

BRIEF REFLECTION ON RESULTS

ACTIVATING VILLAGE COURTS IN BANGLADESH PROJECT

Local Government Division

Ministry of Local Government, Rural Development & Cooperatives



The Village Court (VC), a community-based home-grown conflict resolution mechanism, in its current form, has existed in Bangladesh since 1976. It is a legal tool which empowers the local community in terms of justice seeking and delivery. But due to various limitations this community based conflict prevention and reconciliation framework has not been worked as fully as it could have.

Thus people have been deprived from obtaining the most out of this justice mechanism at their door steps. Recognizing the manifold benefits and village courts' ability to rebound social ties, restore broken relationships and facilitate social cohesion, the EU and UNDP Bangladesh came forward with technical and financial support to the Government of Bangladesh for its activation. Activating Village Courts in Bangladesh (AVCB) Project played a significant role in accelerating the efficiency and effectiveness of village courts, empowering women, promoting sustainability and pushing policy reform.

Project Fact Sheet

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| Project Name : | Activating Village Courts in Bangladesh |
| Implementing Agency: | Government of Bangladesh |
| Implementing partner: | Local Government Division Ministry of Local Government, Rural Development and Cooperatives |
| Development Partner: | European Union and UNDP |
| Project duration: | 2009-2013 |
| Project budget: | USD 15.05 million |
| Working areas | 350 UPs of 57 upazilas under 14 districts of six divisions (Dhaka, Chittagong, Rangpur, Khulna, Sylhet and Barisal) |

1. EFFICIENCY AND EFFECTIVENESS

1.1 Efficiency

The legal framework of Village Courts (Village Courts Act 2006, Rules 1976 and pertinent Laws) has been in place since 1976¹ and the Union Parishad (UP), the institutional level at which village courts services are rendered, has been in place since even before the legal framework was established. Following the project's interventions in the above areas, the institutional capability for justice delivery as well as the community's justice seeking behavior were improved, which resulted in increased efficiency of village courts. As a result, more people sought justice in 2012 than 2011 (Figure-1) and village courts delivered justice in a faster (on an average 28 days for resolution) manner following the legal provisions laid out such as assigning and sending notices, selecting nominees by petitioners and respondents, hearing the statements of both parties and disclosing village court's decisions openly².

1.2 Effectiveness

Effectiveness of village courts in the project areas has been demonstrated in various reviews and studies. The project's performance is considered as a model for replication on the national level.³

Case flow

Under the AVCB Project intervention, Village Court services are up and running in 350 UPs across the country. The monthly case statistics show that a total of 37,708 cases were reported to Village Courts until July 2013, of which 28,911 (76%) were resolved. The majority of cases dealt with by village courts were criminal cases (77%), which is about 3.5 times more than civil cases (23%). Of all disputes resolved by village courts, fighting (36%) is the most occurring incidence followed by financial dispute (26%), property and land related disputes (20%), and others (18%) such as family disputes, killing of domestic animals, theft, and tree cutting⁴.

The Figure-1 shows that the number of cases between July 2010 – June 2013 is with upward trend. The institutional links developed between district courts and village courts are a positive trend in the project areas. According to the monthly case statistics, 2,299 cases have been transferred from the district courts to village courts. As was pointed out by a UP Chairman "Sixteen cases were referred to us from the District Courts. Two years have passed and an average of 80000-100000 taka were spent for each case without any result. It took us only three weeks to resolve these matters in village courts"⁹.

Enforcement of village court decisions

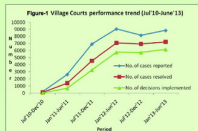
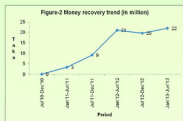
The enforcement rate of village court decisions is highly satisfactory. Around 80% of decisions have been implemented as of July 2013⁶. The restorative nature of the proceeding and relatively lower value of compensation awards have helped in achieving such a high rate of implementation. Moreover, case filing fees are very low (BDT 2.00 for criminal and BDT 4.00 for civil cases) and the transaction cost is affordable. One UP Chairman highlighted the comparative costs, noting that "the UP is 2-3 km from a person's home. So he does not have any transport costs. The District Court is 14 km away and it costs BDT 50 for transport there. He has to file the case, find a lawyer and over the year the costs will run into the thousands of taka. So it is easy to calculate how the village court contributes to the community". People's perception and confidence on enforcement of village court decisions is also impressive. About 84% of respondents said that village courts can enforce its decisions⁸.

However, experience shows that in a few cases, Union Parishads have faced difficulties in implementing the village court decisions when the respondents are influential. In those cases, the UP has sent the cases to the Upazila Nirbahi Officer (UNO) to enforce the decision by filing a certificate case. In most of cases, the petitioners expressed unwillingness to pay fees for the certificate case. As a result, it makes the enforcement of village court decisions more difficult and time consuming.

People's Satisfaction

Given the mounting number of pending cases in the higher courts, delays in the disposal of cases and high cost of obtaining justice⁹, the level of people's satisfaction with village courts looks promising. Around 68% petitioners and respondents were satisfied with village court decisions, 27% were neutral and 5% were unsatisfied. The primary reasons behind their satisfaction were transparency (74%), fairness (96%), low costs (95%), and prompt and quick decision making process (47%)¹⁰. Similarly the main reasons behind dissatisfaction were unfairness, nepotism and powerlessness of village courts. In response to the above concern, one UP Chairman said¹¹, "it is not the Chair who adjudicates alone. There are four other members. He has to consult with them. I am a party member it is true but when I chair a village court I am not persuaded by party considerations. This is why people come to me".

Cost benefits

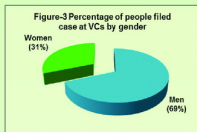


Project beneficiaries are getting both direct and indirect benefits from the project. Till July 2013, BDT 78.64 million (USD 1,008,315) has been recovered as compensation from the respondents and handed over to petitioners. The total amount recovered in 2012 is BDT 40.46 million, which is more than three times of the year 2011 (Figure-2). On an average, each UP recovered BDT 232,688 (USD 2,983). The average compensation recovered per case is BDT 2,085 (USD 27)¹². Apart from the direct benefits accruing to petitioners, the project has facilitated significant societal benefits to local

communities: enhanced social harmony, closer relations between the UP and community, augmented people's confidence on UP service delivery, enhanced citizen's engagement in promoting UPs transparency and accountability, perceptions that crime has been reduced and a neutral forum to resolve disputes according to the law¹³.

2. EMPOWERING WOMEN

The subordinate role of women in the traditional *shalish* process is well documented. In some instances, women are not considered as witnesses¹⁴. Village courts are seen to provide a forum that is open to women as evidenced by the 31% (Figure-3) petitioners who are women. However, there remains opposition and social barriers to petitioners (especially women) attending village courts and lodging a petition. Obstacles vary from local *mostaans* (thugs) and their supporters to family members (with reputation and social honor issues in attendance) or embargoes imposed by senior family members¹⁵.



In this context, the project targeted women for capacity building, advocacy and awareness raising initiatives to encourage them to seek remedies through village courts. It encourages petitioners and respondents to nominate women as village court panel members. Consequently, in 2012, more women sought remedies through village courts than in 2011. Monthly Case Statistics shows that in total 2,850 women sought remedies through village courts during January to December 2011. The figure increased in 2012 to 5,443. The same statistics show that of the women who sought justice, 78% got remedy. Representation of women

in the village court decision making process has increased from 7% (in 2011) to 8% (in 2012). One female CBO member in Chuadanga expressed '*previously women did not come out of their houses. Now they are beginning to come out and speak*'¹⁶. This process is gradually contributing to women in seeking justice as well as their participation for facilitating the systematic integration of women in strengthening democratic local governance.

3. SUSTAINABILITY

The EC-ROM Report found that the project's sustainability potential is very good. The project is completely embedded in local Union Parishad structures. The maintenance costs of logistics is low and village courts will continue to be affordable, as the fees of BDT 2 for civil cases and BDT 4 for criminal cases is only likely to increase within a limit acceptable to beneficiaries and will still be much cheaper than using the higher justice system¹⁷. In addition, the project has been working in policy reform, capacity development at an individual and institutional level so that beneficiaries may continue to have access to justice through village courts beyond the tenure of the project.

The Village Courts (amendment) Bill 2013, passed by the parliament recently on 18 September 2013, and once it is enacted, will increase further efficiency and effectiveness of village courts through eliminating limitations of the Village Courts Act 2006. The project has already built the capacity of 350 UP representatives on village courts and integrated village court issue into the National Institute of Local Government (NILG) training curriculum. Integration with the curriculum of other training institutes such as Judicial Administration Training Institute (JATI) and Bangladesh Civil Service Administration Academy (BCSAA) are under way, aiming to continue capacity building initiative once the project has come to an end. The formation of Village Courts Management Committee (VCMC) at upazila and district levels and the development and implementation of a decentralised Monitoring, Inspection and Evaluation (MIE) system on a pilot basis has created a strong sense of government ownership towards monitoring of village courts performance.

¹³ Mid-Term Review (MTR) Report, 2013 | ¹⁴ Haines, Md. Abdul (2010), 'Alternative Dispute Resolution can reduce the burden on courts', Article published in the Daily Financial Express, Dhaka. | ¹⁵ Social Barriers and Limitation of Village Courts' Study Report 2011. | ¹⁶ Mid-Term Review (MTR) Report, 2013 | ¹⁷ EC-ROM (European Commission-Result Oriented Monitoring) Report, 2012

The LGD considers village courts performance as an important criteria for allocation of LGSP's¹⁸ block grants and performance grants to UPs and UP's yearly performance evaluation. All these government initiatives have made an impact on the attitudes of different stakeholders and legal service providers in the activation of village courts.

4. CHALLENGES AND RECOMMENDATIONS

Challenges encountered:

The AVCB Project experienced the following major challenges:

- Most cases are related to land and exceed by far the legal ceiling (BDT 25,000) stipulated in the Village Courts Act. Several UP chairmen reported, as a consequence of this limitation, village courts can only hear 40% of cases brought to its attention¹⁹. However, following the recently amended Act this challenge would be reduced;
- Increasing women's participation in village court's decision making process remain a challenge as both petitioners and respondents are still reluctant to nominate women to the village courts panel;
- Under the Public Demands Recovery Act 1913, the process of recovering compensation is cumbersome and expensive. Consequently, the implementation of village courts decisions in some cases becomes difficult, which often leads people to seek remedies through alternative means;
- Village Courts are authorized to deal with some cognizable offences. In the case of these offences, police retain the power to investigate which creates a barrier to activate village courts.

Recommendations:

Some of the main recommendations reflected in various studies and reviews are:

- This is a successful model project and extension to the national level is desirable;²⁰
- In response to development partners' requirements GoB should come forward with substantial support to scaling up the Village Courts with a clear statement by GoB that it is serious about national coverage of village courts;
- GoB commitment is required to ensure an adequate budget allocation for the UPs to manage the increasing caseload of the village courts, including adequate remuneration for the Village Police, who have to distribute the summons;
- AVCB Project should coordinate with other justice-related projects e.g. Justice Sector Facility (JSF) Project, Judicial Strengthening (JUST) project and the Ministry of Law on the record keeping of village courts triable cases at the Assistant Judges' Courts and Chief Judicial Magistrates' Courts;
- While the knowledge of UP chairmen and Upazila Nirbahi Officers (UNOs) about village courts is excellent, it was noted that the judiciary at the local level needs more sensitization. In this situation, AVCB project should include representatives from the police, judiciary, and the Bar in trainings and meetings.

