

## ROM report

Type of ROM review	Projects and Programmes
Project title	Activating Village Courts in Bangladesh Phase II
Project reference	D-37422
Delegation in charge	Bangladesh
Status	Final
Report date	20/12/2018

Project - Key Information	
Domain (instrument)	Asia & Central Asia
DAC Sector	Decentralisation and support to subnational government
Zone Benefitting from the Action	Bangladesh
Type of Project/Programme	Geographic
Geographic Implementation	Single-country
Entity in Charge	Asia, Central Asia, Middle East/Gulf and Pacific
OM in Charge	MELLISH PHILIP

Project - Financial data on 06/11/2018			
Total budget	34,044,100 €		
EU contribution	25,000,000 €		
Contracted Amount	23,800,000 €		
Paid Amount	13,192,237 €	Date of last payment	21/11/2017

Project - Dates	
Signature Date of Financing Agreement by Beneficiary Country (FA date)	28/12/2015
Final Date for Contracting (FDC ILC)	
End Date of Operational Implementation Period (LMO/EOI)	27/12/2020

ROM review - Key information			
Reason for ROM review	Priority - Innovative		
ROM expert(s) name(s)	WHITE Ian		
Field phase	Start Date	14/10/2018	End Date 23/10/2018

## Project Synopsis

### Context

The People's Republic of Bangladesh (Bangladesh) as it exists today emerged as an independent nation in 1971 after breaking away and achieving independence from Pakistan. The history of Bangladesh is closely interconnected with the histories of other modern-day countries in the Southeast Asia region including India and Pakistan.

Following centuries of fluctuating tensions between faith communities seeking regional domination, Islam has gradually become the dominant faith in Bangladesh, sharing borders with Myanmar which is largely Buddhist and with India which is largely Hindu.

The religious makeup of the population of Bangladesh are estimated at Islam (90%), Hinduism (9%), Buddhism (0.6%), Christianity (0.3%), Others (0.1%).

The judicial system in Bangladesh was inherited from the time of British rule and while remodelled it continues to mirror the British system to a large degree.

The 1972 Constitution is the fundamental law of Bangladesh and includes codes of civil and criminal law with the civil law incorporating specific Islamic and Hindu religious principles largely relating to marriage, inheritance, and other socio-religious matters.

The Bangladesh judicial system comprises a Low Court and a Supreme Court and both hear civil and criminal cases. The Low Court consists of administrative courts and session judges. The Supreme Court also has two divisions, a High Court which hears original cases and reviews decisions of the Low Court, and an Appellate Court which hears appeals from the High Court.

Like many other low-income and developing countries, weak rule of law infrastructure and limited access to justice represents a major challenge to the Government of Bangladesh (GoB) who struggle to bring justice systems to rural communities in particular.

Formal courts often have lengthy waiting lists and long waiting times and require a level of financial prosperity for those wishing to use it.

Where access to justice is not available, some victims will seek revenge, which provides some kind of an alternative.

While informal and often traditional dispute resolution mechanisms exist at local rural level, their power is limited and some rural communities perceive these local informal systems as being open to interference and corruption and beholden to existing power structures.

In 2006, a law was passed by the GoB which allowed for the establishment of a more formal system of village courts (VC) for the resolution of relatively minor disputes, including those related to petty theft, physical conflicts where no blood is shed and other non-criminal offences.

Village courts are overseen by the Union Councils or Union Parishads (UPs) which is the smallest rural administrative and local government unit and of which there are 4,573 throughout the country with 25% of the seats reserved for women.

The VCs are intended to increase access to the justice system in rural villages and resolve small disputes among local residents at low cost, which will increase accessibility.

In 2009, the GoB launched a pilot programme called Activating Village Courts in Bangladesh (AVCB) to provide physical and human resources to set up VCs as well as to increase awareness and use of the VCs.

In 2016, the Government decided to expand the programme with the launch of AVCB-II.

The AVCB-II programme responds to the lack of access to justice in rural areas of Bangladesh by strengthening the local justice system through activating Village Courts in 1080 selected UPs in Bangladesh.

## Description of the Intervention Logic

This programme D-37422 'Activating Village Courts in Bangladesh II (AVCB-II)' is being implemented by the Local Government Division, Ministry of Local Government, Rural Development and Cooperatives and United Nations Development Programme (UNDP) Bangladesh. The programme is supported by the European Union (EU) through Decision DCI-ASIE/2015/372-228 to provide support of €28,300,000. The Financing Agreement (FA) was signed by the beneficiary country on 28 December 2015 and the end date for implementation is 27 December 2020.

The programme strives to strengthen the local justice system through activating Village Courts in selected 1080 Union Parishads (UP) in Bangladesh.

The Overall Objective (OO) is to: "Contribute to improving access to justice for disadvantaged and marginalized groups in Bangladesh". Objectively verifiable Indicators (OVI) for OO.

OVI 1. Union Parishads have fully self-sustaining village courts ('Self-sustaining' means: Assistant Accountant Cum Computer Operator (AACO) appointed, hearings carried out weekly on designated hearing days, and compliant with VC Act and Rules).

Target: 100% : Baseline: 0

OVI 1b. Chittagong Hill Tracts (CHT) has self-sustaining local justice mechanisms providing improved justice services to the local population.

Target: To be identified : Baseline: 0

OVI 2. Percentage of female complainants registered at VC.

Target: 31% : Baseline: To be established by Baseline Survey.

OVI 3. % of VC users who are satisfied with VC service.

Target: [ 80%] Baseline: To be established through baseline survey.

OVI 4. % of VC complainants who are poor or extreme poor (using World Bank definition).

Target: [70%] Baseline: To be established through baseline survey

Specific Objectives (SO) with Expected Results (ER) and Objectively verified indicators (OVI):

SO 1. To make local authorities more responsive to local justice needs and offer appropriate legal services in the form of well- functioning village courts/local justice systems in CHT.

Results for SO 1:

ER 1.1. Capacity of relevant stakeholders at national and local level improved and key skills strengthened to enable Village Courts in new target Unions to function effectively by the end of project implementation.

ER 1.2. Legal and policy framework revised to enhance efficiency and effectiveness of VCs.

ER 1.3. GoB monitoring capacity for evaluating Village Courts performance is strengthened and systematized.

Objectively Verifiable Indicators (OVI) for SO1.

OVI 1. Average number of VC cases registered per year per UP in project areas by 2019.

Target: [60 cases p.a.] Baseline: To be established through baseline survey.

OVI 2. % of registered cases in village courts which are resolved within 6 weeks.

Target: [70%] Baseline: To be established through baseline survey

OVI 3. # of cases in VCs referred by court and police (disaggregated).

Target: [11,500] : Baseline: To be established through baseline survey.

OVI 4. % of people in project area who say VC has reduced crime and increased community safety.

Target: [60]; Baseline: To be established through baseline survey.

OVI 5. % of cases resolved through traditional justice and other mechanisms following developed system of the project.

Target 70% Baseline: Established through baseline study.

OVI 6. Average Days required to resolve a dispute through traditional system and other mechanism.

Target: Average 7 weeks Baseline: to be established.

SO 2. To empower local people especially women, the poor and vulnerable groups in particular to seek remedies for injustices and to resolve their disputes at the local level in an expeditious, transparent and affordable manner.

Results for SO 2.

ER 2.1 Beneficiaries in project areas understand the roles and functions of the Village Courts and are able to access their services when required.

ER 2.2 Evidence-base and knowledge-management on Village Courts increased.

OVI for SO2.

OVI 1. % of people who say they would first approach the VC to resolve petty disputes.

Target: [45%] Baseline: Established through baseline survey.

OVI 2. % of women involved as panelists in village courts' decision-making process.

Target: [15%] Baseline: Established through baseline survey

Activities: Activities include provision of physical infrastructure, updating materials from AVCB, training of trainers, operatives and other stakeholders, sensitisation of wider community, establishing co-ordination systems and building capacity of traditional institutions. The activities are in line with the achievement of the SOs.

Target groups: GoB national departments, regional governments, village communities, village elders, women, local disputants, Bangladeshi Police.

End beneficiaries: Disputants at community level in selected villages.

Risks and assumptions:

There is an extensive list of 26 risks and assumptions contained in the logframe (LF), amongst which:

- Government commitment to funding and staffing VCs.
- GoB appoint AACCOs to take over VCA role in accordance with stated timelines.
- Government commitment to funding and staffing VCs.
- Political will and supportive policy and legislative framework including from Police and Courts.
- AVCB still able to achieve good impact despite change of project methodology, reducing the amount and period of outreach by local Civil Society Organisations.
- Central and local government political and operational support continues.
- Deputy District Local Governors appointed on full time basis by GoB in all or most project districts.
- AACCOs appointed in project areas in the timeline provided by LGD.
- GoB agrees handover plan to AACCOs from VCAs.
- LGD assigns AACCOs to all project areas by January 2019.
- Judiciary supportive and institute mechanisms to screen and refer appropriate cases early to the VC.
- Chief of police willing/able to issue Directive to require police to refer appropriate cases to VC before they enter formal system.
- Changed legal framework agreed by GoB stakeholders
- UNOs and DDLGs are in place in all relevant districts/Upazilas and support project.
- LGD continues to support the Decentralised Monitoring Inspection Evaluation system and allocates staff to take it forward.
- Government ensures each UP has access to computer and other relevant hardware needed for Village Court Management Information Systems (VCMIS).
- Reduction in amount of outreach activity and change of methodology compared to Phase I does not have negative impact.
- Senior stakeholders from GoB and development partners are engaged with VCs.
- The 1,080 new project areas have, on average, a similar economic profile as the pilot districts.
- NGOs and CBOs not supported by the project will agree to include messages on the Village Courts in their regular awareness and education activities and materials.
- Lessons learned studies can be performed by AVCB staff (no budget allocated).

## Findings

### 1. Relevance

F1. The programme is relevant to its context and to its Government Partner (GoB) which is struggling to manage a large backlog of cases in its formal justice system, while also bringing opportunities to access justice to its poorest most marginalised and often hardest-to-reach rural communities. The GoB commitment to taking the technical lessons and infrastructure from AVCB-II is apparent in its willingness to invest additional resources in UPs outside the project area but sadly is not reflected in the efficiency with which it approves TPPs. (Ref: MQ. Conclusion 1, 2).

F2. AVCB-II has introduced an innovative new layer of local justice to a formal national justice system and in order for the new VC system to continue to be relevant and effective, it must on the one hand retain all of the informality of a village gathering while on the other hand establishing an institutional relationship to the formal justice system. (Ref: MQ. Conclusion 4)

F3. Four local/regional partner NGOs have played a role that has been valuable to the programme in terms of awareness-raising, training pools and administering salaries paid to VCAs. As the programme reaches a conclusion presently scheduled for December 2019, their experience should not be lost as they can reinforce the informality of approach needed and complement GoB efforts. (Ref: MQ. Conclusion 7)

F4. While relevant within the area of implementation, the work of AVCB-II remains to be tested within the jurisdiction of CHT where it still awaits a signed TPP from the LGD before it can become fully operational in that different ethnic and traditional context. Since the commencement of this programme it has been dogged with delays. (Ref: MQ. Conclusion 10, 11)

F5. Rather than creating an additional layer within the justice system, which could simply result in a back log of cases arriving down the line to the VCs, the strategy of using existing local government structures, through which to provide coordination and support, serves to protect the VC from the larger more powerful justice system. The well-established mix of government officials appointed by central government and locally appointed ones provides a robust framework through which to administer VCs. The VC chairs have been quick to assume their new responsibilities and would benefit from more capacity development in relation to basic justice system knowledge to place their work in a context. (Ref MQ. Conclusion 6, 9).

F6. The VC system is outside the formal justice system and therefore is an alternative. It is also a dispute resolution facility. Capacity development within the programme has focused mainly on procedural and system capacity. Alternative Dispute Resolution (ADR) training which is well known to both the UN and the EU can be used to improve the quality of the service. (Ref: MQ Conclusion 3, 4).

F7. AVCB-II was designed as a 5-year intervention and the implementation time has now been reduced to approx. 3 years for reasons largely outside the control of the implementation team. (Reduction in implementation time and delay in signing commencement documents by GoB). (Ref: MQ Conclusion 11)

### 2. Efficiency

F8. The use of NGOs and civil society organisations (CSOs) represents an efficient way of building their capacities, positioning them well with government and getting a cost-efficient job done. Their ability to take the hard edge of some of the government procedures and keep the VC from over-formalising together with their ability to reach out to make their communities aware of the VC system would be worthy of further investment. (Ref: MQ Conclusion 14, 17).

F9. The Project Steering Committee (PSC) is of critical importance to this programme as it brings together all of the lead stakeholders in terms of government, financing partners and lead implementing partners. The meetings are not as frequent as might be useful although there are meetings that take place outside that forum. It is a high-level committee and one of the challenges for it is to receive feedback from VC users according to the well-developed M&E system already put in place. Notwithstanding the quality of the existing monitoring system, the high-level committee needs to also connect to the users directly somehow to ensure that the top and bottom of this innovative programme stay connected. (Ref: MQ Conclusion 16)

F10. As well as being a wonderful act of generosity, the fact that the UP chair is also the chair of the VC on a voluntary basis could leave the VC at local level vulnerable. (Ref: MQ Conclusion 22)

F11. In a programme such as AVCB-II where awareness-raising permeates through all aspects of the delivery, it is important to maintain a momentum where reinforcement of message is part of the approach. To maintain this momentum, it is important that decisions by the Implementation Team can be made based on best information and within a timeframe that does not obstruct progress. (Ref: MQ. Conclusion 13).

### 3. Effectiveness

F12. The overall effectiveness of the work of the programme within the implementation area appears to be healthy (1078 UPs) but a priority to which a substantial section of the logframe was committed relates to CHT. It appears that the groundwork for programme implementation has been done and yet it is unlikely at this point that with a little over 12 months before completion the programme objectives will be effectively met. (Ref MQ Conclusion 24, 25).

F13. After the completion of AVCB-II, there will still be a need for awareness-raising and capacity development to ensure that the work of the programme is capitalised on and that the VC system is then coordinated by LGD. Other EU- and UN-supported programmes in the areas of civil society, governance and justice / rule of law could play a small but continuing role in the aftermath of AVCB-II. (Ref: MQ Conclusion 29)

F14. The ideal result for this programme is not only the effective structuring of systems to administer the VC system. Effectiveness also relates to the quality of the settlement of the disputes it processes. ADR practitioners tend to use proven methodologies to get the most effective win-win results. Arbitrated results where the power for the solution is taken away from the complainants tend not to be so sustainable (not always achievable). (Ref: MQ Conclusion 28).

#### 4. Sustainability

F15. Partners, both state and non-state, have been developing their capacities and the sustainability of the VC system, as the sustainability of AVCB-II is not the desired outcome. The programme will need a phased approach to its disengagement from the mainstream, GoB-led VC system. (Ref: MQ Conclusion 32, 38).

F16. In delivering the best possible service to the target groups, there should be a focus on trying to offer the most sustainable agreement in each case and not apply a one-size-fits-all approach. Given the isolated nature and the inter-family relations that exist within the communities, short-term often convenient solutions can disrupt rather than heal festering divisions. (Ref: MQ. Conclusion 36).

F17. The GoB have expressed and demonstrated with enthusiasm its readiness to begin the task of taking on the administration of the VC system and to build on the work of AVCB-II in the areas it has worked in. A sudden termination of AVCB-II would not be desirable and a period of limited support following the completion of the programme would help ensure sustainability of the results of the programme. (Ref: MQ. Conclusion 33, 39).

F18. Some technical assistance from AVCB-II might well be required in order to ensure the quality of the VC process in each UP. As the work is scaled up, there is a danger that as this is a relatively new system, by intent or otherwise, VC chairs may misuse the power placed in them. A badly run VC can cause more problems than it solves and therefore attention must be paid to the principles of "do no harm". (Ref: MQ. Conclusion 36, 42)

F19. There will be a need to strongly discourage private sector involvement in this VC system, be this commercial sponsorship possibilities or whatever. The VC system has yet to become a robust feature of the judicial system of Bangladesh and is still vulnerable to external influence. (Ref: MQ. Conclusion 37)


























F20. The approval of the training manual for AVCB-II by the NILG is a very welcome development and their role in the training of personnel will assist with the mainstreaming of the VC system. (Ref: MQ Conclusion 34).

F21. The PSC has accumulated much learning during the two phases of AVCB-II and this learning should remain available to the LGD as it assumes full management responsibility for all VCs. (Ref: MQ Conclusion 39)

F22. Women, the poor, the vulnerable and hard-to-reach are key target groups. As the VCs are a community-based justice provider, opportunities for anecdotal experience-based feedback should be integrated into the VC system. User participation in the development of the service will be useful in shaping it into the future and making sure that it does not become another top-down system. Local communities themselves will take on the role of awareness raising.

Conclusions	
N°	Conclusion
C1	The programme cannot be completed in its current format within the timeframe available. It has only 14 months left to run and no impact has been made on large sections of the LF. (Ref: F4 and F7)
C2	The GoB has readied itself to assume full responsibility for the delivery of the VC system and have learned very useful lessons from the AVCB-II programme which will inform their management and coordination role. (Ref: F1 and F5).
C3	The LF needs revision as it is unrealistic in the present timeframe having been designed for a 60-month implementation period. (Ref: F 4, 7 and 12).
C4	A post-programme phase of technical support should be considered. Attitudes as well as behaviours will require change to institutionalise the VC system and this is a longer-term process. (Ref: F 21).
C5	Government decision-making and permissions take a longer period than expected to be secured. More attention to forward planning by the programme to complement efforts made by LGD to develop more efficient and responsive systems of decision-making. (Ref: F1 and F12).
C6	Some of the restorative potential of the VC system is not being exploited. At present, there is a large emphasis on procedures, all be they less formal and more accessible than the formal justice system. (Ref: F14, F16 and F18)
C7	There is a missing interface between the formal justice system, at least at the level of district court which would not necessitate the VCs becoming part of the formal system. This disconnect prevents an up-and-down referral of appropriate cases. (Ref: F2 and F6).
C8	Programme implementation in CHT is an urgent matter as presently they experience added marginalisation on grounds of ethnicity. Governments can achieve many things that civil society organisations can never contemplate. However, there are projects that civil society can undertake in support of government and these organisations are likely to have a valuable role to play in CHT. (Ref: F8).

Recommendations	
N°	Recommendation
R1	Recommendation to EU. That the EU allow a one-year no-cost extension to the AVCB-II programme to compensate for the fact that securing official permission in terms of the TPP to fully implement its programme has been delayed. Ref: C1
R2	Recommendation to the GoB. That LGD seek to secure the required permission as requested in the TPP in order that the AVCB-II programme can commence programme delivery in CHT. Ref: C8, C5
R3	Recommendation to the Lead IP. That the lead implementing partner (UNDP) as a matter of urgency revise the LF (following response from the EU Delegation) to make the deliverables realistic, to include the results required in CHT and as part of a phasing out of its support to the VC system. Ref: C1, C2, C3.
R4	Recommendation to the Project Steering Committee (PSC). That the PSC amend its terms of reference to: A. Meet more frequently and no less than three times a year. B. Continue to meet for 12 months following the completion of the programme. Ref: C2, C4.
R5	Recommendation to lead implementation partner (UNDP). To develop a set of terms of reference in each district court jurisdiction which is agreed by lower representatives of the formal justice system and the UP chairs and which details the characteristics of that relationship. Ref: C7.
R6	Recommendation to the lead implementation partner (UNDP). That culturally appropriate skills training in ADR and "Do No Harm" become part of the capacity building programme using the four local partner organisations to deliver it to the front-line VC operatives, including the UP / VC chair, the VC management committee and the VCA/AACCO. Ref: C6, C7.

Scoring overview											
Relevance	1.1	1.2	1.3	1.4	1.5	1.6	1.7 a)	1.7 b)	1.7 c)	1.7 d)	1.7 e)
											
Efficiency	2.1	2.2	2.3 a)	2.3 b)	2.3 c)	2.4 a)	2.4 b)	2.4 c)	2.5	2.6	
											
Effectiveness	3.1	3.2	3.3	3.4							
											
Sustainability	4.1	4.2	4.3	4.4	4.5	4.6	4.7				
	