

PARALEGALISM IN BANGLADESH

Realities and Aspirations

A Workshop Initiative by the South Asian Institute of Advanced Legal and Human Rights Studies (SAILS)

Dhaka, Bangladesh
April 17th & 18th 2016

TABLE OF CONTENTS

| | |
|--|-----------|
| PARALEGALISM IN BANGLADESH | 1 |
| Realities and Aspirations | 1 |
| INTRODUCTION | 3 |
| I. OVERVIEW AND OBJECTIVES | 4 |
| METHODOLOGY-AN OVERVIEW | 5 |
| II. CURRENT PRACTICES OF PARALEGALISM IN BANGLADESH | 5 |
| III. DEFINITION AND SCOPE OF PROFESSIONALIZED | |
| PARALEGALISM IN BANGLADESH | 10 |
| IV. A WAY FORWARD FOR STATE RECOGNITION | 11 |
| OVERVIEW OF ROADMAP | 13 |
| CONCLUSION | 13 |
| APPENDIX | 14 |
| DETAILED METHODOLOGY | 14 |

INTRODUCTION

The concept of ‘paralegalism’ is synonymous to efforts advancing justice and improving the rule of law, commonly termed as legal empowerment. Generally, a paralegal is a person trained in legal matters who performs tasks necessitating knowledge of the law and legal procedures. They are agents who bridge the gap between the state and the community (mainly the under-represented); are equipped to provide information about the rule of law; reduce legal orthodoxy; and complement the larger judicial system by facilitating access to justice.

In Bangladesh, the concept of ‘paralegalism’ and the services provided by paralegals is not new; however in order to give it a defined, solid platform, the South Asian Institute of Advanced Legal and Human Rights Studies (SAILS) organized an intensive two-day workshop on the 17th and 18th of April 2016, facilitated by the Network for Research and Training, in conjunction with ten local and regional partners.¹SAILS, since its inception, has pioneered education, research and training in the field of law and human rights. The organization has conducted regional consultations for enhancing legal empowerment in South Asia; capacity building programs for enriching the work of those serving access to justice; and Training of Trainers (TOT) programs for capability enhancement in two phases since 2014.

The objective of this workshop was to come to a unifying conclusion about the scope of paralegals and the practices of ‘paralegalism’ to gain credence, develop a strategic plan and become a recognized profession to the Government of Bangladesh, in light of the United Nation’s Sustainable Development Goals, in particular Goal #16,²leading to lasting institutional change and an overall empowered polity.

This report will highlight the following:

¹Ain O ShalishKendra, Bangladesh National Women Lawyer’s Association, Bangladesh Legal Aid and Services Trust, BRAC, Council of Minorities, Friendship, Legal Aid Consultancy Centre, NagorikUddyog, Sri Lankan Legal Representative and SHUJAN.

² UN Sustainable Development Goal #16: Peace, Justice and Strong Institutions

- An overview of the different dimensions of paralegalism, the corresponding objectives outlined in the Bangladeshi context, and a concise methodology approach in Section I
- Examples of current practices of paralegalism nationally and in Nepal in order to determine its scope to benefit communities, in Section II
- A defined purpose of paralegalism, the desired practices and the scope of work, in Section III
- A way forward which will include technical requirements for implementing a strategic plan, namely: entry criteria, certification processes, code of conduct, continuous learning and resource sharing and mobility; in Section IV

I. OVERVIEW AND OBJECTIVES

The workshop extensively discussed the promising methodology of legal empowerment that paralegals offer through processes of legal education and representation by addressing people’s justice problems and creating tools of social movement, encompassing the overarching realms of human rights and development. Broadly, paralegals assist marginalized communities to remedy violations of fundamental rights and freedoms. In light of achieving these goals, the participants interactively discussed procedures that will create paralegal professionals on a basic, national and regional level; and ultimately in fifteen years implement it as a global process.

The vision of creating paralegal professionals is aspired to be a country driven process that Bangladesh pioneers, and technically includes a) basic training b) specialized advanced training c) training of trainers, and d) capacity development to meet external and internal demands. In order to effectively and holistically achieve the UN’s Sustainable Development Goals, it is paramount to pay special attention to the ‘justice for all’ aspect, and it is believed that paralegals would be important agents in addressing issues that are often overlooked by the larger judicial system. It was

discussed that by facilitating access to justice comprehensively, paralegalism can potentially reduce violence related deaths, end abuse, reduce violence against children, reduce arms flow, combat organized crime, address corruption, and ultimately promote rule of law at the international level.

METHODOLOGY-AN OVERVIEW

The primary objective of the design of the workshop was to create a participatory environment where partakers could freely interact and provide opinions. It entailed of five sessions, in which sessions 1, 2 and 3 served diagnoses of the existing paralegal practices of the participating organizations. Session 4 focused on how paralegalism should be pursued in future in light of SDGs. Session 5 summarized the reflections of the participants, actions to follow, and closing remarks by the organizers.

The participants collectively created a common definition of paralegals, explored institutional arrangements for quality paralegal services (standardization and quality control/code of conduct), outlined ways forward for creating professionals in South Asia, and summarized differences and scope of function of paralegals in the legal, non-legal and combination sector at both basic and advanced levels. Participants worked in groups to come to uniform understandings about the importance of networking and resource sharing for creating a solid platform for the future.³

II. CURRENT PRACTICES OF PARALEGALISM IN BANGLADESH

Participants representing ten organizations shared their views on how employment of paralegals has improved conditions of legal empowerment within the communities they operate in. This section will provide a brief discussion of the roles that paralegals play in each organization.

³ Please refer to Appendix for Detailed Methodology

- The Ain O Salish Kendra (ASK) in Bangladesh is a legal aid and human rights organization that provides legal and social support to mainly women, children and working children; aiming to create equality, social and gender justice. Its ‘paralegals’ are assistants who act as legal counselors on a voluntary or paid basis. Their major functions include (but are not limited to), registering cases, providing necessary legal information, assisting victims to access required help, follow up on cases and outcomes, and provide monthly reports on activities undertaken. ASK’s entry criteria for paralegals require HSC degrees, paralegal certification, a 15-day residential course along with a three-month internship with affiliated legal aid organizations. The monthly paralegal salary is typically TK 15,000 excluding travel expenditures. ASK has formulated modules on paralegalism applicable to their functions related to legal matters; and it is for the organization to recruit paralegals that are committed to human rights and gender equality issues.
- The Bangladesh National Women Lawyer’s Association (BNWLA) is committed to creating equality for women and children, particularly the disadvantaged. Paralegals characteristically work as project staff, often assisting lawyers. Their main functions are to build rapport with local authorities, create legal awareness in communities, act as both counselor and mediator, follow up on client legal proceedings, and report on overall procedures. They typically are university graduates with basic technological skills, paid on a monthly basis, and go through a rigorous training program, which has, follow up courses.⁴ BNWLA currently publishes modules and has started a research program on paralegalism and legal awareness, which serves as an advocacy tool to the Government of Bangladesh.
- Bangladesh Legal Aid and Services Trust (BLAST) is a legal services organization operating over nineteen districts and specializes in criminal, labour, land and family law. BLAST provides legal aid from the frontlines of the formal justice system to apex courts. Paralegals at BLAST provide legal information to the community on

⁴ They receive a 7-day basic training course; 7-day training on TOT Paralegalism; 5-day psycho-social counseling.

rights and remedies, assist justice seekers and bridge the gap between community and duty bearers. Paralegal candidates at BLAST are required to have an HSC degree, knowledge of human and gender rights, as well as the functions of different government agencies. They earn a monthly salary between Tk 13,000-17,000 and receive a basic 5-day training. BLAST currently produces manuals, training materials and modules on paralegalism and emphasize on the importance of communication skills. In future BLAST plans to provide legal information as well as pro bono services to communities.

- BRAC's Human Rights and Legal Services Program (HRLS) aims to develop human rights awareness, increase gender sensitivity, create a platform for greater cooperation between local elites and community, and reduce corruption through grassroots administration. Paralegals play a significant role in court, community and prisons, with basic knowledge of criminal law. At the community level, they are responsible for creating legal awareness and providing legal assistance, organizing community workshops, communicating with local authorities and NGOs, organizing procedures for penal lawyer action, and follow up and fact checking. Paralegals are required to hold an HSC degree, acquire computer, presentation and communication skills, as well as superior networking and advocacy abilities. Different levels of training are provided,⁵ and they are compensated on a monthly basis depending on their level of experience.⁶ The organization also provides manuals and brochures on awareness building and criminal proceedings; training materials including reporting formats, as well as criminal, civil and land law books. BRAC aims to ensure that in future there will be no prisoners without representation, due process for juvenile justice and safe custody for all.

⁵ For Prisons: Criminal law training: 14 days; PLC training: 5 days; MIS training: 5 days; Project orientation: 5 days. For Community: Basic training 14 days; documentation training: 6 days; Orientation: 3 days.

⁶Tk 12,000-Tk 13,000 depending on experience for paralegals working in prisons (with additional allowances).Tk 20,000-Tk 23,000 for community based paralegals based on rank and experience (with additional benefits).

- The Council of Minorities is an organization that works towards achieving social justice for minority groups in Bangladesh, namely the '*Bihari*' population. Paralegals act as community activists by disseminating knowledge of rights and social justice measures amongst the community, and assisting minority groups in accessing appropriate civil documentation from authorities. The Council of Minorities ensures that paralegals have acquired an SSC degree and recruited from the communities they work with, as on-ground knowledge is crucial. They are employed on a part time basis with a minimum remuneration of Tk 6000 per month. The organization has developed a superior case tracking and reporting procedure, and in future hopes to implement strategized and specialized paralegal activities.
- Friendship Bangladesh is an NGO that holistically targets development, working specifically with isolated communities in the '*char*' areas in Northern Bangladesh. Paralegals at Friendship are trained in basic and relevant areas of law, litigation procedures and investigative procedures, which help them, create awareness in community on subjects such as rights, justice and dispute resolution. They are well aware of community needs, are well respected, are equipped to mitigate local disputes and have liaisons with appropriate personnel and lawyers. They are typically SSC graduates earning typically Tk 4000/ month with basic knowledge of court systems, fundamental and constitutional rights. Friendship provides initial 7-day basic paralegal training followed up by refresher courses every three months, along with Salish and legal aid/services training. Friendship also provides manuals, commentaries, and law books on areas paralegals have been trained in, as well as on call advocacy services. In future, Friendship wants to develop a license for practicing paralegalism, bring paralegals to cities, activate village courts and assist in developing a strong curriculum for future paralegal activities.
- The Legal Aid Consultancy Centre (LACC) in Nepal is an independent non-governmental legal resource organization promoting women and children's access to justice. Paralegals involved work as facilitators to the government by bridging the

gap between the needs of the community, authorities' services, and access to the law. They primarily aid communities to acquire national identity documents, spread awareness on procedures and use of legal documentation in everyday life. Paralegals at LACC have to work and advocate for the communities they belong to, have basic theoretical and practical legal knowledge, and are typically paid Rs 2500 monthly with training and recognition as professionals. LACC provides basic and experiential training on case identification, procedures and legal identity documentation. LACC aims to institutionalize paralegalism in the Government of Nepal's National Plan in order to motivate greater representation and create upward social mobility.

- NagorikUddyog (Citizen's Initiative) is a nonprofit national development organization, working to promote fundamental human rights of underprivileged minorities, primarily focusing on women. Paralegals in the organization often play the role of human rights defenders, with knowledge of law, mediation, human rights and gender empowerment, typically facilitating discussions and awareness campaigns on human rights issues, land and inheritance law, arbitration councils etc. They are also authorized to provide legal advice through mediums of legal aid clinics, helping to investigate and register cases; and assisting victims get legal support. NU usually hires paralegals from the community level, with a minimum of an SSC degree, work experience at a Union Parisad or NGO level, and with networking capacities with related authorities. NU provides different paralegal training programs,⁷ an approximate monthly salary of TH 7500, and has published modules and training manuals on mediation, land law, arbitration councils, as well as case tracking formats and complaint (Shalish) receipt forms. NU is making every effort to strengthen the scope and capacities for the work of paralegals in future, to create better opportunities for both the professionals and the communities.

⁷ Basic training on HR and Gender: 3 days; Law and mediation Training: 3 days; Facilitation Training: 2 days; Leadership Training: 2 days; Investigation and counseling training: 3 days; Networking and Advocacy Training: 2 days.

- M.Thirunavukarasu, a representative from SAILS, Sri Lanka underlines the important role that paralegals play in assisting vulnerable communities to access justice, and bridge the gap between the public and legal authorities by coordinating activities with law enforcement agencies. They are crucial in creating awareness of rights, identification of issues, and guiding victims to possible solutions. In Sri Lanka, paralegals play a vital role in the lives of refugees, internally displaced persons, and migrants workers, especially after the civil war, which left many vulnerable, and without scope of representation. Paralegals in Sri Lanka have strong public and social networking proficiencies, advocacy and communication skills, a minimum of secondary education, and basic knowledge of legal and administrative issues. They receive 3-day training sessions with regular follow ups, are remunerated based on their performances, and receive relevant learning materials. Paralegalism in Sri Lanka strives to become professionalized, recognized, become part of the legal language, and gain a national identity through appropriate policy implementation.
- The Hunger Project and SHUJAN are voluntary based organizations that strive to achieve good governance, effective civil society bodies, and the Sustainable Development Goals. Though these projects do not use formal paralegals, there is massive scope for achieving organizational goals through efficient paralegalism. They could be used as catalysts for social movements, with the capacity for information dissemination, maintaining community peace and mobilizing grassroots to access due justice.

III. DEFINITION AND SCOPE OF PROFESSIONALIZED PARALEGALISM IN BANGLADESH

In order to provide paralegals with sustainability and recognition from the state, the primary purpose would be to give it a solid and legitimate definition. It is imperative to promote paralegalism systematically, and allow it to adapt to unique contexts on a national and local level. In order to create cross-country dialogues it is crucial to set apposite standards of qualifications that will bears credence for paralegal functions. Paralegals need to complement the larger justice system instead

of being in competition with the legal system. This section will definitively outline what lies within the functionalities of a paralegal and the scope of work that can be extended to the legal and non-legal arenas.

It is important to distinguish that a paralegal is *not* a lawyer, *not* mandated to represent a client, and *cannot* provide legal advice. However as a bridge between the community and state, they are mandated to provide information and advice about the law, deliver guidance and access and guidance to legal as well as non-legal procedures. The basic argument for paralegalism is that they represent the much-needed channel that brings justice closer to the deprived, as discussed in the sessions.

Paralegals may be involved in both the formal and informal justice systems. They are authorized to raise awareness, assist in collecting investigative evidence, file First Investigative Reports and General Diaries, follow up on cases, identify create links with concerned authorities on formal legal issues. In informal justice systems they are mandated to facilitate awareness building, fact finding, conducting mediation sessions, counseling, coordinating and networking with stakeholders to create rapports, as well as follow up and reporting on cases. Their functions are not limited and branch out to the non-legal arena on issues surrounding economic, social and cultural rights, civil and political rights, and climate and development. In these cases, paralegals are crucial for awareness and information dissemination, advocacy, campaigning and identifying relevant duty bearers to resolve issues with communities affected. Both theoretically and practically, paralegal work is one of the most powerful ways of providing fundamental obligations that a democratic society owes its citizens, as agreed by all participants at the workshop.

IV. A WAY FORWARD FOR STATE RECOGNITION

As a first step towards reaching a global standard in paralegalism, there are some explicitly defined entry criteria that gained consensus amongst the participants. This section will summarize the main discussion points.

There are some key personal characteristics that are imperative for paralegals to possess, some of which are (but not limited to) the following:

- It is crucial that at no point should paralegals act as lawyers or provide legal advice; their function is to aid the broader legal system
- Human and constitutional rights must be the central focus around which they perform their functions
- They should maintain confidentiality, respect and demonstrate core values of nondiscrimination of any sort
- They should not have other agendas which may present conflict of interests
- They must be committed to their responsibilities, their communities and avoid corrupt behavior
- They must maintain transparency of activities and be open to regulatory checks and balances

In terms of education, the participants concluded that a paralegal would only qualify once he/she has attained a Higher Secondary Certificate (HSC), or in exceptional cases may be considered with an incomplete Bachelor's degree. He/she must gain a yearlong social services experience with local organizations. In regard to soft skills, a paralegal must possess good interpersonal and communication skills, be well respected in the communities they belong in, and demonstrate sensitivity towards issues that society faces. What must also be clearly understood is that the functions and profiles of a paralegal will not remain stagnant, nor be inflexibly defined; their levels of knowledge and skills will depend on the type and level of work they are involved in.

In order to gain Government recognition in the long term, there are immediate short-term goals that need to be achieved. Coalition of non-governmental organizations may need to come together to determine objectives/goals and learning curves for paralegals. Certification is crucial to professionalize the concept, and BRAC and other leading universities in Bangladesh could offer diploma courses as per requirement of associated NGOs. With the strength of recognized certifications, paralegals can form their own association that can make a unified and systematic appeal for government recognition and support for achieving greater justice and democracy. By making a strong logical case, the association of paralegals

may also gain support from donors and other civil society organizations that may aid in providing resources for continuous services and education. An endeavour to create such a great social movement will require massive networking, partnerships, transparency and resource sharing between individuals and institutions; leading to a great level of self-regulation and efficiency. As an encouraging methodology of legal empowerment, this association can therefore present itself to the Government as a concrete, flexible and creative solution to people's justice problems.

OVERVIEW OF ROADMAP

An active road map has been outlined following this workshop in order to achieve the above. Module and material development for paralegal training is currently in progress; national training workshops at the basic, intermediate, and advanced levels are underway; and standardized accreditations/certifications are being advanced. The sooner the professionalization of paralegals is achieved; the boundaries of legal empowerment in the country and ultimately the subcontinent will expand, thus establishing a '*justice for all*' norm.

CONCLUSION

In order to achieve universal human rights, we must ensure that all citizens have access to basic justice systems. Paralegalism has the potential to achieve this through the use of legal knowledge, and suitable tools for social movements, creating dialogue between communities and the duty bearers. If paralegals are given the recognition they deserve, they can effectively reduce the gap between people and the legal system, by blending modern and customary approaches to justice. It is possible to bring about enormous reform in our communities nationwide by involving an evolution of norms of how justice is served and by renegotiating practices through which social change occurs.

APPENDIX

DETAILED METHODOLOGY

The workshop entailed of five sessions. Sessions 1, 2 and 3 served diagnosis of the existing paralegal practices of the participating organizations. Session 4 focused on how paralegalism should be pursued in future, in light of SDGs. Session 5 encapsulated the reflections of the participants, actions to follow, and closing remarks by the organizers. The following describes the process and methodologies used to achieve the objectives.

Session 1: The objective of the first session was to learn about the profile of each participant from the perspective of a trainer/facilitator. Each participant made use of charts or cards to illustrate their position in the organization and indicated their degree of proficiency as a module developer, materials developer, IT-supported training specialist, and trainer/facilitator. Each participant presented their cards/charts and responded to queries for better understanding.

Session 2: The facilitator made a PPT presentation on the objective of the workshop to a) define a future vision for paralegalism in Bangladesh and b) outline a process towards creating professionals in South Asia. A participatory discussion followed and supported the idea of creating professionals in three stages, including Basic Training, Advanced Training and TOT.

Session 3: The objective of this session was to learn about existing practices of the participating agencies. The facilitator introduced a framework for analysis covering eight variables: i) concept of paralegalism ii) scope of work iii) entry criteria iv) profile (knowledge, skill and attitude v) duration and level of training vi) compensation vii) existence of materials viii) future plans. Each organization completed the framework using cards, charts and PPT slides to illustrate their practices through presentations.

Session 4: This session brainstormed a common definition of paralegals, outlined their expected profiles, and explored institutional arrangements for quality paralegal services. Eight topics were addressed: 1) shared definition 2) scope of work in future 3) entry criteria 4) profiles at various levels 5) certification 6) code of conduct and quality control 7) resources and continuous learning 8) networking, partnership & resource sharing.

In order to come to a collective concluding agreement, the following action steps were outlined for participants:

1. Gathering core elements characterizing and classifying the functions of paralegals (legal, non-legal and hybrid).

2. Outlining the scope of work of paralegals (legal and non-legal), which participants presented in the plenary. Participatory discussions led to further refinement of the paralegal function scope.
3. Proposing entry criteria for paralegals, capitalizing on the experience of the past practices.
4. Creating profiles of paralegals at various professional levels (basic, advanced).
5. Discussing whether certification is necessary for standardization and quality control, and process by which it can be obtained.
6. Deliberating the code of conduct and quality control of paralegal services through a national agency.
7. Reviewing the necessity of a resource bank as a source for continuous learning on paralegalism.
8. Discussing the relevance of networking of paralegals between themselves and the organizations involved; the scope for partnership and resource sharing among practitioners.

Session 5: The final session shared reflections of the participants on the way forward. Each participant shared their opinions on the outcomes, methodology and process, scope of replication, and follow-up activities.