

**Report of the Final Evaluation of the Project on**  
***Enhancing Opportunities to Justice at Rural Level and Human Rights***  
***Education***

**Implemented by Madaripur Legal Aid Association**

**Funded by *Manusher Jonno* Foundation, Dhaka**

Prepared by:

Dr. Abdullah Al Faruque

Associate Professor

Dept. Of Law

University of Chittagong

Chittagong-4331

Mobile: 01714817720

Email: [faruquecu@yahoo.com](mailto:faruquecu@yahoo.com), faruqueabdullah@yahoo.com

## **Executive Summary**

MLAA has been a pioneer over the last decades to uphold the cause of ADR by innovating many strategies in the access to justice. The project under evaluation was formulated and implemented by MLAA to deliver justice at the rural areas through activating the Village Court and to promote human rights education in Bangladesh and to give it a firm footing. Against this backdrop, the project has been structured and carried out to improve access to justice for the marginalised segments of society. The overall objective of the project is to create an opportunity of ensuring easy access to justice for the poor especially, women and children and creating awareness about basic issues of human rights for the students of selected schools and colleges under the project area.

The project has been articulated in order to activate the Village Court to dispense justice with the support and training from MLAA. It should be mentioned that the Village Court has remained underused and unutilised due to inadequate knowledge, resources and skills of UP chairman and members needed for effective functioning.

The project has been implemented over a period of six years and activities of the project were spread over 70 Ups of selected nine districts of the country. The first phase of the project run from August 2003 to July 2006 and second phase of the project ended in July 2009. The current evaluation has been carried out to assess the achievement of the various components of the project at its second phase against targeted activities. The study addressed a wide range of issues and evaluated the activities carried out during the project period and has eventually come out with important findings and recommendations. The findings of the study indicate overall success of the project and shows that the most of the project components have created considerable impact on its target population over the project period.

I sincerely hope that findings of the report will be a source of self-satisfaction and self-evaluation to those involved in formulation and implementation of the project. I believe that recommendations of the study will be useful for better design of the project in future.

## **Acknowledgement**

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Lastly, I am thankful to project's beneficiaries who actively participated in FGD and raised important issues and put forward many recommendations, which enriched the evaluation study.

## **List of Abbreviations**

ADR	Alternative Dispute Resolution
CBO	Community based organisation
FGD	Focused Group Discussion
UP	Union Parishad
MLAA	Madaripur Legal Aid Association
PNGOs	Partner non-governmental organisations
VC	Village Court
MMM	Madaripur Mediation Model

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## *Chapter One*

### **Introduction**

#### **1.1. Background and Rationale of the Project**

Access to justice is pre-condition for legal empowerment of the poor. Access to justice is considered as the enabling framework of legal empowerment. It encompasses the whole range of laws, procedures, institutional arrangements through which justice can be delivered to the people in efficient and effective manner. Access to justice also requires a just procedure, timeliness and affordability in the judicial system. Ensuring equality in access to justice system remains a far cry in Bangladesh where the economic inability of the litigants to obtain skilled lawyer, time consuming and expensive procedure and investigation process render justice system inaccessible to the large number of people. Centralised law-making process, top-down institutional legal framework, excessive procedural formalisms and administrative complexities are also significant barriers to the access to justice. Given the growing dissatisfaction of people with both the process and outcome of litigation, alternative dispute resolution is increasingly recognised as one of the instrumentalities to facilitate access to justice. In our legal system which is largely based on adversarial system, poor people are often denied access to justice due to their poverty and ignorance. Against this backdrop, ADR is increasingly becoming important tool as an informal dispute resolution process. ADR is proved to be more accessible to the poorest members of the community and is also relatively less expensive. This informal dispute resolution or ADR can be categorised into two types: traditional *shalish* system, which is deeply rooted in social and cultural traditions of Bangladesh and human rights and legal aid NGO sponsored mediation which is re-modelled and modernised version of traditional *shalish* system. But traditional *shalish* often perpetuates social inequality due to its male bias, and elitist character. Traditional *shalish* often apply repressive norms and involve humiliating punishments. Over the years, MLAA has formalised mediation system substantially to address this biasness and gender discrimination in traditional *shalish* system.

Madaripur Legal Aid Association (MLAA) since its inception has committed to improve the quality of life of the poor and disadvantaged by providing them support to establish legal rights through various programme and initiatives. Considering the expensive, complex, time consuming in formal justice system MLAA had developed the ADR for dispute resolution through reformed shalish, popularly known as Madaripur Mediation Model which is proven to be effective to address family disputes, community disputes and compundable criminal disputes at local level.

### **1.2 Objectives of Project Evaluation**

The objective of the evaluation is to critically investigate the real achievements of the project. In particular, it attempts to find out how effectively and efficiently the programmes of have been carried out, what are the impacts of the programmes on the beneficiaries and stakeholders and what measures can be suggested for future actions. The evaluation study also seeks to assess how far purposes have been acheived against indicators set out in the project.

The study highlights the reasons for the gap in achieving the objective of the project. The study also underlines impact of the project activities in policy level. The study underscores both direct and indrect changes as well as positive and negative changes, if any, initiated by the project. The study takes both qualitative and quantative approach in determining the success of the project. The evaluation study assesses the acheivement of the project in the quantitative terms as well as qualitative sense such as changes in knowldege, attitude, changes in overall condition of live of the beneficiaries.

The study also addresses the issue of legal empowerment and access to justice as an inter-related concepts and also considers the future issues to be identified and addressed in the project.

### 1.3 Project Location and Stakeholder

The working area of project is 9 districts of Bangladesh, namely, Meherpur, Jessore, Magura, Rajbari, Thakorgaon, Serajganj, Dinajpur, Panchagar, Gaibandha. The project is implemented by nine PNGOs operating in these districts.

SL. No.	District	Name of Partner NGOs	No. of Union
1.	Rajbari	SANGJOG	07
2.	Panchagar	Centre for rights and development	07
3.	Sirajgonj	Gano Kallyan Sangstha	07
4.	Gaibandha	Samaj Kallyan Sangstha	07
5.	Dinajpur	Come to Work	07
6.	Thakurgaon	Manob Kallyan Parishad	07
7.	Magura	SOPNIL	07
8.	Jessore	DIPTI	14
9.	Meherpur	Manob Unnoyan Kendra	07
Total	09	09	70

**Duration of the Project under Evaluation :** Three Years (August 2006 to July 2009)

#### Beneficiary/Primary Target Population of Project

Primary stakeholder: Rural people especially poor, women and children

Secondary Stakeholder: Community leaders, UP Chairman and members, UP secretary, ADR Assistants, government officials at local level, students and teachers of school and college level

### 1.4 Project Goal, Objectives, Activities and Targeted Outputs

The main goal of the project is to promote justice at the rural areas through activating village court, conducting Shalish and promoting human rights education.

Project Goals	Objectives	Project Activities	Targeted Output
Strengthening the local level judicial system and enhance access to justice for the poor and women, awareness building about human rights	To make the UP judicial system (Village court) effective and dynamic	Dispute resolution through Village Court	Ensuring access to justice without cost and lengthy procedures involved in formal justice system
	To facilitate access to justice with community involvement in the dispute resolution	Dispute resolution through MLAA model shalish	Effective, less costly, equitable, speedy, fair solution of small scale disputes
	To make awareness amongst rural people about the Village Court as the justice delivery mechanism	Awareness building, training for the UP Chairman, members, community leaders, shalish activists	Increased knowledge and understanding of functioning of the village court, its importance in resolving disputes, fostering legal consciousness of local communities
	To promote human rights education	Imparting teaching of basic issues of human rights, fundamental rights amongst the students	Increased knowledge, skill about human rights
	Policy and institutional changes	Advocacy	Legal, policy and institutional reform to make the local level justice system functional

### 1.5 Evaluation Issues

- = Assessing project performance in terms of project objectives;
- = Time plan: achievement of the projected goals within time frame;
- =Project strategies and design in terms of inputs and geographic location;
- = Assessing the impact of the programmes on lives of direct beneficiaries;
- = Relevance and effectiveness of the programme and the efficiency of the project design;
- = Follow-up and monitoring mechanisms under of the project;
- = Assessing the measures of project sustainability;
- = Evaluating issues of empowerment, rights protection and development discourse;
- = Strengths, constraints of and recommendations for the project.

### 1.6 Methodology of Evaluation

In conducting the evaluation of the project, the following processes have been followed:

- document review,
- discussion with project management at head office and project locations,
- developed work plan and methods,
- field visits to the project areas including courtyard meeting, UPs
- meeting with primary and secondary stakeholders;
- Informal interview with UP Chairman, members
- analysis of findings,
- Sharing findings of draft report with project management and *Manusher Jonno Foundation*, and
- Finalizing the report.

The evaluation study is based on both secondary and primary sources. The secondary sources which have been reviewed are: project documents such as project proposal, quarterly report, annual reports, manuals, formats of monitoring of project activities.

But the evaluation is mainly based upon a large programme of searching primary sources. Primary sources include, for the purpose of this evaluation study, findings of consultations with project management, informal interviewing and focused group discussion (FGD) with primary and secondary stakeholders who are directly or indirectly

affected by the implementation of the projects. The FGD has been adopted as an important element of methodology as it has particular advantages in providing in-depth information and insights from the perspective of stakeholders and project participants about their needs, interests and concerns. The interviewing and FGD has been supplemented by field visits to the UPs.

The present consultant has visited four districts- namely: Meherpur, Magura, Rajbari and Madaripur and conducted the focused group discussion among the beneficiaries and stakeholders and made field visits to UPs, conducted informal interview with UP chairman. Staffs associated with the project management of head office and project location have been consulted.

As a methodology, both qualitative and quantitative approaches have been adopted. While quantitative approach for the purpose of this study has been expressed in achievement of the project activities in numerical terms, qualitative approach shows the overall impact of the programmes in terms of increasing knowledge and values and enhancement of well-being of the primary stakeholders.

## *Chapter Two*

### **Access to justice and Human Rights Education programme under the Project**

#### **2.1 Introduction**

In Bangladesh, legal system continues to be inaccessible to economically and socially disadvantaged segments of the society as they can not afford to pay lawyers, to vindicate their rights, which itself constitutes a violation of human rights. Many poor people also live far away from centres providing legal services and have very few legal resources and facilities in their communities. They are ignorant about the law, human rights and legal rights. The lack of human and physical resources, inadequate training, malfunctioning of systems can also restrict the access to justice to a significant extent. The obstacles in access to justice can be broadly divided into the following categories: system's costs which include costs of services, fines, time and transportation; structural- court procedures, language, court infrastructure, skills of officials, and lack of ownership and social barriers: social obstacles are those that arise from a lack of information, perception of bias that law works for the rich, not poor.

With a view to providing access to justice to the poor, the present project aims to improve the *shalish* system in the light of Madaripur Mediation Model; to activate justice system of the UP, to pursue advocacy programme for making Village court effective and to introduce human rights education to instill culture of human rights at the grass root level.

#### **2.2 Main Activities under the Project**

##### **Shalish**

Shalish or ADR as a less expensive and less complicated process to settle various kinds of disputes is increasingly gaining prominence as it discards 'winner gets all' approach in traditional litigation. But in order to make the ADR programme successful, dissemination

of information and knowledge, training and skill development, basic legal literacy at grass root level, monitoring the activities, and resource mobilisation is essential.

*Procedure of Shalish:* The aggrieved party applies in a prescribed form. ADR assistant sends request letters to the parties as well as to mediator. The parties themselves identify the problems that need to be resolved. The mediator can help the disputants in outlining the potential choices they may have in resolving the conflict. Documentation of the agreement of the settlement of dispute is done and the whole process is thoroughly recorded and maintained by MLAA. Compliance of the written agreement of settlement is regularly monitored by *shalish* activists.

### **Dispute Resolution through Mediation**

Duration	Application Received	Dispute Resolution	Direct Beneficiaries	Indirect Beneficiaries	Total Beneficiaries
Aug 06 - July 07	2850	2318	3993	14583	18576
Aug 07- Sep 08	3926	3476	7152	28918	36070
Oct 8- May 09	2323	2025	1376	5599	6975
<b>Total</b>	<b>9099</b>	<b>7819</b>	<b>12521</b>	<b>49100</b>	<b>61621</b>

In order to conduct Shalish successful, the following supporting activities are carried out:

Formation of Central Level CBO Committee;

Formation of Ward Level Committee

Training for Project Managers and Field Workers

Training for CBO members

Day long workshop with CBO members

Courtyard Meeting with group members

Project Development Workshop with project managers

Dispute resolution through *shalish*

Meeting with the members of Ward Committee at local level

Meeting with the member of Central Committee

Meeting with beneficiaries at Union Level

### Activating Village Court

The Village Courts Act, 2006, which replaces and updates the Village Courts Act of 1976 provides for the establishment of a village court in every UP. The Village court is comprised of a panel of five: the UP chairperson; two other UP council members, one of whom is chosen by each party; and then two additional citizens, one of whom is chosen by each party. The court have jurisdiction over civil disputes valuing up to 25,000 Taka. They also have jurisdiction over some crimes. On the other hand, UP is also entitled to form Arbitration Council provided under the Muslim Family Law Ordinance of 1961 to deal with family matters, including divorce, dowry and maintenance. AC panels are comprised of three members: the UP chairperson and two others, one of whom is chosen by each party.

For activating of the Village Court, the following activities are carried out:

- Training for UP Chairman, members and secretary,
- meeting with members of central committee,
- advocacy meeting,
- Meeting with the beneficiaries,
- disputes resolution through village court.

### Number of Disputes Resolved through Village Court

Duration	Target	Application Received	Dispute Resolution	Deviation	Direct Beneficiaries	Indirect Beneficiaries	Total Beneficiaries
Aug 06 - July 07	2520	2707	2318		4597	19401	24358
Aug 07- Sep 08	2520	3890	3476		7371	30081	37452
Oct – Dec 08	2520	2110	755		1621	6508	8129
<b>Total</b>	<b>7560</b>	<b>8707</b>	<b>6652</b>	<b>1008</b>	<b>13589</b>	<b>55990</b>	<b>69939</b>

### Types of Disputes under *Shalish*

The problems which are usually resolved through ADR include dowry, land disputes, polygamy/bigamy, early marriage, guardianship, divorce, maintenance, recovery of dower money, domestic violence, recovery of money, compoundable criminal disputes,

and oppression against women. The poor, and in particular, women and those relegated to some form of social exclusion are inherently more vulnerable to abuse and violations of their rights but they lack effective access to law and legal redress.

### **Courtyard (Uthan Baithak) Meeting**

Courtyard meeting with group members is an innovative strategy of the project. The main objective of courtyard meeting is to make women at grass root level aware about the benefits of *shalish* and village court, family law, their rights relating to dower, maintenance, effects of dowry, remedies for domestic violence etc. This is a unique approach in terms of reaching poor women living at grass root level. The meeting is facilitated and monitored by *shalish* activists.

### **Number of courtyard meeting**

Duration	Target	Number of accomplished meeting	Number of Participants			Deviation
			Female	Male	Total	
Aug 06-July 07	3150	4208	66251	4040	70291	
Aug 07- Sep 08	3150	4527	54193	497	54690	
Oct 08 – May 09	3150	2518	28942	1	28943	
<b>Total</b>	<b>9450</b>	<b>11253</b>	<b>149386</b>	<b>4538</b>	<b>153924</b>	<b>-</b>

### **Network Building**

MLAA undertakes networking activities in order to create social mobilisation for creating an environment for ADR. Both head office and project offices maintain unofficial and informal contact with government agencies, local administration and beneficiaries.

### **Training and Awareness Campaigning**

Under this project, MLAA carried out extensive training programme for the UP chairman and members, *shalish* activists, project managers, ward CBO committee members. The main objective of training programme is to impart ideas on project activities, family law,

process and procedures of shalish and village court. The training programme also identify problems in implementation of the project at field level, review of various laws, identifying solution in filling up of documentation of format of village court and shalish, reporting method and process of supervision etc. The training programme also aims at sensitising stakeholders about beneficial aspects of Village court and *shalish* and to motivate people to resolve their disputes locally.

### Training for UP Chairman

Duration	Target	Number of Course	Number of Participants			Deviation
			Female	Male	Total	
Aug 06-July 07		1	1	30	31	
Aug 07- Sep 08		2	4	58	62	
Oct 08 – May 09		0	0	0	0	
<b>Total</b>	<b>05</b>	<b>3</b>	<b>5</b>	<b>88</b>	<b>93</b>	<b>02</b>

### Training for UP Member and Secretary

Duration	Target	Number of Course	Number of Participants			Deviation
			Female	Male	Total	
Aug 06-July 07		18	105	363	468	
Aug 07- Sep 08		0	0	0	0	
Oct 08 – May 09		0	0	0	0	
<b>Total</b>	<b>18</b>	<b>18</b>	<b>105</b>	<b>363</b>	<b>468</b>	

### Name of Activity: Training for CBO members

Duration	Target	Number of Course	Number of Participants			Deviation
			Female	Male	Total	
Aug 06-July 07		0	0	0	0	
Aug 07- Sep 08		43	382	767	1149	
Oct 08 – May 09		09	91	182	273	
<b>Total</b>	<b>70</b>	<b>52</b>	<b>473</b>	<b>949</b>	<b>1422</b>	<b>18</b>

### Workshop

In order to make the project activities more dynamic and effective, various types of workshops such as project development workshop, exchange views workshop with ED and accountant, exchange views workshop with beneficiaries, are organised under the project. Project development workshop is held at every six months. The main objectives of these workshops include reviewing steps for proper implementation of the project, exchanges of experiences of views about achievements and experiences in administering shalish and village court.

#### Number of workshop during the project period (1<sup>st</sup> August 2006- May 2009)

Name of workshop	Number of targeted workshop	Number of accomplished workshop	Deviation	Number of participants
Project development	3	3	-	30
Workshops for committee members	210	140	70	6899
Exchange views workshop with beneficiaries	280	287		11200
Exchange views workshop with ED and Accountant	03	02	01	40

## Meeting

Meeting with ward committee members, central committee members and beneficiaries of *shalish* and Village Court is another important activity under the project. The main objective of the meeting is to inspire the relevant stakeholders to conduct *shalish* properly, to coordinate between committee members and *shalish* assistant, to review on-going activities of *shalish* and village court.

### Number of meeting during the project period (1<sup>st</sup> August 2006- May 2009)

Name of Meeting	Number of targeted meeting	Number of accomplished meeting	Deviation	Beneficiaries Coverage (Total population)
Ward Committee	6300	7071		68789
Central Committee	840	752	88	12562
Networking among PNGOs	06	02	04	

### 2.3 Institutional Mechanisms of the Project

**Project manager:** Project manager is responsible for the overall management of the project activities including documentation of *shalish*, reporting to the main office, courtyard meeting and ADR.

**CBO:** CBO is composed of community leaders and consists of 11 members out of which 7 are male and 4 are female. They are selected in each ward through democratic process and they act on voluntary basis. Their main function is to conduct *shalish*. CBO meeting is held every three months. One of the members of CBO is selected for presiding over the *shalish* and another is selected for conducting the *shalish*. CBO sometimes refer more complex disputes to the UP for settlement. Under the project, 1422 CBO members

received training so far in last three years. During the project period, a total of 1890 CBO committees had been formed and covered 20790 beneficiaries.

**ADR Assistant:** Their main responsibilities include coordination among CBO leaders, assisting the aggrieved person to lodge dispute to the village court, providing assistance to resolution of disputes by village court, conducting *shalish* by CBO and Union Parishad. Their very presence in the *shalish* and village court acts as a watchdog of the whole process. They also monitor the process of *shalish* and village court in order to ensure conformity with prescribed procedures and format developed by MLAA. They also send reports about their activities to MLAA.

### ***Shalishikar***

CBO members are called as *shalishikar* as they conduct *shalish* with the assistance of ADR assistant.

### **Central Committee**

It consists of 14 members including member, secretary of UP, village police, ADR assistant. It sits every three month. During the project period, a total of 210 central committee had been formed.

### **Human Rights Education Programme**

The main activities under this programme include formation of Human Rights cell, orientation of workshop for HR cell members, training for trainers, MLAA staff meeting, networking meeting, observance of various international day, combined workshop on human rights, monthly spot workshops at school and college, drama, competition on human rights knowledge, and monitoring. The programme is imparted on the basis of human rights manual developed for training. The programme is currently administered by MLAA in 12 schools and 8 colleges located in Madaripur, Shariatpur and Gopalgong District. Students are selected on the basis of merit. The programme of human rights education is run through formation of Human rights cell, with teachers and students. The teachers receive training from MLAA and they, in turn, orient students on human rights

issues. Through meeting with the beneficiary students, it is learned that human rights concepts have been disseminated effectively among the students and they are working as an active force to protect rights violations.

### Number of Human Rights workshops

Duration	No. of Workshop	No. of Participants		
		Female	Male	Total
Aug 06 –July 07	452	2530	3236	5586
Aug 07- Sep 08	774	2057	3308	5365
Oct-08 – March 09	99	784	448	1232
<b>Total</b>	<b>1325</b>	<b>5371</b>	<b>6992</b>	<b>12183</b>

### Number of Experience Sharing Meeting

Duration	No. of Meeting	No. of Participants		
		Female	Male	Total
Aug 06 –July 07	3	11	31	42
Aug 07- Sep 08	3	7	19	26
Oct-08 – March 09	3	9	35	44
<b>Total</b>	<b>09</b>	<b>27</b>	<b>85</b>	<b>112</b>

### Number of Drama Show

Duration	No. of Drama show
Aug 06 –July 07	7
Aug 07- Sep 08	0
Oct-08 – March 09	3
<b>Total</b>	<b>10</b>

## **2.4 Monitoring and Evaluation**

Monitoring and evaluation of the activities of the project is essential for programmes to be successful in the long run. It also ensures accountability of the project implementers as well as ensuring that the project yields long term benefits and output of the project activities are sustainable. Monitoring and evaluation are also needed to coordinate the separate but inter-related project activities.

Monitoring of the project activities of PNGOs is mainly done through MLAA head office by evaluating the activities of the project offices. Annual target of monitoring of project activities is fixed at 40 field visits of 10 PNGOs. MLAA send the field officer to monitor the project activities at field level for cross-checking of followup report of project managers. Visit is followed by report and feedback by the MLAA monitoring staff. Such field visit for monitoring purpose is held at every three months. Moreover, monitoring is also carried out through evaluation of the project activities on the basis of monthly, quarterly and annual report of each of the project offices. The monthly reports contain number of shalish resolved, number of cases resolved through village courts, financial statement of village court and shalish, case studies, statement of ward CBO committee, report of courtyard meeting, report of central committee, followup format of project manager, project manager ongoing activities followup format, monthly meeting resolution, list of accomplished tasks, statement of dispute resolution by village court and shalish and statement of meeting with beneficiaries. The monitoring mechanism also include:

- meeting with applicants and opposite parties of shalish to assess quality of shalish,
- observation of ward committee meeting,
- assessing quality of courtyard meeting,
- reviewing documents of shalish in order to identify the weaknesses if any,
- conducting interview with beneficiaries of shalish to assess its impact at rural level;
- observation of village court in order to ensure compliance with law and procedures in proceedings.

MLAA has also developed questionnaire for monitoring mechanism. Monitoring of compliance with judgement of village court is done by CBO and UP chairman and members. MLAA also carries out training evaluation, which is an important step to measure and justify the effectiveness of training and workshop.

Monthly meeting of shalish activists with project managers is another important mechanism of monitoring and evaluation. Currently there is one monitoring officer at the central office and project offices. Thus, it is evident that MLAA has well developed monitoring and evaluation tools for project activities. It is found that a total of 119 monitoring activities were accomplished during the project period out of targeted 270 activities.

### ***Chapter Three***

## **Findings of the Project Activities**

From the above quantitative data, analysis of project documents and FGD with stakeholders, it is gleaned that the planned activities under different components of the project have been achieved with few deviations. The main findings of the project activities are the following:

- The activities under the project indicate that the village court can provide an effective, speedy and geographically accessible remedy to the rural poor. The Village Courts under the project areas now have a very high disposal rate in dispute resolution.

- Through FGD and informal discussion with the beneficiaries, it is learned that most of the disputing parties are satisfied with the outcome of *shalish* and decisions of the Village Court.

- It is also discernible that claims and concerns of the parties are adequately heard during *shalish* and proceedings of the Village Court.

- In contrast to traditional *shalish*, in MLAA model *shalish*, neutrality and fairness is maintained throughout the process as disputants are given the opportunity to express their views freely and without interference. This perception of fairness has increased confidence amongst local communities in the MLAA model *shalish*.

- Sometimes disputes lodged with the lower judiciary are referred to the Village court under the project areas for resolving them, which proves improved functioning of those courts.

- Sometimes pending disputes before the lower judiciary are withdrawn and are settled by *shalish*.

- Most of the disputes brought before the Village Courts are resolved within one month, which appears as less time consuming process. On the other hand, dispute through *shalish* is usually resolved within maximum period of two weeks.
  
- Women prefer to the ADR and village court as they can tell their story freely due to presence of female member in the CBO. In the panel of Village court, parties can appoint two members on their own choice to represent their arguments and claims.
  
- Trend of recourse to the lower judiciary for resolving disputes has decreased significantly in project areas and more and more disputes are being brought before the village court.
  
- Transparency in Village Court has been ensured as the dispute is heard by five member panel and proceedings is conducted in public where the presence of local people is usual practice. There is a lesser scope of fabrication of facts and evidence. In general, members of panel try to be neutral and impartial due to fear of criticisms of rural people.
  
- Trend of crime like dowry practice, polygamy, domestic violence has decreased as a result of increased public awareness built up through court yard meeting.
  
- Fraudulent activities relating legal proceeding which prevailed before the introduction of the present project, has decreased in the project areas.
  
- The Village court has becomes active as the UP resolves disputes on regular basis. People come to the court voluntarily as they become aware about the jurisdiction of the court. A day of week has been fixed for seating of the village court of project areas. Sometimes it also seat other days of the week if the necessity arises.
  
- An easily understandable and practically useful training modules has been developed for training purpose.

- MLAA has developed many formal follow-up mechanisms to make sure how many trainees were able to apply their knowledge.
- In most cases, verdict of the Village Court is complied with as the process of the court is transparent and parties have equal opportunity to represent their claims.
- The Village Court Ordinance, 1976 and later on the Village Court Act, 2006 remained inactive partly due to the lack of awareness about their power and jurisdiction of the court and partly due to the ambiguity and inadequacy in the rules and procedure of the Village Court. MLAA has developed additional standard format of procedures for conducting and record-keeping of the proceedings of the court. As a result, expertise has been developed amongst the UP chairman and members relating to the functioning of the court.
- UP chairman and member are found to be more committed towards Village Court as they have better access to training and information on legal issues. Conducting village court has become one of key priority activities for UP members. On the other hand, outside of MLAA's coverage area, village court are largely unused and UP members have little knowledge of the Village Courts Act.
- The Village court is proved to be more affordable, speedy and geographically accessible than formal courts.
- The popular perception that UP chairman can act with bias, has been largely dispelled. Because two panelist of each party's choosing siting alongside the chairman gives protection against the abuse of authority by him.
- Involvement of community leaders in shalish is one of the key strategies of the project. Acceptability of shalish has been increased considerably because of community leaders' representation in conducting shalish.

## *Chapter Four*

### **Evaluation and Assessment of Impact of the Programmes**

#### **4.1 Achievement against Targeted Goals**

MLAA advances the justice at local level in two ways: dispute resolution through shalish and village court and promotional activities such as awareness building, networking and advocacy. According to the target of the project, at least 3 disputes should be resolved through *shalish* and 4 disputes should be resolved through Village Court. Sometimes target is not achieved in case of Village court but targeted number of *shalish* is always achieved. The promotional activities like training programme have contributed in capacity building of the Union Parishads, CBO and project staffs, who are largely responsible for implementation of the project. However, achievement of programmes related to access to justice is difficult to measure in quantitative term because of intangible process and impact of such activities. Rather qualitative analysis can provide indepth understanding of the assessment of the impact in long-term basis.

There is a general consensus among all stakeholders on the usefulness of the training programmes conducted under the project. But, there have been some suggestions for modifications of the training programmes to make them more useful, namely extension of time period, giving more emphasis on practical training and training should be imparted on continuous basis.

Except above criticisms, it can be asserted that the project has achieved most of its stated goal. In brief, success of project in creating impact can be described as follows:

- The awareness building programme of the MLAA has contributed significantly to develop human and social capital by implanting its operational experience of ADR into project areas and through dissemination of legal knowledge and skills.

- In terms of timeliness, it is found that the project activities have been mostly completed in time. Almost 98% of the targeted activities regarding village court are accomplished within the given time frame. Sometimes implementation of targeted activities delayed due to external factors such as natural disaster, lack of cooperation of the UP chairman and members and holding of national elections.
- Corruption, gender bias, undue influence of powerful groups which were characteristic features of traditional *shalish* has been reduced to a significant extent in the project areas. It is found that most of the ADR assistants are female. Among the CBO members, four are female.
- From the FGD in project areas, it appears that the MLAA model *shalish* is well accepted in rural areas as a final dispute resolution forum. People want to avoid courts and police at any cost.
- Project activities have triggered a sense of solidarity, self-esteem, and ownership amongst the stakeholders in a way that they can resolve their disputes without external interference and amicably.

#### **4.2 Effectiveness of the Programmes**

With regard to effectiveness of the programmes in general, following criteria should be taken into consideration:

- cost-effectiveness of the actions,
- timeliness of actions,
- adequacy of actions, and
- fulfilment of need of target people.

In particular, the effectiveness of programmes should be measured in terms of providing remedies to the rural people at cost effective manner and compliance with the mediated agreement. In order to legal actions of the village court be successful, remedies/direction from it must be obeyed and effective enough. Furthermore, monitoring and evaluation of the activities play an important role to make the programme more effective. Judging by

the above criterion, it should be mentioned that most of the activities of the project have been carried out in effectively in delivering the stated objectives.

As a reflection of effectiveness and success of project activities, many UP chairman opined that the programmes should be extended to other Unions of the concerned District.

### **4.3 Impact of the Programmes**

Impact of the project should be assessed at both individual and community level. Impact of the project at both level can be described in the following ways:

#### **Social Harmony**

*Shalish* can provide social and psychological benefits to the parties. Legalistic and formalistic approach of litigation emphasises on legal rights of the parties, which are usually determined by win-lose outcome. This win-lose outcome may be counterproductive to the future relationship of the parties. But *shalish* values personal feelings and relationships. *Shalish* not only brings to the resolution of the dispute, but also peace and healing, which is important for preservation of future relationship between the parties. Thus, *shalish* reduces the alienation and tension that often arises between the parties and create mutual understanding and trust. This help achieves valuable goal of social cohesion. In this way, mediated solution tends to be integrative, accommodative and durable. *Shalish* promotes restorative justice as the outcome is co-operational rather than confrontational.

#### **Cost Saving**

Arranging *shalish* does not involve any cost. The informality of *shalish* allows conducting negotiation more quickly and decision can be made immediately following negotiation. This time element helps to reduce cost to a significant extent. Moreover, *shalish* and Village Court are held within the geographical reach of rural people. This geographical accessibility reduces transportation cost which would have been incurred if dispute is resolved through judicial process. Both reduced time factor and geographical accessibility has resulted in huge cost-saving for common people. This cost saving

enhances the economic status of beneficiaries by bringing about changes in their material circumstances. Dispute resolution by *shalish* and Village court provide wide range of remedies including recovery of money, recovery of land, raising dower money, and maintenance for destitute women, resolving petty criminal offences through extraction of compensation and apologies without incurring any significant cost. These remedies obviously are creating a positive impact on the livelihood of beneficiaries and reducing poverty level.

### **Legal Empowerment**

MLAA model *shalish* has great potential to empower the disputant parties as they have considerably more autonomy in the process of mediation and more control in the outcome of the process than they would be in an adjudication process where a judge or arbitrator would impose a decision. *Shalish* is a consensual and voluntary system, which can help the parties to tell their own story and gives the parties the opportunity to participate fully in the process. In *shalish*, parties can control the process and design solutions that meet their needs, while not necessarily adhering to technical legal principles, procedure of evidence and witness. In this way, parties are empowered to apply their sense of own value and reach to results that are outside the typical juridical order. On the other, outcome of litigation are limited to strictly legal remedies. *Shalish* helps the parties to a dispute find a solution that is acceptable to both parties. This also explains why mediated settlement agreements enjoy higher degree of compliance than adjudicative outcome.

The courtyard meeting helps women to know about their rights, entitlements in respect of marriage, dower, maintenance, divorce and inheritance. Women attending court yard meeting are found to be better equipped with legal knowledge and rights, which will undeniably empower them to resist violation of their rights, domestic violence, dowry practices etc.

### **Increased knowledge about *Shalish* and Village Court system**

Due to extensive training of CBO, *shalish* activists, attitude and perception of local people, UP chairman and members have been changed. The hitherto negative attitude shown by them towards village court is now changed positively. At the level of project management, day to day experience of staffs in dealing with issues and networking activities have helped to build knowledge and skills in this area.

Over the last years, awareness of the UP chairman about their rights and duties has been improved considerably through different promotional activities. The project has helped develop voluntarism among the local people to resolve their problems locally without imposition of judgment by others. Credibility of judicial process of UP has increased considerably.

### **Public Participation in the Justice Delivery Process**

Both secondary and primary stakeholders have increasingly participated in the ADR activities, village court and taken part in meetings. *Shalish* is essentially consensual process where disputing parties can express their own views and points. One of the significant impacts of the project is the increased participation of the poor in justice delivery.

### **Institutional and Policy Dimension of the Impact**

Capacity of an NGO to influence policy change and policy development depends to a very considerable extent on the existence of sufficient expertise within the organisation and its participation in a meaningful way in frequently complex national policy discussions. Interviews with project management and a number of stakeholders indicate that MLAA has lobbied for policy changes and legal reforms at the government level. It often mobilizes public pressure and opinion for undertaking legal and policy reform agenda by government. It has organised seminar and workshop to mobilise public opinion for legal reform. Previously UP members conducted *shalish* outside of the UP premises but as a result of project operation, they sit in UP premises for dispute resolution in a fixed day. As a result, they get more time for development activities.

Another institutional and policy dimension of the impact is that the highest level of the government officials at the Upzila and district level are aware about the project activities.

### **Awareness about human rights**

Awareness about rights is pre-condition of realization of them. The human rights education programme has created an opportunity for students of gaining knowledge about human rights, child rights, women rights, which is essential for building human rights defender in future. The students are found to be motivated towards protection of human rights in future and remedying human rights violation whenever it occurs.

### **4.4 Sustainability of the Project Activities**

The sustainability of the project achievement implies that whether benefits generated by activities of the project in question can be sustained over the long term basis beyond the project period. Dispute resolution through *Shalish* and Village Court is proved to be attractive from a cost and sustainability perspective. It is discernible from FGD and field visits that MLAA strength lies in its CBO members who have received training from MLAA pursue the cause of *shalish* even without expectation of financial gain. The commitment of CBO members has positively contributed to the activating village court and *shalish*. It is believed that the networking activities and awareness of common people will help to generate their own collective actions to resolve the local disputes.

As far as the Village Court is concerned, the UP Chairman and members who received training and gained substantial experience in dealing with legal problems, will be able to apply their skill and knowledge even after they are not elected. Sustainability can be evident through long-term effect of *shalish* in terms of cost-saving and social harmony and knowledge gained by primary and secondary stakeholders through the project activities can be applied even beyond the project period. The trained personnel have adequate knowledge to give advice on basic legal questions that affect every day life of people.

#### **4.5 Overview of Performance of Project Management**

The success of environmental programmes depends on efficient management of internal organisation of the project and improving its institutional capacity. In this regards, two things must be considered: the system in which the organisation operates, and the individuals within that organisation. It appears that MLAA has developed its internal regulation and a system of operation suited to its needs and special requirements of programmes. It should be borne in mind that when the project activities are located in several branch offices, the effective coordination between MLAA and PNGOs is important for achieving the stated goals. The coordination between them is usually carried out through informal and formal contact. The central office also monitors and evaluates the activities of PNGOs.

The credibility of NGOs depends upon a kind of self-regulation and internal disciplines within their operational sphere by which they are governed and the degree of their adherence to it. It is learned that internal governance and accountability regarding project activities of each division is ensured through monthly self-evaluation meeting which reviews the activities. Moreover, accountability of project staffs at divisional offices is ensured to a considerable extent through sending quarterly report of the activities to the central office.

The overall performance of the project management is satisfactory and staffs are found to be sufficiently motivated to accomplish their responsibilities assigned under the project. However, in some instances, it appears that many staffs said they need more training to perform their task effectively.

## *Chapter Five*

### **Summary of Findings and Recommendations**

From personal observation and field visits in three project areas, it is discernible that MLAA has gained the following strengths and also faced many constraints in running its programmes under the project:

#### **5.1 Strengths of the Project**

- Among the human rights NGOs, MLAA has proven track record of conducting shalish. MLAA model of shalish has been replicated by other human rights NGOs.
- MLAA model has unique features that distinguishes it from traditional form of shalish. This model has also been recognised as a fair, neutral and impartial process and has been successfully replicated in other districts outside of the project areas.
- MLAA has human resource, expertise, institutional arrangements and administrative capabilities to administer this re-modelled shalish.
- Before MLAA's intervention village Court was mostly inactive and UP representatives have limited knowledge on Village Court. People are now informed that UP have responsibility to resolve disputes which was not beforehand.

#### **5.2 Constraints of the Project**

- Gap amongst the UP personnels sometimes occur as some members and chairman having required knowledge on ADR and Village Court may not be elected. The power of execution of judgement of Village court is not adequate. They have to depend on UNO for the execution of the judgement. Although in most cases judgement are complied with, sometimes judgements could not be executed due to the lack of enforcement power of the UP Chairman and members.
- It appears that some staffs of the project lack sufficient training and expertise to deal with complex legal matters. In recruiting staffs, persons having specialisation in law with the requisite legal knowledge to identify the problem and determine how to solve should be given priority.

- Absence of accountability of the UP to run the village court is one of the hindrances to make the Village Court fully operational.
- Successful running of human rights education programme depends on continuous support and cooperation of head of the institution and sincerity of teachers of Human Rights Cell, which is sometimes found absent.
  
- Striking a right balance by UP representatives between administrative job and dispute resolution is often difficult task and they are not clear about their role of delivery of justice. Many UP chairman consider the administrative and development activities as main priority.
  
- Lack of logistic support sometimes hinders the project activities. In particular, vehicles are needed at project offices to move to remote places for conducting courtyard meeting and shalish.
  
- Delayed funding disbursement of the donor, natural disaster, general election at the national and local level also causes delayed implementation of the projects.
  
- Human resources are not adequate at project offices.
  
- Documentation is not well developed in the project offices due to lack of computerised data base system.
  
- Shalish and dispute resolution through village court depends upon willingness and cooperation of the UP Chairman and members.
  
- Sometimes opposite party to the dispute does not appear before the village court after giving notice because as the court has no power to compel the attendance.

### 5.3 Recommendations for the future design of the Project

Given the huge positive impact of the project on the beneficiaries, it is strongly recommended that the project should be continued for reasonable period to strengthen the Village Court and to widen access to justice for the rural poor. The recommendations have been formulated with a view to better designing the project in the future through suggestions from stakeholders, and personal observations of consultant. The report identifies the following areas where the project can be further improved and be made effective:

- More training should be given to the CBO members (*shalishikar*) and *shalish* assistants and UP Chairmen, members and secretaries.
- More interaction is needed between ADR assistant and CBOs.
- Needs assessment of potential trainees should be undertaken to find out the appropriateness of the training programme and to design right training course for the right persons.
- Awareness programme is currently conducted through training. But the awareness programme should include more innovative approaches like video documentation, theatre and leaflets at the grassroot level to make people aware about their legal rights.
- Currently the activities of the project area is monitored by project manager. In order to ensure better monitoring, there should have a separate monitoring personnel in project offices.
- The documentation and record keeping at the divisional offices should be further improved. Computerised database should be developed for the PNGOs.
- *Madrashas* located in the project area should be included in the human rights education programme.
- Religious leaders like Imam should be included in training programme for *shalish* and village court.
- CBOs meeting, courtyard meeting should be more frequent.
- Training programme for the secondary stakeholders should be held more frequently.
- Training should be given on continuous basis considering any change of law that might have taken place.

- Geographical area of the project should be extended. Currently project activities are confined to seven unions of each district. In order to have larger impact of the project activities at the grassroot level, project activities should be extended to all unions of concerned Upzilla.
- Given the necessary resource and support from the donor agency, the programme of human rights education can be extended to project areas of 9 districts.
- Currently CBO members are trained in their respective areas. It is demanded by them that training should be given in MLAA training centre.
- Currently central committee meeting is held at every three months. But it should be held at every month.
- Project development workshop should be held more frequently.

#### **5.4 Policy Recommendations for Legal Reform**

In order to strengthen and enhance the effectiveness of the village courts, the following policy recommendations may be suggested:

- Pecuniary jurisdiction of the Village Court should be extended upto one lack taka instead of current 25000 TK.
- Administrative support for the village court should be extended for the effective functioning of the court. It has been suggested that Upzilla chairman and Upzilla Nirbahi Officer should cooperate to execute the judgement given by the Village court.
- Upzilla's executive bodies and Upzilla chairman should have supervisory role power for ensuring smooth functioning of the court.
- A coordinated effort between lower judiciary like judicial magistrate and assistant judge and UP Chairman and members is needed for effective functioning of the village court. Judges should periodically review the records and practices of village courts.
- The present Act instructs the UP to recover under the Public Demands Recovery Act of 1913, which involves presenting a certificate of the judgement to a collector, an upzilla magistrate or an UNO. Involving the upazila in enforcement of judgements may be postive from an accountability perspective.

- Simultaneous exercise of jurisdiction of Village court and lower judiciary in matters pertaining to that of the former should be addressed so that there is no conflict and overlapping of jurisdiction, which is currently sometimes found.
- Additional staff member, budgetary allocation for conducting dispute resolution by Village Court, logistic support is necessary for the court to function properly.

### **Conclusion**

The study reveals that MLAA provides both knowledge and resource based support to the PNGOs for the implementation of the project. It is found that the MLAA has developed consistent documentation, monitoring and follow-up procedures which are considered to be significant for promoting increased accountability and transparency, credibility, public awareness as popularity and confidence among the people on ADR mechanisms. Such monitoring and evaluation are conducted through analysis of targets and achievements, follow-up services, etc. The project findings indicate that the Village court can be powerful tool for dispensation of justice at the grass root level. One of the significant impacts of the project is the increased level of awareness about fundamental rights and relevant laws amongst beneficiaries who are predominantly poor and disadvantaged. Awareness programme have raised local communities' knowledge at different levels ranging from family and community to the state functionaries such the UP. Mindset and attitude of the people regarding the utility of village court has also undergone significant changes in the project areas, which can bring overall positive impact on justice delivery system at rural level.

