

CHALLENGES OF TAKING HUMAN RIGHTS FACT FINDING LESSONS OUT OF CLASSROOMS: LESSONS FROM BANGLADESH

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This article analyses the efficacy of using simulation as a clinical legal education method for teaching students about human rights advocacy, and the challenges that come with conducting such an experimental pedagogy on a developing country like Bangladesh with a weak clinical culture. The article provides a reflection upon the authors' construction and use of a human rights fact finding simulation training for Law and Criminology students followed by Street law training for members of two marginalised communities about systemic human rights violation and discrimination.

I. INTRODUCTION

“Legal education entitles and endows the law graduates, whatever professions they may be pursuing, with solemn duty to take law to the people... Law graduates in their different professional capacities also need to relate and apply their knowledge and skills for... overall socio-economic development of the country.”

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This is how the Law Commission of Bangladesh reflects on the purpose of legal education in its final report on the review of legal education in Bangladesh.¹ Despite the wide recognition of the necessity to make legal education people oriented and more socially relevant,² the legal academic curriculum in Bangladesh is still archaic and traditional. The Bangladeshi legal education is modelled on the English pattern of analytical thought and tradition which considers law to be a self contained discipline, an approach which completely disregards enquiries into the socio-economic-political consideration and conditions of the society where the law would be applied and implemented.³ Such legal education, therefore, fails to instil in students skills and qualities to search for and appreciate social justice.

It is with such aim that some law teachers came forward in Bangladesh in the late 1990s to initiate clinical law in Bangladesh. While the formal legal academia still has not incorporated CLE, there have been scattered efforts to emulate certain CLE methods in the academic activities by educators in an 'outside of law school' setting. This paper analyses the challenges of such initiatives, especially when such CLE programs involve community members and students on a voluntary setting. The paper discusses the Simulation Project on human rights fact-finding training conducted by ELCOP, a voluntary non-profit organization, to teach students investigative lawyering and empathetic victim interviewing.

The paper first discusses the value of simulation as a teaching method, then provides a general description of the Project SPIYCE, and finally analyses the real life challenges the project team went through to attain a successful completion of the project.

The paper does not offer any discussion on measurable success or impact of students in terms of skills gained.

¹ Law Commission, People's Republic of Bangladesh, Review of Legal Education in Bangladesh Final Report 4 (2006).

² The father of modern legal education in India, Professor Dr. Madhava Menon emphasized on the social relevance of legal education throughout his life's work. See, N.R. Madhava Menon, *The Transformation of Indian Legal Education: A Blue Paper*, Harvard Law School Program on the Legal Profession, available at <https://clp.law.harvard.edu/assets/Menon_Blue_Paper.pdf> (Last seen on April 8, 2020).

³ Shafique Ahmed, Legal Education in Bangladesh: Problems and Prospects, Keynote paper presented at BLTA Symposium on Legal Education in Bangladesh: Problems and Prospects, (21-22 November 1992) Dhaka, p. 1, cited in the Final Report on Legal Education in Bangladesh, Bangladesh Law Commission, 2006, available at <https://www.academia.edu/33323851/Review_of_Legal_Education_in_Bangladesh_Final_Report_Law_Commission_Peoples_Republic_of_Bangladesh_Dhaka_2006_Review_of_Legal_Education_in_Bangladesh_Final_Report> (Last seen on April 8, 2020).

II. SIMULATION: A CLINICAL TEACHING METHODOLOGY

“Law curriculum and teaching methodology should be designed in a way as to involve people’s participation, which can be done by clinical legal education... There must be community lawyering by the students, i.e. helping the community solve their problems with the help of relevant laws.”⁴

First originating in the USA as a social justice agenda to respond to the lack of legal services for the poor, clinical legal education (CLE) is an experiential learning process and pedagogy that teaches through interactive methods and promotes learning by doing.⁵ CLE can be described as “a learning environment where students identify, research and apply knowledge in a setting which replicates, at least in part, the world where it is practised... as it would... be conducted in the real world.”⁶ The CLE focuses on deep learning, rather than treating education as a commodity for the students to acquire from the educator.⁷

Nowadays CLE programs offer classroom simulation lessons based on real-life cases and/or clinic experience involving interaction with real clients, which are supervised by experienced law clinicians, professors and legal practitioners.⁸

The aim of CLE is to instil in the students a sense and readiness for the real legal world that awaits them upon graduation.⁹ According to Rahman, the broader objectives of CLE are: to acquaint the students with the lawyering process and to develop skills of advocacy; to expose students to the social reality and instil in them sense of societal responsibility in professional work; to make one aware of the limits of legal system and appreciate alternative lawyering skills including exposition to alternative dispute resolution; and to develop a sense of professional ethics.¹⁰

⁴ Law Commission, People’s Republic of Bangladesh, Review of Legal Education in Bangladesh Final Report, 20 (2006).

⁵ What is Clinical Legal Education? Babseacle, available at <<https://www.babseacle.org/clinical-legal-education/>> (Last seen on April 8, 2020).

⁶ R. Grimes, “The Theory and Practice of Clinical Legal Education”, cited in Richard Lewis, *Clinical Legal Education Revisited*, 13 *Dokkyo International Review* 153 (2000).

⁷ Caroline Strevens and Roger Welch, “Simulation and the Leaning of the Law: Constructing and Using an Online Transactional Assessment in Employment Law”, in *Legal Education: Simulation in Theory and Practice*, 44 (Strevens, Grimes and Philips, 2014).

⁸ What is Clinical Legal Education? Babseacle, available at <<https://www.babseacle.org/clinical-legal-education/>> (Last seen on April 8, 2020).

⁹ James Marson, Adam Wilson and Mark Van Hoorebeek, “The Necessity of Clinical Legal Education in University Law Schools: A UK Perspective”, 7 *International Journal of Clinical Legal Education*, 29-43 (2005).

¹⁰ Mizanur Rahman, “Clinical Legal Education in Bangladesh: Establishing a New Philosophy?”, Vol. I, *Chittagong University Studies – Law* 8 (1996).

Law students should be exposed to the practical aspects of their theoretical education; however, universities (in Bangladesh) mostly follow a traditional lecture based curriculum that rarely allows students to move beyond the classroom walls.¹¹ CLE transforms the students into actors in the legal process rather than mere observers.¹² Because CLE focuses on “learning by doing”, in CLE it is the students who have to come up with a whole work plan- what is the client’s problem, what is the working scope, what should be the strategy, and how to follow up. In doing all this, the students should also keep in mind that the client’s agency must not be lost.¹³ Students are much more likely to learn through CLE because in this method the success depends on how well they can transform their learning into actions rather than depending on external factors as the quality of lecture, question papers, exam scripts etc.¹⁴

The benefits of CLE for students go beyond academic learning. Renowned professor of clinical law Richard Grimes in his study noted a number of benefits of CLE, including increasing student motivation, learning professional ethics and responsibility,¹⁵ and involvement with the local community.¹⁶ They become enthusiastic about their experience, more responsible for what they do and how they do it. Through various structures, CLE students engage in community outreach programs, teach classes that are designed to help people understand and access their legal rights and services.¹⁷ Moreover, CLE motivates the students into doing more pro bono work as part of their legal professional identity, and harnesses the ethical standards required for working in social justice sectors.¹⁸

¹¹ See, Law Commission, People’s Republic of Bangladesh, Review of Legal Education in Bangladesh Final Report 4 (2006).

¹² James Marson, Adam Wilson and Mark Van Hoorebeek, “The Necessity of Clinical Legal Education in University Law Schools: A UK Perspective”, 7 *International Journal of Clinical Legal Education*, 29-43 (2005).

¹³ Mizanur Rahman and N.R. Madhava Menon, “Clinical Methodology”, in *Human Rights Summer School Manual* 50-52 (2000).

¹⁴ R. Grimes, “The Theory and Practice of Clinical Legal Education”, cited in Richard Lewis, *Clinical Legal Education Revisited*, 13 *Dokkyo International Review* 153 (2000).

¹⁵ See generally, Foley et al., “Teaching Professionalism in Legal Clinic – What New Practitioners Say is Important”, 17 *International Journal of Clinical Legal Education* (2012), available at <<http://www.northumbriajournals.co.uk/index.php/ijcle/issue/view/8>> (Last seen on April 8, 2020).

¹⁶ Richard Lewis, *Clinical Legal Education Revisited*, Cardiff University, Wales, United Kingdom (2000) 10.

¹⁷ See generally, Ann Thanaraj, “Understanding How a Law Clinic can Contribute Towards Students’ Development of Professional Responsibility”, Vol. 23, No. 4, *International Journal of Clinical Legal Education* (2016), available at <http://insight.cumbria.ac.uk/id/eprint/2550/1/Thanaraj_UnderstandingHowALawClinic.pdf> (Last seen on April 8, 2020).

¹⁸ Study by Monash University Faculty of Law surveyed third year law students and followed their professional journey for two years postgraduation. It was found that students who had received clinical training were more frequently willing to undertake pro bono work. See, Adriana Evans and Josephine Palermo, “Lawyers and Ethics in Practice: The Impact of Clinical and Ethics Curricula on Lawyers’ Ethical Decision-Making”, Monash Univ. Faculty of Law, Legal

As such, there has been a long ongoing advocacy in the Bangladeshi legal academia to in still CLE as part of the legal education curriculum, which till date has not been realized. Despite the structural lacking, many law teachers have come together to promote CLE in Bangladesh. While one of the most successful forms has been the incorporation of moot courts,¹⁹ organizations like ELCOP²⁰ have been promoting CLE methods like street law²¹, mock trials²², community lawyering²³ and simulation. The following section will describe simulation as a CLE process.

Studies Research Paper No. 2007 (2009), available at <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1349427> (Last seen on April 8, 2020).

- ¹⁹ A moot court is a simulation of a court hearing at the appellate level in which participants analyse an imaginary legal problem, research the relevant law, prepare written submissions, and present oral arguments before a fictitious bench. See, John Snape and Gary Watt, *How to Moot: A Student Guide to Mooting*, Oxford University Press (2005) (Mooting is different from legal debating as it is a specialized application of the art of persuasive advocacy.) See, Oxford University, “What is Mooting?”, available at <<https://www.law.ox.ac.uk/current-students/mooting-oxford/mooting-what-it-and-why-take-part>> (Last seen on April 8, 2020).
- ²⁰ Empowerment through Law of the Common People (ELCOP) is a voluntary, non-profitable, non-political, non-governmental human rights education, research and training organization dedicated to the common people of Bangladesh. ELCOP is embracing communities for democracy, justice and empowerment through action and participation. See, About ELCOP, available at <<https://www.elcop.org/about-elcop/>> (Last seen on April 8, 2020).
- ²¹ Street law is a public legal education programme that teaches practical law to ordinary citizens. It was first proposed at the Georgetown University Law Center in 1971. Later it expanded to other law schools in the USA, and then to South Africa through Professor Ed O’ Brien and Professor David McQuoid-Mason in the 1980s. See, Lee Abertman, “Street Law in the United States of America: Street Law Inc.”, in *Street Law and Public Legal Education: A Collection of Best Practices from around the World in Honour of Ed O’Brien*, 10-11 (David McQuoid-Mason, 1st edn., 2019).
- ²² Mock trial is an imitation of the trial process in the lower courts. It involves the preliminary steps in a trial proceeding, starting with opening statements and covering steps like witness examination, cross and re-examination, rebutting witness and evidence etc. Mock trials have been a successful method for CLE, promoting critical thinking skills, ability to analyse problems, strategic thinking, listening and questioning skills, oral presentation, etc. See, David McQuoid-Mason, “Introduction”, in *Street Law South Africa: Educator’s Manual: Practical Law for South Africans*, 19-27 (McQuoid-Mason et al., 2nd edn., 2005).
- ²³ Community lawyering is a model of advocacy that involves formal or informal collaborations with communities and community groups to identify and address community issues. It encourages lawyers to critically and creatively examine non-traditional forms of advocacy such as organizing and other grassroots actions as a way of addressing the legal and non-legal problems of their clients. It promotes economic and social justice and fostering systemic change. Community lawyers engage with community members on long-term community commitments to advance their rights. See, Nancy Cook, “Community Lawyering: Some Unexpected Guidance in Development”, available at <<https://bestpracticeslegaled.com/2013/03/03/community-lawyering-some-unexpected-guidance-in-development/>> (Last seen on April 8, 2020); see also, Rose Cuison Villazor, “Community Lawyering: An Approach to Addressing Inequalities in Access to Health Care for Poor, of Color and Immigrant Communities”, 8 *Legal & Public Policy Journal* 37 (2004).

A. Human Rights Fact Finding Simulation

The term ‘simulation’ originates from the latin root ‘simulat’. It means copied or represented. According to Chris Dede, simulation refers to “...immersive environments that use authentic contexts, activities and, possibly, assessment; they also involve mentoring and apprenticeships in communities of practice.” Simulation provides a powerful pedagogy that allows students to have experiences on problems and contexts that mirror the real world.²⁴ Simulations require participants to act out a role by following a script.²⁵ The difference between role plays and simulations is that simulations will not be open-ended, rather they are carefully scripted to ensure that objectives of the exercises are achieved.²⁶ Simulations are generally considered by academics to be beneficial for developing legal reasoning and research skills, and mostly contribute to students in earning legal professional skills.²⁷

Human rights fact finding simulations are well crafted and carefully designed fact finding scenarios where students participate as investigative lawyers to conduct interviews with victims of systemic human rights abuse to find out patterns of human rights abuse, and analyse the rights based implications for such communities. At institutions with a well-established culture of clinical practice, such as Harvard Law School, these simulations hold a central position in human rights pedagogy.²⁸

In human rights fact-finding Simulations, there is an imaginary incident of a grave crime with serious but subtle human rights abuse, where the role players act out as various actors/catalysts in the context, such as law enforcement, local government, NGO official, community member etc. Often the imaginary incident can be based on real human rights violation cases. The students have to interview these actors to find out the hidden facts. The purpose of these simulations is not to find out the facts but to train students in victim interviewing skills; because if done correctly, interviews can extract vital information from victims.²⁹

The guiding principles for such fact finding exercises are taken from the Raoul Wallenberg Institute Guidelines, known popularly as the Lund Guidelines.

²⁴ Caroline Strevens and Roger Welch, *Simulation and the Leaning of the Law: Constructing and Using an Online Transactional Assessment in Employment Law*, Legal Education, p. 47.

²⁵ David McQuoid-Mason, *Street Law and Public Legal Education: A Collection of Best Practices from around the World in Honour of Ed O'Brien*, 40 (2019).

²⁶ *Ibid.*

²⁷ Yvonne Marie Daly, Noelle Higgins, *The All Ireland Journal of Teaching and Learning in Higher Education*, Vol. 3(2) AISHE-J 58.2 (2011).

²⁸ Role Plays and Simulations, International Human Rights Clinic, available at <<https://hrp.law.harvard.edu/clinic/role-plays-and-simulations/>> (Last seen on April 8, 2020).

²⁹ Alida Binte Saqi, *What is Simulation*, in *Handbook for Human Rights Fact Finding Simulation*, (Arpeeta S. Mizan, Muhammad Rezaur Rahman, 1st edn., 2019).

In June 2009, The International Bar Association's Human Rights Institute (IBAHRI) and the Raoul Wallenberg Institute at Lund University (RWI) jointly developed guidelines for fact-finding missions. The main purpose of these guidelines is to provide directives for various missions and bodies who engage in fact-finding investigations on human rights abuse. Primarily developed for the use by INGOs, these guidelines are useful for both individual and group fact finders to ensure that the fact-finding mission satisfies the objectivity, aim, transparency and standard of the investigation. One of the co authors had earlier participated at a fact-finding simulation at the Harvard International Human Rights Clinic during her graduate studies at Harvard Law School,³⁰ and having benefitted from the experience, she modeled the SPIYCE program upon her return to Bangladesh in 2015.

III. SPIYCE: CHALLENGING THE TRADITIONAL METHODS OF HUMAN RIGHTS EDUCATION

ELCOP started conducting Human Rights fact finding simulations since 2015. After the success of initial piloting at the Human Rights Summer School, an annual residential human rights workshop for final year law students, ELCOP decided to take the project to a broader audience. ELCOP applied for the EMK³¹ Small Grants 2019 to conduct simulation workshops that will imbibe the participants with practical skills of victim interviewing and conducting investigative lawyering.

The project trained 24 undergraduate level students to engage in community-level investigation and rights-focused fact-finding operation through which they identified and created 10 potential community leaders. 6 Community Advocacy Experts and 12 Role-Play actors trained these 24 students on how to interview and communicate with victims of abuse, how to create a trustworthy environment when entering a community as an outsider, gather testimony and filter facts from rumours through a simulation. The simulation was followed by actual fact finding visit to 2 underprivileged communities in Dhaka city: The Transgenders (*Hijras*) and the *Harijans* (Dalits). The fact finders gathered information about the systemic rights violation faced by the community members. After the workshop, the participants gathered skills of:

- Victim interviewing and Empathetic listening

³⁰ Author acknowledges the training from Tyler Giannini at Harvard Human Rights Programme who was her supervisor for the simulation program and the clinical instructor.

³¹ EMK (Edward M. Kennedy) Center is a non-partisan platform committed to open dialogue, informed action, individual and artistic expression, and personal and professional development initially created in 2012 through a partnership between the Liberation War Museum and the American Center of U.S. Embassy Dhaka.

- Applying hearing filters
- Tackling conflicting statements/findings
- Report writing
- Design Awareness programmes relevant to community needs

Later, they conducted Street Law training for 10 identified members from the communities. These 10 community leaders now have:

- basic legal and human rights knowledge
- how to prevent illegal arrest and detention
- information about human rights organizations that can help them

IV. BRIEF DESCRIPTION OF THE PROJECT

24 students were given the training in two batches. Each of the training consisted of four stages: 1) theoretical orientation and training regarding human rights fact finding activities, 2) day long simulation, 3) field visit for fact-finding investigation, 4) street law training for the community members. The students were selected through a competitive application process, where they had to fill up a form with three analytical questions, and then appear for an interview. The application was open for 1 month, during which time, ELCOP received a total of 60 applications from 23 different universities across Bangladesh.

A. Theoretical training

The theoretical workshop mainly focused on the ideas of human rights, concept of fact, key concepts and technical aspects of human rights fact finding, techniques of fact finding, victim interviewing vis-à-vis client interviewing, empathetic hearing and methods of report writing. A training manual written in Bengali³² is provided to the trainees for further assistance. The manual has been prepared based on the Guidelines on International Human Rights Fact-Finding Visits and Reports by Non-Governmental Organisations (The Lund-London Guidelines) and Training Manual on Human Rights Monitoring of OHCHR. The training manual contains two chapters and five modules. The first chapter mainly covers the method of applying the manual. The second chapter covers the

³² The ELCOP Manual is the first ever fact-finding handbook written in Bengali. Developed with the grants provided by Edward M. Kennedy Center in Dhaka, the Manual provides detail step-by-step guide to fact-finders and investigative lawyers. This can also be used by investigative journalists reporting on human rights abuses.

backgrounds of human rights fact-finding to report writing in five modules. The first module deals with the backgrounds, human rights and human rights violation. In the second module the concept of simulation, role-play and its necessity has been discussed. The third module covers the preparation of fact finding mission. The module further discusses the behaviour of fact-finder and the techniques of fact finding in general. The detail discussion of the strategy and techniques of fact-finding are provided in the fourth module. Fifth module deals with the final task of report writing. Sample report of fact-finding mission is also attached for better understanding. The students also received intensive training on the difference between crimes and human rights violations, report writing, and empathetic skills.

B. Simulation

The second stage of the project was real time simulation. Two cases were drafted by the ELCOP team members, each depicting a case of serious breakdown of law and order and grave human rights violation implications.

The participants were deemed to be members of a Fact Finding Commission under ELCOP who are investigating alleged incident of human rights violation. ELCOP designed two simulations where 6 Law academics and students acted in the roles of government officials, journalists, and victims. The 24 trainees honed their fact finding skills by interviewing the actors, and then presenting what they learned from their investigation.

In the first batch, 12 students participated as fact-finders to investigate an alleged incident of communal riot and disappearance of two women rights activists. The case panned out like this:

SIMULATION CASE 1

The fictitious land of Adhikarbhumi had been receiving mass influx of refugees of Bringhya ethnicity from the neighboring state of Vanga due to fear of persecution. But in Adhikarbhumi, the Bhringyas continued facing discrimination and other human rights violation, because they observed the Hedu religion, as opposed to the extremely conservative Jobon religion practiced by the majority in Adhikarbhumi. In end of 2018 when a small communal violence in a village named Mektaf later turned into a violent riot, followed by kidnapping, rape and killing of certain women rights activists. The fact finders were expected to investigate the situation through interview and bring out the name of the perpetrators as well as specific patterns of human right violation. The human rights under discussion here were freedom of religion, non-discrimination and women's rights.

SIMULATION CASE 2

The second simulation for second batch concerned a mineral water manufacturing company RASCO which had established a factory in the fictitious Dhantola village (in Adhikarbhumi) and had caused severe contamination of the ground water. The incident exposed the villagers to water deficit and other visible health and environmental damages. Consequently it triggered protest against the establishment of the factory which was oppressed by the police initially. The situation aggravated after a video posted in social media showing a patient of skin disease due to use of contaminated ground water. An NGO named Amra reached Dhantola to investigate the matter. The situation turned worse after incident of murders and beatings of several employee of RASCO. Later an arson attack took place in the office of Amra, causing damage of all the documents regarding contamination of water which claim that RASCO is behind all this. The fact finders of ELCOP reach the village for investigation when RASCO is continuing its work in full swing when getting backed by local politician and police. The issues on point were business and human rights, and access to justice. The fact finders were also expected to explore the dimensions of power politics which disable the justice administration in the rural areas of countries like Bangladesh.

The participants were divided into three small groups of four, and were assigned one supervisor who was a qualified educator. Each group had to interview four characters from the incident, and then make presentations to an adjudicating panel that had professors and the former Chair of the National Human Rights Commission. The participants were evaluated on the following criteria during simulation:

1. Did the interviewers make the community members feel comfortable?
2. Did the interviewer treat the community members as equal or did they behave as superior to the community members?
3. Did the interviewers succeed in creating an environment of trust and empathy?

C. Field Visit

At the third stage, the participants went to two of the most disadvantaged communities in Bangladesh, the *Harijan* and Transgender community, in order to explore their way of life, culture, religion, customs, laws and so forth, and identify their predicament in the specs of human rights and prepare a report on the basis of the findings.

Transgender/Hijra community

Falling beyond the popularly recognized gender binary, the Hijra or transgender people are one of the most persecuted yet least visible communities in South Asia. The word ‘Hijra’ comes from Semitic Arabic language, which connotes a person who ‘leaves one’s tribe’.³³ While this word has been used to mean eunuch, hermaphrodite, transsexual etc., for the community members themselves, Hijra has a very specific meaning.³⁴ *Hijras* are transwomen, who are born with male physiology, with some having male intersex variations.³⁵ *Hijras* have been recognised by the government of Bangladesh as the ‘third gender’.³⁶

As members of a gender minority population, transgender people are in continuous search for self-discovery and sexual identity. Majority of them are abandoned by parents and other family members during the adolescent years, when their transgender characteristics become more visible. Abused physically, verbally, emotionally, and sexually, they often leave home to seek shelter in a *Hijra dera* (haven) under the protection of a *guru ma* – a local Hijra community leader who has influence. Upon joining the community, a person takes on a new female first name and adopts the surname Hijra.³⁷ In return for protection they give the guru a share of their earnings, which come through *challa* (traditional money collection from passersby), begging and sex work.

The *Hijras* in Bangladesh suffer not only due to social stigma and religious prejudices, but also due to lack of anti-discrimination laws and pro-Hijra legislation. Because the legal system of Bangladesh is still heavily influenced by the colonial past, there are no clear laws to go on issues of *Hijras*’ property rights, inheritance, employment, education and health care. Adding to this the colonial

³³ Lahzar Zanned, “Root Formation and Polysemic Organization in Arabic Lexicon: A Probabilistic Model”, in Mohammad T. Alhawary and Elabbas Benmamoun (eds.), *Perspectives on Arabic Linguistics XVII-XVIII: Papers from the Seventeenth and Eighteenth Annual Symposia on Arabic Linguistics*, 97 (John Benjamins, 2005).

³⁴ These information have been derived during the SPIYCE interviews with various Hijra community members during April 2019. The author Mizan spoke with one *Guruma*, Sajib Hijra, whose interview raw data cannot be shared. For other interviews, see *Stories from SPIYCE* (ELCOP 2019).

³⁵ Nanda, Serena, *Deviant Careers: The Hijras of India*, in *Deviance: Anthropological Perspectives* (Morris Freilich, Douglas Raybeck and Joel S. Savishinsky, 1st edn., 1991).

³⁶ This recognition was granted November 11, 2013. A year later, the Social Welfare Ministry recognized the community members as *Hijra* gender. See, press release by Bandhu NGO, Bangladesh has officially recognised hijras, or transgenders as a separate gender or the third sex, available at <<https://www.bandhu-bd.org/bangladesh-has-officially-recognised-hijras-or-transgenders-as-a-separate-gender-or-the-third-sex/>> (Last seen on April 8, 2020)

³⁷ Joe Wallen, “Pride and Persecution: The Rise and Fall of the World’s Oldest Transgender Community”, *The Telegraph*, available at <<https://www.telegraph.co.uk/news/hijra-transgender-bangladesh/>> (Last seen on April 8, 2020).

Penal Code of 1860 which criminalizes homosexuality u/s. 377A,³⁸ the *Hijras'* plight has recently increased over the anti-LGBTQ sentiment in Bangladesh.

SPIYCE decided to focus on *Hijras* so as to introduce the students to a heavily marginalized community. The trainees have visited the workplace and residences of the Transgender community in 5 parts of Dhaka: Dhupkhola, Kamlapur, Mugda, Shampur and Moghbazar. The visits were conducted over a period of 2 days. SPIYCE interviewed nearly 40 Transgender victims to prepare the report. The groups were led by local guides who were either prominent *Hijra* leaders or rights activists.³⁹ The trainees investigated the human rights violations of the Transgender community under 4 thematic areas: freedom of religion, right to identity, right to employment and disintegration from family. The questionnaire followed the chin of incident pattern where the interviewee gradually tried to construct a picture of their life. We are sharing some unedited questionnaires as prepared by the students:

- Greetings
- would like to tell us your story? The story of your life?
- where were you born?
- who do you have in your family?
- how did you realize your gender identity? During adolescence? How?
- how did you and your family feel about the change?
- How did you find your *dera*? How did they accept you?
- how did the transition affect your student life? Did the community help you with education?
- how do you get treated when you seek medical attention?
- do you face problems when you do stuff like grocery?
- do you attend cultural and religious festivals? What happens then?

³⁸ “Whoever has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with (imprisonment for life), or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

³⁹ The groups worked on the condition of anonymity. However, the guides who consented to share their details are: Jaya Sikder (prominent LGBTQ rights activist), Srabanti Hijra (*Hijra* group leader), Mitu Hijra (*Hijra* group leader), Shammi Hijra (Transgender activist working with Bondhu, an LGBTQ-focused NGO), and Parbati Hijra (transgender activist working with Bondhu).

- have you faced negative consequences for attending religious institutions?
- do you observe your religion publicly or in private?
- do you keep contact with your family? How often do you contact?
- How much do you earn?
- what do you say is your identity?
- do you vote as third genders can vote now?
- do you talk about marriage rights?
- How much of your earnings do you have to give up to your *Guru*?
- People in Bangladesh have a lot of negative ideas about *Hijras*, especially as many *Hijras* extort money from pedestrians, newly-weds, and new mothers. Have you participated in such activities? How do you evaluate such things?

The students were enlightened to have met and interacted with different categories within the *Hijra* community. While *Hijra* denotes transwomen, yet the students met one hindu trans-man who identified himself as *hijra*, a transwoman who periodically as a young man in order to facilitate her/his sister's wedding programmes. In most cases, the *Hijra* interviewees took time to open up, and did not want to engage while the *Guruma* was present during interviews, which highlighted a noticeable amount of subjugation. Below is a case study described by Devsri Sarker:⁴⁰

NILASHA, ONE INDIVIDUAL, THOUSAND DREAMS

This is a story of an individual who considers herself a woman, but identifies as "Hijra" in the society. An individual who was born with male sex organs, but had the mind and heart of a woman. Her name is Nilasha. A 17 year old Hijra, who was named, Mahmud Hasan Noyon when born. Nilasha was born in 2002 at Gopalganj. Her family later shifted to Dhaka. She found herself to be a little different from others during her adolescent. She found that she likes to dress herself or adore her as a woman, she also found that she likes girls group gossiping and also likes to share her bench with girls at school. She found that she could cook, sing, dance; according to her these works are meant for women only. None of Nilasha's family members

⁴⁰ Student of Criminology, 2nd year, University of Dhaka. Excerpt taken from *Stories from SPIYCE* (ELCOP 2019).

took Nilasha's behaviours as normal, rather her family members had beaten her many a times to amend her behaviour in accordance with the societal norms. One day she was buying something and some members of Hijra community called her and tried building the rapport. That's how she got to know about the Hijra community. Nilasha wishes to become a famous dancer one day and wants to earn a lot of money. She wishes to buy a house from her own earning. Also Nilasha wishes to undergo all types of surgery and transform her into a complete woman, and have a family of her own. May the disparity of means and goals in her life met up one day.

Harijans

The second batch of trainees conducted fact finding with the *Harijan* community. The field visited was conducted over 2 days in Aga Sadek lane, Bongshal, Dhaka. Aga Sadek lane has historically been the residential area for *Harijans*. They worked under 3 thematic areas: discrimination and untouchability, right to education, and right to employment. Perhaps the harshest result of the caste system in the Indo-Pak-Bangla subcontinent, the *Harijans*⁴¹ or the Dalits⁴² are historically one of the most marginalized and critically disadvantaged communities. The Dalits/*Harijans* are members of the Sudra or Namasudra *varnas*. Religiously placed at the bottom-most layer of the social strata, the *Harijans* and/or *Dalits* were first brought to Bangladesh from Uttar Pradesh and Andhra Pradesh of India in between 1830-1850 to perform the works of clearing up jungles, removing dirt and dead corpus of the animals.⁴³ Currently it is assumed there are about 45 to 59 *Dalit* and/or *Harijan* communities in Bangladesh.⁴⁴

⁴¹ The word "*Harijan*" means the "Son of God". It was first used by Mahatma Gandhi, to replace "untouchable" for the low caste people in the *Sanatan* Hindu religion throughout the entire sub-continent.

⁴² Dr B.R. Ambedkar politically used the term "*Dalit*" to uphold the humiliation that the untouchables experience at the hands of the upper caste Hindus in Indian society. *Dalit* literally means "smashed or crushed". See in general, Emraan Azad and Shakil Ahmed, "Historical Agony of Caste System and the *Harijan* Community", in *The Harijans of Bangladesh: Living with the Injustice of Untouchability*, 21 (Tapas Kanti Baul and Bayazid Hossain, 1st edn., 2016) also see, Mazharul Islam and Altaf Parvez, *Dalit Initiatives in Bangladesh*, 11 (Dhaka: Nagorik Uddoyog and Bangladesh Dalit and Excluded Rights Movement, 2013).

⁴³ S.M. Masum Billah, *Dalit Egalite*, *The Daily Star*; available at <<http://archive.thedailystar.net/law/2012/11/01/index.htm>> (Last seen on April 8, 2020).

⁴⁴ Jayashri Sarkar, *Prantobasi Harijander Kotba* 23-35 (Dhaka: Adorn Publication, 2012), cited in Emraan Azad and Shakil Ahmed, "Historical Agony of Caste System and the *Harijan* Community", in *The Harijans of Bangladesh: Living with the Injustice of Untouchability*, 59 (Tapas Kanti Baul and Bayazid Hossain 1st edn., 2016), available at <https://www.researchgate.net/profile/Emraan_Azad/publication/336836316_The_Harijans_of_Bangladesh_Living_with_the_Injustice_of_Untouchability/links/5db57d70a6fdcc99da41a66/The-Harijans-of-Bangladesh-Living-with-the-Injustice-of-Untouchability.pdf> (Last seen on April 8, 2020).

Historically, being the untouchable, the *Harijans* were cordoned off to live in ghettos in the cities, which over the years have become what is known as the *Harijan palli* (the untouchable's village). These are special shanties for the Dalit which are in unclean locations, often at the outskirts of main society with overflowing drains, open sewers, and near the garbage dumping sites. Nowadays, most *Harijans* are employed as cleaners of the city corporation, and the corporation made houses, while ensuring they have a place to live, are unlivable: more than 8 family members coop up in a 10 by 12 feet room with no privacy, and the kitchen is also the same place where they wash clothes and sometimes shower.

Dalits are seriously deprived of human dignity, with systemic denial of basic needs such as education, health care, housing, property, freedom of religion, free choice of employment, and equal treatment before the law.⁴⁵ At school, Dalit children are compelled to sit in the back of classrooms, endure verbal insult and physical punishment from teachers and peers.⁴⁶

The *Hijras* and the *Harijans*, both face typical type of discrimination. While for the *Hijras*, it is their appearance that gives away, and for the *Harijans*, it is their surnames and often times their address of residence that sets off the discrimination. Some of the questions asked to the *Harijans* are as follows:

- Whether the children go to school or not
- Whether there are any local schools or not
- How many classes did the child complete (if the child for once went to school)
- Why the children stopped going to the school now (if the child left the school)
- Why have the children never been admitted
- Whether the children do any other works

⁴⁵ Emraan Azad and Golam Kibria Sourav, "Wrestle with Identity: Untouchability in the Process of Social Exclusion and Marginalization" in *The Harijans of Bangladesh: Living with the Injustice of Untouchability*, 20-22 (Tapas Kanti Baul and Bayazid Hossain, 1st edn., 2016), available at <https://www.researchgate.net/profile/Emraan_Azad/publication/336836316_The_Harijans_of_Bangladesh_Living_with_the_Injustice_of_Untouchability/links/5db57d70a6fdccc99da41a66/The-Harijans-of-Bangladesh-Living-with-the-Injustice-of-Untouchability.pdf> (Last seen on April 8, 2020).

⁴⁶ Interview with Mohendro Lal, *Stories from SPIYCE*, (ELCOP 2019), also see, Parvez, Altaf and Mazharul Islam, 2014, *Bangladesher Dalit Somaj: Boishommyo, Bonchona o Osprishhota* (Dalit Communities in Bangladesh: Situation of Discrimination, Exclusion and Untouchability).

- How is the environment of the school (it may also be asked to the school going persons)
- Whether the books are provided by the Govt./do they get free books provided by the Govt.
- Who are the teachers? Govt. appointed, NGO workers or social activists
- Whether the guardians are literate or not, do they have institutional education? If yes, then how many classes, if not, then why? (this question will only be asked if practicable)
- How do you feel going to school? (for school goers)
- How many friends do you have (both in case of local and general school goers)
- How are you treated? (this will only be asked if that much trust can be built up with interviewee as this is sensitive one)
- Do you want to study further? (if for any reason stopped going)
- What is your dream?
- Has he ever faced any discrimination for being a part of Hindu lower class community?
- Has he ever faced any problem in hospital, or job interviews for being a part Hindu lower class community?
- Are Muslims or other members of the society taking any undue benefit of the facilities given for them?
- Does he face any problem in his workplace for being Hindu?
- What is his and his children's educational background?
- How many members are there in the family?
- How much he feels comfort with other students revealing his identity?

One story from the field is thus described by Biva Mosharraf, Toki Ashraf and Sharjin Jahan:⁴⁷

⁴⁷ Biva and Toki are Law students from University of Dhaka. Sharjin studies Law in Jahangir nagar University. Excerpt taken from *Stories from SPIYCE*, (ELCOP 2019).

SNEHA

What do you want to be in future, Sneha? - A fashion designer, she replied with dreamy eyes. “Though an NGO takes the children from Harijan community to Shilpakala Academy by bus for drawing classes, my father does not allow me to go there. So, I try to learn drawing by watching videos on YouTube”, she added. Sneha belongs to the Harijan community. Not many children from the community are interested to pursue higher education as they do not get any job other than a job of a cleaner. Sneha has a lot of friends in her class but they call her shameless, low class Hindu while quarrelling just because she is from the Harijan community. She sometimes tries to tell all this to her teachers. The teachers never take any action for this. Sneha mentioned that she wants their area to be cleaned as the area is quite dirty. Since there is no dustbin, people throw waste here and there. At the same time, she can never use the specific common female washrooms of their area because there is no bin and they are too dirty to use.

D. Street Law

In the last stage the students selected 10 members from *Harijan* and Transgender community who received Street Law training on Human Rights so that they can serve as community lawyers in their own community.

Street law is a clinical law program which trains law students to provide lay people with practical information about the law and how it can be used for rights protection in daily life. The program was founded at Georgetown University in Washington, DC in 1972, and introduced at the University of Natal, Durban as a credit course in 1987.⁴⁸ As a legal literacy program, Street Law enables law students to make the target group audience (most commonly community members) aware of their legal rights, how rights may be violated by the system, how and where to obtain assistance. Street law is one of the most successful programmes to enable law students get a better understanding of the legal needs, challenges and expectations of the common people.⁴⁹ Street law type programmes take place in various regions of the world including South East Asia, Central Asia, Western Europe, Central and Eastern Europe, North America, Latin America, the

⁴⁸ David McQuoid-Mason, “Street Law as a Clinical Program: The South African Experience with Particular Reference to the University of KwaZulu-Natal”, 17:1 Griffith Law Review 27 (2014).

⁴⁹ *Id.*, 27.

Caribbean and Africa. In South Asia, Bangladesh is the pioneer of Street Law,⁵⁰ while India and Pakistan also have street law programmes.⁵¹

Bangladesh brought Street Law into action in 2000 through ELCOP's *Protidiner Ain* programme, where law students go to high schools and talk to pupils about everyday life law and human rights. Through SPIYCE, ELCOP targeted *Hijras* and Dalits as street law audience for the first time. Street Law uses various interactive teaching and learning methodologies to provide practical lessons on human rights, such as role play, debate, ranking exercises, taking a stand, fishbowl etc. The SPIYCE Street law was two day training where the community members were provided with information about arbitrary arrest and detention, property rights in Islamic and Hindu family law and basic protection of human rights.

V. CHALLENGES FROM THE FIELD

In conducting the project, we as human rights educators and law teachers had to navigate through a double layer challenge: the first were the community members, because a research project would not drastically change their reality, so in order to gain their trust and access into the community, we had to be persistent. But it was the second challenge that stood out most for us. As law teachers, we take it for granted that students are willing and enthusiastic about learning beyond classroom, especially in a country like Bangladesh where such real life clinical experiences are rare for students to get. But that was where we were proved wrong.

The challenges of breaking the barrier between law students and community members were myriad, as described below:

A. Navigating through the power hierarchy compromised some quality

The students had identified 10 community members during their fact finding field visit who would have been invited for the human rights training through Street Law. However, when we contacted the community guides, we faced two different types of challenges with the two communities:

⁵⁰ Arpeeta Shams Mizan, "Challenges of Human Rights Literacy in Developing Countries: Lessons from South Africa and Bangladesh on Conducting Street Law for the School Students", 5:1 *Asian Journal of Legal Education*, 19 (2017), David McQuoid-Mason and Robin Palmer, *African Law Clinicians' Manual*, Open Society Justice Initiative, 30 (2007).

⁵¹ Professor McQuoid-Mason talks about these programs in his article. See, David McQuoid-Mason, *Street Law as a Clinical Program the South African Experience with Particular Reference to the University of KwaZulu-Natal*, 17:1 *Griffith Law Review*, 27-51(2014). In Pakistan, LUMS faculty of Law has professors who conduct street law programmes.

- The Hijra leaders told us that the members students nominated might not be the most vocal ones, so they would nominate some other members with leadership potential so that after training they can serve the community better. We agreed to that and spoke to the members to understand if they actually were articulate and smart. But it was during the training that we realised these 5 nominates were existing (semi)-leaders in their own community, had received other human rights training nationally and internationally. So these 5 members were actually nominated by the Hijra leaders to sustain the internal power structure, the leaders were simply unwilling to let ordinary members of the community to have training and knowledge. Later, two of these leaders proved to be quite uncooperative, irregular and indifferent about the monthly Monitoring sessions.
- The *Harijan* leaders have been very spirited and cooperative. However, immediately after our field visit, the *Harijan* society had its internal elections, and there was a change in office. As a result, the 5 members we had nominated (who agreed to work with us because our contact person/guide came from the defeated party) denied to work in fear of internal conflict. We had to train 5 members who we had not previously met during the field visit. However, these 5 members are effective.

B. Limited number of field visits than originally aimed for

eLCOP had originally planned to dedicate 3 days for each field visit. However, when the time came to execute, it proved very difficult to get 3 days of time from the community members, supervisors as well as students. In fact, with the Hijra community, meeting on a working day was not agreed upon by anyone. Hence, the amount of fact finding was less than we had hoped for.

C. Difficulty in breaking stereotypes and prejudices enough

Through choosing *Hijras* and *Harijans*, ELCOP aimed to break the prejudices and discriminations in people's mind. The Street Law training was designed so that even the Hijra and *Harijan* members could overcome the prejudices their communities had against one another. However, through our Monitoring and Evaluation sessions we observed that while their knowledge of rights and law had increased, the deep-seated prejudices had not been sufficiently mitigated. For example, while *Harijans* themselves face extreme levels of discrimination, they nonetheless foster their own prejudices towards others e.g. *hijras*, women etc. the *Harijans* were very vocal about the caste based discrimination they face in day to day life, yet took sexual harassment and violence against women as 'normal' phenomenon. Similarly, while *Hijras* themselves were outcaste, they were visibly hesitant to be sitting with '*methors*' (cleaners i.e. professional nomenclature for *harijans*) in the training. Many members from *hijra* community also foster quite

conservative ideas about women, e.g. because they cannot fully embrace womanhood, they maintain that cis-gender women should. Sajib Hijra, a *guruma* questioned my choice to work on a weekend when I ought to have been given my attention to my family.⁵² The street law trainings and follow up sessions sensitised the target communities towards these issues, yet it was not enough to uproot the long fostered prejudices.

D. Fixing and maintaining schedules

Because we worked with people who have other full time occupation, it was extremely important that we fix our schedule in a way to accommodate everyone equitably, and that proved to be a challenge. Our participants came from within and out of Dhaka, from 9 different Institutions which had different schedules of classes, examinations and other official activities. On the other hand, the community members we worked with had typical working hours, sometimes stretching till late in the night. As such, managing a time that is agreeable for all took great effort and often we had to change our programs so as not to clash with participants' exams. Though we tried to hold most activities over weekends, students and sometimes community members were unwilling to work on weekends. Often we had to cancel or change our programme due to last minute notice from *Hijra* members that they were unavailable to sit with us. The month of Ramadan fell during the project time period which also upset some programme schedules since many students opted to leave town earlier than official holidays. The community members were unavailable for lengthy periods of time preceding and following holidays like Pohela Boishakh and Eid, which also delayed a number of executions.

E. Finding venue

While as a grantee we were entitled to use EMK venue, the special nature of simulation did not allow us to do so. We required 4 different rooms to accommodate different role players at the same time, and EMK could not offer us such flexibility. Also, as simulations are a day long activity, we chose to work over weekends when EMK is closed. Hence, we had to find venues which could accommodate all our programme needs.

F. Getting hijra community members agree to work

The Hijra community has developed a culture over the years, that whenever they work with any organization they demand monetary compensation for the time they render to the programme. We had factored in monetary compensation

⁵² Author Mizan's interview with Sajib Hijra, April 2019, Dhaka, Bangladesh.

for the community guide who would introduce us to other members and accompany us on the field visits, but we did not know that we would have to pay each and every person we would be speaking to. Even during our monitoring and evaluation stage we had to pay every Hijra person who listened to the Leaders talking. The original agreement with the community leaders was that only the 5 community leaders will receive compensation for their service in M&E. This created challenges both financial and academic, because research ethics dictate that data cannot be collected with payment of money, and any data acquired as such is questioned as potentially lacking integrity. However, to meet the challenge ELCOP spoke to other organizations that have working with *Hijras* for a longer time, and learned that there is no other way. It has become a method of sustenance for *Hijra* community to attend various trainings for receiving TA-DAs and they decline to work, provide information or even simply take advice through listening without being paid. The only way to avoid this would be to dedicate longer months of time to trust building and get deeper access to the community, but that was not possible as SPIYCE had to be executed and completed within mere 6 months.

There was no such issue with *Harijan* community, though their internal election posed some challenges regarding field visits. The ballyhoo caused due to the election hampered smooth interviewing. The leaders of the communities were less available because of the election campaign.

G. Sustaining Enthusiasm Among The Student Participants

While students were enthusiastic about the 2 day simulation workshop and training, later when they had to work more deeply for field visits, investigation, data sifting, analysis, presentation and street law, some of the students started losing enthusiasm. Many students missed deadlines of submission, some were unwilling to go to the community, and 2 participants dropped off from the second stage of the programme. While the application clearly mentioned that they would have to dedicate time for 6 months, in reality a number of students lacked the commitment to complete the project with rigor.

H. Being non-political

The power politics in the patriarchal society was hard to avoid. Our investigation found out that the *Hijras* suffer through identity crisis (socially and legally) and wish to identify themselves as women (transwomen). We also found out data about what problems they face because of having contradictory documents which alternately identify them as men and as third gender (the official gender recognised by the Government of Bangladesh for *Hijras*). So for our street law sessions, we designed the workshops on property rights keeping their identity issues in mind. However, when we discussed that the Islamic and Hindu law assigns

property distribution to transpeople as per their dominant trait (i.e. Hijra women will get property as women), there was protest from the leaders. They opposed the law because in Islam women get lesser share than men. The *Hijras* said, “No, we do feel like, think like women, but actually we are men, so we should get the men’s share.” This statement was in contradiction to our findings from the field visits, where they all said that they believe they are women. However, our student fact finders were not in a position to get into arguments, so while they clarified what the law says, the *Hijra* leaders denied to accept it.

I. Explaining the project to stakeholders

Because Fact Finding Simulation is a unique type of training, and ELCOP is the only organization conducting such training, it is still a new concept in Bangladesh. We found it hard to explain to various actors e.g. newspaper reporters, community members, colleagues from the legal field etc. exactly how a simulation workshop operates. The community members during the field trip were initially under the impression that we are conducting a typical NGO project, and it took a good amount of explaining that this is a skills building training for law students.

VI. BEYOND CHALLENGES: CREATING A RIPPLE EFFECT

The SPIYCE project started with two goals: introduce the clinical method of simulation to Bangladeshi learners, and apply the theory of change through collaborative lawyering.

The ‘Theory of Change’ is a theory that illustrates the path towards developing solutions for complex social problems.⁵³ It depicts one of the core issues of human rights advocacy, that working towards bringing a sustainable social change in terms of human rights is a slow and tenuous process, because the point of human rights advocacy and public legal education is challenging the status quo which makes the society take its position as granted. Therefore, SPIYCE focused on introducing the students to the real nature of the denial of rights and promote rights-consciousness in the students through justice education.

Given that the nature of CLE and public legal education is different from how the NGOs operate, the theory of change for educational projects noticeably differ. In case of advocacy done by actors and professionals, theory of change focuses on the existing gaps in the system and explores how they can be ‘filled up’ by determining initiatives. However, in case of justice education, the change

⁵³ Harvard Family Research Project, An Introduction to Theory of Change, available at <<https://archive.globalfrp.org/evaluation/the-evaluation-exchange/issue-archive/evaluation-methodology/an-introduction-to-theory-of-change>> (Last seen on April 8, 2020).

expected is the change of perception in the law students. Due to traditional learning environment, the law students in Bangladesh mostly think of legal profession in technical terms e.g. winning cases, drafting successful contracts, securing successful mergers etc. what remains untapped is how the students, most of whom come from underprivileged and unprivileged background themselves, look at legal education as a tool for securing and protecting communities and people who are living beyond the peripheral level of urban amenities and legal infrastructures. This is why, the theory of change in education is more difficult to judge and measure. Nonetheless, throughout the execution of SPIYCE, certain changes have been noticed, as explained below:

For the Students:

- a. The legal education in Bangladesh is textbook based and traditional. There is very little scope to learn practical skills through classroom education, and no law school in Bangladesh conducts clinical legal education effectively. As such, ELCOP always tries to fill up the gap through its different projects and activities. Through SPIYCE, these 23 students are now competent to conduct interviews for data collection, which they can apply as a researcher, lawyer, journalist, Member of the Police Service etc. They also know how to identify issues from a larger body of information, analyse data, and establish a causal nexus between data and its implication on the people's rights and the interests.
- b. The students have been introduced at an individual level to interact and work with people from the marginalized sections of Bangladeshi society. Normally, these students would not have had any reason to sit and talk in close proximity to a *Hijra* person or a *Harijan* person. Many of them were very wary of talking to *Hijras*, not least because of the negative portrayal of *Hijras* in our mainstream society. But now they know how they can do ice-breaking and start a conversation with a human who comes with a strikingly different set of experiences and has been victimized by the legal system. This has made them less prejudicial, more confident and more conscious.
- c. After ELCOP conducted the field assessment and established initial contacts, the students had to contact and coordinate with the community members themselves, organise their team members, set a team strategy and work plan. ELCOP advised the students when they had questions, but did not do the work for them. Therefore, these students now are more skilled in terms of team management, action planning etc.
- d. Empathetic listening is one of the foremost features of a fact finder. Empathy develops progressively that requires interactive learning of the sufferings of the marginalized community. ELCOP always endeavors to

produce anti-generic empathetic lawyers who can contribute to the disadvantaged community. Through SPIYCE, the group of students came very close to two marginalized and disadvantaged communities of Bangladesh and learns their predicaments. This has developed empathy in the students and thus matured them into good fact-finder and anti-generic lawyer.

- e. The students were given the task of designing an awareness program for the *Harijan* and *Hijra* communities as per the need of them. The task serves two purposes. Firstly, the students get to know the needs of the communities, the matters which the communities unaware of. Secondly, in a very early age, they are learning program designing. It helps the students to put their creative thinking for the betterment of disadvantaged communities. The interaction inspires the students to bring out the humane self in them.

Community Members:

- The *Hijra* Community:
 - a) The *Hijra* community specifically wanted to have sessions on inheritance rights, protection against arbitrary arrest and detention, and basic human rights. Now they know about these issues. While there are some practical differences of opinions, we nonetheless spoke to them about how they can protect their best interest. They also spoke to the team about some property rights problems they have at a personal level, for which the Director advised some solutions.
 - b) The project has enabled the community leaders to disseminate the knowledge about inheritance rights, protection against arbitrary arrest and detention, and basic human rights in the community. It helps to create the cycle of spreading awareness in the communities.
- The *Harijans*:
 - a) The *Harijans* wanted more basic understanding of human rights and the legal system. They have been most regular in their M&E sessions. The sessions have been lively, and in most cases they leaders have been using their knowledge from training to diverse range of problems.
 - b) The community leaders from the *Harijan* community were also committed to spread the knowledge about basic human rights and legal system in the community which they have learned from the session. The students and the supervisors also helped some young *Harijan* with career suggestions who were searching for educational and career opportunities. Further, the community living in Miran Zilla was facing a legal problem. The students helped them with the necessary advice and contacts.

- c) It is one of the tasks of ELCOP that effectively contribute to bringing up the marginalized community through providing legal information and making them conscious of their rights. Through the SPIYCE project, the selected *Harijan* and Transgender communities established effective communication with ELCOP. This communication will bring a further impact on the community. ELCOP can engage the communities in future projects and respond to the communities' needs if any arise.

VII. CONCLUSION

“Theory without practice is just as incomplete as practice without theory. The two have to go together.”

—Assata Shakur⁵⁴

SPIYCE has been designed to be a blend of clinical methods of human rights teaching and lawyering for social change approach. Through the first, the student shall be able to learn question-framing, listening, drafting, persuading, fact gathering, synthesizing and marshaling information, investigating, problem-solving and advising.⁵⁵ Simulation enables them to construct the acquired knowledge in real life situations.⁵⁶ Through the former, the students shall develop ways of identifying and responding to needs and aspiration of the marginalized communities and constructing problem-solving method.⁵⁷ The traditional classroom and lecture based system of legal education in Bangladesh is only capable of producing a ‘regnant lawyer’⁵⁸ rather than a ‘problem solver’⁵⁹ who are able to contribute to positive social change. Further the legal educational system in Bangladesh is of a stagnant nature, which regularly resists changes of any kind.⁶⁰ In this context the way the project has gone through was not a smooth

⁵⁴ Assata Shakur, *Assata: An Autobiography*, 180 (Lawrence Hill Books, 1987).

⁵⁵ Jocelyn Getgen Kestenbaum, Esteban Hoyos-Ceballos, and Melissa C. del Aguila Talvadkar, “Catalysts for Change: A Proposed Framework for Human Rights Clinical Teaching and Advocacy”, 18 *Clinical Law Review* 459, 467 (2012).

⁵⁶ Carolyn M. Shaw and Bob Switky, “Designing and Using Simulations and Role-Play Exercise”, *The Journal of Political Science Education* p. 1 (2018).

⁵⁷ Jeena Shah, “Rebellious Lawyering in Big Case Clinics”, Vol. 23:775 *Clinical Law Review* 781 (2017).

⁵⁸ Dr Mizanur Rahman, “Human Rights and Globalization: The Need for Political Lawyering for Social Change”, 2 *KSL Journal* 9, 14 (1 June 2004). See also, Anthony V. Alfieri, “Rebellious Pedagogy and Practice”, *Clinical Law Review* 5 (2016).

⁵⁹ Gerald P. Lopez, *Rebellious Lawyering: One Chicano’s Vision of Progressive Law Practice*, 70 (Westview Press, 1st edn., 1992), cited in Artika R. Tyner, “Planting People, Growing Justice: The Three Pillars of New Social Justice Lawyering”, 10 *Hastings Race and Poverty Law Journal* 237 (2013).

⁶⁰ See Dr Mizanur Rahman, *Anti-Generic Learning and Rebellious Lawyering in Bangladesh*, 2 *Human Rights Summer School Manual* (2001) 156; See also Mohammad Monirul Azam, “Reforming Legal Education in Bangladesh”, *Journal of Legal Education*, Vol. 55, No. 4 (December 2005), p. 560.

one. Challenges were met as human rights discourse through clinical method and simulation is comparatively new to the student participants, some of the facilitators, the target communities and other stakeholders. Since the project is now on its adolescence, it remains to be seen the impact it is capable to bring in the legal education and the society at large. Nonetheless, the project is a pedagogic model as to incorporate social development lawyering method in human rights law clinic.⁶¹

⁶¹ Jeena Shah, "Rebellious Lawyering in Big Case Clinics", Vol. 23:775 *Clinical Law Review* 781 (2017).