

TERMS OF REFERENCE

FOR CONSULTANCY FIRM CONTRACT: Evidence base study on Access to Justice Situation Analysis

A. Project Title:

Justice Sector Facility (JSF)

B. Description of the Assignment

Consultancy to assist the GoB in preparation of a study on Access to Justice Situation Analysis (AJSA) – including: analytical inputs, other preparatory activities, consultations with key actors, and drafting the final documentation.

Strengthen the evidence base regarding the state of access to justice in Bangladesh. The analysis will provide a clear picture of the state of the justice sector including how the major justice sector agencies are performing; how people resolve legal disputes, and the challenges they face in doing so, across both the formal and informal justice systems. The analysis will have three components:

- 1. A "light touch" evidence based assessment of the core justice sector agencies (Police, Courts, Prosecutions, Prisons, Legal Aid);
- 2. Household public perception survey; and
- 3. Survey of views of justice sector service providers.

Note: while UNDP will be contracting for (and monitoring the delivery) of these services, the lead GoB client is the Law and Justice Division, Ministry of Law, Justice and Parliamentary Affairs.

C. Project Description:

Background

Bangladesh's formal justice system remains relatively inaccessible for the vast majority of the public. Vulnerable groups, including women and children, ethnic minorities, the poor, and people with disabilities face particular difficulty in accessing timely and affordable justice. Large case backlogs, estimated at over 2 million cases, are slowly overwhelming the court administration and undermining access to justice. There is increasing acknowledgement that this is critical governance, access to justice and rule of law issue that needs to be addressed.¹ In particular there is increased recognition among policy makers and senior officials that the justice system has almost reached a breaking point.² The causes of the state of the justice sector are multiple. Lack of capacity, external interference, corruption, outdated laws, incentives for delay, and complex procedures all combine to create a system which does not deliver speedy, affordable and trusted outcomes for the public. A lack of coordination and cooperation between justice sector agencies, which are heavily interdependent upon one another, is another major challenge.

The Justice Sector Facility (the Facility), established in July 2012, is implemented by the Law and Justice Division of the Ministry of Law, Justice and Parliamentary Affairs, with the support of UNDP and DFID. The project's overall objective is to improve justice sector outcomes through strengthened communication, coordination and cooperation between agencies. The expected outputs of the Facility are:

(i) Communication, coordination and co-operation between justice agencies enhanced in two district

¹The Millennium Development Goals: Bangladesh Progress Report 2009, General Economics Division, Planning Commission, Government of Bangladesh

²Honorable Law Minister at the inauguration of Bangladesh International Arbitration Centre in April 2011. The Daily Star

pilots through establishment of solutions for inter-agency case management;

- (ii) Selected agencies have improved strategic planning, monitoring and evaluation, delivery of government legal aid, and prosecution of cases; and
- (iii) Strengthened cross sectoral dialogue and sector wide coordination mechanism established.

Purpose of the situational analysis

The purpose of the situation analysis is to strengthen the evidence base regarding the state of access to justice in Bangladesh. The analysis will provide both quantitative and qualitative data about the strengths and weaknesses of the justice system.

The results of the two surveys will provide a qualitative baseline, focusing on the perceptions of: 1) the public and 2) justice sector service providers. The household survey will give a clear picture of how people resolve legal disputes, and the challenges they face in doing so, across both the formal and informal justice systems. The survey of justice sector service providers will result in an "insiders view" of the strengths and weaknesses of the formal system.

In addition the light touch evidence based assessment of the core justice sector agencies (Police, Courts, Prosecutions, Prisons, Legal Aid) will gather high level data on case-load of each agency and to the extent possible any trends.

Follow-up surveys are likely to be administered on a multi-year basis (every 2-3 years) allowing the Facility to track changes in perceptions about the strengths and weaknesses of the system over time as well as changes in the case-load of each agency.

The vast majority of research undertaken to date has tended to focus on specific institutions or sub-sectors rather than the justice system as a whole. This reflects the limited mandate or specific thematic area of interest that most development partners have. However, UNDP via the Justice Sector Facility has a mandate to work across the sector with all actors. Currently the focus is on the formal sector but strengthening the linkages and oversight between the formal and informal is also important. As such the Facility has a requirement for a comprehensive and current analysis of the state of the entire justice sector.

Geographical coverage

The targeted geographical area is the whole of Bangladesh in order to understand access to justice issues across the country. The public household survey should will therefore work on a nationally representative sample covering both urban and rural areas and specifically target poorer districts. A total sample size of between 3000-4500 would be appropriate for the household survey component depending on the methodology used. A sample size of 2000 is required for the justice sector service providers' survey. Further, Key Informant Interview (KII) and Focus Group Discussion (FGD) will be required.

Target respondents

There are two sets of target respondents: 1) public and 2) justice sector service providers.

Following a Human-Rights Based Approach, the household survey component would, in the determination of the survey sample and collection of data, specifically focus (though not exclusively so) on the poor and disadvantaged who as the most vulnerable groups within society in Bangladesh are most likely to face difficulties in obtaining redress.

In addition, a justice sector service providers survey would seeks the views of those who assist in providing redress such as Courts, Police, Lawyers, and local NGOs would also be targeted by the survey. This Survey would assess service providers views on the state of the sector, areas of change/improvement, blockages and general perceptions of the other actors working in the justice sector.

D. Scope of Work

Proposed information to be gathered

The Situational Analysis will have three components:

- 1. Evidence based assessment of the core justice sector agencies;
- 2. Household public perception survey; and
- 3. Survey of views of justice sector service providers.

Evidence based assessment of the core justice sector agencies

This component will gather data on Police, Courts, Prosecutions, Prisons, and Legal Aid. Existing government data will be used to undertake a "light touch" evidence based discussion of the case-load and the performance of agencies (in quantitative terms). The depth of this analysis will be determined largely by the availability of data. As such the proposed information to be gathered would include, at minimum:

- Total crime (by year and by type);
- Judiciary case-load (total by district, court type, year etc);
- Number of prosecutions and prosecution rate;
- Number of prisoners;
- Trends in budgets and staffing;
- Number of people receiving legal aid.

Household public perception survey

The information gathered will relate to whether or not individuals, groups and communities realize timely, fair and satisfactory treatment in the resolution of their grievances and disputes. It will also delve into the effectiveness and fairness of the process through which disputes are resolved as well as the outcome of the process in terms of its quality and effectiveness. Access to justice spans a wide scope of issues and requires systematic monitoring of:

- Effectiveness and efficiency of justice delivery agencies this relates to the capacity of the agencies to deliver quality services within a reasonable period of time;
- Physical access how close the users are to justice delivery agencies;
- Access in financial terms how affordable legal services are to the users;
- Access in technical terms how comfortable users are with the legal language and procedural requirements. This also relates to the treatment of users by the law enforcement personnel as well as their representation by experts in law and its techniques and their ability to afford them i.e. cost
- Acceptability How acceptable are the institutions and their practices in terms of the social, cultural and religious perspectives of their claimants;
- Performance: whether the public feel that specific organizations are improving or not;
- Available alternatives What are the alternative means of resolving disputes outside of the formal system and how effective and fair are those mechanisms particularly for women and vulnerable groups; and
- Preferences what are communities' preferences for formal and informal dispute resolution and what does that mean for the sustainability of the solution and broader community harmony.

Moreover it is proposed that the Survey:

- Map the most common conflict areas or disputes; with a comparison for women, the poor and vulnerable groups;
- Provide a better understanding of the various constraints faced by different segments of society (including disadvantaged) in accessing justice and a nuanced understanding of the challenges of different groups.
- Explore peoples understanding of the forums both formal and informal that are available to
 assist in resolving disputes and protecting individuals when they perceived to have been victims of
 crimes and offences;
- Examine citizen's perceptions on the responsiveness of laws and formal justice institutions to people's concerns on safety and security;
- Examine citizen's perceptions on the responsiveness of customary norms and informal and traditional justice systems to people's concerns on safety and security;
- Examine citizen's perceptions on the type of positive and negative features of (a) informal and traditional adjudication, (b) administrative adjudication, (c) police, (d) prosecutors, (e) lawyers, and (f) the judiciary.

- Examine citizen's perceptions on the independence and neutrality of (a) informal and traditional adjudication, (b) administrative adjudication, (c) police, (d) prosecutors, (e) lawyers, (f) the judiciary, and (g) independent bodies;
- Explore citizen's perceptions on the type of obstacles to independence and neutrality in (a) informal and traditional adjudication, (b) administrative adjudication, (c) police, (d) prosecutors, (e) lawyers, (f) the judiciary, and (g) independent bodies;
- Examine perceived incentives and disincentives for people, particularly poor and vulnerable groups, to take cases to (a) formal justice system (police and courts) and (b) informal justice system, when they are perceived to have been victims of crimes and offences or when they have a civil dispute.
- Provide more information about the nature, scope and qualitative importance of the informal justice mechanisms operated by traditional leaders and religious institutions and thus provide an analysis of the linkages between formal and informal justice. Separate analysis should be provided for indigenous communities in Bangladesh.
- Map the key informal justice mechanism across Bangladesh including accessibility, and acceptability.
- Understand how and why individual groups access informal justice mechanisms and how this relates to their perceptions of the formal justice sector.
- Identify, based on findings, any areas in need of legislative and/or administrative reforms to improve access to justice.
- Make recommendations for any additional research necessary.
- Outline any low cost/no cost initiatives that could be supported by the projects to improve access to justice.
- Identify the other potential factors affecting delivery of timely, affordable and accessible justice and make recommendations for the way forward.

Survey of views of justice sector service providers.

The survey of justice sector service providers will result in an "insiders view" of the strengths and weaknesses of the formal system. This could include:

- Views about different agencies and their strengths and weaknesses;
- Attitudes towards corruption and ethical standards;
- Causes of case-backlogs;
- Ideas for improvements in service provision;
- If they believe service provision (by agency) is improving or not;
- Awareness of reform initiatives;
- Overall sense of satisfaction;
- Attitudes regarding independence and external interference;
- Scope of communication, cooperation and coordination between agencies;
- Barriers to greater coordination between agencies/service providers;
- Views regarding the informal system, including village courts.

The firm, or firms in the case of joint bids, will undertake all activities related to survey design, data collection tools development, survey implementation, data analysis & report generation and findings dissemination necessary to meet the objectives set out in this document. The detailed scope of work includes but is not limited to the following:

Survey Design

The firm will:

- a) Review key background Documents and undertake a thorough desk review of existing literature and identify existing data sources from government agencies. The purpose of this assignment is to build on existing knowledge and understanding. The firm will develop a thorough understanding of the overall objectives, outputs and activities of the Project.
- b) Participate in the planning meeting at the beginning of the survey design with the relevant UNDP staff. It is expected that key team members of the survey team will participate in the planning meeting.
- c) Submit a detailed work plan with timeframes and responsibility matrix for this assignment to the JSF Project.
- d) Develop and refine a detailed survey methodology for approval by the JSF. This will include preparation of all documents required to organize, conduct and ensure quality of the survey including, but not limited to: sampling frame, determination of sample size, identify target audience of the baseline and access to justice assessments, selection of respondents, data collection

techniques, supervisor and interviewer manual and guidelines, data quality checking procedure, data entry, data analysis plan and report format.

Development of Data Collection Tools

The firm will:

- i. Develop data collection tools, ensure its relevance and value to project outcomes, and share with the JSF Project.
- ii. Arrange field testing of the tools involving the interviewers and supervisors/quality controllers in non-sample areas.
- iii. Print the required number of questionnaire sets as per determined sample size.

Implementation of Survey

- iv. Recruiting of staff: Recruiting of sufficient numbers of qualified and experienced interviewers and supervisors/quality controllers (minimum graduate with sufficient experience in data collection) who may be subject to assessment by JSF staff.
- v. Staff training: This includes development of training materials and manuals for all persons involved in field work. The firm will organize a training program (preferably residential) for the enumerators and supervisors that include both in house orientation and repeated practice sessions through role-plays followed by field practice in areas outside selected sample areas. Training session may be attended by the JSF Project as observers.
- vi. Review meeting: The Consulting Firm and the JSF Project team will review work progress on monthly basis where representatives of Ministry of Law, Justice and Parliamentary Affairs may also participate. It is expected that key team members of the survey team will participate in review meetings.
- vii. Field data collection: The consulting firm will collect data from the project sites as per sampling list and sample size using the finalized tool and guidelines.
- viii. Progress report: The consulting firm shall prepare progress reports on a fortnightly basis and shall send it to the JSF Project within 3 days of the following week.
- ix. Quality control: Quality of collected data and information is crucial. In view of this, UNDP and the MoLJPA attaches much importance to the quality control mechanism to ensure that the highest standard is maintained at every stage of the survey both from methodological and written communications perspective. Representatives from the MoLJPA, the JSF Project and the UNDP will have the liberty to check, monitor field survey and make recommendations/suggestions at any stage of the survey. The firm needs to be ready to address those recommendations/suggestions as far as it is practicable.

Data Analysis and Report Preparation

- x. Data management: The consulting firm will complete data entry at their venue with necessary processing and cleaning using appropriate data processing programme. It is expected that the firm will use appropriate data quality assurance mechanism in data management to ensure error free data set for analysis.
- xi. Data analysis: The data analysis will follow current international best practices of appropriate statistical analysis. The analysis will include, but will not be limited to, the following:
- xii. Descriptive statistics including: distributions, averages, weights and variance as relevant for each variable.
- xiii. Presentation of data in both tabular and graphic form.
- xiv. Analysis by different geographic locations including the whole sample; socioeconomic status of respondents'; sex, age, education, occupation and ethnic identification.
- xv. The firm will develop a draft tabulation plan and will share it with the JSF team. After necessary discussion and receiving concurrence from MoLJPA, the firm will complete the data analysis to fit into the tabulation plan with interpretations.
- xvi. Preliminary Findings: The firm will release preliminary findings of the survey for

	discussion with the JSF Project within 12 weeks of the assignment. The firm will incorporate the feedback provided by the stakeholders. After review, the firm will prepare a final draft and will submit to the JSF Project.		
xvii.	Draft Report: The firm will prepare a draft report and will share with UNDP, JSF, MoLJPA (Law and Justice Division). They will incorporate the feedback provided by the stakeholders. After review by all concerned, the firm will prepare a final draft and will submit to the JSF Project.		
xviii.	Final Report: The firm will submit the final report to the JSF Project team with incorporation of all comments and feedbacks received from the internal sharing session or any other form.		
Findings Dissemination	<u>on</u>		
xix.	Internal Sharing: The firm will make at least one internal presentation (to be organized by the JSF Project) on the findings of the survey for internal review and feedback in which representatives from the MoLJPA and UNDP will participate. The data to be collected through survey, consultation meetings, shall be shared (Electronic copies/ soft copies in required software format) with the Justice Sector Facility		
xx.	Wider dissemination: The firm will disseminate the findings of the survey through a wider dissemination session (to be organized by the JSF project) where representatives from different stakeholder groups including development partners, government, civil society, NGO, media etc. will be invited.		
E. Expected Outp	outs	Timeline (from date of	
Detailed action plan ov	er the whole implementation period to be agreed to	contract signing) Day 3	
by the JSF Project		Duyo	
Detailed Survey methodology for the study agreed by JSF project before proceeding.		End week 2	
Survey Questionnaires including other documents related to survey management.		End week 4	
Field survey and data p	End week 10		
Preliminary Findings Report		End week 12	
Draft Access to Justice Report		End of week 16	
Presentation of findings in an internal sharing session.		End of week 18	
Final A2J Report -100 hard and 10 soft copies on DVD media		End of week 24	
Presentation of findings in a wider dissemination session		End of week 26	
Total		26 weeks (Six Months)	

F. Impact of Results

Strengthening the evidence base regarding the state of access to justice in Bangladesh based on quantitative and qualitative data about the strengths and weaknesses of the justice system, which enables and promotes on-going reforms.

G. Institutional Arrangement

The contracted firm will report to the Chief Technical Advisor/Justice Sector Facility, who will also carry out a performance evaluation at the end of the assignment. Further, the work of the firm will be coordinated by the Justice Sector Facility Project and Law and Justice Division, Ministry of Law, Justice and Parliamentary Affairs (the lead GoB Client). One Assigned staff from the project shall be the focal person

to ensure the regular coordination.

The work will be guided and reviewed by the Governance Cluster/UNDP with assurance support from the Chief Technical Advisor Justice Sector Facility.

H. Duration of the Work and Duty Station

The duration of the assignment will be maximum 6 months, beginning in 1 February 2014.

The principal working location (duty station) is Dhaka, with travel outside as required by the assignment (for survey, research and consultation workshops, etc.)

I. Final Products/Services/deliverables

- Detailed time based action plan over the whole implementation period to be agreed to by the JSF Project, within three days of signing the contract.
- Detailed Survey methodology for the two surveys and agreed by JSF project before proceeding.
- Soft copies of survey questionnaires, data files, syntax files, output files and final report to JSF -10 copies in DVD media. Data file must be of an internationally recognized format for use by future survey teams (i.e SPSS).
- Draft Report 10 hard and soft copies
- Present findings in an internal findings sharing session.
- Final Report -100 hard and 10 soft copies on DVD media. Bid should include price for addition hard copies on request.
- Present findings in a wider findings dissemination session.

J. Qualification of the Successful Contractor

This is a high profile advisory assignment requiring senior and professional advice based on substantive experience and qualifications of the contracting firm, based on a team approach comprising several experts. The firm will be invited to submit a detailed delivery proposal alongside CVs for the team leader and any senior/junior consultants (see below).

Minimum eligibility criteria of the consultancy firm:

- Experience in the delivery of similar type of services/ nationwide survey type research to government/ semi-government/ autonomous bodies/ Development agencies and/or Donor agencies (preferably in Bangladesh or South Asia) during the last ten years, with at least one such assignment working in access to justice/ rule of law and/human rights issues is preferred.
- Established, or the ability to establish, a sound working relationship with Government institutions based on principles of client-focus, responsiveness and flexibility; and political neutrality, with at least two previous research and/or policy assignments with Government clients;

Note: Consultancy firms that do not meet the above eligibility criteria shall not be considered for further evaluation. Necessary documentation including Legal documents-such as registration certificate must be submitted to substantiate the above eligibility criteria.

Technical experience of expert team:

The team leader will ensure his/her physical presence whenever needed and will seek inputs regularly with the national focal point for all important matters related to the survey throughout the period of its implementation as a continuous oversight mechanism.

The survey team will have a proven record of implementing quality public perception surveys in Bangladesh and is expected to be able to bring together experts with knowledge of the formal/informal systems. This will enable the team to have a deep understanding of the sector before the research is initiated. The team size will need to be adequate to the task with an appropriate mix of gender.

The composition and number of team members will be at least 6 (six; one team leader, one coordinator, one data analyst, and three researchers). Number of team members can be increased (more than 6) as

required accomplishing all the tasks successfully as per the final deliverable part. At the time of review, this will be an assessment area for the JSF Project and will contribute in its determination of the winning bid.

Team leader:

- The team leader must have international expertise in the field of access to justice/ rule of law/ human rights
- Substantive experience of working in a similar type of project delivered to government/ semigovernment/autonomous bodies including household surveys and report preparation during the last ten years, with at least one such assignment working in access to justice/ human rights and/ rule of law issues.
- Minimum 10 years of experience in access to justice/ human rights / rule of law issues through providing evidence-based policy advice; working experience in South Asia is preferred.

Team members:

- Extensive knowledge of the issues, challenges and dynamics of access to justice and Rule of Law in Bangladesh and other developing countries;
- Experts need to have at least five years of experience in conducting public perception surveys for development partners in Bangladesh

Education of the Team Members:

- Team leader: Master's degree plus an established track record of published research or delivery of analytical outputs in the field of access to justice/ rule of law and/ human rights;
- Team members: Advanced degree in law, public affairs, international development or other relevant field preferably with a specialization in access to justice, judicial reform or rule of law: work experience in lieu of an advanced degree will also be considered.

K. Scope of Bid Price and Schedule of Payments

Remuneration of the successful contractor will be fixed and bids should be submitted on this basis. No adjustment will be given for the period and determined by the specified outputs as per this TOR. The price should take into account all HR costs and professional fees, travel costs, DSA, subsistence and ancillary expenses.

UNDP shall effect payments, by bank transfer to the consultancy firm's bank account, upon acceptance by UNDP of the deliverables specified in the ToR. Payments will be made in tranches based on the following percentages and milestones:

Installments	Amount	Milestone
First Installment	20%	of total contract value will be paid after submission of the inception report
Second Installment	35%	of total contract value will be paid after submission of the draft report
Third Installment	45%	of total contract value will be paid upon satisfactory delivery of all inputs of the assignment and upon acceptance of the final research report by the Justice Sector Facility Project UNDP Bangladesh

Invoices shall indicate the milestones achieved and corresponding amount payable.

The contracting agency should follow the plan and procedures as outlined in the work contract. Payment will be made through Electronically Fund Transfer (EFT) to the account of the consulting firm. For each installment the firm has to submit a request letter duly signed and describing the agreed accomplishment. The final payment will be made upon acceptance of the final reports, soft files and hard data.

L. Recommended Presentation of Proposal

Interested firms must submit the following: a detailed proposal made up of documentation to demonstrate the qualifications of the prospective firm, to enable appraisal of competing bids. This should include

technical and financial proposals, details of which are listed below.

1. Technical Proposal

- Name of Firm and details of registration, address and bank account; business registration certificate and corporate documents (Articles of Association or other founding authority); description of present activities and most recent annual report (including audited financial statements);
- Description of experience in projects of a comparable nature, with specific description of technical specialization of the Firm in the required area;
- (iii) List of current and past assignments of the Firm;
- (iv) Methods and approaches to be adopted in delivering this assignment, including implementation timelines;
- (v) CVs of the proposed team leader and experts to be included within the team. Please note that proposing firms will be expected to deploy the consultants listed within the proposal; substitutions will only be accepted with the prior consent of UNDP and GED.
- 2. Financial Proposal (including fee, travel cost, DSA, and other relevant expenses)
 - (i) The financial proposal shall specify a total delivery amount (in USD or BDT) including consultancy fees and all associated costs) i.e. travel cost, subsistence per diems, printing costs, consultation workshop costs and overhead recharges.
 - (ii) In order to assist UNDP in the comparison of financial proposals, the financial proposal will include a breakdown of this amount, disclosing the key assumption employed in costing the working. This must at least specify: the daily rates and number of anticipated working days (for each professional team member), any travel costs and overhead recharges. Payments will be based upon output, i.e. upon delivery of the services specified in the ToR.

The cost of preparing a proposal and of negotiating a contract, including any related travel, is not reimbursable as a direct cost of the assignment.

M. Evaluation

A cumulative analysis weighted-scoring method will be applied to evaluate the firm. The award of the contract will be made to the tenderer whose offer has been evaluated and determined as:

- a) Responsive/ compliant/ acceptable with reference to this ToR, and;
- b) Having received the highest score out of a pre-determined set of weighted technical and financial criteria specific to the solicitation, with the ratio set at 70: 30 respectively (this is to reflect the high level skills mix required).

Only firms obtaining a minimum of 70% of maxim achievable score (i. e. 49 points) in the technical analysis would be considered for financial appraisal, and ultimately therefore, for contracting.

BASIS FOR EVALUATION

Criteria	Weight	Max. Points
Technical	70	
Overall experience and qualifications of the firm (including		
consortium and/or sub-contracting arrangement, if applicable)		
 Previous experience of working with multiple Development Partners and Government actors 		5
 Previous experience of working in access to justice/ rule of law/ human rights issues 		10
Specific experience of the firm in delivering services on access to justice/ rule of law/ human rights and political economy environment analysis (including consortium and/or sub-contracting arrangement, if applicable)		
 Experience in policy and strategy advice to Government 		5
 Experience in research related to access to justice/ rule of law/ human rights issues 		5
Methodology proposed in the technical proposal		
 Methodology of conducting workshops, consultations and interview with different stakeholders 		10
 Methodology of conducting surveys and presentation 		5
 Methodology of conducting the quantitative and qualitative research on Access to Justice situation analysis in consultation with the justice sector stakeholders 		5
 Time schedule for all activities proposed under the assignment and monitoring, reporting and quality assurance 		5
Skills and experience of experts nominated		
 The Team Leader's experience in areas of access to justice/ rule of law and/ human rights issues through providing evidence-based policy advice for government/ semi-government/ autonomous bodies 		10
 National Expert's experience in conducting public perception surveys and conducting workshops/consultations in access to justice / rule of law/ human rights issues for development partners, justice sector agencies with government institutions. 		10
Financial		30
Total		100