legal aid service providers, and **introduce sensitization programs** for judges and lawyers.21

VI. **Strengthen existing institutional mechanism** for access to justice by framing rules on mediation, with special considerations for provisions of alternative dispute resolution (ADR) in family and commercial disputes, and establish an ADR Center and a digital database for legal aid related services.22

VII. **Promote Inter-Agency Collaboration** between Law and Justice Division, Parliamentary Affairs Division, and Bangladesh Police.

*Note on authors and correspondence:* This concept note is the product of a team work carried out by Wai Min, Ramiz Uddin, ASM Ali Ashraf, Ronan Gomes, Tito Chakma, and Sadia Afrose Shampa. ASM Ali Ashraf produced the first draft with substantial inputs from Wai Min and Tito Chakma. The authors acknowledge inputs from the Law and Justice Division, Ministry of Law, Justice, and Parliamentary Affairs, Government of the People’s Republic of Bangladesh for useful comments on an earlier version. Inquiries regarding the content of this concept note can be directed to: kwok@un.org, ramizuddin@a2i.pmo.gov.bd, aliashraf79@gmail.com.

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21 This recommendation came from a focus group discussion among senior officials at the Law and Justice Division and concerned stakeholders who attended the second national capacity development workshop on ‘Building Institutional Capacity for E-Government Data Analysis and Evidence-based Decision-Making to Support Sustainable Development Goals’ was jointly organized by UN DESA and a2i on 26-27 June 2018.

22 This recommendation came from the district legal aid officers as well participants at the above mentioned second national capacity building workshop.