

Understanding Civil Society Contributions to Access to Justice

**An Analysis of BRAC's Human Rights and Legal Aid
Services Programme (HRLS) in Bangladesh**

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EXECUTIVE SUMMARY

Across the world, civil society legal empowerment programmes are making important contributions to securing access to justice and inclusive development. From assistance navigating justice processes to independent mediation services, civil society programmes deploying community-based paralegals provide practical avenues to seek rights and resolve disputes. Such programmes add to the range of access points to justice, offer additional avenues to pursue government accountability and improve community knowledge of their rights often at a scale and level of legitimacy in the community that is not readily available to government initiatives alone.

The evidence base for the impacts of civil society legal empowerment programmes is slowly increasing. Such programmes have been subject to robust evaluation in multiple countries and legal empowerment programmes themselves are becoming more sophisticated in management and evaluation.

From 2014-2016, Open Society Justice Initiative teamed with BRAC Human Rights and Legal Service programme (BRAC HRLS), a large legal empowerment programme in Bangladesh, to explore what BRAC HRLS's programme data could tell us. Relying on existing and routine data collection we sought to:

- 1) Explore how internal data can help to manage performance and to make decisions about where to allocate resources;
- 2) Provide an example to other civil society organisations about what can be learned from internal data; and
- 3) Suggest that contributions of civil society actors toward access to justice can be measured as part of the effort under the UN Sustainable Development Goal 16 in order to show a more complete picture of access to justice.

The research relied on existing administrative data about mediation, court and registration services provided by BRAC HRLS from 2012-2014 as well as a new, small survey sample of former clients and current staff. Using these data points we explored indicators by which BRAC HRLS, and perhaps other civil society organisations, can measure impact in their operational programming. In particular we wanted to explore how BRAC HRLS

legal services 1) strengthened community relationships to institutions, 2) enhanced social well-being of clients, and 3) improved economic well-being of its clients.

Relying exclusively on such administrative data had limits. The aim of this study is not to generate a precise evaluation in the manner of a randomised control trial. Nor is the aim to suggest how such data could be successfully aggregated across multiple organisations and programmes. Rather it aims to explore lessons that may be found in ordinary data produced by most legal empowerment organisations. This data can be used by organisation leaders to better understand and demonstrate progress toward access to justice, and to make regular and timely management decisions and adjustments.

A. STRENGTHENING CONNECTION OF SERVICES TO INDIVIDUALS

Can data inside a legal empowerment organisation help us understand whether the service is successful at making meaningful connections between people and services? Is it possible to tell whether legal empowerment organisations make legal services more accessible, more effective and more accountable to the community?

Our research looked at three indicators to assess the contribution of BRAC HRLS to strengthening the connection between individuals and government and non-government institutions:

- Additional point of access for legal problems: BRAC HRLS is itself a distinct additional avenue of redress, and has experienced a 6% increase in caseload between 2012 and 2014. It may be developing a predictable client base, predominantly married women seeking dower and/or maintenance from their husbands.
- Effectiveness of resolution for existing problems: BRAC HRLS helps clients who have failed to resolve a case elsewhere, and also supports Court proceedings for clients whose HRLS-led ADR proceeding has failed. BRAC HRLS seeks to support the client beyond the individual resolution and engages in at least one “follow up” in 96% of cases to check on the well-being of the client.
- Extent of proactive connection between services, communities and individuals: Most BRAC HRLS clients are referred, with around 30% of referees being HRLS-trained community members. BRAC HRLS-trained community Odhakar Shebis also connect community members to government services by performing 15,000 birth registrations, over 5,000 death registrations, almost 10,000 marriage registration and almost 45,000 land perimeter measurements in the study period.

B. IMPROVING SOCIAL WELL-BEING

What can data inside BRAC HRLS tell us about the ability of a legal empowerment organisation to positively impact the social well-being of their clients?

Our research relied on BRAC HRLS's administrative data to explore four indicators that help to assess the contribution of BRAC HRLS to social well-being of clients including:

- Extent to which BRAC HRLS conveys positive norms to the client, second party and others: BRAC HRLS takes each opportunity in client cases to spread norms about family life and women's rights, such as the legal prohibition against dowry, the illegality of physical abuse, the right to dower, the right to maintenance, whether or not these issues arose in the facts of the matter.
- Extent of accessibility and social acceptability of the service: BRAC HRLS seems to be regarded as a low cost avenue that does not attract stigma and seems to produce socially satisfactory outcomes for clients.
- Extent to which outcomes benefit the client: BRAC HRLS seems to secure predominantly decisions where the parties remain married, and for the second party to pay the client maintenance for children.
- Sustained interest in the ongoing well-being of clients: BRAC HRLS staff remain engaged with the client throughout the mediation and court process and follow-up at least once in 96% of cases to ensure both parties are keeping their commitments. This follow-up often occurs in the home of the client, giving BRAC HRLS exceptional reach into the real life impacts of their work.

C. EXPANDING ECONOMIC WELL-BEING

What can existing data inside BRAC HRLS tell us about the ability of a legal empowerment organisation to impact the economic well-being of clients and improve their economic prospects?

Our research looked at three indicators to assess the contribution of BRAC HRLS to economic well-being of clients including:

- Degree of success in securing economic compensation: BRAC HRLS supports its predominantly female clients to recover dower and maintenance owed to them by their husband at a higher rate of success than the clients' previous attempts. Clients reported it was unlikely for them to secure the money through other avenues.
- Degree of enforcement: BRAC HRLS helps clients secure a good proportion of the actual amount owed. Where data was available, the amounts actually paid after ADR agreements were on average USD 759 and for court cases USD 870.

- Impact of economic windfall: Based on limited interview data, it seems BRAC HRLS cases where money is recovered for the client, unsurprisingly, have a positive impact on their lives.

As the new Sustainable Development Goal framework seeks to “ensure equal access to justice for all”, it should value experiences from civil society justice programmes like BRAC HRLS. Our review of BRAC HRLS’s administrative data reveals that the programme impacts people’s quest for justice and records significant data which helps present a more granular picture of justice in Bangladesh. Bringing such civil society efforts and data into national and global conversations about realising the Sustainable Development Goals will help ensure the experiences of the most marginalised are at the core of our development goals.

CHAPTER 1

INTRODUCTION

Across the world, civil society legal empowerment programmes are making important contributions to secure access to justice and inclusive development. Across the world, civil society legal empowerment programmes are making important contributions to securing access to justice and inclusive development. From assistance navigating justice processes to independent mediation services, civil society programmes deploying community-based paralegals provide practical avenues to seek rights and resolve disputes. Such programmes add to the range of access points to justice, offer additional avenues to pursue government accountability and improve community knowledge of their rights often at a scale and level of legitimacy in the community that is not readily available to government initiatives alone.

One such legal empowerment programme is the Human Rights and Legal Services (HRLS) operated by BRAC, the largest non-government service provider in Bangladesh. The HRLS programme is one of the largest civil society justice programmes in the world and operates from more than 500 offices in nearly every district (local administrative unit) in Bangladesh. The programme works from the community to the courts and provides significant legal literacy services as well as assisting with thousands of mediations and court cases a year.

In 2015, it became clear that access to justice would be incorporated into the United Nations Sustainable Development Goals (SDGs). In target 16.3 all governments committed to “promoting the rule of law at the national and international levels, and ensuring equal access to justice for all.” The SDGs also make a clear link between the accessibility of justice and sustainable development for the poor: “Good governance and the rule of law at the national and international levels are essential for sustained, inclusive and equitable economic growth, sustainable development and the eradication of poverty and hunger.” The process of target and indicator development for the SDGs has focused overwhelmingly on government action and sources of data as the primary drivers of change. In response to this observation, BRAC HRLS, the Open Society Justice Initiative (OSJI) and BRAC’s Research and Evaluation Division (RED) joined together to see if it was possible to study how civil society might contribute to Goal 16 of the SDGs on peace, justice and strong institutions. We sought to use BRAC HRLS as an example to show how civil society administrative data can demonstrate civil society contribution to legal

empowerment. Our study demonstrates the types of data from one civil society legal empowerment programme that may be readily available in other such programmes, and that could be used to understand progress toward target 16.3.

We primarily used data already available within the HRLS programme to understand how civil society could use existing data sources to present contributions towards access to justice. We did not conduct an external and supplemental impact evaluation as we hoped to help develop a replicable and sustainable model of using data for programme effectiveness as well as advocacy. This was because, in addition to our interest in SDG Goal 16, we wanted to model the practice of using and interpreting data that would have resonance and longevity inside the organisation long after our study. The aim was to hint at possibilities, demonstrate creative uses of data, and show how it spurred change and reflection inside BRAC HRLS about their own programme effectiveness and advocacy. We hope it inspires others to consider how using existing casefile data inside a civil society organisation can, despite its limitations, be valuable.

This paper is organised as follows:

- Section I is a brief summary of access to justice in Bangladesh.
- Section II is for those who would like more background on the country context.
- We then turn to an overview of BRAC's HRLS Programme and the services it provides, in Section III.
- In Section IV, we describe in detail the method we employed to learn about the contribution of this programme to increasing access to justice, particularly for vulnerable women.
- In Section V, we discuss findings from our research across three domains: community relationships to institutions, social well-being, and economic well-being.
- Section VI offers conclusions and reflections.

CHAPTER 2

ACCESS TO JUSTICE IN BANGLADESH

A. DISPUTE RESOLUTION

When individuals access redress for criminal and civil wrongdoings in Bangladesh, they have access to numerous sources of law and a range of institutions – from formal courts and administrative agencies to community-based mechanisms, religious institutions and non-governmental organisations (NGO). The formal justice system comprises an array of police, prisons, prosecutors, government agencies, government legal aid lawyers and the judiciary. When individuals do access the formal justice system, the starting point is typically through the police, although there are also means to go directly to a court to seek justice. The formal court system consists of an Appellate Division as well as High Court Division of the Supreme Court, and subordinate courts that operate at the district level. There are also specialty courts dealing with children's issues, serious crimes against women, drugs, and money laundering to mention a few, as well as a newer system of Village Courts that deal with minor disputes (Moran 2015).

The formal court system in Bangladesh is under enormous pressure; a 2015 United Nations Development Programme (UNDP) assessment estimates that there is a backlog of approximately 2.8 million cases nationwide (Moran 2015). The number reflects high levels of use of the courts by a large population as well as delays in resolving cases. According to a 2015 household survey commissioned by UNDP, common disputes in Bangladesh include scuffles and fights, land disputes, domestic violence, demand and violence for dowry, and theft (Moran 2015). The most recent Bangladesh National Police data from 2014 and 2015 suggest that the leading cases recorded by the police involve narcotics (23 and 27% respectively), and cases of 'repression' of women and children (12% in both years)¹.

Surveys have found significant gaps in the public's knowledge on the functioning of formal justice institutions, with the majority unable to form an opinion on the performance of the

¹ <http://www.police.gov.bd/>

High Court as well as subordinate courts (National Human Rights Commission 2011). The 2015 UNDP survey of community attitudes found that 58% of the respondents perceived police to be corrupt, and 37% perceived them to be 'too expensive' (Moran 2015).

The formal justice system is not the main avenue for Bangladeshis seeking justice and most pursue justice through a range of community-based and non-governmental organisations. This 'informal' sector of dispute resolution consists largely of community-based mediation called traditional *shalish*, dispute resolution by local political actors and a large network of civil society-supported dispute resolution. The National Human Rights Commission revealed wide-spread knowledge of traditional *shalish*, with nearly two-thirds of the respondents reporting that traditional *shalish* had either improved or stayed the same in the proceeding five years (National Human Rights Commission 2011). The 2015 UNDP survey also asked the respondents to nominate where they would turn if they were victimised and 31% of the respondents elected going to a *shalish* run by a local elder, 23% to a village elder directly, and 21% to a *shalish* run by a local government official. Only 8% preferred police (Moran 2015). Among those respondents who were actually victimised, 46% reported that they had approached a village elder or *shalish* for resolution, 28% had approached the police, 28% had approached a court, and 17% had approached a local government official (Moran 2015).

There are a variety of government and non-government efforts to support people in accessing the available justice institutions. Formal and some informal legal assistance services are funded partly by government through its National Legal Aid Services Organisation². Bangladesh also has a vibrant network of NGOs that provide justice services across the country. Organisations include BRAC HRLS, the Bangladesh Legal Aid and Services Trust (BLAST)³, Madaripur Legal Aid Association (MLAA)⁴, Ain o Shalish Kendra (ASK)⁵ and many others. These NGOs work in both formal and informal processes to provide two main types of services⁶ – 1) alternative dispute resolution including arbitration, mediation, conciliation, and NGO administered or assisted *shalish* and traditional *shalish*, and 2) legal aid including formal legal assistance, legal and human rights awareness programmes, local justice programmes engaging informal mechanisms and investigation, monitoring and reporting human rights violations.

² See <http://nlaso.gov.bd/>

³ See www.blast.org.bd/

⁴ See <http://www.mlaabd.org/>

⁵ See <http://www.askbd.org/ask/>

⁶ These service categories are taken from DFID's Community Legal Service programme's mapping from <http://www.communitylegalservice.org/publication/mapping%20and%20institutional%20survey%20of%20the%20cls%20in%20bangladesh.pdf>

B. WOMEN AND ACCESS TO JUSTICE

As our results will show, most clients of BRAC HRLS are women bringing cases related to problems in their marriage. Significant research has been conducted on the experiences of and protection for women in Bangladesh and there are a range of government and non-government initiatives to address discrimination and violence.

Violence against women is a significant problem in Bangladesh (Hossen 2014). In 2011, the Bangladesh Bureau of Statistics found that 72% of the women in Bangladesh faced psychological violence inflicted by their husband in the past 12 months, and 33% had experienced physical violence. Among the women whose rights were violated, 48% did not seek any treatment and they did not attempt to access legal services. Women reported thinking that taking steps against their husbands is quite unnecessary (40%), and would be harmful for future of their children (21%). Many women could not access justice due to a lack of knowledge or information (Hossen 2014).

The Bangladesh government has developed a range of preemptive policies, legislation, strategies, and implementing affirmative action plans to protect women's legal rights and improve their social status. For example, the Family Violence Prevention and Protection Act, 2010 and National Women Policy, 2011 were adopted to set new norms and empower women. The Dowry Prohibition Act, 1980 forbids anyone from giving or receiving dowry. The Nari-O-Shishu Nirjatan Daman Ain, 2000 (Law on the Suppression of Violence against Women and Children, 2000) expands the definition of rape and sexual assault and established special courts for the prosecution of severe violent crimes against women and children. The Acid Crime Prevention Act, 2000 and Acid Control Act, 2000 are measures directed at the specific problem of acid violence.

A complementary example is the guarantee of dower, or mahr provided under Mohammedan Law that specifies a husband should pay a set amount to his wife in a marriage contract (Human Rights Watch 2012). The rationale for the inclusion of dower in the marriage contract is two-fold. First, the funds are to provide security to the wife in case of the death of the husband or the need for divorce (Huda 1998). Secondly, the obligation of payment essentially “operates as a check on the man’s arbitrary exercise of the right of divorce.” Under Bangladeshi law, a failure to pay dower constitutes a breach of contract and is an actionable cause in Bangladeshi courts.

‘Maintenance’ is a separate obligation to be provided by husbands both during their

Table 1. Poverty rates in Bangladesh by region

Region	Per cent of population (%)	Incidence of poverty (%)
Barisal	5.8	56.9
Chittagong	19.5	51.4
Dhaka	31.6	47.7
Khulna	11.3	44.5
Rajshahi	14.0	51.3
Rangpur	11.4	58.9
Sylhet	6.5	61.9

Source: Oxford, MPHII

marriage and in cases of divorce. During marriage, husbands are required to maintain their wives with food, shelter, and clothing. In cases of divorce, 'Muslim women are entitled to maintenance only during the 90 days from notice of divorce until it is finalised, or if the woman is pregnant, until birth of the child.' (Human Rights Watch 2012).

These legal protections are important safety nets for Bangladeshi women, particularly given poverty rates in Bangladesh and low rates of labour force participation by women.⁷ In 2014, the World Bank estimated that the GNI (Gross National Income) per capita⁸ for Bangladesh was US\$ 1,080.⁹ GNI per capita is based on national trends and many HRLS clients are in areas that are significantly more impoverished. Oxford's Multi-dimensional Poverty Index, for example, finds that poverty is concentrated in the East and West, with Dhaka and Khulna regions having slightly lower incidences (Table 1) above.¹⁰

The 2010 Bangladesh Household Income and Expenditure Survey established average household costs in Bangladesh. The survey estimated the average monthly income per household at Tk. 11,479 (US\$150).¹¹ Average consumption expenditures in rural areas were Tk. 9,436 (US\$123) per month.¹² Monthly food expenditures in rural areas were Tk. 6,031 (US\$79).¹³ This baseline will help contextualise HRLS's economic contributions discussed in our findings.

⁷ The figure is 35 per cent according to National Institute of Population and Research Training, Bangladesh Demographic Health Survey (BDHS) 2007, Dhaka 2009.

⁸ Gross national income, converted to U.S. dollars using the World Bank Atlas method, divided by the mid-year population. For more information see: <http://data.worldbank.org/indicator/NY.GNP.PCAP.CD>

⁹ <http://data.worldbank.org/country/bangladesh>

¹⁰ OPHI Country Briefing June 2015: Bangladesh, available at https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&uact=8&ved=0CDAQFjABahUKEwiovJ685f7HA-hUCez4KHTRnBLU&url=http%3A%2F%2Fwww.dataforall.org%2Fdashboard%2Fophi%2Findex.php%2Fmpi%2Fdownload_brief_files%2FDBGD&usg=AFQjCNFThq3BDT.cBVqjh_uU0AsKvs4sQ2g-g&sig2=k0Z9xDNt_oifMWoUiVrecQ

¹¹ HIES, 2010, p.27, available at <http://www.bbs.gov.bd/WebTestApplication/userfiles/Image/LatestReports/HIES-10.pdf>

¹² Id., p. 33

¹³ Id., p. 38.

CHAPTER 3

BRAC'S HUMAN RIGHTS AND LEGAL SERVICES PROGRAMME

BRAC is the largest NGO in the world in terms of number of employees and number of clients. BRAC began its work in rural Bangladesh in 1972, and has since expanded to all the 64 districts focused on rural and peri-urban areas. The organisation later expanded to another 10 least-developed countries (Haiti, Sierra Leone, Liberia, South Sudan, Uganda, Tanzania, Myanmar, Philippines, Pakistan and Afghanistan). Since its inception, BRAC has worked towards a world free of exploitation and discrimination, where everyone has the opportunity to realise their potential. BRAC works to improve communal, social and economic well-being as well as build resilience through interventions such as water and sanitation programmes, education, agriculture and food security, microfinance, community empowerment initiatives, gender justice, human rights and legal aid services.

BRAC HRLS began in 1986 and now operates over 500 legal clinics in 61 of Bangladesh's 64 districts. HRLS combines legal literacy with legal aid services to help individuals and communities better understand their legal rights to raise their voices against injustice. The programme continues to use a three-pronged approach to legal empowerment as follows.

1. Evoke rights consciousness and promote justice-seeking behaviour through human rights and legal education courses targeting rural people, particularly women. Programmes under this approach include:
 - ▶ Human rights and legal education courses, which promote rights-based consciousness and collective community action. Community paralegals, known as shebikas, run community courses on legal literacy and serve as crucial community access and referral points. BRAC HRLS has run over 166,000 legal education courses with over 3.8 million graduates since 1987.
 - ▶ Law implementation committees, known as odhikar bastobayon committees (OBC), works to improve community level dispute resolution. OBCs help facilitate justice-seeking behaviour by raising awareness and assisting individuals.

2. Provide almost cost-free legal aid services in BRAC's field offices for poor and vulnerable community members, particularly women. Programmes under this approach include:
 - ▶ HRLS's legal aid clinics are housed in BRAC's field offices and provide ADR and legal services to marginalised people.
 - ▶ HRLS maintains a network of approximately 400 subsidised-fee lawyers, about 120 of whom are women, who assist with litigation, research and monitoring.
3. Mobilise actors within the community to uphold the rule of law through community organisation and policy engagement. Programmes under this approach include:
 - ▶ Local community leaders' workshops, which focus on engaging existing community leadership structures to increase understanding of human rights issues. To date HRLS has engaged more than 330,000 participants in these workshops since 1986.
 - ▶ HRLS trains community members as '*Odhikar shebis*' to help facilitate services such as birth and death certification, marriage and divorce registration and land measurement, allocation and registration.

In this study, we focus on the almost cost-free legal aid services in point two above. These are programmes that entail active provision of legal services, as opposed to education and mobilisation. To complete our focus on the activities of the legal aid clinics that respond to existing disputes or needs in the community, we also examined programme data from the work of *Odhikar shebis* who assist individuals with government registration.

BRAC HRLS's provision of almost cost-free legal aid includes three main components:

- ▶ Alternative dispute resolution (ADR) – In the cases classified as compoundable under the laws of Bangladesh,¹⁴ BRAC HRLS programme officers bring their client together with the second party to facilitate a negotiated settlement. The HRLS staff member serves notice on the second party requesting a meeting. At this meeting the staff lawyer, who acts as moderator, reads out the complaint in front of everyone and invites the second party to discuss his/her arguments. The parties then work for a resolution with HRLS staff ensuring that legal standards are upheld.
- ▶ Court – If ADR fails or if the second party fails to comply with the terms, the HRLS clinic helps the client pursue the case through court. A resolution in court can be sought in the first instance if the case requires it, for example

¹⁴ Compoundable cases are those which are less serious in nature and are permitted to be compromised by the parties. This also means that these issues are allowed to be resolved with the support of a service like BRAC HRLS. Serious criminal offences are classified as 'non-compoundable.'

for serious violence, or the client prefers it. HRLS staff provides support to clients during the court process by assigning panel lawyers who represent their case, and also by being a liaison to the client.

- ▶ Client workshop – One of the core activities of HRLS offices are the client workshops that they hold once a month. Client workshops make connections between clients at different stages of HRLS engagement and answer their queries in a group setting. This component seeks to strengthen rights consciousness and support resolution of cases.

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CHAPTER 4

RESEARCH DESIGN

A. RATIONALE

This research seeks to explore how legal empowerment programmes of the civil society can strengthen community relationships with institutions, enhance social well-being and improve economic well-being for clients. We used the BRAC's HRLS programme in Bangladesh as a case study to develop indicators to understand to what extent the programme could use existing information to demonstrate its impact in three domains:

i. Strengthening client relationships to institutions

We started with the premise that civil society organisations can strengthen linkages between individuals and institutions, as well as deepen the accountability and reach of the law within local communities. We then looked at BRAC HRLS programme for qualitative and quantitative data that showed the extent to which HRLS works to give clients alternative avenues of redress, fresh avenues where previous attempts to resolve a dispute have failed, and new ways to connect to government and non-government services.

ii. Improving social well-being of the client

Our starting position was that for an individual experiencing strife and looking for support, the state's justice system is not always an accessible institution. This could be for a variety of reasons including difficulty in accessing services, high costs, or mistrust. We then looked for qualitative and quantitative data that show the extent to which HRLS provides more flexible services that promote and strengthen community support to individuals, offer a venue that takes seriously and advances the claims of vulnerable individuals, and contribute to the long-term well-being of clients.

iii. Strengthening economic well-being of clients

We started with the position that vulnerability, low education or lack of economic resources may stand in the way of an individual enforcing their rights to economic redress. We then looked for qualitative and quantitative data that showed the extent to which HRLS could provide real economic benefit for the future well-being of clients by providing attentive and economically accessible legal assistance that produces economic compensation as a result.

B. SOURCES OF DATA

To conduct research in these three areas, a lead researcher from BRAC's Research and Evaluation Division coordinated data collection, and we also appointed six research assistants. The research assistants received a week of initial training, and collected data using a predesigned template prepared by the lead researcher. After training, the research assistants remained in the local offices for a month to complete the data collection process. Then the data were digitised, cleaned and coded before primary analysis was initiated.

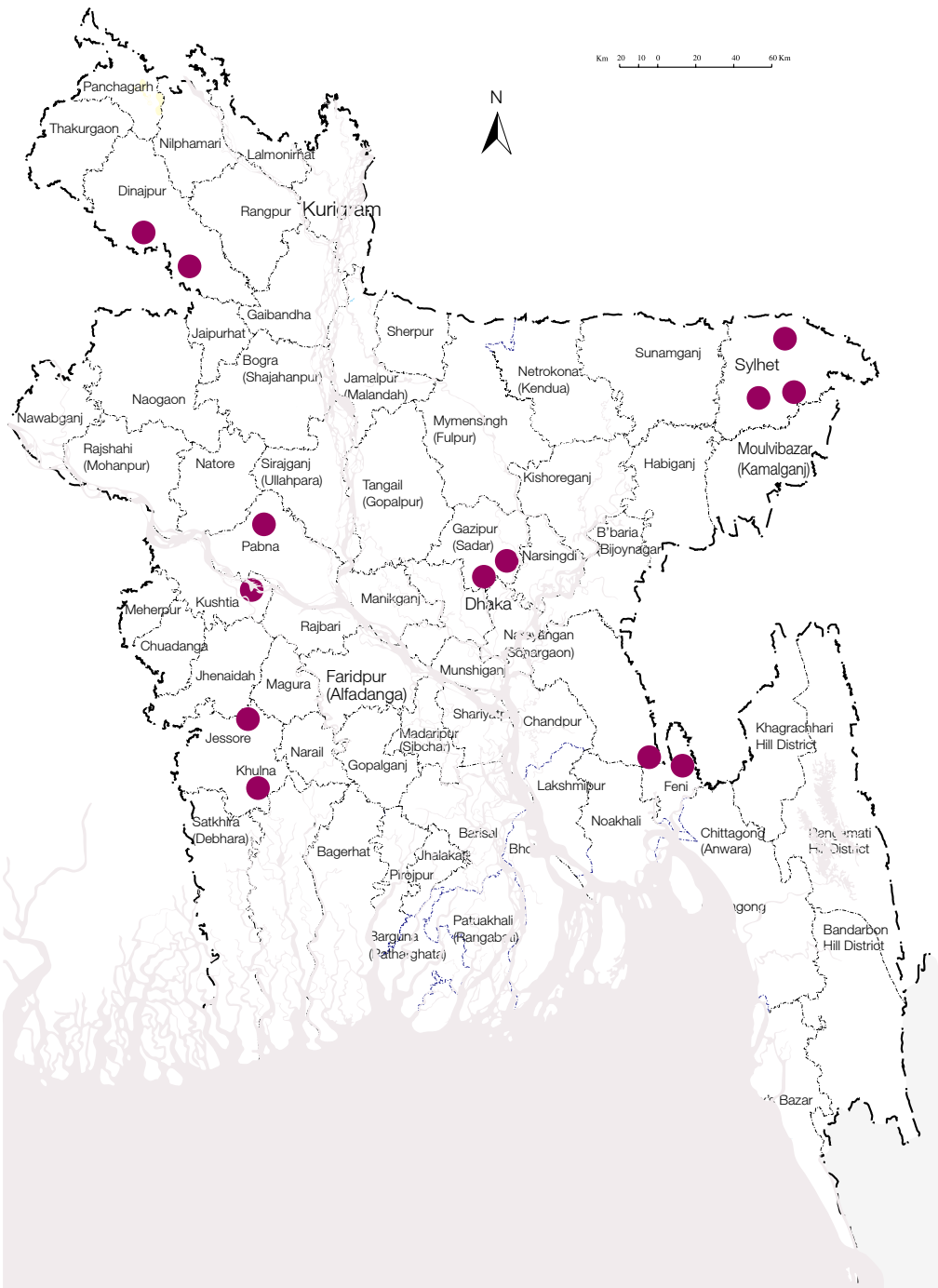
i. Quantitative data

We collected quantitative data from existing aggregations of administrative data at BRAC HRLS headquarters, as well as additional data from original case files and field registers kept at 15 out of 517 field offices in Bangladesh (Fig. 1).

From the data from headquarters, we looked at existing aggregate data from ADR and court activity across the country (including total cases and total compensation), as well as data on programme coverage throughout Bangladesh regarding registration of birth, death, marriage, and land ownership.

For the field data, we randomly chose 15 field offices/legal aid clinics, where we collected case records of individual clients. To determine the number of offices to collect data from, we conducted a pilot exercise in one clinic to verify the data available and to test data quality. Based on our findings, for purposes of the main study, we randomly selected two offices from each of the seven divisions of Bangladesh. In the case of two offices, we made changes. We replaced one office and added a nearby office managed by the same HRLS officer. We did this because the original offices did not have enough staff to assist us. We focused on data from the years 2012, 2013 and 2014 to make our analysis as contemporary as possible. This meant that we had enough time to assess results in the aftermath of the case, and to limit record and recall bias in the field data.

Fig 1. Field offices



From each office, our researchers collected three types of administrative information:

- ▶ Firstly, we collected the total incoming matters individuals presented to HRLS officers for advice between 2012-2014 and analysed by what path they were resolved, typically by court proceedings, ADR proceedings (each facilitated by BRAC HRLS), or family negotiation (handled privately by the client and other involved parties).
- ▶ Secondly, we isolated those ADR and court cases, which both commenced and completed within 2012-2014. We were able to identify 455 cases of which 332 were ADR cases and 123 court cases. With these case files we collected demographic information (age, sex, education, and occupation of client), the reason for dispute, and the purpose of visiting HRLS. We also collected institutional history, tools used by HRLS staff, outcomes, and data on follow-up activity by the HRLS officer after conclusion of the case.
- ▶ Thirdly, we collected information on the activity of *Odhikar shebis* between 2012 and 2014.

The above mentioned data were sourced from BRAC HRLS's office registers including the Court Case file, ADR case file records, the Register of Legal Advice and Counselling, the Register of Monetary compensation as well as the Register of *Odhikar shebis*.

ii. Qualitative data

In addition to the case file analysis, the same research assistants were also trained to collect qualitative information from HRLS staff and clients. We purposively chose one staff per office¹⁵ for key informant interviews. Altogether fourteen interviews were conducted by the research assistants using a semi-structured questionnaire. The selected staff were asked about their experience with specific cases, clients' perceptions, and longer term impacts of justice services sought from HRLS.

Furthermore, to understand client experiences of HRLS, we purposively chose two or three clients from each of the 15 offices, whose cases were complete at the time of our research.¹⁶

Our questions for clients included asking why a client chose HRLS, how they rated their BRAC experience, and the impact of their experience, including monetary compensation.

¹⁵ Usually the programme officer in-charge in each of the 15 respective offices, though one programme officer was in charge for two sample offices. We collected information from Field Officers, Programme officers, *Upazila* and Senior *Upazila* Managers. We have two interviews from each of the offices in Rangpur, Barisal, Khulna, Chittagong and Sylhet division and one each from Dhaka, Rajshahi and Chittagong division.

¹⁶ To be eligible to participate in the survey, clients had to have completed their case with HRLS, including at least six months of follow up by HRLS staff; and their case had to be concluded in 2012 or 2013 so we could understand long term outcomes. From each office, the HRLS staff helped us identify one client whose cases concluded in 2012, one in 2013, and one whose case was considered to of particular importance by respective field officer. Depending on how long the HRLS staff member had been in the office, it was not always possible to neatly meet these criteria.

C. DATA COLLECTION

To collect the data, we had recruited six research assistants to work as enumerators. They collected secondary data from case files from a set of 15 legal offices, as well as conducted interviews with clients and programme staff. All the enumerators were rigorously trained for four days where sessions were taken on quantitative questionnaire, qualitative check list along with briefs regarding operational aspect of HRLS. An interviewing team comprised of two enumerators who were supervised by RED researcher directly. All teams used semi-structured interview guides and conducted the interviews face to face, where they followed careful protocols to describe the voluntary nature and research purpose of the survey. The interview was conducted either in the HRLS office or in the participant's home as per the choice of the participant. Given that our research assistants were all male and each of the 36 clients interviewed was female, this could result in data limitations; however, due to political situation of Bangladesh at that time, travel conditions made it risky to employ female enumerators. We attempted to minimise potential bias by offering that each HRLS officer could also be present during the interview to inspire confidence among the interviewed clients. Questions were arranged so as to inquire about the more vulnerable subjects at the final section of the interview. Our enumerators reported that several former clients was nevertheless reluctant, or uncomfortable responding to certain questions in which case, the research assistants adjusted their approach, re-arranging certain questions and respected the respondent's wishes not to answer questions. Respondent's information was de-identified at all stages.

During data collection period, researcher and field management team members of RED conducted random spot checks regularly to ensure quality of collected data. Additionally, all the completed questionnaires were cross-checked by supervisors at the field-offices and all corrective measures were undertaken when and where necessary.

D. MODE OF ANALYSIS

Our qualitative data were analysed using the Nueman¹⁷ three-phase coding system. For the first phase, taped and transcribed data were scanned by each researcher which leads to a certain degree of familiarisation with the factors considered and locating the themes. Each researcher looked at the range, content, and diversity of the raw data. Secondly, priori codes, inductive codes and sub-codes were generated, identified, and defined in broader group. Definition includes: code abbreviations, color coding, full description, when to use, when not to use, and examples from transcripts. At the end, each researcher re-read the sorted data and finalised the final theme. For quantitative data visualisation, data location was traced through mean statistics of each parametric variable. For the descriptive analysis, we used a combination of MS-Excel and statistical software STATA.

¹⁷ Neuman WL (2000). Social research methods: Qualitative and quantitative approaches. Boston: Allyn & Bacon.

CHAPTER 5

DISCUSSION OF INDICATORS AND FINDINGS

A. GENERAL FINDINGS

We made three key descriptive findings about HRLS and its clients, which are presented below to set the scene before discussing our three areas of inquiry – community relationships to institutions, social well-being, and economic well-being.

i. Women are the overwhelming majority of HRLS clients

Our case file analysis reveals common demographic characteristics for HRLS clients. Of the 445 cases we analysed, over 98% of the clients were women, largely aged from 20 to 30 years. Most clients were housewives. About 15% of the clients in our sample were illiterate and those who were educated, a large percentage have studied only at primary school level. For clients pursuing ADR, 27% had studied up to secondary school, and 6% above high school. Similarly, 25% of the clients pursuing a court case have passed secondary school and 12% above high school.

ii. HRLS receives primarily dower and maintenance cases

Of the cases we analysed, the most common case type accounting for more than 80% of the cases were clients seeking assistance to recover dower and/or maintenance, sometimes after a period of neglect or physical abuse inflicted by husband/in-laws (either or both). Figures 2 and 3 below shows that the breakdown of primary reasons for a dispute in both ADR and court cases all the 3 years. For context, in 2012, about 87% per cent of total complaints were related to dower and/or maintenance which increased to 89% in 2013 and 92% in 2014.

Fig 2. Reasons of dispute in ADR cases 2012-2014

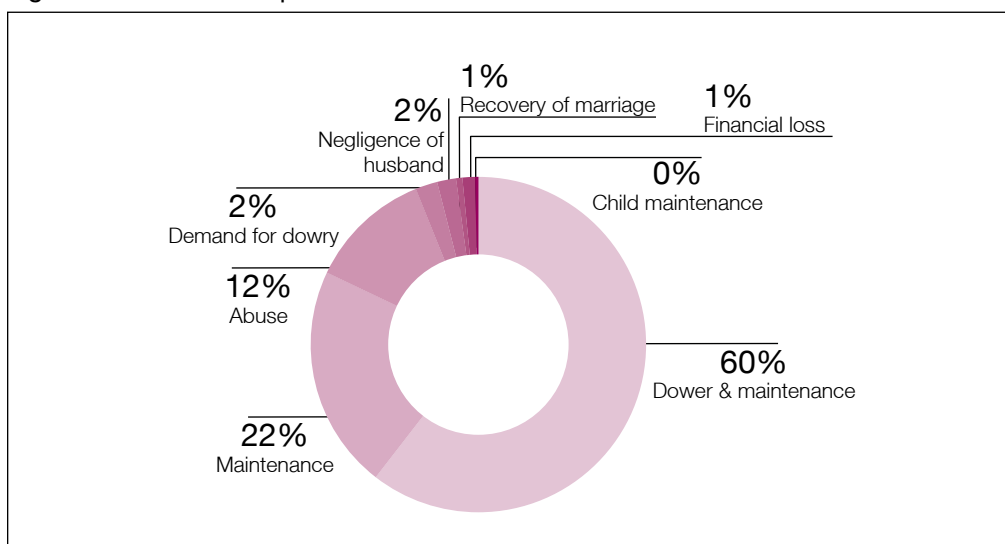
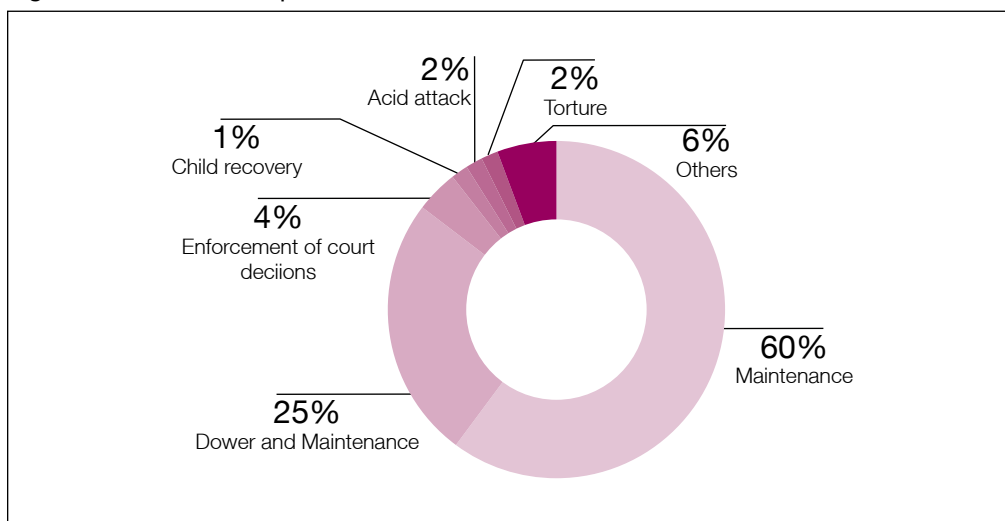


Fig 3. Reasons of dispute for court cases 2012-2014



iii. HRLS caseload is increasing

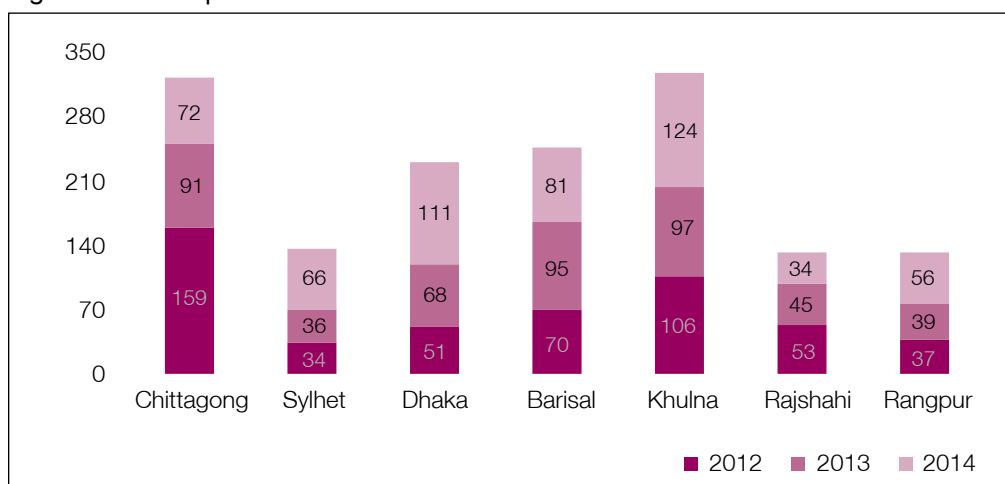
In the three years we examined, the caseload increased at most of the clinics. Total complaints rose from 434, 471 and 549 complaints in 2012, 2013 and 2014 respectively across the 15 clinics. Case numbers differ significantly across offices. The south-east division of Chittagong and south-west division of Khulna received most of the cases, whereas cases reported in Sylhet, Barisal and Rangpur were lower than other divisions

(Fig. 4). HRLS staff thought this data could be useful to use more systematically in their future five-year planning to understand where demand was greatest. It has also prompted them to think about whether this reflects actual incidents in the community, or the relative uptake of HRLS versus other systems of resolution, and whether additional community outreach and awareness raising could change those numbers.

What services does HRLS offer the typical client, a married rural woman seeking dower or maintenance recovery when facing trouble in a marriage? When we looked at the detailed data available in 15 offices for cases that concluded between 2012-2014, the files recorded four methods for resolution: 1) 'ADR solution', 2) 'court solution', 3) other methods not involving HRLS, such as sorting out the matter privately via a 'family negotiation', and 4) cases where resolution method was 'not recorded.' In the case sample we analysed, the number of incoming cases sorted almost equally between these four resolution types.

Our study did not reveal the significance of what it meant when the administrative data did not 'record how a case was resolved- this 'resolution' may reflect poor data keeping, a discontinued case, a case where staff did not know how to resolve, or a swift form of 'on the spot' resolution that does not generate further paperwork. Nevertheless, the distribution resolution types suggests that HRLS staff facilitated court or ADR proceedings for about half the clients that initially come to them for assistance.

Fig 4. Total complaints received from 15 offices 2012-2014



B. STRENGTHENING CONNECTION OF SERVICES TO INDIVIDUALS

Through our research we sought to understand whether data held by civil society justice programmes like HRLS could speak to whether HRLS effectively connects dispute

resolution services to people. Analysis of such data could be used to make services more accessible, more effective and more accountable to the community.

HRLS is primarily a rural service and it seeks to improve access to dispute resolution mechanisms by virtue of its geographic reach as well as professional services. Our research looked at three indicators to assess the contribution of HRLS to strengthening the connection between individuals and government and NGOs:

- ▶ Additional point of access for legal problems: HRLS is itself a distinct additional avenue of redress, experiencing a 6% increase in caseload between 2012 and 2014. The programme may be developing a predictable client base, predominantly married women seeking dower and/or maintenance from their husbands.
- ▶ Effectiveness of resolution for existing problems: HRLS helps clients who have failed to resolve a case elsewhere, and also supports court proceedings for clients whose HRLS-led ADR proceeding has failed. HRLS provides client oriented care and its staff engage in at least one follow-up to check on the well-being of the client in 96% of the cases the programme handles.
- ▶ Extent of proactive connection between services, communities and individuals: Most HRLS clients are referred by someone, with around 30% of referees being HRLS-trained community members. HRLS-trained community *Odihkar shebis* further connect community members to government services with the programme facilitating 15,000 birth registrations, over 5,000 death registrations, almost 10,000 marriage registration, and almost 45,000 land measurements in the study period.

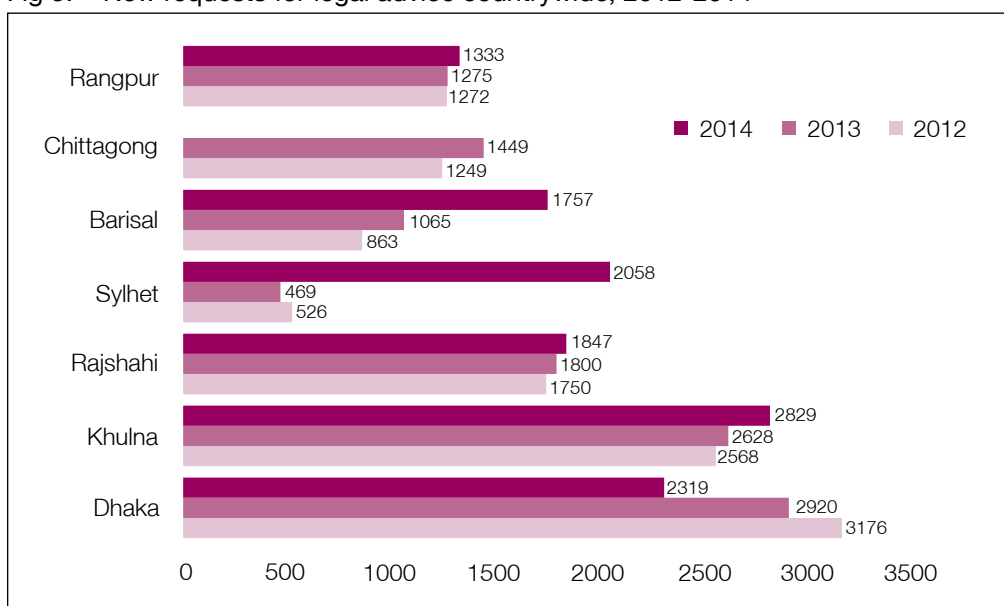
i. Additional point of access for legal problems

Looking at Bangladesh as a whole, 11,407 new clients requested advice from BRAC HRLS countrywide in 2012, rising to 11,606 in 2013 and 12,143 in 2014 making for a 6% increase in the study period (Fig. 5). The variations between the regions interested BRAC HRLS when this data was presented. They want to learn more about what increases in particular offices, namingly Barisal and Sylhet in 2014, might mean.

Of the 15 offices where we collected detailed data, we found that HRLS individual offices were handling on average 31 cases in 2012, 33 in 2013, and 39 in 2014. There was considerable variation between the offices, with some offices handling as few as 13 cases a year, while others averaged as many as 70. Nevertheless, the need for or perhaps the attractiveness of HRLS is on average increasing each year. In the 15 offices we studied, we found that, 88% of the incoming cases involved HRLS officers responding to female client requests to recover dower and maintenance (between 75 and 97% depending on the office). Our research methods could not help us understand whether dower and/or maintenance claims were on the increase generally or whether more people were choosing HRLS as their venue of choice¹⁸.

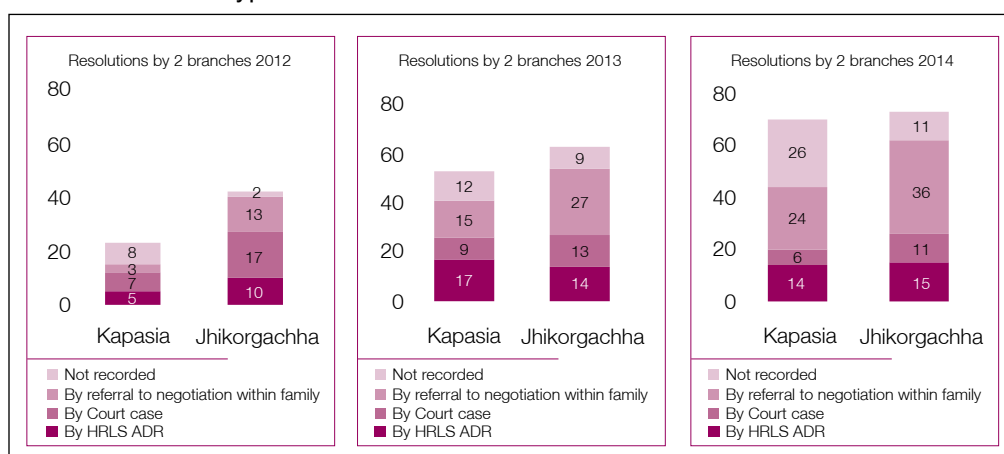
¹⁸ Note that for figure 5, Sylhet and Chittagong were combined in the data collection for 2014

Fig 5. New requests for legal advice countrywide, 2012-2014



We explored how BRAC HRLS offices were coping with increased uptake of their services. For example, we noticed that branches like Kapasia (in Gazipur) and Jhikargachha (in Jessore) experienced increases in their caseloads between 2012 and 2014 (from 23 and 42% respectively in 2012 to 70 and 73% respectively in 2014) (Fig. 6). During this period, an increasing number of cases ended up being resolved by a negotiation within the family without BRAC involvement (from 13 and 31% respectively in 2012 to 34 and 49% respectively in 2014). This suggests that the offices might be at capacity and that

Fig 6. Total number of cases in 14 HRLS offices entering 2012-2014, by resolution type



additional cases may be referred to family negotiation. This is an interesting trend that could be very important for HRLS to track more regularly. If HRLS becomes more popular and more people use its services, does it actually have the capacity to increase resources in order to offer one-on-one attention (ADR or court case) to clients? Or, will it leave clients to pursue their own family negotiations? HRLS is interested to use this breakdown of resolution types to track the decisions and resources of offices as caseloads increase.

ii. Effectiveness of resolution for existing problems

The most frequent reason (52%) for filing a court case we analysed was that the second party failed to respond to two notices of HRLS for a mediation or ADR. Other frequent reasons to file a court case also involved the second party (usually husband) failing to comply with an initial ADR process. For example, the second party did not adhere to *Shalish* or ADR (13%) or the second party did not comply with the first ADR decision (6%). The threat of filing a court case is an important enforcement mechanism for HRLS ADR services. Our analysis suggests that BRAC HRLS is strengthening enforcement of its own ADR process by giving clients continued alternative services when the first option fails.

For cases that the client and BRAC decide to pursue through the court, the HRLS officers work with a HRLS panel lawyer assigned to the case and act as a liaison with the client. The support also includes covering court costs of the client, transportation fees as well as ongoing assistance to the client at each stage of the court procedures. One client reported the value of BRAC HRLS's intervention as follows: "None of my family could visit court on a regular basis, but BRAC will do all the court formalities by themselves. So, I decided to complain to BRAC."

The case files record whether a case has previously been resolved elsewhere. Our analysis suggests that a significant proportion of the cases came to HRLS as the first forum for resolving the issue, without having been taken to other institutions. Our 36 client interviews, however, found a different trend: 28 clients had taken the issue elsewhere first, including 25 clients who first went to *Shalish* or the Union Parishad (UP) (local government council) to seek legal assistance before approaching BRAC. The discrepancy may have something to do with our sample of clients, or perhaps with the care in filling out that part of the case file. This caused some surprise for our colleagues at BRAC HRLS and they now want to explore how to standardise the requirement to specify a case's prior history so that they can better appreciate where in the cycle of a dispute their caseload falls.

The clients who went to UP *shalish* in expectation of claiming their dower and/or maintenance reported that this had failed. Nine clients specifically mentioned that their engagement at the UP involved multiple attempts at *Shalish* resolution, which were unsuccessful in resolving their financial due. A HRLS client described this process as follows:

When I went for local help [at the UP] I did not receive any proper solution to my problems and also the government organisations charge money but do not provide the appropriate result. They even misbehave occasionally. If BRAC was not there to help we would have nothing else to do. We are poor, so it is very less likely that we would receive proper treatment.

HRLS case files do not record whether cases were resolved by coercion, force, or involved some form of deception without intention to adhere to the decision. This is not the kind of information that one would find recorded in any kind of case file. But our interviews with clients made it clear that one intervention is sometimes not enough

As discussed in more detail in the following section, HRLS seeks to manage this risk through regular follow-up. HRLS officers are instructed to follow-up with clients regularly, including a) while an ADR or court matter is ongoing, and b) in the case of ADR, after resolution of the ADR they make as many as 6 follow-up visits or phone calls at random for six months to check the well-being of the client. Our interviews with 36 clients showed how important this ongoing contact can be. One client described what happened after an ADR seemed on the surface to be successfully completed by HRLS between her and her husband:

Although my husband took me home, he became more ruthless than before. I overheard him making plans to kill me by poison. I phoned my sister quickly and requested her to bring me back as soon as possible because I was afraid that my husband might kill me at any time. Later I went to my parental home and complained to BRAC again. I told them about my husband's conspiracy and how brutally he tortured me during those days. The HRLS officer called him again to ADR and made him agree to pay the dower [and to divorce].

This ability to follow-up with a client unannounced is valuable and perhaps unique to civil society organisations. Community legal services may have greater resources to conduct such a service, and may have a greater claim to legitimacy to continue to 'interfere' in the lives of their clients and understand the effects of their work, compared to an official of the government. BRAC HRLS reported that they are inspired to explore the use of follow-ups further.

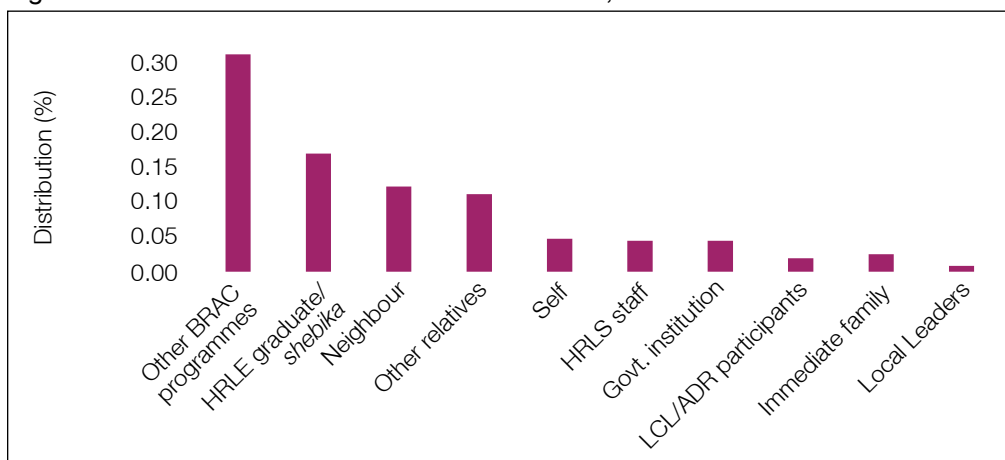
iii. Proactive connection to services for individuals

There are two aspects of HRLS ability to act as a connection point between themselves and other services that we analysed from their data: 1) the way in which clients were referred to arrive at HRLS in the first place, and 2) the activity of Odhikar shebis, specially HRLS-trained respected community members who link individuals to government registration services.

Active referrals, as opposed to sole action by the client, are the primary way HRLS receives new clients. Our analysis found that family members, community members and BRAC affiliates were the primary source of referral. This suggests that BRAC enjoys a high level of trust and positive word of mouth in the community, as well as a degree of knowledgeability about the related services it provides.

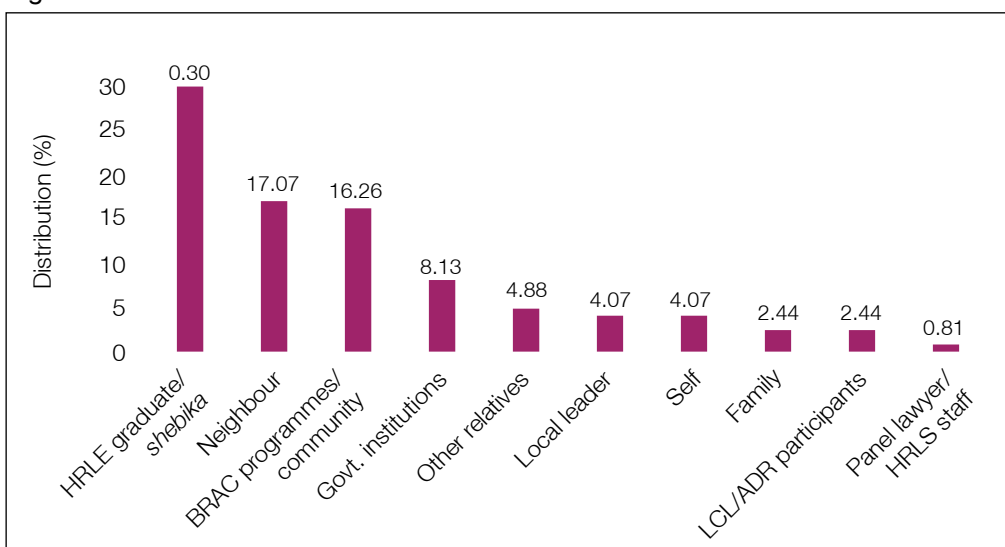
Focusing on ADR case files (Fig. 7), over 30% of the referrals to HRLS Legal Clinics were made by BRAC staff, while about 30% of the referrals came from those who had graduated from various of HRLS' legal education programmes. A client coming to HRLS of her own accord without referral is uncommon according to the records.

Fig 7. Referrals in ADR cases in 15 select offices, 2012-2014



For court cases, HRLS-trained community workers were the primary source of referral, (Fig. 8). These workers are tasked with identifying serious legal issues and helping clients seek assistance.

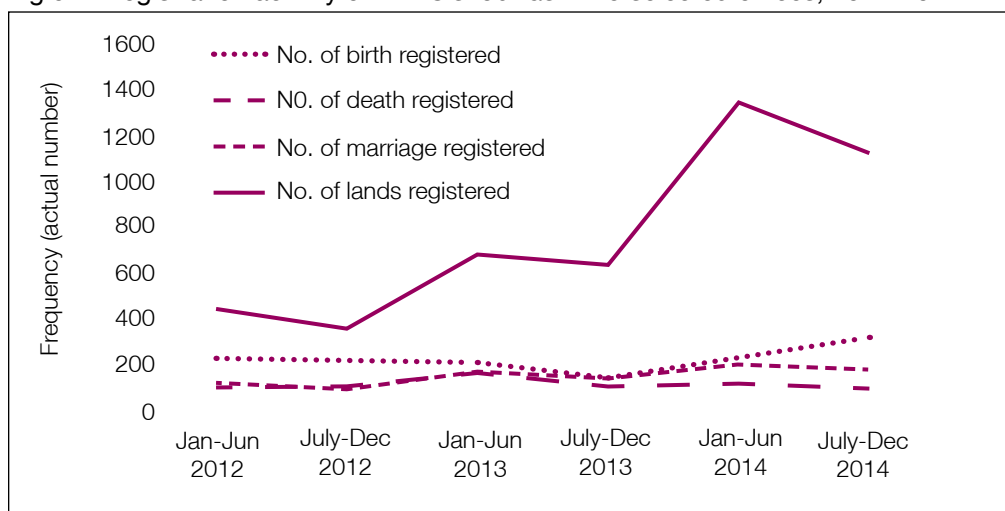
Fig 8. Referrals in court cases in 15 select offices 2012-2014



HRLS leadership were intrigued to learn that referrals by those related to BRAC and by community members seemed to be yielding many clients. Tracing the origin of referrals is a relatively new measure inside HRLS and is proving valuable to measure both how BRAC is received in the community, as well as cross-pollination between various social and economic services, and the legal services that BRAC provides.

BRAC HRLS uses cohorts of *Odhikar shebis* to ensure that the needs and entitlements of the community are met by the government. Shebis are trained by respected community members who connect rural individuals to government services by helping them register their marriages, births, deaths and land. Such legal recognition can pave the way to new opportunities to claim rights and entitlements, and prevent the onset of future disputes. In our 15-office sample, we found an average of 7 *Odhikar shebis* were engaged at any point of time. Over the 3-year period (2012-2014), *Odhikar shebis* around the country made 15,000 birth registrations, over 5,000 death registrations, almost 10,000 marriage registration, and almost 45,000 land perimeter measurements¹⁹ (Fig. 9) although it is worth noting that these statistics are reported on a volunteer basis. Our in-depth analysis of 15 offices found that activity of *Odhikar shebis* to register land began a marked increase from 2013 and now accounts for more than all other registration activities combined (Fig. 9). For a country that experiences land disputes, and where as many as 70-80% of criminal and civil disputes are said to arise from underlying land disputes,²⁰ this may be a positive sign of a proactive attempt to define rights and obligations before a land dispute or other associated altercation arises. Another consideration is that land registration is a source of income for the *shebis*, and they may be choosing to concentrate their activities in this way. Understanding how many *Odhikar shebis* are there from year to year, their distribution, and their breakdown of effort between different activities helps HRLS plan and prioritise this service in a strategic way and ensure it has intended focus.

Fig 9. Registration activity of HRLS *shebikas* in 15 selected offices, 2012-2014



¹⁹ For further information please refer to "Motivation and Performance: Land Entrepreneur Study", Toby Norman and Fakir Md. Yunus (unpublished).

²⁰ Hoque KE (2000). *Bhumi Ain o Bhumi Babasthar Cromobikas* (Land law and Development of Land System); See also *Socioeconomic Costs of Property Disputes: An Empirical Examination from Bangladesh* – conducted by BRAC Human Rights and Legal Services and Policy Research Institute (PRI) (2014).

C. IMPROVING SOCIAL WELL-BEING

HRLS, through its work in rural and peri-urban communities across Bangladesh, has reached tens of thousands of clients. Our case file analysis suggests that these efforts have impacted the social well-being of clients in several positive ways. Our research looked at four specific indicators to assess the contribution of HRLS to social well-being of clients including:

- ▶ Extent to which HRLS conveys positive norms to the client, second party and others: HRLS takes the opportunity in each of its engagements with clients to spread legal norms about family life and women's rights, such as the prohibition against dowry, the illegality of physical abuse, the right to dower, and the right to maintenance.
- ▶ Extent of accessibility and social acceptability of the service: HRLS seems to be regarded by clients as a low cost avenue that does not attract stigma and seems to produce socially satisfactory outcomes for clients.
- ▶ Extent to which outcomes benefit the client: HRLS seems to predominantly secure decisions where the parties remain married and for the second party to pay the client maintenance.
- ▶ Sustained interest in the ongoing well-being of clients: HRLS staff remain engaged with the client throughout ADR and court process and follow-up to ensure both parties are keeping their commitments.

i. Conveying positive norms

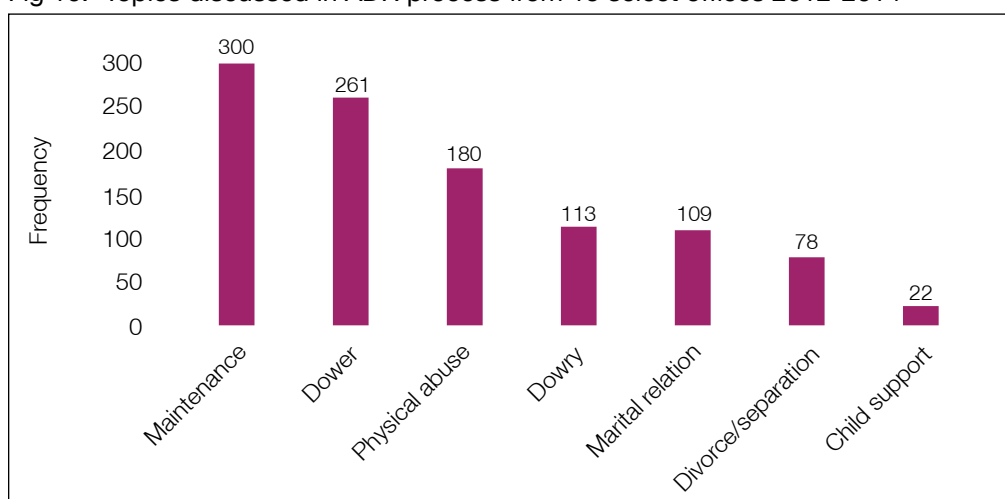
The HRLS programme makes effort to expand the awareness of clients, the second party and those around them. When clients sit in an ADR session with the second party, and sometimes other family members, HRLS staff expand their knowledge about the damaging nature of dowry demands, family violence, and other negative actions. In one-third of the 332 ADR case records that were analysed, the HRLS officer discussed with the parties the legal standards for dower during the mediation session, whether or not it was even an issue in the case. Figure 10 shows the main topics of discussion recorded in the 332 ADR files we reviewed for this study, including the obligation to provide maintenance and dower, the importance of avoiding physical/other violence, and the illegality of dowry.

This data are not able to tell us whether the awareness raising by HRLS during the course of the ADR has an influence on the second party or his family members and whether it actually changes behaviour. But it is an important opportunity for norm-setting that can also serve to imply a warning to the second party of the kind of actions that might trigger HRLS to help the client.

In addition to conducting ADR or offering support to clients in pursuing their court cases, HRLS client workshops offer a communal setting to develop knowledge and strategies on human rights and legal needs. Some clients referred to these workshops as a forum to

answer queries about their legal issues. In these workshops, previous clients whose cases are already resolved, and current clients whose court or ADR cases are in progress come together to discuss their various legal issues over a BRAC-provided lunch. Offering such a venue can diffuse the fear or stigma some clients can feel when seeking assistance. From the experience, clients might also consider rights and remedies for other undeclared problems in their lives.

Fig 10. Topics discussed in ADR process from 15 select offices 2012-2014



In the offices and cases we sampled for this study, half of the clients participated in a client workshop as part of their service from HRLS. Among the clients whose cases went through to court resolution, 62.6% also participated in the client workshop and they spent 2 hours at the workshop on average.

ii. Extent of accessibility and social acceptability of HRLS services

We tried to understand from the data whether accessing HRLS services, as well as securing an outcome, had a positive or negative impact on how the women were received by their community.

The HRLS programme seems to be regarded as a trustworthy institution for assistance. The HRLS staff whom we interviewed most frequently, cited the low cost and proper judgment as the reasons they think that clients are drawn to HRLS service (Fig. 11). They also cited minimal harassment, friendly service, low bias and political influence, faith and confidence in HRLS and ease of communication as client motivations.²¹

²¹ At the interviews, HRLS officers mentioned that, while going to shalish, it costs each client around 2000-3000 Tk. and in some instances, 50 per cent of the negotiated amount even needs to be given to the negotiator. For going to court, client has to spend about 4000-15000 Tk. for bearing cost of litigators, food and transport etc

This was echoed in some of our interviews with 36 former clients. It can be seen in figure 12 on the next page, Clients most emphasised low cost, HRLS's good judgment and reputation, as well as the comparative lack of assistance from other institutions. One client summarised HRLS's strengths as follows:

I think BRAC is an ideal place for poor people and it has a good relationship with other organisations I believe that other government organisations would not have helped me as much as BRAC. I believe these places would charge a lot of money and also be very time consuming.

Fig 11. Staff opinions on why clients choose HRLS

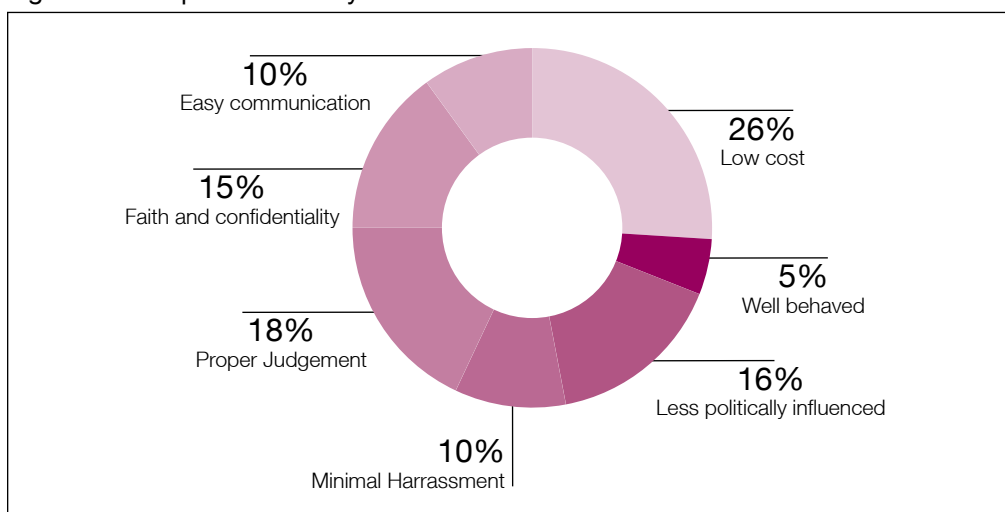
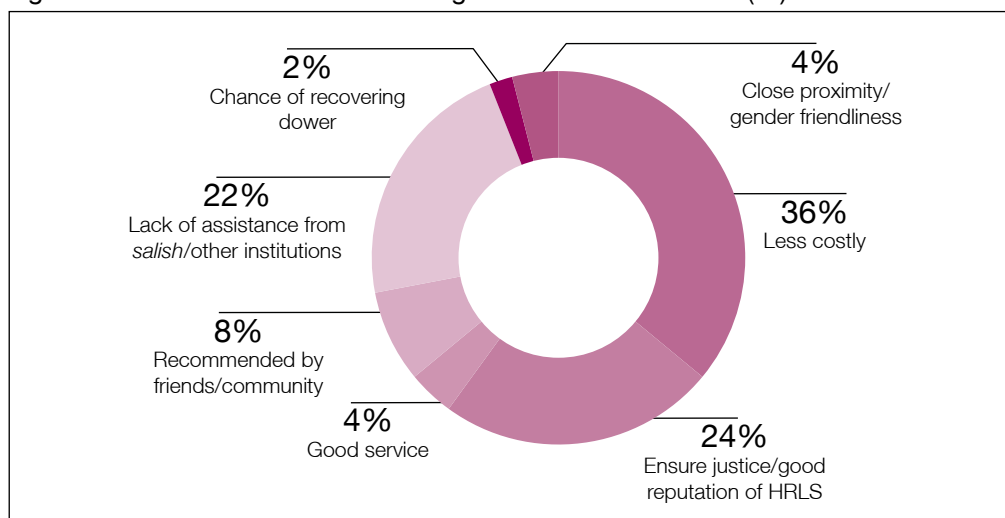


Fig 12. Client's rationale for accessing assistance from HRLS (%)



The almost zero cost of HRLS raised suspicion in some clients about the quality of services. One client reported that she and her family were initially skeptical of the willingness for HRLS to offer appropriate help given that the entire fee amounts to BDT 10 (13 US cents). Nevertheless, several former clients we interviewed commented that the relative privacy of resolving a matter through HRLS ultimately made the service attractive. One client was told by her brothers who recommended HRLS: “You go to HRLS and solve the matter at any cost. If we go to court for your case, more people will know about your affair which is not good for our good name.”

One client reported that while she did not face any social stigma in coming to HRLS, the person who referred her to BRAC HRLS warned her about publicising her personal matters. This is a good reminder that for a woman to make a complaint about familial life and call on social support mechanisms can be challenging. Having resources like HRLS in the community may give women an extra resource that means they are not depleting their reputation and informal social resources.²²

The qualitative data suggest that HRLS case interventions impacted positively on well-being. From our interviews, 35 of our 36 clients reported being at least satisfied with the outcome. Nine out of 36 clients we spoke to who divorced after their case, and reported being satisfied with their newly independent life as it meant they were free from repression or neglect and that they could invest the maintenance money received for their own well-being. Three of the nine clients who ended up divorcing after BRAC HRLS proceedings ultimately remarried and reported living a happier and more fulfilling life.

When interviewers dug deeper during our key informant interviews, some clients nevertheless expressed sorrow for being divorced, as they now needed to care for themselves. Some clients reported having changed relationships within the community. The community members would ask about the status of their relationship after they had moved out, and others saw that they were now living back with their parents.

iii. Extent to which outcomes benefit the client

When clients approach HRLS for ADR and court cases, they typically come to HRLS with a specific resolution in mind. HRLS staff record in the case file the type of resolution sought by the client at the outset of the proceedings. In ADR case files, the majority of clients sought maintenance and dower (89%) (Fig. 13).

The majority of clients reached an explicit agreement during ADR to remain married, although in almost 80% of cases they also reached an agreement for the husband to provide maintenance to redress any neglect in their relationship (Fig. 14). These agreements typically also include an agreement for change in conduct by the husband. Only 14% of the cases recorded a decision to divorce/separate and this is relatively

²² See L. McIntyre and J. Munro (2013) “Nobody helps us”: insights from ultra poor Bangladeshi women on being beyond reach <http://www.tandfonline.com/loi/cdip20> Development in Practice. In their study of 43 ultra poor rural women in Bangladesh, the authors found that women lived in fear of creating a bad reputation and exhausting their informal social resources like neighbours and friends, inhibiting their ability to receive help in the future.

closely complemented by the 15% of the cases in which the second party was ordered to give both dower and maintenance. Notice that in many cases explicit decisions were made that the second party ought not to physically or mentally harm the client (55 per cent) and must not demand dowry (12 per cent). About 26 per cent of cases also came to a decision that the parties should practice respect and value each other's opinion.

Fig 13. Resolution sought in ADR cases in 15 select offices, 2012-2014

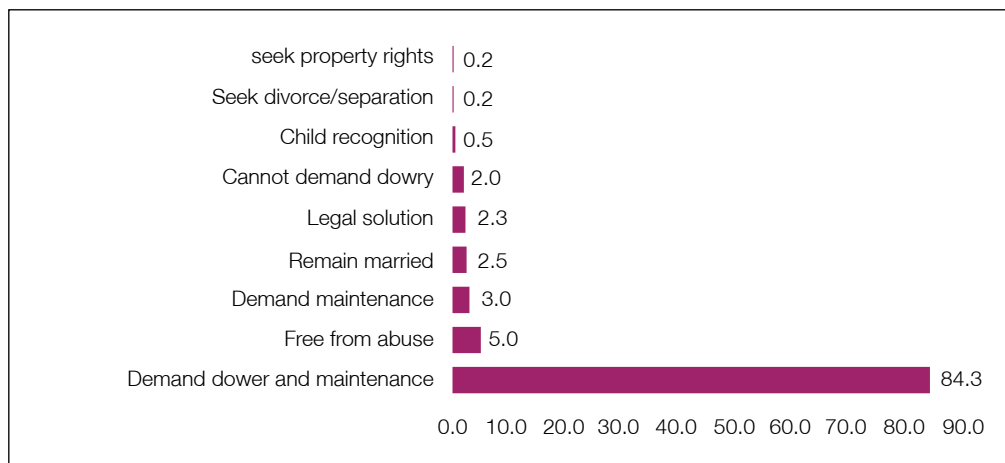
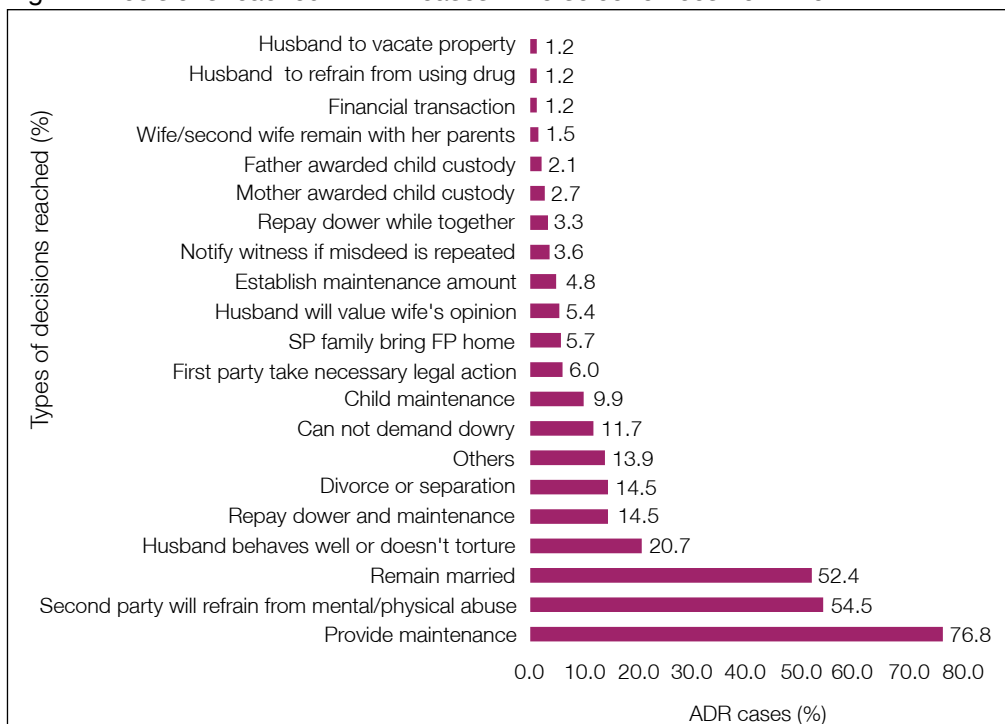


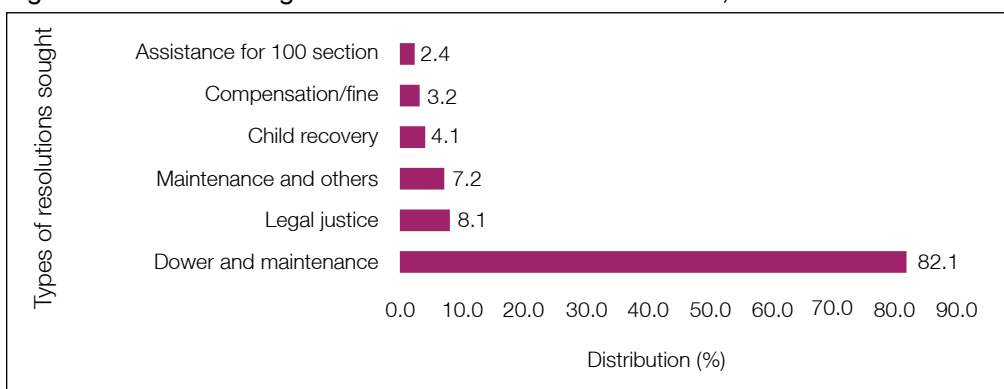
Fig 14. Decisions reached in ADR cases in 15 select offices 2012-2014



In many cases explicit decisions were made that the second party ought not to physically or mentally harm the client (55%) and must not demand dowry (12%). About 26% of the cases also came to a decision that the parties should practice respect and value each other's opinion.

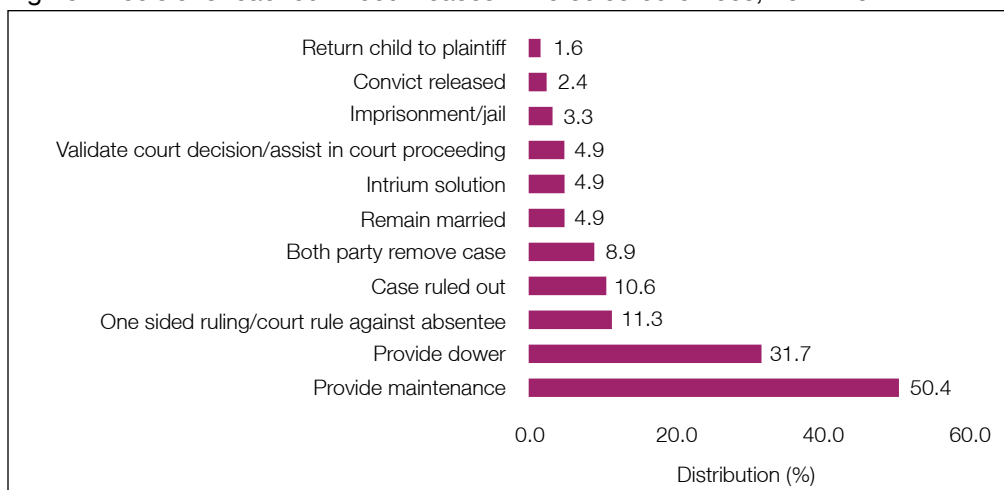
We see a similar pattern when it comes to the resolutions sought and obtained in those cases that went to court. Nearly 81% of the clients sought to recover both dowry and maintenance along with other issues which could not be resolved through mediation such as recovery of a child or seeking legal assistance for previous cases (Fig. 15).

Fig 15. Resolution sought in court cases in 15 select offices, 2012-2014



Court decisions have a lower rate of orders for maintenance than ADR (Fig. 16). In our sample, the court ordered the second party to provide maintenance in nearly 50% of BRAC HRLS cases taken to court. However, court decisions had a higher rate of orders for dowry than ADR, at 30%, and only 5 per cent of court cases resulted in a ruling for the parties to remain married.

Fig 16. Decisions reached in court cases in 15 selected offices, 2012-2014



This suggests that more court cases involved a dissolution of the marriage than ADR cases. Additionally, some 10% of the cases were dismissed by the court, mainly due to the parties failing to turn up. In other cases, the defendant was unable to be secured and the court assigned a one sided ruling (10%). In 9% of the cases, both parties agreed to jointly withdraw the case. This means that a total of 29% of the cases were either dropped or did not have complete participation. It was not possible from this study to tell whether HRLS had higher success in securing the attendance of both parties compared to court proceedings unassisted by HRLS, but HRLS is interested to explore this further during its annual meetings with all panel lawyers.

Additionally, this data about the decisions reached in ADR and court cases do not help us understand a broader moral question about whether these remedies are appropriate for the women involved. Of the 36 clients that participated in our interviews, 35 answered that they were “satisfied” with HRLS service, although one client was dissatisfied because her ADR did not resolve a background issue of violence by her husband. Advocates have questioned whether women should seek mediation or a civil remedy to recover dower and/or maintenance, and in turn receive monetary compensation, when often they are in domestic situations where they are currently or were previously experiencing violence and neglect. Pursuing civil remedies can mean overlooking any criminal culpability. On the other hand, civil recourse may represent empowerment for a woman to choose which remedy to pursue. Claiming a substantial sum of money can be important for a woman to thrive, support her children, and even to feel capable of being on her own feet so that leaving a marriage is a viable option either now or in the future. This seems particularly important as a safety net where poverty or violence make it harder to leave.

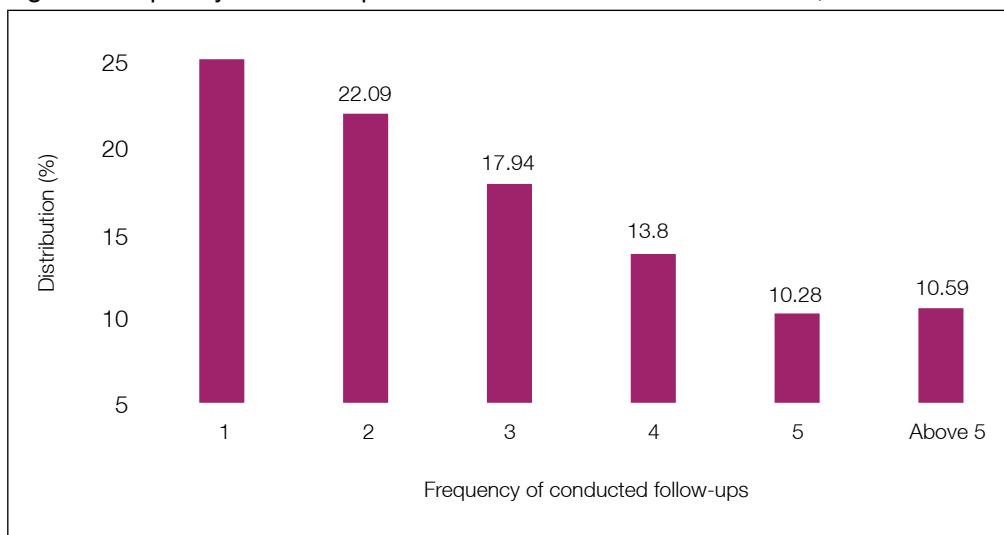
These are unresolved issues, but the study has given HRLS staff new perspectives on how to understand what effects their support has on women and their safety and what opportunities arise to tackle problems that their clients are not directly claiming. In the cases of serious violence, HRLS will assist clients to engage the state to pursue a criminal action against the perpetrator. As an additional safeguard, HRLS staff already have developed a system of continued contact with clients, which we described in the next section:

iv. Sustained interest in long-term well-being of clients

HRLS typically begins work on a case within a week of receiving the complaint. In the case of matters resolved by ADR, the HRLS policy is for their programme officers to follow-up with their clients on six random occasions over the course of six months. HRLS staff use the follow-up session to monitor enforcement of ADR settlement or court judgement as well as the condition of the client. The follow-ups are conducted either at client's home, unannounced, or over the phone. Our research reveals that following the conclusion of the case HRLS staff conducted at least one follow-up in 96% of the cases. They also visited clients in person, at least once, in 79% of the cases. One HRLS staff we interviewed commented, “It is always better to contact in person. It makes receiving the information better.”

Our research suggests that HRLS staff in reality tend to follow-up fewer than 6 times. Fig. 17 shows the set of cases (96% of our sample) where follow-ups were conducted, 25% of the cases were followed-up only once while 35% of the cases were followed-up at least four times.

Fig 17. Frequency of follow-ups in ADR cases in 15 selected offices, 2012-2014



We understood from our interviews with staff that when clients get divorced and/or receive the full amount of compensation for dower and/or maintenance that they claimed then it is not mandatory to follow-up those cases. HRLS staff that we interviewed described their approach for a set of 25 cases. For six cases we could find no follow-up history, and five of these involved parties that divorced. In two of the cases, clients who remarried asked HRLS officers to no longer keep contact with them. One senior HRLS staff explained as follows: “Generally we take six follow-ups as per rules. But we stop follow-up after six months if we are assured that the client is all right. If the client is dissatisfied, then we take her to ADR again to resolve the issues.”

Follow-ups appear to have two primary benefits. Firstly, to ensure enforcement of the decision; and secondly, to ensure that clients who have reached an agreement with the second party to reconcile are not facing intimidation or pressure. When both the parties decide that the second party is to provide the client with compensation for dower and/or maintenance, it is the HRLS officer who plays a pivotal role in ensuring that the agreed amount is paid in full or at least partially. As one client explained: “BRAC officer played an important role to get the funds. They pressurised the second party to pay the funds accordingly.” It was not possible to learn from the case files or the client interviews whether the HRLS staff pressure was always successful in retrieving the promised funds. We discussed this further in section D on economic well-being.

In addition to the frequency of follow-up, we were also able to access information from the case files about the client's condition after the case was completed. Out of 123 court cases that we analysed for this study, we found that 80 cases (65%) had an accurate record of follow-up by HRLS staff, and only one case suggested that the client had deteriorated in some way, but our further investigation revealed that the client was not satisfied with HRLS services as she lost her case in court. We found that 42 cases (34%) did not have any record of follow-up, which could imply these cases were not followed-up in reality or that information on follow-up was not properly recorded. Out of 261 ADR cases where HRLS followed-up with clients in person (79% of the cases we sampled), 5% of the cases recorded some form of 'deterioration' such as the client not retrieving all funds promised to her, or the client suffering in some way at home. This allowed those HRLS officers to take the issue further by exercising pressure or instituting new ADR proceedings.

Due to the incompleteness and inconsistency of the data it was difficult to be certain from the follow-up data exactly in what condition the clients find themselves and whether HRLS services are achieving outcomes that stick. This does not affect the conclusion that HRLS is deeply aware of enforcement deficits and uses follow-up as a mechanism to act more effectively.

D. EXPANDING ECONOMIC WELL-BEING

We explored how the HRLS programme impacts the economic well-being of clients. We have already established that HRLS is extremely affordable, costing clients only Tk. 10 (13 US Cents), which was reflected in records of individual case files. Our research was driven by two primary lines of inquiry focused on compensation: first, can the HRLS case data tell us whether HRLS services result in concrete economic benefits for clients? second, can the case files, supplemented by client and staff interviews, speak to the impacts of HRLS services and whether these play a role in shifting attitudes on economic distribution between women and men in the family?

To begin to address these questions, our research looked at three specific indicators to assess the contribution of HRLS to economic well-being of clients including:

- ▶ Degree of success in securing economic compensation: HRLS supports women to recover dower and maintenance owed to them by their husbands.
- ▶ Degree of enforcement: HRLS helps clients secure a good proportion of the actual amount owed in dower and maintenance. Where data were available, the amounts actually paid after ADR cases were, on average, US\$ 759 and for court cases US\$ 870.
- ▶ Impact of economic windfall: Based on limited interview data, and perhaps unsurprisingly HRLS cases where money is recovered for the client seem to have a positive impact on their lives.

i. Degree of success in securing economic compensation

Typically, HRLS services begin with information about relevant legal frameworks and laws including dower, maintenance, and marriage and divorce registration before presenting available options to pursue redress. Decisions on the specific course of action in each case are based on the client's preferences. In the 15 offices we were able to analyse a range of cases in-depth, there was roughly equal number of cases that went for ADR or court resolution by HRLS, cases that went to private family negotiation, and cases where the form of resolution was not recorded.

As described in section C on social well-being, the ADR and court cases focused overwhelmingly on economic issues – requests by married women to be paid the dower due under their marriage contract, or maintenance for their everyday needs. Dower, maintenance, or a combination of the two was an objective sought by HRLS clients in 301 of the 332 ADR cases (93%). Of the 132 court case files we analysed 101 that included demands for dower and maintenance.

As described above, in marriages governed by Muslim Laws in Bangladesh, dower amounts are established through the marriage certificate. Of the combined 455 ADR and court cases, our enumerators collected 419 files (92%) listed the agreed dower amount in the original marriage certificate. The average dower amount listed in these 419 files was BDT 103,852 (USD 1,361). The median amount listed in the marriage certificates was BDT 70,000 (USD 917).

The compensation that was agreed in the ADR process was recorded in 103 ADR case files. This includes compensation for dower, only dower and maintenance, or only maintenance.²³

Of these 103 cases, the average amount of recovery agreed was BDT 61,266 (USD 803), or 61% of the average amount listed in the marriage certificates. Most cases involving recovery were intended as maintenance, not a full dower payment, but the dower amount in the marriage certificate is an instructive anchor.

What we cannot tell is how effective HRLS is at securing an agreement for a reasonable sum the money compared to another service. A HRLS client from Barisal illustrates the challenges of full recovery of a dower claim under the marriage certificate. She was promised BDT 120,000 as dower, but initially demanded BDT 50,000 only. She tried to seek government assistance in recovery, but the government official she approached dismissed and offended her due to her poverty. The official asked, “Have you ever seen 50,000 taka, has your father ever seen it”? Following this treatment, she approached HRLS and chose to pursue the case through ADR. After HRLS's engagement, the former husband agreed to pay her Tk. 70,000 and she was satisfied with less than the “full”

²³ At present an HRLS case file is used for ADR and court case clients that tracks progress towards completion. Once a case is completed the agreed upon or ordered amount is recorded. When opposing parties actually pay compensation to the HRLS client, this amount or amounts in the case of multiple payments is recorded in a separate register of compensation which records payments and disbursements by the office. We were unable to acquire a full picture of compensation for all cases in our research, but we were able to connect a sample (76 ADR cases) of compensation payments back to the original case files.

amount listed in the certificate. She said, “I would have to face much trouble for getting the full amount and I am happy with the amount I received.”

ii. Degree of enforcement

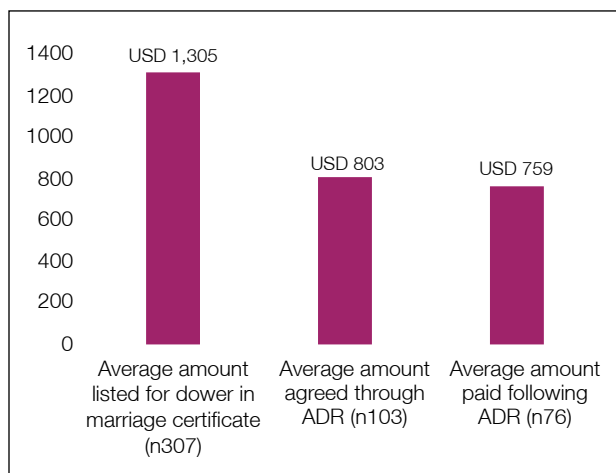
An important feature of the HRLS programme appears to be their ability to pursue and enforce payment of the negotiated dower or maintenance settlement. HRLS uses both follow-ups, as discussed above, as well as litigation to enforce the agreement.

ADR files

Separate from the HRLS case files, offices record actual payments made in a compensation register. This hard copy ledger tracks actual payments received from the second party by the HRLS office, which are then paid to the client. Through our research we were able to identify 76 ADR cases where HRLS tracked the case from negotiated settlement, to enforcement, to actual payment. In these cases we found that on average the dower stated on marriage certificate was 99,622 BDT (USD 1,303) and median 65,001 BDT (USD 850). The ultimate payment to client was Tk. 57,933 (USD 759) (Fig. 16). These payments constitute nearly 95% of the average amount agreed during the ADR, showing a significant level of enforcement for the agreement that the HRLS officers settled during the ADR discussion. It is helpful to compare this amount to the average household income in Bangladesh that we described in the introduction, which is roughly USD 1,800 per year, and the average amount listed in a marriage certificate is USD 1,305 (Fig. 18).

We found that 82% of these 76 dower and/or maintenance payments following ADR were made as one time payments to client, through the HRLS office, as opposed to multiple payments.

Fig 18. Average amount listed, average agreed in ADR, average recovered by client in 15 selected offices, 2012-2014



The threat of litigation appears to be an important means of enforcement. When respondents fail to pay the negotiated amount, HRLS is able get that through the formal court cases. HRLS also refers specific cases directly to court, such as when the HRLS client advises that she would prefer to go directly to court.

Court files

The average and median amounts listed in the marriage certificates in the court cases were comparatively higher

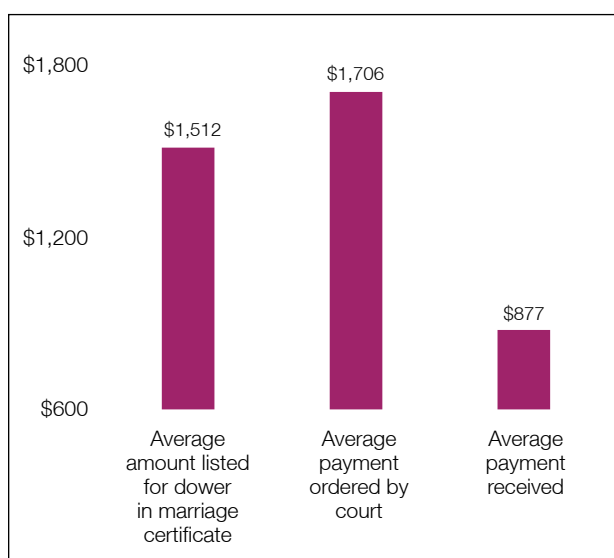
than the ADR case files. In court cases the average listed was BDT 115,447 (USD 1,511) and the median was BDT 80,000 (USD 1,050). It is expected that a client with a higher value dower would go to greater lengths to secure her dower or maintenance.

Of the 123 court case files, 74 included data in the case file about the amount to be paid to the plaintiff. The average amount ordered for dower and/or maintenance recovery in these 74 cases was BDT 130,309 (USD 1,706), with the median ordered being BDT 101,100 (USD 1,323). In other words, the decisions made in the court, on average, exceeded the actual dower amounts stated in the original marriage certificates.

The cases we sampled were at different stages of the enforcement process. As such, we could trace 14 court cases in the compensation registers to understand whether actual payment made. In this subset of cases, we found that the average amount ordered for recovery was BDT 130,308 (USD 1,706). The amounts of actual recovery as recorded by HRLS was BDT 67,000 (USD 870) (Fig. 19), which is 38% of the total amount of judgement although closer to the actual recovery figure among ADR clients (Fig. 18).

Our case file review was entirely dependent on the quality of the case files. To overcome the expected gaps in the data, our enumerators also conducted 36 in-depth interviews with HRLS clients. These interviews helped us understand their rationale for pursuing a particular course of action, processes of enforcement, and what HRLS clients did with the dower recovery secured through the court case or ADR. We spoke to 25 clients who were seeking monetary compensation through ADR or court proceedings, as opposed to some other kind of remedy. Of these clients 8 received full payment of the determined amount, 11 received partial payments, 3 were pending court enforcement, and 3 had been unenforced.

Fig 19. Average payment ordered by court, average recovered by HRLS client



The missing data here is intriguing. Was the actual amount recovered not noted in some cases because none was recovered? Or because of record keeping? HRLS has recognised the value of strengthening this data so, that it can more reliably trace recovery patterns at the individual level rather than only using a nationwide total compensation figure, so a common figure reported by legal service organisations. This data will help to show the impact on particular clients as well as to inform policy arguments for the cost effectiveness of the BRAC HRLS model.

iii. Impact of economic windfall

The only way we could understand what effect money had on clients' lives was from the 36 interviews we conducted with clients. This is obviously a very small sample, but is suggestive of the kind of light touch questions that HRLS could incorporate to its existing follow-up protocol.

Of the 36 clients interviewed, those 19 clients who received full or partial payment from their husbands or former husbands were using funds in different ways. Several women used the funds to support themselves when moving back to their family. Others used the funds for entrepreneurial purposes, for example, buying cows or property or starting a micro-enterprise. One client used the money for a new wedding. An HRLS client said,

It has changed my life. I am now happy in my life after the settlement through BRAC. Previously I was never allowed to take decisions, now I take all of the decisions of the household and also spend on whatever I want to."

Another client reported,

"Other government organisations would not have helped me as much as BRAC. These places would charge a lot of money and also be very time consuming."

A HRLS client in Feni detailed the impact of HRLS's assistance in her court case against her husband. The court decision required her husband to pay BDT 80,000, of which she has recovered BDT 60,000. According to her, "everything has changed. I have now moved back to my parents and I can live independently." Several HRLS clients state that HRLS assistance was essential in securing an improved economic outcome. One client from Dhaka division told us, "If HRLS was not there, I would not be able to get any compensation from my husband's family."

Persistence by HRLS by way of a court case is not a panacea. A HRLS client in Rajshahi division also took her husband to court after he kept taking away her savings. HRLS provided legal support to take the case to court and after some time the judge decreed that the defendant must compensate the plaintiff. The defendant could not pay, however, and was ordered to be sent to jail. The client did not receive any recovery and was not satisfied with the outcome.

CHAPTER 6

CONCLUSIONS

LESSONS FOR BRAC HRLS PROGRAMME

BRAC HRLS in 2016 is entered a strategic planning phase and aimed to assess its budget priorities and needs for the next five years. Much of HRLS offices reporting to date have focused on cumulative achievements, such as total numbers of clients served and total quantities of compensation recovered since its inception in 1986. Partly as a result of this research, HRLS is improving its understanding of which expenditures, on which activities, seem to be producing the most benefit for the community. These benefits can be defined monetarily, socially, and in other ways. During this study, our new process of activating data already available in the institution has identified new ways to use and produce data to assess outcomes and test programme assumptions. Moving forward HRLS has plans to update and strengthen data collection templates to ensure timely generation and potentially reporting of access to justice programme statistics.

LESSONS FOR CIVIL SOCIETY

Civil society community-based access to justice programme data offers great potential as a tool to enhance and target services. There are advantages of the existing programme data collected through day-to-day operation of the institution. It is regularly collected by the staff as part of their duty, and is a sustainable method of collection. Our decision to include interviews of staff and clients in our study deviated from HRLS's current data collection procedures, but it is a method of data collection that HRLS has recently piloted.

The disadvantages of using administrative data include the usual questions of data quality and reliability. The cumulative figures HRLS keep at the headquarters level necessarily dilute some of the rich learning available in the field offices. It does seem, however, that even in the course of this short study, our use of programme data has pinpointed new possibilities and caused interest in improving and strengthening. HRLS plan to explore the ways data are collected, to change the headline indicators used at headquarters level, and to begin to link their activities to outcomes. Systematic reporting of such data in

multiple organisations can help articulate civil society contributions towards guaranteeing access to justice in practice.

A final disadvantage of this data is that it does not give us conclusive proof that one activity causes a particular outcome in the nature of a randomised control trial. At best, the data can point to plausible connections and prompt important debate inside the organisation about the direction of travel they want the organisation to achieve. This seems to be a realistic and low cost way that fits within the planning and decision-making timelines of the typical organisation.

TOWARDS AN INTEGRATED APPROACH IN THE UN SDGs MEASUREMENT AGENDA

As the new SDG framework looks to “ensure equal access to justice for all,” it should work to incorporate measures from civil society justice programmes like BRAC HRLS. These programmes have a measurable impact on people seeking legal assistance and, as this study demonstrates, record significant data regarding clients’ access to justice. Such data can help to present a more holistic view of progress towards justice and sustainable development than government administrative assessments alone. HRLS programme data, taken together with the results of other non-government as well as government service providers and household surveys, can offer a more robust and complete picture of justice in Bangladesh than is possible in evaluating any one institution alone.

The indicators we explored in this paper are only a beginning, but they suggest that civil society is an important source of information about justice-seeking behaviour at national level. The United Nations system works with governments and civil society to develop and refine the indicators by which progress under the SDGs will be measured. This research is an example of the importance and possibility of measuring the contributions of civil society. Goal 16 of the SDG is an ambitious aim that should be regarded as a shared endeavour between government and civil society rather than falling under the sole responsibility and power of government. Both the government and non-government actors can demonstrate achievements, make improvements, and provide different kinds of complementary services that are each worthy of measurement.

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