Draft Report

on

Outcome of Justice and Prison Reform for Promoting Human Rights and Preventing Corruption under the Rule of Law (RoL) Programme

Prepared for GIZ

Prepared by

Manzoor Hasan

Sanaul Mostafa

Saiful Islam

07 August 2016

**List of abbreviations**

|  |  |
| --- | --- |
| AC | Advisory Committee |
| BLAST | Bangladesh Legal Aid Committee |
| CCC | Case Coordination Committee |
| DC | Deputy Commissioner |
| DJ | District Judge |
| DLAC | District Legal Aid Committee |
| DLAO | District Legal Aid Officer |
| DNC | Department of Narcotics Control |
| DPD | Deputy Project Director |
| DPO | Divisional Project Officer |
| GIZ | German Agency for International Development |
| IG | Inspector General of Police |
| IO | Investigation Officer |
| IROSP | Improvement of the Real Situation of Overcrowding in Prisons |
| M&E | Monitoring & Evaluation |
| MLAA | Madaripur Legal Aid Association |
| MO | Medical Officer |
| MoHA | Ministry of Home Affairs |
| NGO | Non-Government Organization |
| NI |  |
| NLASO | National Legal Aid Services Organization |
| NPD | National Project Director |
| PSC | Project Steering Committee |
| SP | Superindent of Police |
| TAPP | Technical Assistance Project Proforma |
| TOR | Terms of Reference |
| VIP | Very Important Person |

Table of Contents

[I. Background 4](#_Toc461006589)

[II. Research objectives 6](#_Toc461006590)

[III. Findings 7](#_Toc461006591)

[1. Case Coordination Committee in the Management System of IROSP II 7](#_Toc461006592)

[2. Decision Making within CCCs 9](#_Toc461006593)

[3. How can concrete examples of local problem-solving be applied to other districts and sustainably implemented at the policy level? 27](#_Toc461006594)

[4. How do cases which are presented in the CCCs and the subsequent local solutions affect the policy makers at higher levels? 28](#_Toc461006595)

[5. How can the CCCs increase their way of strategic decision-making (e.g. how can the priorities be set accordingly, what areas need to be prioritized, how can findings of the justice audit be utilized to the end?) 29](#_Toc461006596)

[6. What mechanisms, procedures or actions are to be strengthened or put in place to sustainably implement the scaling-up of policy decisions? 31](#_Toc461006597)

[6.1 Mandate 31](#_Toc461006598)

[6.2 Paralegal services 32](#_Toc461006599)

[6.3 Criteria for selection of cases 33](#_Toc461006600)

[7. What are the mid- and long-term impacts of CCCs in different government levels (district and national level) 35](#_Toc461006601)

[Annex 1: Quantitative data 37](#_Toc461006602)

[Annex 2: List of respondents 48](#_Toc461006603)

# Background

In Bangladesh, the prisons are badly overcrowded. The most recent statistics[[1]](#footnote-1) say that the prisons have 68,259 inmates against an accommodation of 34,706 inmates. About 72% of the prisoners are under trial (women: 4%), and many of them have been incarcerated for years. The trend of prison population is somewhat stable[[2]](#footnote-2), even though the crime figure keeps increasing over years[[3]](#footnote-3). Case studies show that many under-trial prisoners have already served a longer period than the maximum jail sentence in the event of conviction. The situation of women and children prisoners is reportedly worse, as they are likely to be more vulnerable to violations of basic human rights.

According to experts, the state of overcrowding of prisions in Bangladesh has many causes. Some of those reasons are huge backlogs of criminal cases, prisoners having limited access to legal support due to financial constraints and unwillingness on the part of family members to pursue the legal process are some examples which could be cited. The prison management focuses more on security of prison that on sentence planning/policy and rehabilitation. It seldom coordinates with other agencies to assist prisoners on accessing legal advice, so that they do not serve jail sentences longer than lawfully required.

DFID and the Federal Government of Germany provided financial support to the German Agency for Development Cooperation (GIZ) to implement the project entitled “Justice and Prison Reform for Promotion of Human Rights and Corruption”. Through two specific components, Prison Reform, and Justice and Corruption Prevention, the project intends to pursue the module goal of “The judiciary considers new reform attempts and includes valuable practical examples of inter-ministerial cooperation from selected pilot districts”. The project has been designed keeping in mind the experience of Malawi, where a similar project achieved some significant improvement of the prison situation, albeit in a very different setting.



The heart of component 1 (Prison Reform) of the project is the establishment of an inter-agency Case Coordination Committees (CCC) comprising of members, such as, the District and Session Judge and Deputy Commissioner in shared leadership, Jail Super as Member Secretary, and others from relevant agencies. The CCCs are to meet monthly regularly, and to identify the key problems faced by the prisoners, enable prisoners to have access to legal assistance and to improve coordination among various departments in order to reduce case backlog and to reduce the number of people held in prisons awaiting trial. The Exhibit 1 shows the achievements (2014 and 2015) and compares the situation in Bangladesh with that of in West Bengal and UK. It shows that the percentage of the prisoners under trial is slightly lower in West Bengal and very low in the UK.

The project believes that the decisions taken by the CCCs have achieved five objectives at the national and district level. At the district level (a) it has established a proper communication system among relevant institutions to ensure a smoother trial process (b) it has ensured that the witnesses are reachable through mandatory inclusion of mobile phone numbers in the police reports and (c) it has arranged monthly court dates to avoid that the prisoners are always ‘on-call’. At the national level (a) it has encouraged inter-ministerial discussion on policy and practice issues and (b) it has created/generated/put together evidence of actual blockages in the criminal justice system or the ‘pipeline’. The project believes that these outcomes are possible mainly because of decisions taken by the CCCs, whose members are from the various relevant agencies of the justice system (judiciary and administration). The project is seeking validity of the assumptions and effects/impact, and thus this study. Therefore, this study will address the following core questions.

# Research objectives

The TOR of the study demands answering the following questions (see Annex 1):

1. How are decisions made within the CCCs?
2. How can concrete examples of local problem solving be applied to other districts and sustainably implemented at the policy level?
3. How can cases, which are presented at the CCCs, and x local solutions affect policy makers higher up the administrative hierarchy?
4. How can the CCCs increase their incidence/way of strategic decision-making (e.g. How can they set priorities, what areas need to be prioritized, how can findings of justice audit be utilized for that end?
5. What mechanism, procedures or actions to be strengthened or put in place to sustainably implement the scaling-up of policy decisions?
6. What are the mid- and long-term impacts of CCCs at different levels of government (district and national level)

The study is expected to put together some empirical evidence, further insights and information for M&E and reporting on three indicators as listed below:

* Component 1: The CCC, which meets on a regular basis, agrees on cross-departmental solutions for local level problems of pre-trial custody and penal system;
* Component 2: The CCC, which meets on a regular basis agrees on cross-departmental solutions for local solutions of the justice system including past and pre-litigation solutions; and
* Output 1: Criminal cases identified by CCC as backlog are reduced by 50% in 10 districts

The aforementioned objectives constitute the basis for descriptive, analytical and prescriptive research activities as outlined in the sections to follow.

# Findings

The findings of the study as outlined below are broadly structured following an analytical framework. The findings capture CCC’s nature of work at the district level and its reflection at the national level aiming at rolling out of the CCC model to new districts and attaining sustainability. The framework (see Exhibit 2) demonstrates that the CCCs embody both an institution and a process comprsing the preparatory steps towards a CCC meeting, CCC meeting itself, and follow-up of the decisions of the meeting.



## Case Coordination Committee in the Management System of IROSP II

In line with Phase I of IROSP, the implementation arrangement of IROSP II continues to include three Committees, namely Steering Committee, Advisory Committee and Case Coordination Committee. While the first two committees work at the national level, the third one confers at the district level. The following outlines the roles and responsibilities of the district committees and the nature of relationship among them.

**Project Steering Committee (PSC)**

IROSP II, similar to its predecessor, is a project of MoHA and includes four components. *Component 1* aims at ‘*expanding the framework for legal advice and assistance’.* The Steering Committee, chaired by the Senior Secretary of MoHA, includes 15 Members with the National Project Director of MoHA (Additional Secretary of Prison and Narcotics Wing) as its Member-Secretary and the Members representing concerned government agencies. The IG Prison, head of the Prison Directorate, is one of the Members and holds the position of the Deputy Project Director (DPD). The PSC provides policy guidance to the Prison Directorate, the project implementing agency. The DPD oversees the district level project activities through (senior) Jail Supers of the respective districts. The PSC is expected to meet twice a year, approve the work plan and budget as well as discuss the progress of the project.

**Advisory Committee (AC)**

The Advisory Committee, chaired by a Judge of the Supreme Court to be nominated by the Honourable Chief Justice, includes 22 members, among them two Judges of the Supreme Court of Bangladesh and representatives of various concerned agencies engaged with the criminal justice system and other agencies of the Government. The IG Prison is the Member Secretary of the Advisory Committee, who ensures greater interaction between the Steering Committee and Advisory Committee. The Advisory Committee is expected to meet quarterly and provide legal advice and guidance in the form of recommendations to the Steering Committee.

**Case Coordination Committees (CCC),** which is to beformed in each project site, would function under the joint chairmanship of the District & Session judge and the Deputy Commissioner. In two new sites, the CCCs will be formed in the same way. The CCCs were evaluated as ‘operating effectively’ in the first phase (GIZ) evaluation report.As adistrict level organ at the various project sites, CCCs bring together all possible agencies concerned with the criminal justice system. It is composed of 23 members under the joint chairmanship of the District and Session Judge and Deputy Commissioner. The members are from the judiciary, administration, prison, police, social services, community leaders, civil society etc,[[4]](#footnote-4), and the Jail Super is to be the Member Secretary of CCC, representing the Prison Directorate and ultimately the Ministry of Home Affairs (MoHA). The TAPP of IROSP II states that the CCCs *“will continue in their main purpose of identifying what steps can be taken to ameliorate the congestion in their local prison, to monitor the progress of IRSOP locally and share their reports of progress (and challenges) with the PSC and AC”*.

The CCC coordinates relevant stakeholders and provides support and access to legal aid for prisoners under trial in order to reduce unnecessary detention. Such interventions benefit the under trial prisoners because the various legal steps are speeded up resulting in quick disposal of cases. Other than death reference and life imprisonment, there is no automatic legal support from the government or it’s attorney service, and therefore, the CCCs addresses a critical ‘gap’ within the existing system.

The project ensures the involvement of various agencies outside MoHA by way of a Government Order, which directs certain public officials to participate in the CCC meetings. A letter from the Honourable Chief Justice of the Supreme Court of Bangladesh allows the Judges of the Supreme Court (composed of the Appellate Division and the High Court Division) and of the District Courts to participate in the Advisory Committee and the CCCs[[5]](#footnote-5).

## 2. Decision Making within CCCs

#### 2.1 The composition of CCC

It is to be noted that most of the persons interviewed persons found the CCCs to be a useful mechanism. Their perceptions may be summarized as follows:

*First*, the CCC provides a forum for interaction of different players - the judiciary, administration, civil society and others can collaborate, when needed, to bring about an effective change in the practices of the criminal justice system. This provides an opportunity to look at the exisiting practices from a different angle with the objective of changing the old mindset and diminishing the ‘ego’ factor. Such a collective approach could benefit the justice delivery system at the district level by initiating a step towards a more synergetic relationship between the judiciary and administration.

*Second*, according to the terms of reference of CCCs, both the District and Session Judge and Deputy Commission are expected to visit the prison once a month and inquire about the prevailing situation of the prisoners. The Jail Authority is responsible to take care of the prisoners, and deal with issues, such as, protection, health and rehabilitation. The nature of the offices of the District and Session Judge and of the Deputy Commission suggests that the District and Session Judge would see the prisoners as a stakeholder within the justice delivery process, and the District Commissioner would see them as individuals, who are to be kept in a protected, disciplined and hygienic environment.

*Third*, the Social Welfare and Legal Aid Officers are expected to visit the jails under certain circumstnaces. Since the prisoners may include women, children, juvenile and physically challenged people and may have special needs that the prison cannot satisfy, the Social Welfare Department is well placed to step in with their expertise. The Police play a role in providing (i) the external protection of the prisoners (ii) testimony as witness and (iii) support to produce witnesses. Since a significant number of cases are related to drugs, the Department of Narcotics Control also has to testify before the court. Finally, the involvement of the Civil Surgeon’s office is by way of testifying on medical issues and to provide medical certificates. Others, such as, the Public Prosecutor, Bar Associations and others, also have a role, albeit peripheral, to play.

*Fourth*, the Deputy Commissioner, already heavily engaged in the coordination of many district level affairs, adds much value as the co-chair of the CCC. This complementary and supporting role of the Deputy Commissioner can strengthen the overall decision-making process and subsequently the decisions can also be implemented effectively. The overall working relationship between the District and Session Judge and the Deputy Commissioner becomes the main determinant factor, and this can vary from case to case.

While there are arguments for the existing composition to remain as it is, there are also suggestions to alter its composition and size, such as, downsizing of CCC, designating some as core group members with others as extended group members, among others.

#### 2. 2 Alignment of CCCs

The CCC is an initiative of MoHA to establish or to increase connectivity among the justice sector players, such as, the judiciary, administration, Bar and civil society at the district level. The MoHA is represented by the Jail Super, who serves the Prison Directorate at the District level and holds the position of Member Secretary of the CCC. Since the Joint-Chairs are not representing the MoHA, the nature of relationship between the CCCs and Prison Directorate is an informational one and NOT that of accountability. In other words, the activities of the CCCs as documented in the minutes of the CCC meetings are presented to the Prison Directorate by the respective Member Secretary, but the Committee itself is not accountable to any authority.

#### 2.3 CCC meeting as a process

The heart of the CCC is its monthly meetings chaired by at least one of the Co-Chairs. However, the activities before and after such meetings are part of the total process, making the CCC a quasi organ for the implementation of the project. Broadly, the process leading to such a CCC meeting includes five steps as elaborated in the following:

Exhibit 3: CCC process

**Step 1 (Awareness)**: Awareness raising is the starting point of the process. It is important that prisoners under trial are aware of the basic knowledge of the criminal justice system, the existence of legal aid and how to access it through ‘clinics’ available within the prisons. The main purpose of this awareness process is to create a relationship of trust between prisoners under trial and the paralegals, which will eventually generate a demand for legal aid service.

**Step 2 (Selection, Liaison and communication)**: The second step is that of selection, liaison and communication. In terms of selection of cases a set of criteria, like duration of detention while under trial and type of cases (crime, gender, juvenile, etc.), is used. This is followed by liaison and communication activities. This entails contacting relevant persons and institutions to make sure that the selected cases are prepared for presentation at the CCC meetings. Among other issues, the liaison and communication process includes contacting family members, gathering documents related to the selected cases and then assess the steps with the view to disposal, and finally include the various cases for presentation at the CCC meetings. The main outcome of the process is to put together a case-related agenda for the forthcoming CCC meeting.

**Step 3 (Meeting)**: The third step is the most critical and the sum total of all the efforts so far, the CCC meeting itself. The meeting of the various stakeholders and ensuing deliberation, sometime very animated, will identify the obstables and bottlenecks. The meeting will also decide on the steps to be undertaken to ensure that the proposed cases are included in the relevant cause list. The Chairs are generally expected to assess the reasons behind the delays and take decisions to accelerate the justice delivery process in consultation with the various stakeholders (Police, Civil Surgeons, District Legal Aid Officer, etc.). In some instances, the CCCs will also set deadlines for some sensitive cases.

**Step 4 (Follow-up)**: After the CCC meetings the challenge is to implement the decisions. This calls for a huge amount of follow-up activities with various agencies. The outcome of successful follow-up is court hearings leading to a conclusive decision.

**Step 5 (Feedback):** Finally,a report to be compiled on the various activities undertaken to implement the decisions of the previous meeting. The narrative will highlight the successes, indicate the reasons for deviations, and also includes further steps to be undertaken, if necessary, in order to re-double efforts to implement the decisions taken earlier.

**Role of a team of paralegal**: The process described above is heavily dependent on paralegals, and the design of the project has ensured involvement of certain non-profit paralegal organisations (e.g.BLAST, MLAA) A number of teams of paralegals have been given the responsibility to facilitate the process, as described earlier. The project design has also ensured that the paralegals are at the disposal of the CCCs and act according to the decisions of the CCCs.

Who are these paralegals? Paralegals are non-legal persons with basic knowledge of the criminal justice system, particularly the legal structure and process. They have access to the prisons within the project area, and they operate according to the code of conduct as agreed with MoHA. The paralegals maintain a line of communication with the relevant stakeholders, as overseen by a project-supported Divisional Project Officer (DPO), who is an experienced lawyer. In short, the paralegals ‘glue’ together the various players and processes of the criminal justice system by establishing connectivity among all concerned for the betterment of the prisoners under trial.

#### 2.5 CCC process in practice

**a) Awareness**

The former and present prisoners under trial, particularly those without access to legal advice due to either financial or non-financial reasons, appreciate the awareness raising activity of the paralegals because the latter help them to become aware of their rights. Generally, it is difficult to access prisoners under trial while in prison.Given the fact that the project has an agreed code of conduct with MoHA, the Prison Directorate allow the paralegals to have access to those under trial prisoners. Second, the awareness raising activity of the paralegals also supports the role of both the District Judge and the Deputy Commissioners, who have inherent power to visit prisons, because they enquire of the legal aid needs and wellbeing of the prisoners under trial respectively.

There is need for more clarity on the issue of access legal aid, particularly on the question of who is entitled to legal aid. In order to be more effective the paralegals, working in different districts, need to identify the eligible prisoners before they can arrange any awareness session. To take an example, in one district, a prisoner will be eligible for legal aid if he has spent at least two years awaiting trial. This criterion is not valid in other districts in terms of access to legal aid. There are other examples of such inconsistencies.

In terms of access to prisoners awaiting trial, the GIZ project has created a situation where the Prison Directorate is facilitating the process, which would be very unlikely under a non-project situation. Access to such prisoners could be mainstreamed by attaching paralegals to the Prison Authority or by ‘internalizing’ similar activities.The District Prison Authority does not favour paralegals to be attached on the ground that as internal staff members they would be subject to various ‘undue’ pressure, which will self-defeat the purpose. The sustainable solution would be to formulate an institutional design, such as, an outpost/outreach of another agency in the prison with formal authority for paralegals to operate.

**b) Selection, Communication and Preparation**

Streamlining is also needed in the selection of legal aid cases. Some judges believe that only cases older than two years should be considered, and apply the 2-year rule very strictly. Some judges, on the other hand, consider such a rule to be both arbitrary and discriminatory, as accused in criminal cases on bail will not get preference even though these cases have been in pendency for a longer period. In Bogra, for example, many prisoners were considered eligible despite the fact that they were in jail for less than six months. In other areas, the duration is not even mentioned – not clear. In addition, some judges argue that if the objective is to reduce overcrowding of prisons, securing bail should lead to the de-listing of the case – again not clear. In short, there is an urgent need for a set of criteria on how to select and de-select cases.

When the demand for legal aid services exists and the information about eligible prisoners is available, the paralegals need technical backstopping from their DPO to initiate the process of providing legal services. Whether the certified copy should be collected, family members contacted, lawyers engaged, and other organizations (social welfare) contacted cannot be decided by the paralegals. They seek advice from the respective DPO. In other words, paralegals alone are not enough. A legal expert has to guide them. The paralegals, being associated with the CCC chaired by the District and Session Judge, have access to various places within the court and outside the court to seek cooperation successfully so what?. Initially, concerned places within and outside the court did not recognize the role of paralegals, but later their roles have become more acceptable. The paralegals as a professional term is non-existent in the justice system and as such they lack recognition from the Bar and their mandate is not clear in a non-project context. The technical support from the DPO and Chairpersonship of the District Judge in the CCC have paved the way for their work. In a non-project situation, a lawyer and his/her associate are expected to do that. The paralegals expect more support from the panel lawyers assigned by the District legal aid office.

The liaison and communication activities become even more complex when the prisoners under trial cannot either provide sufficient information or their family members cannot be traced or were not willing to welcome the release of such prisoners. The prisoners, who have been awaiting trial for years or are physically or mentally challenged, experience such a situation – what situation?. In other words, the scope of work of paralegals goes beyond the legal arena and spills into the area of social work.

Given the quantitative and qualitative achievements/findings, an effective CCC is considered as a powerful mechanism to reduce the jail population and case backlog, which are the shared objectives of both the Government and Judiciary. The CCCs appreciate the role of the paralegals in assisting the Member Secretary to organize the CCC meetings and liaise with all the agencies between the CCC meetings.

**c) CCC meeting**



The analysis of the minutes of the CCC meetings together with first-hand obervations from five CCC meetings provided a comprehensive picture on who chairs the meeting (see Exhibit 4), modt frequent topics discussed (see Exhibit 5) how decisions are made, assigned and followed. The following description and analysis are based on the meeting minutes, meeting observations and the individual meetings with the Co-Chairs and selected Members of some CCCs (Rajshahi, Bogra, Sylhet, Jessore, Chittagong and Dhaka). The description touches on the following aspects: (a) typical process of a CCC meeting (b) nature of participation of the agencies represented in the CCC (c) accountability of the participating agencies (d) type of suggestions proposed by CCC meetings and (e) potential for/prospect of sustainability of the CCC meetings. They are further elaborated below:

**Process**

The CCC meetings follow a very traditional pattern and the use of modern communication system is minimal. The participants would welcome the use of pictorial/video-supported presentations of items on the agenda. In order to draw greater attention of the CCC members the progress reports could be more user-friendly.

There is no agreed guidelines on how to conduct a CCC meeting. Therefore, the process of such meetings varies, and also depends on the way the Chair(s) want to conduct it. The venue of the meetings is either the DC or the DJ’s office. Since there is no provision on

Table 1: Venue of CCC meetings

|  |  |  |
| --- | --- | --- |
| Venue | No. | % |
| DC Office | 122 | 47.7% |
| DJ Office | 129 | 50.4% |
| Others | 4 | 1.6% |
| Not mentioned | 1 | 0.4% |

quorum for such meetings, the concerned Chair(s) starts the CCC meeting by welcoming the participants. The CCC meetings normally continue for one to two hours. After the welcome from the Chair, the proceedings generally include presentation on the progress of the implementation of the decisions of the previous meetings by the Member Secretary. Often



representatives of the concerned agencies, which are expected to implement the decisions, also contribute by sharing their progress. A discussion may follow based on the presentations. In addition to the previously unsettled cases, new cases are also presented for CCC decisions. After a brief discussion on the merit of the cases, the Chair(s) decides on how to address the cases in consultation with the concerned participants. The meeting ends with a proposed date, if one Chair is present. Otherwise, a confirmed date is fixed for the next meeting.

The reports of the different agencies solicit varying degree of reaction from CCC member, particularly the chair. If the chair is the District and Session Judge, it is normally expected that a clear report on the appearance of the witness is provided by the Police, so that the Judge can take a decision in line with the Criminal Procedure Code given the fact that witnesses will not be available. Ambiguous response is not acceptable. The Chair generally makes useful suggestions regarding appearance of witnesses. When both Chairs are present, the District and Session Judge appears to take a more pro-active stance and a significant share of the meeting’s time to discuss the progress of cases and provide guidance, as needed.

**Effectiveness of Meetings**

The effectiveness of meetings tends to rise when both Chairs are present as cases are discussed both from the legal and administrative perspectives (for example, the various hurdles faced in producing witnesses through the intervention of Police). Effectiveness is reduced significantly due to the absence of the SP/Additional SP, as any lower level representation cannot formerly commit to any decision. Therefore, any instructions or directions from the Chair can only be communicated and confirmed if agencies are represented by proper officers. The effectiveness is significantly enhanced with ownership, and a sign of this is the active participation of the individual agencies representated on the CCCs.

**Participation**

The GO from MoHA and the letter from the Supreme Court are the formal justification for the participation of the CCC Members from the various agencies. But neither of the two documents specify a clear set of rules of engagement on matters, such as, the nature of attendance of meeting, delegation of responsibilities, quoram, the role of the co-Chairs, among other issues. In reality, the nature of participation varies from district to district, and so does the personal motivation behind their participation. The participation of the CCC Members follow three distinct patterns. First, either the District and Session Judge or the Deputy Commissioner interchangeably chair the meeting held once a month. If one of the above is chairing the meeting, a senior representative of the other is present. Second, both Chairs are present. It has been observed that the Chairs may bring other participants to assist (Judge/Additional District Magistrate). This flexibility was considered to be useful during the inception phase. However, the CCC members are increasingly realizing that representatives’ performance is not as good as Members.

As the Exhibit 4 demonstrates, the presence of the Member is the highest with the Jail Authority, followed by the judiciary, administration and public prosecutor. The lowest presence of the Member is the police. Based on the deliberations with the representatives of the agencies represented in the CCC, the research team has perceived the following nature of inclination of the relevant agencies towards CCC:



While participation of the Chairs is predictable and the pattern has been highlighted above, the Police participation is somewhat unclear. Even though the SP or Additional SP are expected to attend, in reality their participation is rather unpredictable and rare, and often attended by junior level officers. This gives rise to much dissatisfaction with the CCC Chairs. Furthermore, these junior officers attend ill-prepared and without sufficient knowledge of the previous meetings given the fact that the possibility of the same person attending the subsequent meeting is low. Even the court inspectors are seen representing the Police. Even though the stakeholders appreciate that the police are heavily burdened their appropriate representation is crucial to address some of the major agenda items of the CCC meetings, such as, the examination of the IOs. It is believed that the instructions from the Police Head Quarters will have to be sterner to ensure more effective participation in the future. The same is applicable in relation to the participation of the Civil Suregeon’ office and the Department of Narcotics Control.

In summary, the nature of participation suggests that the formal justification is not strong enough to ensure the participation of all concerned officials.

There has been some discussion regarding the preparation and management of CCC meetings. Some of the following issues have been raised: the CCC Chairs have often requested updating of progress on short notice, appropriate representation of relevant agencies, more openness of the participants, a more pro-active and guardian role of the Co-Chairs, among others. The CCC participants have welcomed the participation of both the Chairs as they encourage prompt decision-making and greater agreement when it is to do with the scheduling of future meetings. The relevant high officials in the Minstry of Law Justice and Parlamentary Affairs and MoHA consider the participation of both Chairs and the senior police officers at the district level in the CCC meetings even as necessary and support policy measures from respective high officials to ensure this.

**Accountability**

The CCC is not a subordinate committee of the Steering Committee. In addition, the GO and the tetter from the MoHA and SC, respectively, being not departmental instructions, do not impose any obligation on the CCC Members to participate or to report on their activities vis a vis the CCC. Furthermore, given lack of formal guidelines on how to conduct CCCs, there is much flexibility in the management of CCCs. This flexibility may be useful when local context demands it. However, the same flexibility may impose limitation on the issue of accountability of the CCC Members’ relationship to represent their agencies effectively.

When both Co-Chairs are present, decisions are taken more easily and the schedule of the next meeting is also comfortably set. The participation of the Chairs is driven more by personality and a sense of duty and less by formal rules. The Co-Chairs expect a higher level representation by the Police than experienced so far. The fact is that most cases remain under trial due to non-appearance of IOs, MOs, and DNC officers. Such non-appearnances are without sufficient reasons. In such circumstances, the CCC meetings become less effective. This is a challenge for the CCCs and can only be addressed by imposing effective measures to enable appearance of witnesses during court hearing dates. This is yet to be achieved but useful insights have been gained, which could contribute to finding a working solution.

Nevertheless, the CCC meetings have become a useful accountability forum, where the various agencies submit themselves to scrutiny. Irrespective of who chairs the meeting, the Co- Chair and members participate actively in the discussion. However, the participants from the judiciary participate more actively when pending court cases are brought before the CCC. The Co-Chairs are not sufficiently aware of either the criteria used for the selection of cases or the way meeting minutes are written. Therefore, different practices have emerged and there is need for standardization.

The prisoners under trial experience inordinate delay, and this is due to non-appearance of witnesses despite the fact that court summons are repeatedly issued following due process. IO, MO and the representatives of the Narcotics Department are the most ‘truant’ witnesses. This results in unresolved cases. Several reasons have been cited for this ‘truancy’: the summons were not received; the witnesses were not available at the given address due to transfer or retirement. The costs of bringing the retired persons to court is also mentioned as a reason. Most unfortunate of all the reasons, there have been instances when private witnesses, despite there presence within the court premises, were not heard due to insufficient efforts of the public prosecutors.

Through CCC the judiciary and administration developed a working relationship which has the effect beyond the scope of CCC activities. Both judiciary and administration having the mutual benefit (which helping the acceptance of the initiative).

The CCC Members mainly discuss regarding specific cases, provide guidance for prosecution related to PW attendance. Sometimes, the CCC Members maintain official decorum and do not become open during the meetings. Government members yet to take the ownership. Some Members still call the CCC meetings as GIZ meeting. Guidelines with will be helpful for ensuring accountability. For better functioning of CCCs, a review regarding its composition (no participation by representatives), arrangement of neutral venue, more motivation for personal participation, can be considered. Some Members favour a common awareness of the CCC Members on the expected success of CCCs, like the practice of monthly jail visit (identification of unidentified) and speedy trail and legal support for helpless people.

Some Members believe that in the absence of PL, the project practice will continue, if the key members of CCC take ownership. A High Court circular on an obligatory prison visit would be helpful for ensuring regular jail visit.

**Suggestions of stakeholders**

Respondents at various levels (District, National) made a series of recommendations to transform CCCs into an ‘accountability forum’, which could streamline multifarious work processes related to the prisoners under trial. Tangible results could be to reduce both prisoners held in prison and case backlog. The following are the most frequently mentioned recommendations:

**Governance**

1. Arrange and issue Standing Order(s) from the Supreme Court regarding the participation of the members of the Lower Judiciary in the CCC meetings. This will create a more enabling environment for the judges. Any SC direction/MoHA Circular to make the CCC activities an intergral part of their official responsibility (with impunity) will greatly assist to make the initiative sustainable.
2. Introduce departmental monitoring of CCC activities.
3. Introduce sanction/penalty in case of non-attendance of meetings.
4. Ensure participation of a good mix of judges, police and lawyers in the CCC meetings.
5. Process of involving/including too many people in cases has to be reduced.
6. Introduce an accountability system related to the performance of CCCs along respective line of authority.
7. Integrate CCC meetings with other monthly meetings as a separate agenda to overcome meeting fatigue of the stakeholders.
8. Use the Judicial Conference (due every 4 months, happen 2/3 times a year among all relevant stakeholders with different agendas) as a forum for coordination at the national level.

**Environment of CCC meetings**

1. Undertake advocacy efforts to shift existing mindset to achieve ‘Judiciary meets the Administration and the civil Society’.
2. There is a need for an open and honest discussion of all stakeholders in the CCC meetings. Decisions arrived through a ‘short-cut’ process may not generate expected results.
3. Encouraging decision-makers to recognize and praise good performers, which is a well-recognised motivating factor.

**Regulatory reforms in the criminal justice system**

1. The project may take initiative to achieve regular jail visits in order to identify relevant cases. Other judges may also be permitted to visit the prisons, which will require regulatory changes.
2. A better distribution of case load among judges (e.g. financial limits) may help, which will also require regulatory changes. The idea of a ‘floating court’ has been proposed.
3. The project may suggest how a) proper system of issuance of medical certificates is introduced to ensure that the IO does not need to delay issuance of charge sheets due to unavailability of medical certificate.
4. The project may suggest a new system of reporting on the availability of witnesses, so that the honourable judge can use CrPC properly.
5. Cluster all women protections related cases in one place.
6. Separation of civil and criminal cases (Additional District Judges Court) could reduce case back log.

**Sustainability**

Given the above narrative, it is likely that the CCCs will not continue to meet under a post-project situation, unless it is given a mandate of an agency with a specific scope of work for the potential participating agencies. The judiciary appears as a suitable agency to be mandated under a post-project context. The stakeholders support the continuation of CCC activities and future rolling out to other districts. The Supreme Court of Bangladesh or the National Legal Aid Services Organizations appear as suitable executing agencies.

**d) Follow-up**

The nature of decisions taken by the CCCs is to pursue the cases submitted and to bring them to a conclusion. The judges present at the CCC meetings agree to offer new hearing dates, make specific orders to the Police to bring witnesses (IOs), request presence of Medical Officers (MOs), request submission of medical certificates and instruct the PPs to ensure examination of private witnesses who appear to give evidence. Generally, the concerned agencies, who are represented at the CCC meetings, make commitments to the

CCC to follow up on decisions taken but subject to discussion with their higher authority, given the fact that lower level officers were normally present in these meetings.

Notice of hearing, known as summons, needs to be sent by courts for the appearance of witnesses (investigation officer, medical officer, experts from DNC, private people). Furthermore, such summons needs to reach the witnesses, in order to resolve the pending case. In many cases, non-compliance of such summons results in delays. Eight major reasons appear to dominate the issue of non-compliance with summons.

*First*, the notice does not reach the Police, who are expected to carry out the order. The Police claim to have a recording book of ‘received’ notices and that they comply with them.

*Second*, the person, who has been sent the notice, is not reachable for various reasons (wrong address, wrong spelling, death, change of address).

*Third*, the summoned witnesses have no interest or motivation as they do not receive any reimbursement for costs incurred in attending court hearings. This is particularly true when It comes to private witnesses as they are not aware of the fund (what’s it called?) available with the Deputy Commissioners for such witnesses. This fund remains unused and is generally returned to the Exchequer at the end of each financial year.

*Fourth*, even if the private witnesses are present within court premises, their examination (giving of evidence) does not take place, as planned. Some of the reasons being: non-appearance of relevant pubic prosecutor as s/he may have other priorities given the low fee structure, the court hearing date may have been changed or adjourned or the court was not duly informed by the Police that witnesses were present to give evidence. Generally speaking, producing a private witness is generally difficult as the relevant party may not always want to cover the witness’s lost incomes.

*Fifth*, even if witnesses are present, one or two critical ones may be absent, causing delay to the process and the eventual judgment. There are also occasions when Police reports are inconclusive, and is of little evidential value from Court’s point of view. In such situations Judges feel handicapped and litigation is unnecessarily prolonged.

*Sixth*, there are many instances of the same investigation officer (IO) or medical officer (MO) summoned on several occasions to appear before court to provide evidence. It is unlikely that he/she will appear given that fact that the person summoned is no more in service or lives in a different place or has died.

*Seventh*, the police have many roles and responsibilities within the criminal justice system and have to provide security to local and national VIPs and are therefore sometimes not in a position to comply with all of their duties in time. For example, appearance in a court is cancelled because the service of the relevant IO was needed to ensure the security of politicians.

*Eighth*, sometimes the report from IO/MO/Drug Expert is not received on time, and when on time, the appearance of expert witnesses before the court is not guaranteed.

The CCC members have suggested (inside and outside the meeting) a range of measures to overcome the aforementioned situation. Seven measures could be mentioned. *First*, the inclusion of cell phone numbers, BP no. and service ID of the IOs and MOs/Officers of Department of Narcotics Control, respectively. Second, provide financial assistance to witnesses to cover their costs from the office of the Deputy Commissioner. Third, hearing of cases to be arranged in such a way that all cases linked to a particularly IOs or MOs or experts to be lumped together to avoid multiple appearance of the same expert witness. *Fourth*, police report on the service of summons to be presented conclusively in order to comply with the respective provisions of CrPC. *Fifth*, greater use of IT in sending notices to Police in advance together with the dispatch of hard copies. *Sixth*, that the paralegals are given the responsibility of locating the witnesses required for hearing. But others believe that it should be the role of respective departments. *Seventh*, the task of finding and summoning the witnesses should be the shared responsibility of the court clerks, police, and advocates.

The Police is of the opinion that many IOs are very difficult to trace because they either no more in service or their whereabouts are unknown. In some instances, the moble telephone numbers to be found in the files are not reachable. The Police is supportive of an IT-driven communication system between the Courts and Police (the office of the Superintendent of Police) when it comes to the issuance of summons. This will address the perinneal problem of missing summons and other official letters. The existing state of technology available to the Police will allow this to happen if the concerned court despatches a scanned summon by way of internet. It could be mentioned here that most of the follow-up activities is related to the appearance of the IOs. The Police often cites the maintenance of law and order and security duties for the VIPs as the main reasons for the non-compliance of court decisions.

**e) Feedback**

This step occurs in two ways. First, the Jail Super himself reads out the progress in terms of decisions which have been implemented since the last CCC meeting. Second, concerned agencies separately report back on the progress since the last CCC meeting. If not implemented, they share the reasons and submit a future plan for there implementation. The Chairs generally accept the reasons cited but stresses the issue of speedy implementation in the future. Given the fact that most of the unimplemented decisions relate to fhe Police Department, it becomes a source of some unease for the Police during the CCC meetings. This is often cited as the reason behind the non-attendance of senior police officials, and attendance of a representative.

The feedback sessions of the CCC meetings highlight the following: many decisions are not implemented, extension of time is often sought and high level representatives are not present to report on their departmental activities. This results in reducing the effectiveness of CCCs. The Chairs express their dissatisfaction and demand conclusive reports from the Police and Civil Surgeon Office, so that the judges can resolve the pending cases following the CrPC, which include clear provisions regarding non production of witnesses due to valid reasons. Therefore, conclusive reports from ‘experts’ could result in quicker resolution of pending cases, a key message from the CCC meetings.

1. **The role of paralegals**

**Recognition**

The project engages a group of paralegals led by a DPO, who has a legal background, to facilitate the process described earlier.

The paralegals play a very critical role throughout the CCC process, as outlined above. The various stakeholders are also very appreciative of the services provided by the paralegals during the same process. The initial mistrust and non-cooperative attitude towards the paralegals from prisoners, lawyers, court staff and others have been greatly allayed. As a whole, relevant people consider the paralegals as an essential service provider in the criminal justice delivery system. Previously there wasn’t a body of people, like the paralegals, who could bring together the various agencies, in order to provide legal assistance to the prisoners under trial, whose stay in the prison could not be justified on legal grounds.

**Recruitment and Retention of paralegals**

The existing policy of the project is to discourage the paralegals to undertake study of law. This is based on the premise that such a pursuit may encourage paralegals to behave like psudo-lawyers. Therefore, a clear recruitment policy needs to be articulated which will put forward criteria attractive for non-lawyers. This will also encourage a large group of young men and women to become paralegals, who will remain as paralegals for a considerable period of time. The policy should also look at an induction process, which may help to screen in the right candidates for the paralegal profession.

**Capacity building**

The effectiveness of paralegals’ work very much depends on the lines of communication that they establish with various agencies and individuals of different strata. They also present the monthly reports at the CCC meetings. Even though the paralegals have earned appreciations, there are communication skill sets that they need to acquire. This kind of capacity building can enhance their performance and take the work of paralegals to a much higher level. Skills like interpersonal communication (presentation, public speaking, networking), writing (minutes, reports, letter writing) and psychosocial counselling would make them more capable and effective along the described process. Interesting materials, such as, case studies, videos, brochures will act as supporting aid in conducting legal aid clinics.

**Career Planning as a paralegal**

Presently, paralegals are engaged as project staff in various time-bound jobs. Their performance is very much associated with the CCCs, and they are very much appreciated for the service that they are providing. But they are neither considered as professionals nor do they belong to a national professional category. It seems that other factors are at play in keeping them involved with paralegal work - relatively higher income than that of their peers, personal motivation, among others. The fact that paralegals are discouraged to become lawyers has generated a kind of uneasiness as they believe that paralegal experience could stand them in good stead in joining the legal profession. A positive career strategy for paralegals would generate more job satisfaction than it is the case presently.

## How can concrete examples of local problem-solving be applied to other districts and sustainably implemented at the policy level?

As mentioned earlier, the project has three committees. As the CCCs are not subordinate to the Steering Committee, and is rather a coordination instrument at the District level, there is no reporting obligation on the part of CCCs to the Steering Committee. As such, the Jail Authority is not responsible for any cumulated report to the Steering Committee via the Prison Directorate, which could consolidate the lessons learnt or compile problem solving examples into a report. The Jail Authority just sends the minutes of the CCC meetings to IG Prison, NPD and Chair of the Advisory Committee. The project, however, reports to the NPD and DPD and seek policy decisions, if necessary. There is currently no practice of reporting by other members of the CCC to their respective higher authorities.

Given the existing institutional arrangements and associated accountability system, the local examples of problem-solving are included in the minutes of the meetings and neither documented separately at the district level nor consolidated at the national level by the Jail Super or the Prison Directorate, respectively. The progress reports that are prepared regularly by the project cannot substitute that kind of comprehensive and reflective reporting. Given the number of reports from the districts, it would be difficult for the Project Director to have a consolidated view of all the examples. There is no formal exchange of information between the Advisory and Steering Committees. There is neither any feedback mechanism in the sense that certain policy decisions are communicated to the CCCs through the Jail Authority (this sentence is not clear – incomplete it seems).

Presently, there is no scope of coordination among the CCC Chairs. Therefore, there is no forum for discussion on possible replication of best practices and development of consolidated experience report for either the Steering Committee or the Advisory Committee for consideration at the national level.

The project may opt for one short-term and one long-term strategy to replicate successful examples and place them for national level discussion. While the short-term one would work within the existing institutional framework, the long-term strategy demands a new institutional framework for consultations. The project may organize a yearly workshop, where the project would, on the suggestion of the respective CCCs, prepare a consolidated set of examples of local problem-solving for presentation. The Chairs of the respective districts, Steering Committee and Advisory Committee Members, may be invited to that workshop. This forum will help share each other’s examples for subsequent replication. In addition, the participation of the Steering Committee and Advisory Committee will allow technical and administrative scrutiny of the examples before they are adopted nationally, with necessary refinement, for district-level replication. In the event such a workshop cannot be organized, the project may, firstly, discuss the report at the Advisory Committee meeting, and make recommendations for the Steering Committee to consider and take a final decision.

The other more sustainable and systematic option would entail modification of the existing project design and implementation arrangements. The existing design and arrangement, as observed above, are unsustainable. The coordination of the various justice sector institutions should come under an existing institutional framework, such as, NLASO or the Bangladesh Supreme Court. Under such new institutional arrangement, the gathering of good examples of problem-solving and the deliberation at national level would be a natural process. The Office of the District Judge or District Legal Aid Office can perform as a coordinating body with strong reporting obligations to the Supreme Court and NLASO respectively.

## How do cases which are presented in the CCCs and the subsequent local solutions affect the policy makers at higher levels?

The operational space of the project is at the district level. The crime situation (nature and number) in the different districts varies greatly and over the years the crime scene has changed very little in the different districts. This has subsequently influenced the scope of work of the respective CCCs. For example, drug related crime in Bogra is higher than Rajshahi. When the prisoners under trial related to drug crimes are high, such cases are likely to find access to the CCC. In short, the CCCs reflect the ‘uniqueness’ of the different districts, and therefore, the various CCCs operate with flexibility to address their respective issues. This differentiated agenda is translated by the CCCs in there own ways, for example, handling of the witnesses, fixing of hearing dates and prioritization of cases.

The difference of approach in the CCCs is also reflected in the writing of the minutes – documenting merely the decisions and not the discussion preceding such decisions and formatting. Such very selective documentation leaves out certain process and solutions unknown to people, who have not participated in the CCC meetings. The minutes of the meetings is primarily prepared for the CCC members. Its copy is generally sent by the Jail Super to the Deputy Project Director. Minutes thus received from all the CCCs are not consolidated at the DPD level, except that occasionally queries have been made to certain Jail Supers. There is no formal communication between the Prison Directorate and the Chairs, except that the respective Jail Supers send minutes of the meeting. The project prepares a periodic progress report for the Steering Committee. However, it includes the progress of implementation of project activities and does not include any consolidation of the CCC minutes.

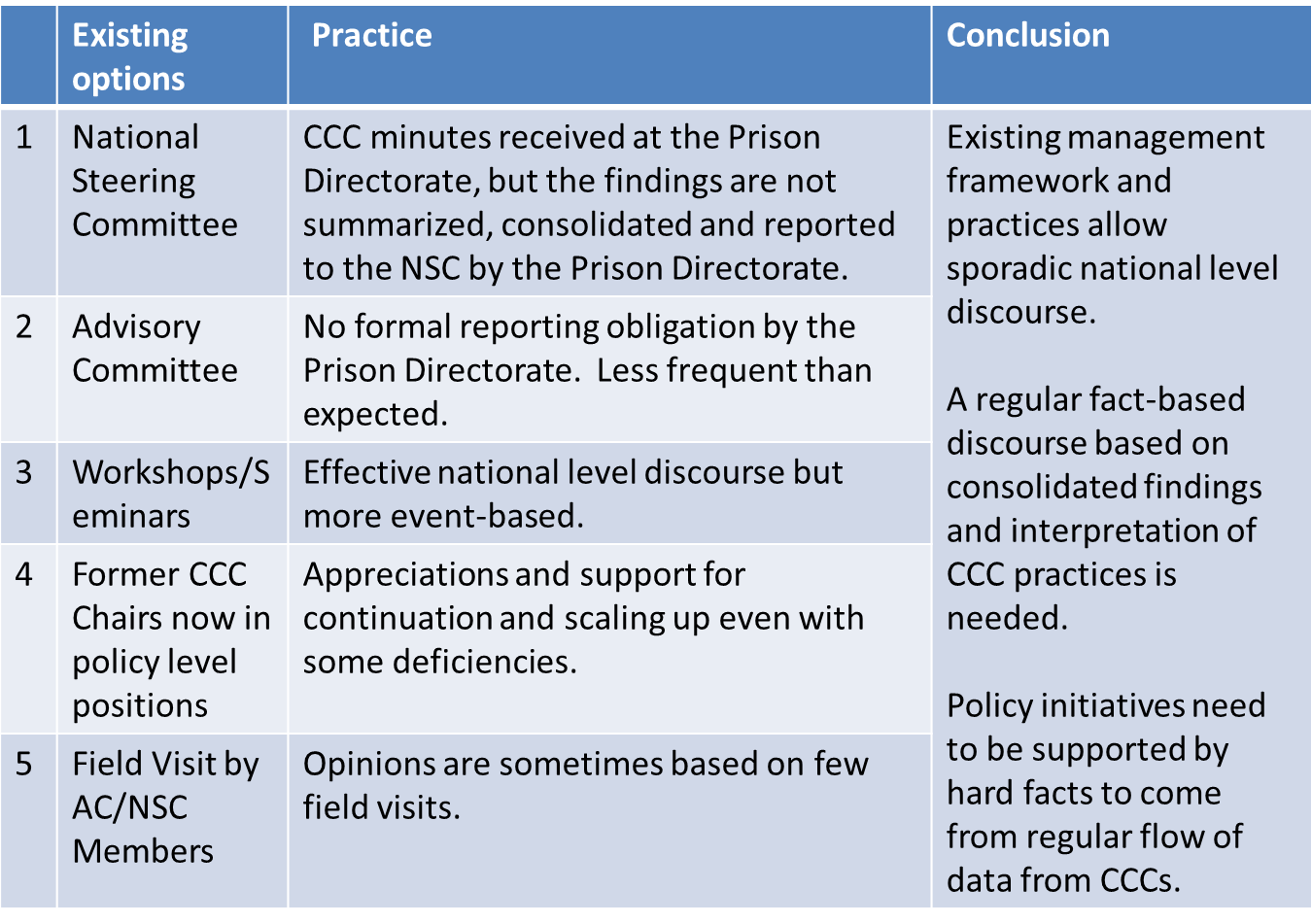


Exhibit 11: National level discourse

The National Project Director, Joint Secretary in the Law Ministry, who has been a district Judge and CCC chair, knew about the project either as Chair or as invited guest to various meetings. Otherwise, the only source of information is the progress report of the project and minutes from the CCCs. On the face of it there are plenty of sources of information about local cases and solutions, but they are not sufficiently processed to become valuable inputs for discussion and decision-making.

## How can the CCCs increase their way of strategic decision-making (e.g. how can the priorities be set accordingly, what areas need to be prioritized, how can findings of the justice audit be utilized to the end?)

1. **Classification of cases**

**Same IOs or/and MOs:** Cases which relate to specific IOs and MOs should be dealt with together, so that the appearance of the same IOs and MOs is not repeatedly summoned.

**Nature of cases:** Cases where the accused can expect bails and the duration in the prison have exceeded the possible maximum punishment may be handled together.

**Women, children and juvenile cases:** The prison is not the best place for this group. Therefore, early resolution of these cases would lead them to appropriate places like shelter homes.

1. **Practice of summons**

**Issuance of summons:** The suggestion of using the cell number and sending of scanned copy of the summons in addition to normal copy is seen as a technically feasible option provided that the respective courts are equipped with IT facility and internet system. The Police should also be equipped with such technology. This will ensure that the summons notice really reaches the Police, and the latter can be held accountable in the event of non-appearance of witnesses.

**Delivery:** The provision of not accepting a police report or medical report without cell number is a new practice. However, cell numbers can change over time, may be complemented by NID or Service ID number along with emergency contact number. This will ensure that the summons will reach the right person. The permanent address of NID or emergency contact number should be preferred as the address mentioned in the original report may not be valid anymore.

**Reporting:** The judges expect that the report on the serving of the summons should be conclusive, so that they can apply CrPC assuming that the specific witness is not reachable. The Police should use the procedure in delivering the summon.

1. **Rehabilitation effort**

At times, there are prisoners under trial, who are either technical experts or are inclined to learn new skills which might help them to restart their professional life when free and will not become burden to the family. To that end, the jail authority is advised to introduce innovative areas of skill acquisition.

In addition, the offer of psychosocial counselling to prisoners under trial and trauma is crucial. To that end, training of the social welfare worker and linkage with respective NGO services is another option. Family level counselling is also required where the prisoners have been away for a long time and have to reintegrate with the family first before he/she does the same in the society.

## What mechanisms, procedures or actions are to be strengthened or put in place to sustainably implement the scaling-up of policy decisions?

### 6.1 Mandate

The existing crisis of mandate and accountability needs to be resolved. The project has two alternatives.

Either, it may entrust the National Legal Aid Services Organisation (NLASO) as the project implementing agency with a Steering Committee headed by a Judge of the Appellate Division of the Supreme Court. The DLAC may take up the jail matter as a separate agenda in DLAC meetings. The District Legal Aid Officer should replace the Jail Super as the District Project Officer making the Jail Super as one of the members. The composition of the committee may otherwise remain the same.

Or, it may entrust the Supreme Court as the project implementing agency with a Judge of the High Court Division, as its National Project Director, and Steering Committee to be headed by a Judge of the Appellate Division. The District Legal Aid Officer should replace the Jail Super as the District Project Officer making the Jail Super as one of the members. The composition of the committee may otherwise remain the same. The accountability line is here somewhat blurred as NLASO is accountable to the Law Ministry, which is not considered as the project executing agency.

The first option is more sustainable in several ways. First, legal awareness, legal aid, and ADR are the core areas of work of NLASO. It just needs to extend its mandate by revision of the Rules. Second, NLASO can access public resources from revenue budget. Third, potential engagement of paralegal through NLASO is administratively more feasible. Fourth, NLASO and DLAC network is more extensive and goal oriented. On the other hand, the second option could provide the judiciary with greater ownership and thus make the engagement with the Higher Judiciary more effective, and ensure greater participation of the district level agencies. In a way, the accountability line is more clearer.

### 6.2 Paralegal services

The stakeholders have varied opinions regarding how the paralegal services can be sustained. The Jail Super, who uses the paralegals, and the NGOs, who trains and supervises the paralegals are generally of the opinion that the paralegal service should remain outside the government system.

1. **Alignment**

Given the positive assessment of the paralegal service from various stakeholders and that their service needs to be sustained, it is important to articulate a design that will come into being after the current project comes to an end. The recognition of paralegals as an entity and as a stakeholder in the criminal justice system needs to be put on the agenda. They are to be seen as members of a new profession and there service will focus on prisoners under trial. KII with the representatives of various stakeholders, including paralegals, suggest the following:

*First*, the service of paralegals is useful, as it is not rendered by any other agency and should be sustained.

*Second*, if this service is to be sustained by way of alignment with any particular agency, the opinion is divided on the issue of agency. There is lack of consensus on the nature of agency

*Third*, the existing services of the paralegal, although perceived to be a ‘glueing’ factor in terms of coordination, is nevertheless considered not sustainable under a no-project environment. Presently, the paralegals do not have any formal framework giving them the rules of engagement and sources of authority. The project-supported salary is a motivating factor for them, but they do not see any career path resulting in long-term professional advancement. It is the desire of the paralegals to be placed on the same footing as ‘paramedics’ or ‘parvets’, state-recognised professional groups.

The team observes four different ideas as outlined in the following:

*First*, NLASO, and its district offices (DLAC), are mandated to extend legal aid services to a selected group of people but prisoners awaiting trial without attorney services may not strictly fall under the beneficiary categories of NLASO. An relationship between the District Legal Aid Office and the prison authority can ensure proper access and legal advice to prisoners under trial. Some Judges were in favour of placing a certain number of paralegals under the District Legal Aid Officer together with adequate budgetary allocation from NLASO. This is in line with the TAPP (of which project?), which envisages that NLASO would endeavor obtaining recognition of paralegals as a separate professional body. The main argument behind this is that the Legal Aid Office is gradually being strengthened and this office is the natural ‘platform’ for paralegals. DLAC has already added mediation to its service. Restorative justice can now find an entry point by way of DLAC and paralegalism. Placement of paralegals under DLAC is doable merely by appropriate amendments of the Rules, which govern the provisions and entitlement of legal aid. In addition, the attachment with DLAO will ensure that the paralegals will receive legal advice from the Legal Aid Officer as to how the cases should be processed. Social Welfare office will be inappropriate due to its limited operations and management strength. Finally, DLAC is a more sustainable option given the fact that its budget is revenue funded.

*Second,* placing a required number of paralegals under the District Social Welfare Office. They are to be trained and their function to be considered as a service under the rubric of social work.

*Third,* placing the service of paralegals under any government agency, such as, Social Welfare, will make the service relatively weak and their role inside the jail and in the court may change significantly. Due to their assumed formal status, they might not get the extent of cooperation in the court as they are receiving now. The Jail Authority fears that the paralegals might get derailed from their actual role if they are formally placed under the the Jail Authority. For example, their expected status and positioning in the extremely hierarchical justice delivery system would constrain their work. Therefore, the work of paralegals should continue under the auspices of an NGO umbrella together with funding from development partners.

*Fourth,* the continuation of the paralegal service under NGO management, but a separate fund managed by the District Legal Aid Office to finance the activities of paralegals.

One common element that one can decipher is that paralegals should be seen as professionals with adequate incentive package, who are sufficiently trained, and working within a recognized institutional framework having full access to prisons. In other words, paralegalism becomes an intregal part of the justice sector in Bangladesh.

### 6.3 Criteria for selection of cases

The project may provide more clarity about the criteria, which are applied for the selection of cases. Since the reduction of prisoner under trial is the main objective of the project, the length of pendency of cases need not be that critical. It may happen that in one prison the length of pendency is short, but the sheer number of prisoners under trial is very high for reasons, such as, refusal of bails. In other cases, prisoners charged with petty matters could end up waiting for trial for a period longer than the duration of the sentence, if s/he were to be found guilty. Therefore, the Chairs may have discretionary power to review the criteria for selection of cases from time to time. In other words, the two-year rule shouldn’t be applied rigidly, and different circumstances should be taken into consideration by the CCCs.

* 1. **Liaison and Communication**

Paralegals’ performance varies but with time the quality has improved. The technical backstopping from a lawyer-turned DPO is critical. In a no-project environment, this service has to be provided institutionally. This is another reason to bring the service of paralegals within the framework of DLAOs.

* 1. **CCC meetings**

The project may consider a more structured approach for the preparation, conducting and follow-up of the CCC meetings. The following outlines the proposed changes:

**Preparation**: The paralegals should ensure that the progress described in the reports presented at the CCC meetings is upto-date through consultation with the concerned judges, and only selected cases are reviewed.

**Reporting:** The project may encourage progress reports by different agencies. This will increase their ownership and also ensure that the reports are correct.

**Minutes:** The project may consider documentation that is sufficiently detailed. This will enable proceedings/discussions to be noted in such a way that absent participants could follow the decisions of the previous meetings. Set of minutes should include the names of the minute-taker, signature of the chair, the date, list of participants, agenda, and the duration. The paralegals, given their academic and technical background, will unlikely to be in a position to take full notes of the proceedings. The project officers should be given the responsibility to write the minutes in a standardized way. This will greatly improve the quality of documentation.

**Follow-up**: The writings of the minutes of the meetings, their circulation and follow-up should happen immediately to make proper use of the fresh commitments made by the concerned agencies. Despite the expectation of various CCC members, the paralegals should not be used to ensure the delivery of summons. On the contrary, the Court may adopt different modes of communication (on-line, hand delivery, etc) to ensure proper receipt of summons by the Police. This will counter the views that Police rarely receive summons in the first place.

The unavailability of the IOs or MOs or other officials requires attention as cell phone number might change. NID, the service ID number and an emergency reference should be included in the report of the IOs, MOs and other officers. The emergency reference may be useful if summon is issued at a time when they are no more in service. The project may make good use of the resources at the disposal of the Deputy Commissioner (often unused and returned) if the summoned person needs financial support to appear.

**6.4 Use of Information Technology**

In order to address the communication gaps – notices are not reaching in time or lost - between the Court and Police, the Court and Jail Authority, DLAO and Jail Authority, Court and DNC/CS, use of IT solution may bring efficiency in the process. An IT solution would connect these agencies real-time, so that the question of possibly not receiving the notices or any other communication will not arise. The respective agencies also welcome such an initiative (see Exhibit xx).



## What are the mid- and long-term impacts of CCCs in different government levels (district and national level)

**Medium-term impacts**

The CCCs have the following impacts at the local level:

*First*, there has been noticeable change in the management system in relation to prisoners under trial and that covers the phases from identification to resolution. All concerned agencies now appreciate that they have their respective roles to play, and that they are being monitored and ultimately accountable to respective higher level authorities. This will only sustain, if the CCC meetings continue with its oversight role, particularly after the completion of the project.

*Second*, the prisoner-under-trial population is being reduced. This is happening by way of successful bail applications, conviction or acquittal. This is happening particularly in relation to cases affecting women and children and long pending cases.

*Third*, the indirect medium term impact is that the judiciary and relevant government agencies have started to behave differently in other cases, where the accused is on bail. In the way, the Judges are demanding the presence of IOs, MOs as they would do with cases where prisoners are under trial.

*Fourth*, it could be the fact some of the districts where the CCCs will be rolled out in the future, might have former CCC Chairs/Members. Their presence will speed up the process of implementation as the former CCC Chairs/Members who will be able to share their experience. This will be even more likely if the selection of new districts is based on the presence of former CCC members.

*Fifth*, restorative justice and re-integration efforts may contribute to the reduction of repeat crimes by former prisoners and re-establish dignity of former prisoners released upon acquittal. This can only be seen as a very positive contribution.

# Annex 1: Quantitative data

Analyzed: 256 minutes out of 262 (six are rejected due to incomplete information)

Table: Venue

|  |  |  |
| --- | --- | --- |
| Venue | No. | % |
| DC Off | 122 | 47.7% |
| DJ Off | 129 | 50.4% |
| Others | 4 | 1.6% |
| Not mentioned | 1 | 0.4% |

1. Use of standard template

a) List of participant

|  |  |  |
| --- | --- | --- |
|  | No. | % |
| Direct | 13 | 5.1% |
| Indirect | 242 | 94.5% |
| Not mentioned | 1 | 0.4% |

b) Agenda

|  |  |  |
| --- | --- | --- |
|  | No. | % |
| Direct | 0 | 0.0% |
| Indirect | 255 | 99.6% |
| Not mentioned | 1 | 0.4% |

c) Agenda-wise discussion

|  |  |  |
| --- | --- | --- |
|  | No. | % |
| Yes | 255 | 99.6% |
| No | 0 | 0.0% |
| Not mentioned | 1 | 0.4% |

d) Date

|  |  |  |
| --- | --- | --- |
|  | No. | % |
| Yes | 254 | 99.2% |
| No | 1 | 0.4% |
| Not mentioned | 1 | 0.4% |

e) Minutes taker

|  |  |  |
| --- | --- | --- |
|  | No. | % |
| Yes | 2 | 0.8% |
| No | 253 | 98.8% |
| Not mentioned | 1 | 0.4% |

f) Confirmation by Chairs

|  |  |  |
| --- | --- | --- |
|  | No. | % |
| By 2 Chairs | 231 | 90.2% |
| By 1 Chair | 18 | 7.0% |
| Not mentioned | 7 | 2.7% |

g) Distribution list

|  |  |  |
| --- | --- | --- |
|  | No. | % |
| Yes | 244 | 95.3% |
| No | 10 | 3.9% |
| Not mentioned | 2 | 0.8% |

h) Scope of dissent

|  |  |  |
| --- | --- | --- |
|  | No. | % |
| Yes | 0 | 0.0% |
| No Obstacle | 255 | 99.6% |
| Not mentioned | 1 | 0.4% |

i) Scope to propose agenda

|  |  |  |
| --- | --- | --- |
|  | No. | % |
| Yes | 0 | 0.0% |
| No Obstacle | 255 | 99.6% |
| Not mentioned | 1 | 0.4% |

j) Time span of meeting

|  |  |  |
| --- | --- | --- |
|  | No. | % |
| Yes | 0 | 0.0% |
| No Obstacle | 255 | 99.6% |
| Not mentioned | 1 | 0.4% |

k) Nature of participation

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Participant | Member | | Representative | | Absent/Not mentioned | |
|  | No. | % | No. | % | No. | % |
| Judiciary | 188 | 73.4% | 63 | 24.6% | 5 | 2.0% |
| Adminstration | 169 | 66.0% | 75 | 29.3% | 12 | 4.7% |
| Jail | 215 | 84.0% | 32 | 12.5% | 9 | 3.5% |
| Police | 27 | 10.5% | 161 | 62.9% | 68 | 26.6% |
| PP | 151 | 59.0% | 10 | 3.9% | 95 | 37.1% |
| Bar | 62 | 24.2% | 11 | 4.3% | 183 | 71.5% |
| Social Welfare | 70 | 27.3% | 4 | 1.6% | 182 | 71.1% |
| Civil Surgeon | 52 | 20.3% | 66 | 25.8% | 138 | 53.9% |
| Narcotics Control | 74 | 28.9% | 4 | 1.6% | 178 | 69.5% |

2) Nature of involvement

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | Pro-active | | Cooperative | | Defensive | | No ref | |
|  | No. | % | No. | % | No. | % | No. | % |
| Judiciary | 217 | 84.8% | 24 | 9.4% | 3 | 1.2% | 12 | 4.7% |
| Administration | 186 | 72.7% | 29 | 11.3% | 0 | 0.0% | 41 | 16.0% |
| Jail | 194 | 75.8% | 23 | 9.0% | 0 | 0.0% | 39 | 15.2% |
| Police | 51 | 19.9% | 73 | 28.5% | 5 | 2.0% | 127 | 49.6% |
| PP | 68 | 26.6% | 31 | 12.1% | 4 | 1.6% | 153 | 59.8% |
| Bar | 27 | 10.5% | 12 | 4.7% | 1 | 0.4% | 216 | 84.4% |
| Social Welfare | 4 | 1.6% | 3 | 1.2% | 1 | 0.4% | 248 | 96.9% |
| Civil Surgeon | 28 | 10.9% | 23 | 9.0% | 2 | 0.8% | 203 | 79.3% |
| Narcotics Control | 10 | 3.9% | 10 | 3.9% | 1 | 0.4% | 235 | 91.8% |

3) Nature of documentation

|  |  |  |
| --- | --- | --- |
|  | No. | % |
| Only decisions | 4 | 1.6% |
| Progress of previous and new decisions | 6 | 2.3% |
| Proceedings with decisions | 124 | 48.4% |
| Progress, proceedings and new decisions | 120 | 46.9% |
| Not mentioned | 2 | 0.8% |

4) Chairing of the meetings

|  |  |  |
| --- | --- | --- |
|  | No. | % |
| Both Co-Chairs present | 122 | 47.7% |
| One-chair and one representative | 97 | 37.9% |
| Both are representatives of Co-Chairs | 19 | 7.4% |
| One Co-Chair/ representative | 17 | 6.6% |
| Not mentioned | 1 | 0.4% |

5. Composition

|  |  |  |
| --- | --- | --- |
|  | No. | % |
| Only members and their representatives | 200 | 78.1% |
| Members or representatives and agenda-specific invitees | 12 | 4.7% |
| Guests/observers | 42 | 16.4% |
| Not mentioned | 2 | 0.8% |

6. Most frequent topic discussed

|  |  |  |
| --- | --- | --- |
|  | No. | % |
| Summon/hearing of cases | 122 | 47.7% |
| Bail | 46 | 18.0% |
| Access to legal aid/lawyer | 106 | 41.4% |
| Witnesses (victim) related | 63 | 24.6% |
| Communication with PP | 33 | 12.9% |
| Contacting family members | 30 | 11.7% |
| Prosecution Witness (IO/MO) related | 189 | 73.8% |
| Police /Medical Report | 69 | 27.0% |
| Reintegration of prisoners | 54 | 21.1% |
| Coordination among authorities | 145 | 56.6% |
| Delay | 84 | 32.8% |
| Jail visit | 26 | 10.2% |
| Meeting attendance | 75 | 29.3% |
| Meeting related others | 182 | 71.1% |
| Other issues | 186 | 72.7% |

7. Presentation on the progress

|  |  |  |
| --- | --- | --- |
|  | No. | % |
| Only paralegals | 58 | 22.7% |
| Jail authority and paralegals | 51 | 19.9% |
| Jail authority | 52 | 20.3% |
| As per concerned agency | 92 | 35.9% |
| No report on progresses | 2 | 0.8% |
| Not mentioned | 1 | 0.4% |

8. Nature of progress

|  |  |  |
| --- | --- | --- |
|  | No. | % |
| Addressed all the decisions of the previous meetings. | 65 | 25.4% |
| Most of the decisions were addressed | 70 | 27.3% |
| Only few were addressed | 76 | 29.7% |
| Most decisions remained unattended | 14 | 5.5% |
| N/A | 30 | 11.7% |
| Not mentioned | 1 | 0.4% |

9. Institutions involved in the decision-making

|  |  |  |
| --- | --- | --- |
| Institution | No. | % |
| Judiciary | 273 | 18.13% |
| Deputy Commissioner | 142 | 9.43% |
| Civil Surgeon | 19 | 1.26% |
| Superintendent of Police | 54 | 3.59% |
| Senior Jail Super/ Jail Super | 45 | 2.99% |
| Public Prosecutor | 53 | 3.52% |
| Department of Narcotics Control | 5 | 0.33% |
| President Local Bar Association | 9 | 0.60% |
| Department of Social Welfare | 4 | 0.27% |
| District Women Affair’s Officer | 1 | 0.07% |
| District Commandant, ANSAR | 3 | 0.20% |
| BGB | 3 | 0.20% |
| Female Upazila (Sadar) Vice Chairman | 0 | 0.00% |
| Community Police Forum | 0 | 0.00% |
| Community | 3 | 0.20% |
| PNGOs | 32 | 2.12% |
| GIZ | 18 | 1.20% |
| Other/All CCC Members | 947 | 62.88% |
| Paralegals | 13 | 0.86% |
| **N** | 1506 |  |

10. Institutions affected by the decision (duty bearers)

|  |  |  |
| --- | --- | --- |
| Institution | No. | % |
| Judiciary | 262 | 17.40% |
| Deputy Commissioner | 78 | 5.18% |
| Civil Surgeon | 64 | 4.25% |
| Superintendent of Police | 326 | 21.65% |
| Senior Jail Super/ Jail Super | 199 | 13.21% |
| Public Prosecutor | 193 | 12.82% |
| Department of Narcotics Control | 34 | 2.26% |
| President Local Bar Association | 8 | 0.53% |
| Department of Social Welfare | 16 | 1.06% |
| District Women Affair’s Officer | 2 | 0.13% |
| District Commandant, ANSAR | 3 | 0.20% |
| BGB | 3 | 0.20% |
| Female Upazila (Sadar) Vice Chairman | 0 | 0.00% |
| Community Police Forum | 1 | 0.07% |
| Community | 6 | 0.40% |
| PNGOs | 465 | 30.88% |
| GIZ | 40 | 2.66% |
| Other/All CCC Members | 249 | 16.53% |
| Paralegals | 773 | 51.33% |
| N | 1506 |  |

11, Related to policies

|  |  |  |
| --- | --- | --- |
|  | **No.** | **%** |
| Institutional Cooperation | 295 | 19.6% |
| Legal Status | 488 | 32.4% |
| Other | 524 | 34.8% |
| Not mentioned | 16 | 1.1% |
| N | 1506 |  |

12. Related to Procedures

|  |  |  |
| --- | --- | --- |
|  | **No.** | **%** |
| Step 1 | 6 | 0.4% |
| Step 2 | 0 | 0.0% |
| Step 3 | 5 | 0.3% |
| Step 4 | 200 | 13.3% |
| Step 5 | 10 | 0.7% |
| Step 6 | 3 | 0.2% |
| Step 7 | 2 | 0.1% |
| Step 8 | 0 | 0.0% |
| Step 9 | 5 | 0.3% |
| Other | 588 | 39.0% |
| Not mentioned | 674 | 44.8% |
| N | 1506 |  |

13. Related to Paralegals

|  |  |  |
| --- | --- | --- |
|  | **No.** | **%** |
| Increasing Acceptance | 259 | 17.2% |
| More Responsibilities | 428 | 28.4% |
| Greater Scope of Action | 413 | 27.4% |
| Other | 679 | 45.1% |
| Not mentioned | 50 | 3.3% |
| N | 1506 |  |

14. Related to Practices

|  |  |  |
| --- | --- | --- |
|  | **No.** | **%** |
| Distribution of responsibilities of stakeholders | 389 | 25.8% |
| Innovative measures (e.g. use of electronic devices, etc.) | 330 | 21.9% |
| Case Management (e.g. producing witnesses) | 766 | 50.9% |
| Communication | 438 | 29.1% |
| Prison Management | 49 | 3.3% |
| Diversion | 13 | 0.9% |
| Rehabilitation and Reintegration | 47 | 3.1% |
| “Local Problem/Local Solution” | 89 | 5.9% |
| Other | 69 | 4.6% |
| N | 1506 |  |

15. Related to Non-Prison Cases

|  |  |  |
| --- | --- | --- |
|  | **No.** | **%** |
| Related to Non-Prison Cases | 1 | 0.1% |

# Annex 2: List of respondents

Along with CCC meetings observations at all the places following members were consulted at personal level:

1. ***Chittagong*** *(27.01.2016)*

|  |  |  |
| --- | --- | --- |
| **Sl.** | **Name** | **Designation** |
| 1 | Mr.Mozahidur Rahman | Senior Assistant Judge, District Legal Aid Officer |
| 2 | Mr. Munshi Md. Moshiar Rahman | Chief Judicial Magistrate |
| 3 | Mr. Mezbah Uddin | District Commissioner and District Magistrate |
| 4 | Members of Paralegals | (3 Females, 4 males and 1 account officer) |
| 5 | Mr. Md. Nurul Huda | Hon. District & Session Judge |
| 6 | Mr. Iqbal Kabir Chowdhury | Senior Jail Super |

1. ***Sylhet*** *(31.01.2016 & 01.02.2016)*

|  |  |  |
| --- | --- | --- |
| **Sl.** | **Name** | **Designation** |
| 1 | Mr. Noor E Alam Mina | Superintendent of Police |
| 2 | Mr. Mohammad Towhidul Islam | DIG Prison |
| 3 | Mr. Md. Saifuzzaman Hero | Chief Metropolitan Magistrate |
| 4 | Mr. Kazi Abdul Hannan | Chief Judicial Magistrate |
| 5 | Mr. Munir Ahmed Parwari | Hon. District & Session Judge |
| 6 | Mr. Md. Sagir Mia | Senior Superintendent, Sylhet Central Jail |
| 7 | Paralegals and BLAST Officials | (Paralegals, DPO, Accounts Officer) |

1. ***Rajshahi*** *(22.02.2016 & 23.02.2016)*

|  |  |  |
| --- | --- | --- |
| **Sl.** | **Name** | **Designation** |
| 1 | Mr. Md. Azim Uddin; Mr. Aiub Ali  Ms. Maloti Biswas; Ms. Fuljan  Ms. Sheuli ; Mr. Md. Dablue | Beneficiaries /Former Prisoners/Present Prisoner |
| 2 | Mr. Md. Shafiqul Islam Khan | Senior Jail Super |
| 3 | Paralegals and BLAST Officials | ((3 females, 5 males), DPO, BLAST Coordinator) |
| 4 | Mr. Abul Kalam Azad | Additional Police Super |
| 5 | Mr. Adv. Ibrahim Hossain &  Adv. Sayda Marzina Khatun | PP District Court &  PP Nari O Shesu |
| 6 | Mr. Md Khairuzzman | DD- Social Welfare,  Probation officer and Safe Home Superintendent were also present |
| 7 | Mr. Kazi Ashraf Uddin | District Commissioner |
| 8 | Ms. Begum Kobita Khanam | Hon. District & Session Judge |

1. **Bogra** (24.02.2016 & 25.02.2016)

|  |  |  |
| --- | --- | --- |
| **Sl.** | **Name** | **Designation** |
| 1 | Mr. Ashraf Uddin | District Commissioner |
| 2 | Mr. A M Md Sayed | Hon. District & Session Judge |
| 3 | Mr. Md. Shafiqul Islam Khan | Jail Super |
| 4 | Mr. Md Mahfujul Islam | Assistant Police Super |
| 5 | Mr. Md Abdul Matin | Public Prosecutor, District and Session Judge Court |
| 6 | Mr. Saiful Islam | DD – Social Welfare Department  (Probation Officer were also consulted) |
| 7 | Beneficiaries | (5 males, 2 females, 1 female juvenile) |
| 8 | Members of Paralegals | (2 females, 1 male – rest on training) |

1. **Dhaka** (30.03.2016)

|  |  |  |
| --- | --- | --- |
| **Sl.** | **Name** | **Designation** |
| 1 | Advocate Khandoker Abdul Mannan | PP, District and Session Judge Court |
| 2 | Members of Paralegals | (4 females, 3 males) |
| 3 | Mr. S M Kuddus Zaman | Hon. District & Session Judge |

1. **Jessor** (\_\_\_\_\_\_\_\_\_\_\_ & \_\_\_\_\_\_\_\_\_\_ )

|  |  |  |
| --- | --- | --- |
| **Sl.** | **Name** | **Designation** |
| 1 |  |  |
| 2 |  |  |
| 3 |  |  |
| 4 |  |  |
| 5 |  |  |

1. **Project Personnel/Others**

|  |  |  |  |
| --- | --- | --- | --- |
| **Sl.** | **Name** | **Designation** | **Date** |
| 1 | Mr. Mostafizur Rahman | Additional Secretary, MoLJPA & Project Director | 23.03.2016 |
| 2 | Mr. Sheikh Abdul Ahad | Out-going NPD |  |
| 3 |  | UNDP Personnel |  |
| 4 |  |  |  |
| 5 |  |  |  |

1. Bangladesh Jail website, July 23rd 2016 [↑](#footnote-ref-1)
2. <http://www.prisonstudies.org/country/bangladesh>, Septmebr 4th 2016 [↑](#footnote-ref-2)
3. <http://www.police.gov.bd/Crime-Statistics-comparative.php?id=208>, September 4th 2016 [↑](#footnote-ref-3)
4. Government Order of MoHA, dated June 28th 2016 [↑](#footnote-ref-4)
5. Letter of the Supreme Court [↑](#footnote-ref-5)