

**A MESAURE OF CHOICE:
A STRATEGIC REVIEW OF THE MADARIPUR LEGAL AID ASSOCIATION'S
CURRENT IMPACT AND POSSIBLE FUTURE DIRECTIONS**

**Prepared for the Ford Foundation, the Madaripur Legal Aid
Association, the Norwegian Agency for Development Cooperation and
The Asia Foundation**

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Cooperation and The Asia Foundation**

Stephen Golub¹

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EXECUTIVE SUMMARY

Background

The Madaripur Legal Aid Association (MLAA) or the Association represents a pioneering effort to create a measure of justice and choice for the poor, particularly women, in part of rural Bangladesh. This report reviews MLAA's current operations and achievements in some detail, but concentrates even more on possible strategies and approaches it could take to build on its impressive record. I accordingly apply the term "strategic review" to not just where MLAA has been, but, of greater importance, where it might head. The review is based on a November 19 through December 3, 1996 trip to Bangladesh, including a November 24-28 visit to MLAA.

The central focus of the review is "shalish," the traditional community arbitration/mediation procedure that MLAA and a growing number of other NGOs organize and modify so that it is more purely mediation and so that it constitutes a free and effective alternative to most litigation.² The report does cover a number of other important topics pertaining to MLAA, such as training, policy advocacy, working with law students, organizational issues and self-evaluation. But I concentrate on shalish for women because they face the most widespread and severe legal problems, they are the Association's largest client

¹ Stephen Golub is an attorney and international development consultant based near Berkeley, California. More information on his background is provided in Appendix C.

² I often use the terms "mediation" and "shalish" interchangeably in the report in referring to this aspect of MLAA's work. Where I am instead discussing the procedure as practiced in villages without the input of MLAA and other NGOs, I employ the term "traditional shalish" instead.

population, shalish justifiably consumes most of MLAA's resources, and MLAA plays a growing role as a training ground and model for other NGOs employing this approach.

Achievements

This review's central conclusion is that MLAA has definitely and commendably contributed to access to justice for women and other disadvantaged populations in its service area of Madaripur and Shariatpur Districts and part of Gopalganj Districts. It has mainly done so by organizing local mediation committees; positively affecting the knowledge and attitudes of the influential community members who voluntarily serve on those committees; organizing mediation sessions at which the committee members help resolve local disputes; generating community pressure for otherwise immune individuals to attend and abide by mediation agreements; and providing litigation assistance that backs up and strengthens the mediation system, while also handling legal problems most appropriately addressed in court. About half of the area's population of 2.3 million is covered by its mediation project (as well as its other services). The less comprehensive but still important reach of its litigation, training and other services extend to portions of the remainder.

Approximately 80 percent of the mediation and litigation cases it handles appear to reach positive resolution. Furthermore, MLAA provides these services in a very cost effective manner in which the largest single investment of time, that of the mediation committee members, is entirely voluntary.

The Association also has had a significant impact on the national level, as a trailblazing model -- first for legal aid work in general, and then for mediation as an effective mechanism for addressing many legal problems. Many other organizations throughout Bangladesh have benefitted from its example and training. More specifically, it has helped build the capacities of these organizations to carry out such work.

While this review could not and did not probe in an in-depth manner MLAA's own organizational capacities, the Association does seem to have sound and comprehensive systems for undertaking training, mediation, litigation and record-keeping. These systems could themselves be models for other legal services NGOs in Bangladesh and elsewhere. Its staff is quite motivated and competent. Its senior staff appears up to the challenges of managing a relatively large legal services NGO and charting a course for its future.

MLAA's considerable achievements are all the more impressive because they occur in a very difficult social environment. Because of this environment's economic, attitudinal and cultural

characteristics, and despite the Association's success in substantially modifying shalish, the process remains a male-dominated procedure that sees some women returning to husbands who have mistreated them and in some instances may continue to do so. Even where mediation committee members know the law, the force of community pressure they exert on abusive husbands seems constrained by their own underlying attitudes. These are evolving, but slowly. Addressing these attitudes and the forces that shape them is a gradual, long-term process of which legal services is only a part.

But the fundamental point in assessing MLAA's impact to date is not the road that lies ahead, but how far the organization has come in making bad situations better for its clients. Female NGO leaders I interviewed, for example, volunteered that they came to appreciate MLAA's obstacles and accomplishments much more after their own organization started a mediation program. Even where clients return to situations that are less than ideal, those situations generally are better than they would be if MLAA did not become involved. The bottom line is that the Association's overall program has achieved great success in both absolute terms and in view of the environment in which it functions. The clients, communities and other NGOs it assists are far better off than they would be if MLAA did not exist.

Possible Future Directions

While MLAA already is working with and serving women and other NGOs to a considerable degree, its operations, clients and internal processes all would benefit from even greater involvement. The Association accordingly should consider working more with other NGOs and NGO personnel in its service area and neighboring districts. This could take many forms. One is to explore ways of integrating its work more with theirs regarding family planning, income generation or other development priorities. This could include focusing on the groups of community members that these other NGOs form.

The Association also should try to find ways of drawing more NGO personnel into the mediation committees it has formed. Their developmental perspective and relative level of education could help to subtly shift the dynamics of how the committees operate. It should seek to integrate more individuals with NGO experience into its staff as openings arise.

Similarly, MLAA should seek ways of expanding the roles of women in both mediation and its staff. It should build on its substantial recent progress in introducing women into mediation committees and otherwise facilitating their participation. Though staff recruitment is difficult, it also should try to recruit more women as mediation workers and for other positions,

including supervisors. This certainly should not be done, however, by replacing current staff. Rather, it should take place as attrition or expansion occur.

MLAA training and information dissemination for both community members and other NGOs is interactive and effective in many ways, but still could benefit from focusing on the legal issues that most immediately confront clients. It should draw on its staff's own experience to ascertain which issues arise the most frequently, and structure its training and publications appropriately.

As the leading organization for mediation in Bangladesh, MLAA has both the opportunity and in some respects the responsibility to ascertain how other NGOs have adapted its model of their own operations. Through field visits and conferences involving NGOs that have been applying the MLAA model for years, it could deepen its own expertise and spread information about lessons learned.

The Association has taken impressive initial steps regarding policy advocacy. In addition to working on the legislative level, as planned, it should explore ways of becoming more involved with advocacy through the other two branches of government. MLAA already is aware of the potential for working through one of those branches, the judiciary, to pursue public interest law. But it also should investigate ways of affecting the decisions made by ministers and senior civil servants, since they set many of the policies that have broad ramifications throughout Bangladesh.

In pursuing policy advocacy, MLAA clearly will want to work in tandem with other NGOs. Nevertheless, it should consider hiring one or more attorneys who will be based in Dhaka but spend substantial amounts of time in Madaripur in order to gather information that will assist its advocacy work.

While the Association's Monitoring and Evaluation Project is an excellent initiative, it could benefit from more guidance and training on how to gather and analyze data. Among the priorities that it should then address is the need to clarify for both MLAA and outside audiences the results of the Association's achievements. It should, for example, assess the elements of what currently are summarized as "resolved" mediation cases. It also should perform follow-up studies to confirm the degree to which parties abide by their mediation agreements.

One final, fundamental note regarding the recommendations made here: Many cost money. To the extent that some make sense to MLAA and to current and potential donors, adopting them may impose additional expenses on the organization.

I. INTRODUCTION

Across the globe, a daunting array of obstacles block the poor from obtaining justice from both state organs and traditional fora. Deeply ingrained corruption, delay, biases, high costs and confusing procedures make the courts an intimidating and even impossible option. Informal dispute resolution offers a viable alternative in some societies. But it has disappeared or decayed in others. And in many communities corruption taints it as much as the courts. Furthermore, harsh, unfair judgments spring from local leaders' legal ignorance or indifference.

Women especially fall into the chasm between the equally unpalatable options of courts and tradition. Due to sexism, poor education and lack of economic independence, they lack any measure of choice in seeking redress for grievances. And when endemic problems such as violence enter the picture, both their health and their societies' socio economic development suffer.³

The Madaripur Legal Aid Association (MLAA or the Association) represents a pioneering effort to create a measure of justice and choice for the poor, particularly women, in part of rural Bangladesh. This report reviews MLAA's current operations and achievements in some detail, but concentrates even more on possible strategies and approaches it could take to build on its impressive record. I accordingly apply the term "strategic review" to not just where MLAA has been, but, of greater importance, where it might head.

This review is based on a November 19 through December 3, 1996 trip to Bangladesh, including a November 24-28 visit to MLAA. The forward-looking emphasis of the report reflects my sense of what a (hopefully) useful evaluation should be. Of perhaps greater importance, the nature of the report also flows from the consensus among MLAA and the three MLAA donor agencies for which it is also prepared: the Ford Foundation (Ford), The Asia Foundation (TAF) and the Norwegian Agency for Development Cooperation (NORAD).

The report springs from a deep admiration for MLAA's accomplishments to date and from a desire to contribute in some modest way to its future progress. In making the suggestions contained here, I of course defer to MLAA regarding which to adopt, and to the three donors regarding which to discuss with

³ Lori L. Heise with Jacqueline Pitanguy and Adrienne Germain, Violence Against Women: The Hidden Health Burden, World Bank-Discussion Papers, no. 255 (Washington, D.C. The World Bank, 1994).

MLAA. I by no means presume that two weeks in Bangladesh permit me to substitute my judgment for persons based there. Rather, I hope that some of my observations and ideas bear fruit for the Association and the population it serves.

Because the main audiences for the document are MLAA itself and organizations familiar with its work, I do not delve as quite as deeply into its operations and socio-legal context as I do into its achievements and possible future directions.

The fact that the report as a whole is quite detailed reflects respect for rather than criticism of MLAA. I go into such detail for three main reasons. The first is to assist the Association in describing its history, operations and achievements to outside audiences in the future. Even if I am incorrect regarding some specifics in those sections, or if MLAA disagrees with some of my conclusions, I hope that the document will be a resource for the organization in this regard. The length of the section discussing possible future directions for the organization springs from a desire to flesh out the pros and cons pertaining to the recommendations this section contains. I also decided to discuss these recommendations at some length in order to provide specific steps that the organization could take regarding suggestions it decides to adopt or adapt. Finally, I hope that some of the detail may be of assistance to the donors in relating to other NGOs.

The central focus of the review is “shalish,” the traditional community arbitration/mediation procedure that MLAA and a growing number of other NGOs organize and modify so that it is more purely mediation and so that it constitutes a free and effective alternative to most litigation. The report does cover a number of other important topics pertaining to MLAA, such as training, policy advocacy, working with law students, organizational issues and self-evaluation. But I concentrate on shalish for women because they face the most widespread and severe legal problems, they are the Association’s largest client population, shalish justifiably consumes most of MLAA’s resources, and MLAA plays a growing role as a training ground and model for other NGOs employing this approach.

Shalish is far from perfect. But MLAA and other organizations seem to be making progress in moderating its less equitable aspects. And the bottom line is that the alternatives facing many poor Bangladeshis and most women range from far worse to nothing at all.

A number of factors blend to make the timing of this review appropriate. Visiting Bangladesh again three years after a previous consulting assignment for TAF, I glimpsed various signs of progress regarding the legal services community to which MLAA belongs. These included greater inter-NGO cooperation; increased

integration of legal aid and development work; enhanced willingness to engage in policy advocacy; success at public interest litigation; other evidence of NGO willingness to work with government officials where appropriate; a greater appreciation by lawyers and law students that NGOs play a constructive role, contrary to the stereotype of “profit - seekers driving Pajeros”; and advances in both spreading the mediation approach pioneered by MLAA and increasing women’s involvement in conducting mediation.⁴

At the same time, the 1996 change of government in Bangladesh opens up new challenges and opportunities for NGO. I am in no position to assess which political party might be “better” for Bangladeshi NGOs. But any new government brings with it the potential for cooperation through new avenues and issues. At the same time, the fact that the new government reportedly has broached the possibility of setting up “village reconciliation committees” (in response to the rise in female-initiated divorce) makes the mediation work of MLAA and other groups all the more salient. If the emphasis of such committees undermines NGO efforts to achieve marital reconciliation on terms more favorable to women, they present a problem. If this initiative could translate into government support for NGO efforts, the committees may represent an opportunity.

Finally, this review comes at a time when MLAA’s relationship with two long-standing donors is in transition. The decision of Ford’s New York City headquarters to close its Bangladesh program in 1997 (a decision that, while perfectly understandable and legitimate, has nothing to do with the quality of the program, means the departure of an important source of financial and intellectual support. The overall productive involvement of TAF in the United States Agency for International Development’s (USAID) Democracy Partnership by no means limits its support for MLAA. But it does lead to less TAF autonomy in making funding decisions. Given these considerations, this paper addresses not just not MLAA’s past and potential work, but how its self-evaluation, reports and proposals can help it interact with donors down the line.

⁴ For all of the vast differences between the Philippines (where I worked for a number of years) and Bangladesh, it seems that several years of revitalized democratic government has helped open up space for their NGOs to expand and evolve in both societies.

II. METHODOLOGY AND SOURCES OF INFORMATION

The structure, methodology and forward-looking focus of the report builds on a draft scope of work originally provided by TAF Assistant Representative Kim McQuay. This was supplemented by correspondence with Mr. McQuay and Ford Acting Representative David Chiel. I finalized how I would proceed in Dhaka upon arriving in Bangladesh, through initial discussions in with these individuals and Norwegian Royal Embassy Second Secretary (for Development Affairs) Maren Brennesvik. Similarly, I arrived at a schedule for my field exposure in Madaripur and Shariatpur through discussions with MLAA Executive Director Fazlul Huq, Chief Coordinator Khan Md. Shahid, Finance Coordinator Masud Karim and other senior staff.

During my time in Dhaka, I had met with a good number of individuals familiar with MLAA. These included the aforementioned donor personnel, as well as TAF Representative Nick Langton, USAID's Gary Robbins, other USAID and TAF staff, and Tahera Yasmin of the Canadian High Commission. In addition, I met with NGO leaders, lawyers, law professors and other persons who have worked with or been trained by the Association. The NGOs included Ain O Shalish Kendra (ASK), the Bangladesh Legal Aid and Services Trust (BLAST), the Centre for Development Services (CDS) and the Palli Shishu foundation of Bangladesh (PSF). The discussions focused on MLAA, but many also addressed the societal context and NGO community within which the Association functions. I also had two group meetings with law students, many of whom had been exposed to its operations. At the end of my assignment, I had wrap-up discussions at which I presented some findings and impressions to Mr. Chiel, Mr. McQuay and Ms. Brennesvik.

During my Nov. 24-28 visit to Madaripur District, I observed MLAA client intake, parts of five mediation sessions it organized and a brief part of a training session it conducted for community leaders and staff associated with the Gaibandha District-based NGO Manob Kallyan Swabdombi- Songhsta(MKSS). I also conducted numerous individual interviews and group meetings with persons employed by or otherwise familiar with the organization. These included both structured and informal discussions with Mr. Huq and his senior staff.

I also met with: the aforementioned MKSS group; staff and clients at MLAA's Shariatpur office; other clients in both a group setting (a gathering of the Association's Women's Rehabilitation project beneficiaries) and individual settings (visits to three client's homes); the local NGOs Aungkur and Shariatpur Development Society (SDS), whose personnel who have been trained by MLAA; students (and the principal) of the Syed Abul Hossain College, who had attended an MLAA workshop; the leadership and members of construction and jute processing

unions; MLAA's monitoring and evaluation, training and legal aid staffs; MLAA mediation workers and supervisors; other MLAA employees who attended a general staff meeting; community members who belong to MLAA-organized mediation committees.

For most of this visit, I was accompanied by Dr. Borhan Uddin Khan, assistant Professor in the University of Dhaka's Department of Law. He provided invaluable help regarding translation from Bangla of mediation sessions, interviews and materials. Of even greater importance, Dr. Khan provided valuable insights into the substance of the issues we considered.

At the close of our time in Madaripur, we had a wrap-up discussions at which we both presented some tentative impressions and suggestions to Mr. Huq and the MLAA senior staff, and received very helpful feedback from them.

This report also draws on a number of useful written sources for both specific information about MLAA and general background about Bangladesh. The former category includes MLAA's very informative annual reports for the past three years; Training Program and Design on Fact Finding and Documentation of Madaripur Legal Aid Association, prepared by TAF's Nazrul Islam in September 1994; Mr. Islam's equally insightful follow-up report ; Mediation: Concept, Techniques and Structures, an August 1995 report MLAA prepared in conjunction with training trainers from Nepal; a joint ASK/BLAST/MLAA proposal on Legal Advocacy and Participation of the Civil Society; and evaluations of portions of MLAA's program prepared in recent years by Dr. M. Shah Alam and Tushar Kanti Das of chittagong University and by Dr. A.B.M. Mafizul Islam Patwari and Md. Aktharuzzaman of Dhaka University's Department of Law.

For more general background on Bangladesh and the issues MLAA confronts, I drew on: Erik G. Jansen's Rural Bangladesh: Competition for Scarce Resources; Sarah C. White's Arguing with the Crocodile: Gender and Class in Bangladesh; Rabia Bhuiyan's Aspects of Violence Against Women; Betsy Hartmann's and James K. Boyce's A Quiet Violence: View from a Bangladesh Village; Salma Sobhan's and Sultana Kamal's The Status of Legal Aid Services to Women in Bangladesh; and Rita Das Roys' Battered Spouse Syndrome: Violence Against Women in Marriage.

Karen Casper's and Sultana Kamal's Community Legal Services Conducted by Family Planning NGOs, a March 1995 evaluation report prepared for TAF, merits special mention because it illuminates a very productive blending of MLAA-style legal services and other development efforts. The authors conclude that four MLAA-trained NGOs achieved substantial positive effects regarding both legal services (mainly mediation, supplemented by litigation and nonformal legal education) and family planning by integrating the two programs. I am not criticizing the authors to suggest that

their thought provoking documentation of the value of such integration merits even more in depth research. In fact, their conclusions resemble my own regarding a different array of legal services programs.⁵ For the purposes of this review, their findings are significant because they tend to confirm the value of MLAA's work and point to new directions that the organization might consider.

In addition to the information gathered during 1996, the report builds on a previous Bangladesh consulting assignment I undertook for TAF in 1993. During that time I reviewed the work of a range of human rights and legal aid groups (including MLAA) that TAF supported. This included observation of eight mediation sessions, five of them organized by MLAA. More indirectly, for this report I draw on previous experience funding, evaluating or studying the operations of legal services groups and other nongovernmental organizations (NGOs) in Asia and elsewhere.

My methodology for the review draws also on comparisons between what I saw and heard in 1993 and 1996. More broadly, it involves consulting a diverse range of sources in order to compare and verify information regarding MLAA's achievement and operations. Thus, while the Association's staff and clients were very useful and helpful, I sought to learn relatively objective third parties' perspectives on MLAA's work. In some instances, these third parties also were able to inform me of instances of the Association's impact.

To develop a sense of MLAA's training and information dissemination capacities, for example, I met at length with the Association's training staff; reviewed their training materials, records and evaluation forms; had informal discussions with other MLAA staff; met with and briefly observed the training of the aforementioned NGO MKSS; interviewed representatives of the six other aforementioned other NGOs whose personnel have undergone MLAA training; interviewed local college students and workers trained by the Association; interviewed local community members trained by MLAA and organized into mediation committees by MLAA; interviewed Nazrul Islam, TAF's Senior Program Officer with in-depth training experience regarding his own, earlier review of MLAA's training projects; read his initial and follow up reports on this subject; and separately discussed MLAA Bangla language educational materials with both Mr. Islam and Dr. Khan after they reviewed them.

⁵ Stephen Golub, "The Growth of a Public Interest Law Movement: Origins, operations, Impact and Lessons for Legal Systems development, in Non-governmental Organizations in the Philippines: Civil Society and the State, ed. G. Sidney Silliman and Lela G. Noble (Honolulu: University of Hawaii Press, forthcoming).

I pursued a similar process regarding other central issues, such as clients' benefits from and alternatives to mediation; the potential for MLAA to become more involved in policy advocacy and the potential for MLAA to increase women's active involvement in shalish.

In the interest of encouraging greater openness, I decided to leave some individuals' comments about MLAA anonymous in this report. In some cases, this was at their request. In others, where the understanding seemed more implicit, I decided to err on the side of caution. In any event, most comments were positive, and even the critical opinions were voiced in a constructive manner.

In drawing conclusions about that MLAA's achievements, I necessarily extrapolate from examples of achievement reported by relatively objective sources, as well as the comparisons between 1993 and 1996. I do not assume that every such report and comparison is necessarily accurate. But I do assume that because so many emerged over the course of my assignment in Bangladesh, they reflect the underlying reality of MLAA's impact rather than simply constituting isolated instances.

III. A BRIEF HISTORY OF THE MADARIPUR LEGAL AID ASSOCIATION

Where MLAA heads is partly a function of where it has been. In fact, the Association has undergone significant changes during the course of its existence. It is useful to keep this history of change in mind in considering where it can go from here.

The organization's history dates back to 1972, when a local attorney (and current Executive Director), Fazlul Huq, began discussing the legal problems of the residents of Madaripur District with two American Friends Service Committee (AFSC) staff members coordinating relief work in the area in the wake of the war that gave birth to Bangladesh. The combination of legal expertise, international perspective (one of the AFSC representatives was Canadian), non governmental orientation (the other AFSC staff member went on to found a local NGO) and shared dedication to public service resulted in an informal effort to provide legal aid.

At first operating out of a one room office and drawing on a Limited amount of volunteer work by local lawyers and social workers, MLAA was formally launched in 1978. It received its first foreign funding in the form of an AFSC seed grant equal to a few hundred dollars that year.

Starting in 1983, substantial infusions of support from TAF and later other funding sources (especially Ford) enabled MLAA to expand its geographical reach. The decade also saw increasing international exposure for the Association, starting with a 1981 AFSC-funded conference on legal aid in South Asia and Thailand, held in Madaripur.

Frustrated by the delay and expense of the judicial system, in 1983 the Association began facilitating mediation between parties to court cases it filed. In a sense, though, the roots of MLAA's immersion in alternative dispute resolution (ADR) precede the organization: Executive Director Huq recalls his father, an attorney and union parishad chairman, often mediating disputes. This basic orientation toward ADR was supplemented by international exposure, including a TAF-supported 1985 visit to ADR centers in the United States. MLAA began to formalize this process in 1985-86, and in 1989-90 began organizing village-level mediation committees made up of community leaders. Along the way, a Ford-funded experimental mediation program contributed greatly to this process and helped to formalize it.

MLAA education of other NGOs' personnel began in 1984, when it started to train paralegals from other legal aid organizations. A TAF-supported 1989 conference which brought in an American to provide trainers' training regarding mediation apparently generated little follow-up among participating

organizations. But it did make the important contribution of sparking MLAA to start training other NGOs regarding mediation that year. Funding from NORAD and other organizations enabled the Association to start building a training center in 1991 and operating it in 1993. This has increased MLAA's capacity to house and educate dozens of individuals at a time.

With a staff of 146, the Association has come a long way from a one room operation run by a handful of volunteers in 1978. MLAA's other changes are equally noteworthy. It has grown to be a sophisticated organization serving an area with a population of more than 2 million. It has shifted its emphasis from litigation to mediation in a manner that works within its society's social, economic, political and cultural constraints, while seeking to expand those boundaries. And MLAA has become a central training institution for NGOs and other institutions.

IV. AN OVERVIEW OF CURRENT OPERATIONS

Given that the main audience for this report are individuals and organizations already familiar with MLAA's work, and that the main thrust of the report looks toward the future, I will not delve into great detail regarding its current operations. Still, the main audience does not embrace all possible readers. I therefore provide a short summary here as background to the subsequent discussions of MLAA's impact and possible directions.

A. Service Area, Mediation and Litigation

MLAA operates to in all of Madaripur District and Shariatpur District, and in Sadar Thana of Gopalganj District, with a combined population of 2.3 millions.⁶ It devotes the most resources and personnel to its Dispute Resolution Through Mediation Project (which I will refer to as the "mediation project" in this report). The project comprehensively covers about half of this population. It has 63 full-time mediation workers (MWs): one in each of the 58 unions of Madaripur and the five unions of Sadar Thana in Shariatpur.

The central importance of the mediation project is reflected in its constituting MLAA's single largest budget item. In addition, I would estimate that when its full-time supervisory personnel and the contributions of other MLAA employees are taken into account, the project easily consumes more than half of the staff time of the Association's 146 full - time employees.

Some clients contact MLAA through its mediation workers. Others approach its 11 thana-level branch offices in what I will call its service area of Madaripur, Shariatpur and part of Gopalganj. I asked six clients to describe how they had found out about the organization. All mentioned word of mouth: relatives or neighbors had told them about MLAA.

In most cases, the clients are women who initially are accompanied by relatives in contacting the Association. If they are members of NGO-organized groups involved with such activities as income generation, other group members may accompany them. The significant majority of cases involve marriage-related disputes. The second largest category pertain to land matters.

⁶ Bangladesh is divided into districts, which are in turn divided into thanas, which are in turn divided into unions. Thus, for example, Madaripur and Shariatpur Districts respectively consist of four and six thanas, which in turn, consist of 58 and 62 unions. "Sadar Thana" loosely translates into "Central Thana."

Even some of these, however, involve women. By virtue of inheritance or other circumstances, they may become embroiled in conflicting claims with relatives or neighbors.

Once a client approaches MLAA, appropriate information is gathered by a mediation worker or other staff. The Association then makes a decision regarding whether it can assist her and, if so, how. In most instances, this results in it organizing a mediation to which it invites both the client and her opposing party. Both sides are encouraged to bring along relatives and friends as well, and they typically do so. A mediation worker facilitates the event to some extent.

The greater role, however, is played by mediation committee (MC) members, respected community figures whom MLAA has recruited to participate in whatever mediations arise. MCs are organized on a most basic, village level, as well as a central, union level. Selected members of village committees constitute union committees. Thus, MLAA's 1995-96 Annual Report indicates that 4,520 persons belong to 487 village committees. Six hundred ninety-four of these individuals also serve on the central committees organized in 59 of the 63 unions where the Association has mediation workers.

The number of MC members who attend a given shalish depends on their availability. Shalish for a dispute may stretch over weeks or months, and include a number of sessions. These may be supplemented by discussions and negotiations between the sessions.

A shalish should not mainly be understood, however, in the dry terms I so far have used. It is an often loud and passionate event, in which parties, relatives, MC members and even uninvited community members express an opinion. Additional persons, adults and children alike, gather in the room's doorway and outside it. Many women present balance small children on their hips or laps. More than one exchange of opinions may occur simultaneously. Calm discussions explode into bursts of shouting and even laughter or tears. All of this typically takes place in a crowded school room or other gathering place, sweltering most of the year, often with the noise of other community activities filtering in from outside. The number of participants and observers has ranged from thirty-five to 150 in the thirteen shalish I have observed in my 1993 and 1996 visits to Bangladesh.

I discuss the mediation resolution rate in greater detail later in this report, in discussing MLAA's impact. To summarize for now, agreements are reached in about 80 per cent of the mediations. Once a case is resolved, the mediation worker captures the basic elements of the agreement in writing.

If the nature of the case warrants litigation, or sometimes

if mediation does not reach resolution, MLAA takes the matter to court through its Free Legal Assistance Project. It uses local attorneys who receive quite modest levels of compensation. Again, I address the resolution rate later in the report.

One other aspect of the mediation project is its training of village and union committee members regarding family law, land law, mediation skills and related matters. In the July 1, 1995-June 30, 1996 reporting year, MLAA organized seven courses of three days' duration for a total of 196 union committee members, and sixty-six one-day courses for a total of 4,539 village committee members.

B. Other Activities

MLAA's Women's Rehabilitation Project provides loans for clients and other impoverished women in selected unions within its service area. Along with the loans, MLAA facilitates development of such skills as handicrafts production. The women also use the loans for agriculture, livestock and small businesses. It also helps some of them form groups to encourage savings and mutual support. As of June 30, 1996, 1,190 women were utilizing these loans. To complement this work directly and indirectly, in the July 1, 1995- June 30, 1996 reporting year ("1995-96" in the remainder of this section) MLAA organized twenty training workshops for 666 women regarding legal rights as well as loan management.

Through the Association's Internship Project, law students, young lawyers and NGO workers receive approximately two months of exposure to MLAA's work. Nine individuals participated in 1995-96. Its Human Rights Workshop Project offers college students from its service area much more introductory exposure to legal aid themes regarding both international and domestic human rights law and concerns. The Association hosted 498 individuals from twenty-five institutions for ten one-day workshops in 1995-96, and 48 students from 10 institutions at two advanced workshops of three days' duration.

In a related vein, the Association's Community Legal Education Project arranged a similar workshop for twenty-nine local college and school teachers. It also organized nineteen children's rights workshops for 1,064 students at schools in the area in 1995-96, mainly focusing on the United Nation's Declaration of children's Rights.

The Training and Staff development Project conducts training programs for other organizations as well as for MLAA's own staff regarding a diverse array of topics. In 1995-96, 167 individuals participated in eleven courses that focused on legal aid; mediation; women's rights; and human rights investigation,

reporting and documentation. In addition, under this project MLAA conducted a trainer's training course and a human relations course for a total of twenty-two of its own staff members. Drawing on support provided by USAID through TAF, training and advice for other NGOs regarding mediation is being significantly expanded this year through MLAA's Expanded Mediation program.

MLAA's worker's Rights Project also is a training endeavor. In 1995-96 it held fourteen one-day workshops for 665 workers mainly involved in construction and jute processing, as well as two leadership development seminars of three days' each for a total of forty-three individuals. In addition, it pursued eighty-four court cases and seven mediations on behalf of workers suing or being sued by their current or former employers.

Finally, MLAA's recently launched Monitoring and Evaluation Project aims to generate useful information for the Association and donors alike regarding its operations and impact. This project is discussed in some detail below.

V. THE SOCIO-LEGAL CONTEXT.

Before considering MLAA's impact and potential directions, it is important to grasp the societal and legal parameters within which it operates. While exploring these in detail is beyond the reach of this report (as well as my own expertise), I nevertheless discuss these in order to put the Association's accomplishments and constraints in context. This discussion starts with the cross-cutting issues affecting the legal system. It moves on to sketch some of the specific legal issues afflicting the organization's clients. Finally, it paints a picture of what women and other disadvantaged Bangladeshis do in the absence of an NGOs involvement on their behalf.

A. Cross-Cutting Issues

As with most impoverished citizens of most developing countries, the central problem that cuts across the legal issues facing MLAA's clients is that applicable laws are not enforced. To sum up, the reasons for this include: the expense, delay and political influence afflicting the courts; the legal ignorance and indifference affecting traditional shalish; and the corruption and attitudinal obstacles infecting both fora.

This is not to say that, even if enforced, the laws of Bangladesh embody equity.⁷ While the country's Constitution grants women equal treatment in public affairs, this protection does not extend to intra-family matters such as marriage and inheritance. Thus, while the Muslim Family Ordinance of 1961 generally incorporates the most liberal provisions of the four Sunni schools of Shariah, even these provisions leave women in a lower legal status. And regarding land issues, many of the factors that drag out transfer of title and other procedures for years stem not just from bureaucracy, but from the letter of the law itself.

Violence is the other major cross-cutting legal issue afflicting Bangladeshi women (again, like females in many societies). Crimes such as rape and trafficking are covered (albeit inadequately) by Bangladeshi law. But the more common problems encountered by MLAA's clients, such as beating and slapping- are not specifically addressed. Only if the abuse is severe does it even stand a chance of drawing police, prosecutorial and judicial attention.

⁷The potential for MLAA and its NGO allies to address legal reform through policy advocacy is addressed later in this report.

A number of sources I interviewed or reviewed in 1993 and 1996 provided varying but consistent explanations for marital abuse. Some see the problem as rooted in male attitudes that justify violence as a way of maintaining control over wives. This may reflect conduct they learned from their fathers. It also may be encouraged by friends (particularly when drunk) or induced by the grinding effects of poverty on men who have power over little other than their wives. I certainly am not suggesting that Bangladeshi men generally are ogres. Many are living husbands, fathers and sons. But there is no denying the level of domestic abuse in the society.

On the other side of the equation, female illiteracy and economic dependence leave wives unwilling or unable to break away unless the situation on the home front becomes especially dire, if then. This lack of education and income in turn inculcates an attitude of helplessness among women - - an attitude that tragically reflects reality for many of them.

The more specific causes that spark marital abuse are manifold. They may be as trivial as a delay in serving food to their husbands, or not carrying out work as their husbands see fit, or arguing with them. Disputes with the husbands' mother and with other in-laws also can fuel the fire.

Frequently, physical and "mental torture" (cruel, demeaning treatment and language) stem from disputes that sometimes have legal ramifications. These are significant in and of themselves, but also often lead to abuse. They are discussed in the next section.

B. Specific Legal Issues

One central problem and a key cause of violence is the husbands' demand for dowry from the wives' parents. Though barred (beyond a modest sum) by the 1980 Dowry Prohibition Act, the practice remains common. It is a relatively recent phenomenon in Bangladesh, stretching back only one or two generations. Though the exact roots of the practice are unclear, it may have been introduced by Muslim Punjabis when Bangladesh was still part of Pakistan. Regardless, the parents' initial payment may be followed by a husband's repeated demands for additional sums. These in turn may be accompanied by the threat or reality of violence against the wife.

As with most of the legal problems afflicting impoverished Bangladeshis, dowry is rooted in the politics, economics and culture of the society. Thus, the fact that parents are willing to pay dowry stems from the fact that they perceive their uneducated daughters partly as burdens rather than blessings. For the typical cash-strapped household, marrying off the

daughter removes the financial cost of maintaining her. Conversely, dowry itself fuels the perception of the daughter as a burden.

This relates to another common legal issue: underage marriages. Despite the Child Marriage Restraint Act of 1929 (which was strengthened in the 1980s), girls frequently are subject to arranged marriages before reaching the legal age of eighteen. Parental endorsement of the practice, though reportedly waning in parts of the country, remains common. It stems in part from fears that their daughters will become involved in sexual liaisons (whether forcibly or not) - - fears that have increased in recent years. Such activity would ruin a young woman's marriage prospects. Driven by these economic and cultural forces, youths barely past puberty wed, sometimes without even meeting until the ceremony.

The desire for dowry also is a factor, though by no means the only one, driving many other respects in which men disregard the law. Polygamy, though legal, is subject to requirements of the Muslim family Ordinance, including permission by prior wives and equal treatment for all spouses. Husbands also deny their wives maintenance. They fail to pay dower, the sum that the marriage contract stipulates that the husband should give the wife. The dower requirement becomes particularly significant when divorce occurs, because that is the point when she typically needs and requests it.

A major problem is that husbands often do not register marriages. This works to their advantage because this initial lack of legal documentation makes it far easier for them to avoid their legal responsibilities later.

Another common legal problem is that farmers fall victim to falsified documents and encroachment by neighbors or individuals. Even here, though, women may be especially vulnerable to exploitation by relatives or others where they have inherited the land and their ownership is disputed.

C. A Paucity of Alternatives

The aforementioned cross-cutting problems blend with the specific issues that Bangladeshis face to present them with choices ranging from bad to worse when legal problems arise. I emphasize this unpalatable array of choices and outcomes because they provide a context within which to appreciate what MLAA has accomplished, even while illuminating respects in which its work and impact could continue to evolve.

What, then, would a client likely do in the absence of MLAA? MLAA clients, mediations workers and mediation committee members,

as well as other NGO personnel, paint the following picture.

The most common alternative is no alternative at all. A woman would do nothing as long as her husband allowed her to remain in their home. This translates into continued abuse, or additional dowry payments by her parents, or some other undesirable combination of circumstances. In the case of an impoverished farmer (or his wife or daughter) victimized by encroachment or another individual's a falsified land document, he or she simply might be forced to forfeit the property.

If the client decided to seek help from one or more village elders, either a traditional shalish or a more individualized intervention could take place. Either would present the possibility of a cure as bad as the disease, however. Traditional shalish generally is marked by strong anti-female biases that accept poor treatment of women as the norm.

In addition, traditional shalish often is very judgmental, tending more toward arbitration than mediation. The judgments its imposes are based either on the elders' personal biases or their interpretations or misinterpretations of religious law. In its more extreme forms, as documented by Amnesty International in 1993 and 1994 reports, it has gone beyond toleration of abuse to impose brutal and even lethal punishment on women.

Patronage ties with the community leaders also can come into play. They easily can work against a woman or a farmer who is less well establishment than her or his opponent. And even where the farmer or the woman may use these ties to good advantage, there are prices to pay down the line. For the woman, the price may be sexual. Furthermore, obtaining a favorable judgment may only be a temporary victory. If the husband or opponent resents the decision, he may abandon abiding by it at the first opportunity.

Even if the judgmental, biased, patronage-based nature of traditional shalish does not come into play, corruption may. Village touts (individuals who capitalize on a bit of legal knowledge and secretly sell their influence may steer the shalish toward a certain direction either as members or as observers offering comments.

For those who can scrape together the will and resources to go to court, the alternatives are just as daunting. Corruption is widespread among court personnel and judges. The unfortunate woman or farmer may simply bump up against kinds of touts again, then, though in a different guise.

And whether or not she does encounter corruption in court, she may travel many hours many times as her case is delayed and stretches out for years. Once the suit is decided, the woman or

the farmer may fall victim to the same types of biases that forced them to court to begin with. And again, there may be a great price to pay if the lawyer's fees are financed by a patron or other influential figure who expects favors in return.

Finally, when these very bad alternatives run their course, or if they never do, the woman may find herself without a home or without income. She and her children may go hungry, or she may be forced into prostitution, or both. In fact, this homelessness and hunger was the situation that TAF's then Assistant Representative found among new clients walking in the MLAA's door when she made her first foray to visit and consider funding for the fledgling organization in the early 1980s.

VI. INSTITUTIONAL ACHIEVEMENTS

This section assesses MLAA's work to date in view of the overall societal constraints affecting women and other disadvantaged populations in Bangladesh. It first provides an overall assessment. It then explains the framework of certain levels and types of NGO achievement that guide my analysis of MLAA's work. The heart of the discussion consists of examining and hopefully illuminating examples of these achievements. Finally, as a gateway to this paper's main emphasis on MLAA's challenges and possible future directions, the discussion turns to the affect of societal constraints on MLAA's work.

A. Overall Assessment

The Madaripur Legal Assistance Association has definitely and commendably contributed to access to justice for women and other disadvantaged populations in its service area of Madaripur and Shariatpur Districts and part of Gopalganj Districts. It has mainly done so by organizing local mediation committees; positively affecting the knowledge and attitudes of the influential community members who voluntarily serve on those committees; organizing mediation sessions at which the committee members help resolve local disputes; generating community pressure for otherwise immune individuals to attend and abide by mediation agreements; and providing litigation assistance that backs up and strengthens the mediation system while also handling legal problems most appropriately addressed in court.

The upshot is that most of the mediation and litigation cases it handles reach positive resolution. Furthermore, MLAA provides these services in a very cost affective manner in which the largest single investment of time, that of the mediation committee members, is entirely voluntary.

The Association also has had a significant impact on the national level, as a trailblazing model first for legal aid work in general and then for mediation as an effective mechanism for addressing many legal problems. Many other organizations throughout Bangladesh have benefitted from its example and training. More specifically, it has helped build the capacities of these organizations to carry out such work.

While this review could not and did not probe in an in-depth manner MLAA's own organizational capacities, the Association does seem to have sound and comprehensive systems for undertaking training, mediation, litigation and record-keeping. These systems could themselves be models for other legal services NGOs in Bangladesh and elsewhere. Its staff is quite motivated and competent. Its senior staff appears up to the challenges of

managing a relatively large legal services NGO and charting a course for its future.

MLAA's considerable achievements are all the more impressive because they occur in a very difficult social environment. Because of this environment's economic, attitudinal and cultural characteristics, and despite the Association's success in substantially modifying shalish, the process remains a male-dominated procedure that sees some women returning to husbands who have mistreated them and may continue to do so. Even where mediation committee members know the law, the force of community pressure they exert on abusive husbands - - and therefore the resolutions they seek - - seems constrained by their own underlying attitudes. Addressing these attitudes and the forces that shape them is a gradual, long-term process of which legal services is only a part.

But the fundamental point in assessing MLAA's impact to date is not the road that lies ahead, but how far the organization has come in making bad situations better for its clients. Female NGO leaders I interviewed, for example, volunteered that they came to appreciate MLAA's obstacles and accomplishments much more after their own organization started a mediation program. Even where clients return to situations that are less than ideal, those situations generally are better than they would be if MLAA did not become involved. The bottom line is that, MLAA's overall program has achieved great success in both absolute terms and in view of the environment in which it functions. The clients, communities and other NGOs it assists are far better off than they would be if MLLA did not exist.

B. Levels and Types of Achievements

As with other NGOs whose work I have evaluated, I assess MLAA's work to date based on the levels and types of its achievements. By achievements, I of course include what MLAA has substantially accomplished on its own. More typically, though, as with most development work, accomplishments spring from the combined efforts of a variety of actors, including clients, community members and other NGOs. In using the term "achievements," then, I include MLAA's impact in combination with or as contributions to such other actors' work.

What, then, do I mean in referring to levels and types of achievements? Regarding the former, MLAA's work can be assessed on **the community level, the national level and on the level of its own organizational capacities.**

*** Community Level achievements** involve the benefits that clients and other community members derive from MLAA' work

throughout Madaripur and in parts of two neighboring districts. As noted previously, I refer to these as the Association's **service area**.

National Level achievements involve MLAA's contributions to positive developments with actual or potential impact throughout Bangladesh.

Achievements regarding MLAA's own organizational capacities are respects in which MLAA demonstrates attributes that facilitate its having impact on the community and national levels.

The **types** of MLAA achievements vary so widely that not all can or should be neatly categorized. However, some of the main types on the community level include impact on **clients' and other community members' knowledge, attitudes, negotiating strength, behavior and material circumstances**. On the national level, they include impact on **policies and other NGOs capacities**.

Knowledge refers to community members' familiarity with the law, or with how to gain access to assistance regarding legal problems.

Attitudes involve community members' beliefs about how they can or should behave or the treatment to which they are entitled (regarding, for example how husbands and wives relate to each other). It stems in part from better knowledge of the law or of legal recourse available.

Negotiating strength pertains to the ability of clients to obtain relatively favorable mediation settlements. It flows partly from their knowledge and attitudes, as well as the presence of legal recourse and positive community pressure.

Behavior refers to the actual conduct of community members.

Material circumstances applies to client's economic well-being, their physical security and other concrete aspects of their situations. It is, in many respects, a function of how their negotiating strength affects the behavior of their husbands and other community members. Furthermore, it is the bottom line consideration for many clients.

Policies refers to laws, regulations, procedures and other government decisions with national ramifications.

Organizational capacities on the national level refers to not MLAA's own abilities, but to how it has strengthened other NGOs.

Of course, many types and even levels of achievement overlap. I therefore present these categories as analytical tools, not intellectual straight jackets.

I should again mention that in drawing conclusions about that MLAA's achievements, I necessarily extrapolate from examples of impact reported by relatively objective sources, as well as the comparisons between 1993 and 1996. I do not assume that every such report and comparison is necessarily accurate. But I do assume that if enough have surfaced over the course of my relatively short period of time in Bangladesh, they reflect the underlying reality of MLAA's achievements rather than simply constituting isolated instances.

C. Community Legal Achievements

MLAA apparently has had significant impact in its service area, in terms of the knowledge and attitudes of mediation committee members, and the knowledge, attitudes, negotiating strength, behavior and material circumstances of clients or other community members. I say "apparently" because there is much self-evaluation that the Association could undertake (as discussed below) to try to confirm the nature and extent of this impact. But I come away from this assignment with a strong sense that the organization is making a difference on a number of fronts.

1. Knowledge

Perhaps the greatest impact that MLAA has had on community members is not knowledge of the law itself. In fact, MLAA does not claim to undertake or accomplish the daunting task of making two million people legally literate. But it has accomplished a more important task for many, who seem to know that they at least have an option if problems arise.

In some cases, they specifically know about MLAA. For example, in separate interviews a college student and a law student from Madaripur informed me that people in their areas are familiar with the Association. But these are relatively educated individuals. I suspect that the more typical experience for the illiterate is that, as with the several clients I interviewed, when problems arise members of the community inform them that "legal aid" exists. This is still very significant, however. It may indicate that knowledge is widespread enough that even the very poor are just a question or conversation away from the possibility of access to justice.

Where MLAA works with or through organized groups, the knowledge it passes on is more in-depth. MLAA staff members cited several instances of this, but those I will mention here

came from third parties. I refer to these third parties' examples not because I doubt MLAA staff credibility - - I certainly do not - - but because with any evaluation such third party sources provide relatively objective verification of impact.

A few examples of this type of impact were provided by the head of the Madaripur-based NGO Aungkur, who talked of women his organization served becoming more knowledgeable as a result of information they picked up from staff who received MLAA training. Similarly, clients who formed groups under MLAA's Women's Rehabilitation Project seemed to know more than individual, unaffiliated clients I sought out to interview at their homes.

Construction workers and jute processing workers who had received training from MLAA regarding their rights provided more specific examples of what they had learned. The former had not even known about the right to form a union. The latter learned about health and safety requirements, and about aspects of the workers' compensation law that, if I understand the provisions correctly, enable them to receive compensation if they are notified formally that they have been laid off. Their interest in additional training is a supplemental indication of the value they attach to it.

While it is not clear that mediation committee members have developed a clear knowledge of the many laws that pertain to local disputes, those I interviewed did demonstrate a basic knowledge of at least some fundamental concepts. They did know, for example, that the shalish should not handle certain types of cases. They further realized that they should be impartial, rather than judgmental, in their roles as committee members.

I will discuss other instances of enhanced knowledge below, because they often emerge in the context of deeper types of MLAA impact.

2. Attitudes

Perhaps the most basic indication of changing community attitudes is the fact that I saw more women participating in the five MLAA shalish I observed in 1996 than I had in all but one of the eight I observed MLAA and other NGOs conduct in 1993. Whereas three years ago the only women present at MLAA-organized mediations were the wife herself and, in a few instances, a relative, this time around there were a number of women in attendance and usually one or more female members of the mediation committee.

Why are more women attending shalish? MLAA has facilitated this trend to some extent. The main explanation it gives, however, is more modest but in some respects more significant. The Association explains the greater female attendance as a

natural trend that evolved somewhat on its own as its mediation program became more widely known and accepted. Acting on this recognition (and perhaps in response to donor encouragement - - though I am just speculating on this point), MLAA began recruiting more women to be mediation committee members.

The change in women's participation also has been qualitative. While there was nowhere to go but up compared with 1993, it nevertheless is noteworthy that some of the women present felt free to voice their opinions, sometimes quite assertively. Wives articulated their grievances forcefully at the shalish I witnessed. A few times, other (generally older) women scolded the husbands for their comments. When a shalish sidetracked into a discussion of whether to apply national or Islamic law, one woman interjected, "In Bangladesh, we don't cut off hands." In sum, women seemed to display a somewhat more assertive attitude than in 1993.

There also seems to be a shift in the attitudes of some men involved in these proceedings. One husband directed some of his arguments at the female committee members, rather than the males. And in at least two sessions, MLAA had women's rights posters (e.g., "Stop Cruelty Against Women") prominently displayed. This may suggest at least some grudging male acceptance of the notion of better treatment for women, or at least of the authority of the NGO.

Male mediation committee members I interviewed also indicated some attitudinal change. They granted the value of women's participation, because "women are coming up in the world" and because "women will tell women things that they won't tell men." Though these comments scarcely imply a recognition of women's rights, they do represent progress. Finally, as noted above, these MC members see themselves as mediators, not judges or advocates, and acknowledge that this was a shift from traditional shalish.

This self-assessment by these MC members was mirrored in the more objective observations of the head of a local Aungkur, who feels that MLAA - organized shalish generally have been neutral in handling the disputes of women whom his NGO assists. In fact, he went a step further in describing MLAA's impact on local attitudes, claiming that the Association has "changed the social fabric of the area."

So far I mainly have discussed shalish in terms of reflecting changing attitudes. But it also seems to be an engine for change. MLAA training urges male mediation committee members to view the women who come before them not just as wives (as important as that relationship is), but as daughters, sisters and mothers whom they would not want other men to mistreat. This attitude seems to be conveyed through shalish, with the MC

members castigating abusive husbands. At the same time, this articulation of community standards (however much or little they are honored in practice) may well embolden women. As one female NGO leader put it, “Some women accept abuse as their lot in life, or don’t even see anything horribly wrong with it.” Shalish may make it clearer that abuse definitely is wrong.

Finally, a few female MLAA mediation workers made a more subtle point about attitudinal change. They suggested that even where women return to the same domestic situations after shalish, they feel better about having gone through the process rather than suffering in silence. To my mind, attitudinal change (though vitally important) is mainly a stepping stone to changes in behavior and material circumstances, rather than an end in itself. Perhaps our different points of view spring from cultural or gender perspectives. Regardless, I certainly am willing to acknowledge the validity of the mediation workers’ perspective, and to respect the insight that underlies it.

3. Negotiating Strength

Any mediation is also a negotiation. It seems that by organizing mediations and providing the legal back-up of litigation, MLAA improves the negotiating position of its clients. What’s more, their negotiating strength may even increase without having to resort to shalish.

Perhaps the best way of appreciating the value of the mediation as it applies to negotiation is to bear in mind the socio-legal context sketched in the previous chapter. All too often, the client’s alternatives range from bad to worse. Thus, a wife’s options may be to return to a husband who has mistreated her or to go out on her own without benefit of income or education. As one female NGO leader put it, her first choice is not to end the relationship, but to change it.

My interviews and observations indicate that MLAA puts the female client in a stronger position to alter the relationship. This stems from the combination of an objective standard coming into play (i.e., the law), its application by respected and influential community members (the mediation committee) and the threat that a lack of settlement could result in litigation (by MLAA). The fact that national law enters the picture in and of itself bolsters the woman because it usually is preferable to religious law or the imposition of male biases. And, as one Dhaka-based NGO leader not involved with shalish put it, the fact that community leaders (who are MC members) consider the national law “acts as a counterweight to the pressure generated by the husband’s drinking buddies.” Such a counterweight hopefully was at play at one shalish I attended, where the carousing husband sealed the mediation agreement by getting down on his knees. He apologized to the wife and her mother for mistreating them, and

vowed to treat her better when she returned to him.

Even MLAA's potential involvement tips the scales slightly more toward the woman. The leader of Aungkur described instances of husbands ceasing demands for dowry simply by virtue of their wives threatening to go to MLAA. Two older men (one an MC member), whom I chanced upon while visiting an MLAA client, offered a related perspective. They claimed that a husband is more likely to honor an MLAA mediation agreement than a traditional shalish result because failure to do so could engulf him in another round of mediation or even a court case.

4. Behavior and Material Circumstances

MLAA appears to have a substantial impact on the material circumstances of clients and the behavior of their husbands, mainly with respect to economic well-being and a diminution of marital violence.

The Association's statistics tend to suggest these achievements. Accordingly to MLAA's 1995-96 Annual Report, since 1985 the mediation project has resolved 20, 557 out of the 25, 706 (80 percent) disputes that were not refereed for litigation or still pending at the time of the report. The results for the 4,141 conflicts mediated in the 1995-96 reporting year are about the same. As for litigation, 477 of the 622 (77 percent) cases resolved in 1995-96 resulted in either amicable settlements or court rulings favoring clients.

Do the mediation agreements last? According to the Monitoring and Evaluation Project, data gathered by mediation workers in 1996 indicate that the parties had abided by the agreements in 2,384 out of 2,699 cases sampled (88 percent).

All of this data could indicate that if clients obtained resolutions they found satisfactory, those resolutions carry at least some degree of improvement in their material circumstances compared to what they otherwise would have experienced. But MLAA needs to scrutinize its methodology and the meaning of the results, as recommended in the "Future Directions" section below. For now, I view its statistics in and of themselves as suggesting but not absolutely confirming positive impact.

The data makes a more powerful case for MLAA impact when combined with interviews with MLAA personnel, clients and other local NGOs' staff. These revealed numerous examples of women whose material circumstances improved at least modestly due to shalish. In some cases, this was simply a product of reuniting with their husbands (who would treat them better than previously) rather than living apart. In others, where the two could not or would not be reconciled, the wife received a financial settlement.

I do not want to depict the economic benefits stemming from MLAA's involvement in an overly glowing light. Women often return to impoverished husbands, or take away settlements that certainly cannot sustain them indefinitely. But again, the question of alternatives arises. They are better off by virtue of MLAA's involvement, even if to an extent that no one would consider very desirable.

Of course, MLAA has tried to address this problem in a modest way through its Women's Rehabilitation Project. When I first reviewed MLAA's work in 1993, I wondered whether this project was just a donor-driven add-on that had little to do with the Association's fundamental priorities. But on second review I appreciate it more. This is partly because, like the rest of MLAA's work, it affords clients a measure of choice. Furthermore, it does so without taxing the organization's central activities. Finally, as discussed below in the "Future Directions" section, working more with groups of women, such as those involved with the Rehabilitation Project, could bolster MLAA's effectiveness in the future.

There were yet other cases where legal ignorance would have led to permanent separation (and worse material circumstances), but for MLAA's involvement. One client and her husband had wanted to remarry after divorce, but their faulty understanding of the law led them to believe that to do so would have required an intervening marriage. (This situation is not uncommon in Bangladesh). MLAA's intervention and education allowed the two to remarry. They avoided the ignorance driven choice of either remaining apart or arranging the undesired intervening marriage with an unscrupulous volunteer.

Perhaps the greatest non-economic material circumstance that affects the Association's clients is that of violence. MLAA mediation workers estimate that 80 percent of the husbands who physically abuse their wives stop doing so after the Association's intervention. In the absence of follow-up studies by MLAA, it is hard to be sure how accurate this estimate is.

My own sense is that MLAA's intervention may eliminate the problem for some, but only mitigate it for others (though even mitigation is preferable to no improvement at all). To the extent that the main underlying causes of violence are dowry or other issues that shalish helps address, the abuse also is addressed. Also, in severe cases where litigation ensues or where the wife leaves her husband, the problem also may disappear. But to the extent that the abuse is rooted in male attitudes and women's economic dependence, I do not know whether MLAA's intervention halts the husbands' conduct. Again, this is an important matter that requires in-depth follow-up by the Association.

Yet even if my assessment of the limited (though still significant) impact on violence is correct, it is important to place MLAA's work in two kinds of context. One is provided by Banchte Shekha, the Jessore-based women's movement that works with a much smaller population than MLAA, but which empowers them in a much more comprehensive manner than MLAA tries to do. Interviewing a group of its admirably assertive members in 1993, I learned that not all of their husbands restrained from at least occasionally striking them. Abusive attitudes and practices run deep.

An MLAA client offered another type of context when we met with roughly 100 Women's Rehabilitation Project beneficiaries one evening in Madaripur. Dr. Khan had speculated earlier in the day (as did USAID's Gary Robbins subsequently in a discussion back in Dhaka) about whether women reporting their husbands' violent acts to MLAA triggered yet more violence. As we were asking women about their experiences with MLAA, one popped up to volunteer her story. She had been through shalish partly to get her husband to stop his abuse; he had resumed doing so; she had returned to seek the Association's help again; and just that day he had choked her in response to that action. (She showed us the marks on her throat.)

Despite his violence, she was glad that she had returned to the Association for help. Perhaps she was being overly dramatic in then claiming that, without the threat of the Association's involvement looming over his head, he might have killed her when he choked her. But she was absolutely clear in her conviction that going to MLAA for help again was the right thing to do, because it gave her at least a measure of choice.

5. Other Types of Community Level Achievements

A few other types of achievements came to light during my visit to Madaripur. The most noteworthy one is the fact that MLAA has accomplished so much in mediation through the use of volunteers. The single largest collective input of time could be that of mediation committee members, who carry out their functions for free. Taking this factor into account makes MLAA into a highly cost effective operation.

I do not want to sound naive about the MC members. They may will desire committee membership because it buttresses their prestige in the community. But as long as MLAA secures their cooperation without being coopted, the fact that not all of them are completely altruistic may not be significant

Another achievement pertains to the integrity of the shalish. A few different sources - - an NGO leader, a mediation committee member, a male neighbor of a client - - volunteered that MLAA mediations were conducted in a far more neutral and honest

manner than the traditional shalish. For example, MLAA seems to have eliminated or at least cut back on the role played by “touts,” individuals with a bit of legal knowledge who would lobby (for pay) in favor of a particular client at some traditional shalish.

A more specific type of impact has been MLLA’s involvement with a newly formed construction workers’ union that received government recognition just days before my visit. The Association has been involved not just in educating the members, but in organizing them as well. The only caution I feel regarding this positive development is that the union president (himself not a construction worker) is a member of Madaripur’s Board. While such involvement is laudable, over the long term it may be best for the two organizations to have no such overlap, and for a construction worker to assume the leadership position.

Finally, MLAA appears to have contributed in a dramatic way to women’s electoral involvement. A female student at Syed Abul Hossain College reported that after a 1996 MLAA program in the (geographical) union of Kalikapur (in Madaripur), women were allowed to vote for the first time. While I did not have time to verify her account, the fact that she volunteered it in the context of a wide-ranging discussion of other matters gives it some credibility.

D. National Level Achievements

Historically, the main focus of MLAA’s work has been in its service area. At first glance, then, it would seem that its national level impact has been relatively modest (though even this may change in view of its policy advocacy work and assistance for setting up mediation programs across the country). But a number of sources cited ways in which the Association already has influenced or contributed to the work of other NGOs.

1. General Impact on other NGOs’ Capacities and Operations

On the most general level, lawyers, law students and NGO heads I interviewed universally praised MLAA’s a past and current leadership regarding legal aid. Even those who offered some constructive criticism of the Association emphasized its role. Both as a model and as a training body, it has contributed to the institutional capacities of NGOs all over Bangladesh.

One Dhaka-based legal services attorney, for example, explained that “whenever I meet people who are involved with human rights, they were trained by Madaripur Legal Aid Association.” Other sources variously described it as the only paralegal training organization in Bangladesh, the body that originated legal aid in the country, the pioneering institution

regarding mediation, an organization that is known by NGOs and lawyers all over Bangladesh, and the NGO with by far the most systematic approach to mediation services and training.

Whether all these comments are strictly accurate - - MLAA is not, for example, the only paralegal training body in the country - - they do come from a spectrum of actors, tending to confirm the Association's central role. What's all the more striking is the fact that this role and reputation have been achieved by a rural-based NGO in a nation where transportation and communications can be problematic. Leading legal services NGOs in many other countries tend to be based in large cities, and even then do not necessarily enjoy the prestige of MLAA.

2. Specific Impact Building the Capacities of Other NGOs

Even before launching the Expanded Mediation Program through which MLAA is assisting NGOs throughout Bangladesh in starting mediation programs, the Association compiled an impressive track record in training and advising other NGOs. A number of Dhaka-based organizations reported drawing on MLAA training in setting up their mediation programs or otherwise refining their operations.

Among more rural organizations, a number of sources reported to me that the Jessore-based women's Banchte Shekha had found MLAA training very useful in its own impressive shalish work. Closer to MLAA's home base, the Shariatpur Development Society has utilized MLAA training and advice to launch its own mediation program. Its leadership speaks very highly of the Association's assistance. This program also receives litigation support from MLAA, which accepts up to twenty cases per year. Already noted, the Madaripur-based Aungkur also has drawn on MLAA training for its staff, to the benefit of the population it serves.

The organization with which MLAA is having the greatest interaction, however, is the Bangladesh Legal Aid and Services Trust (BLAST or the Trust) , which in cooperation with local bar associations is setting up legal services programs throughout much of Bangladesh. The Trust is promulgating what it and MLAA are calling the "Madaripur Mediation Model." According to the senior advisor who oversees BLAST's work, the core elements of this model are training mediation workers, working with local leaders to get their trust and cooperation, and providing legal back-up so that disputes can be taken to court if necessary.⁸

⁸ While Fazlul Huq is now Executive Director of both MLAA and BLAST, I should note that the interest of BLAST in the Madaripur model preceded his becoming its head. It should be said, then, that Mr. Huq joined BLAST partly because of its enthusiasm for MLAA's work, rather than vice versa.

The Trust is sending coordinators, mediation workers and local bar association presidents from three districts to MLAA for training. It will expand mediation to other BLAST districts if these pilot efforts prove fruitful.

Thus far I have discussed MLAA's influence on other NGOs mainly in terms of building up their institutional capacities to conduct shalish.⁹ Verifying that this capacity-building has definitely translated into benefits for individuals assisted by these other NGOs would involve a far more in-depth study than I could attempt here. Nevertheless, there is evidence of MLAA training having an impact beyond this basic capacity-building.

The aforementioned Casper/Kamal study offers the firmest evidence available of MLAA's contribution to the material circumstances of clients assisted by other NGOs. In documenting positive legal and family planning benefits for the clients served by four NGOs that MLAA trained, the study indirectly confirms a likely Association contribution by virtue of the model and assistance if provided them. My interviews with a number of other MLAA-trained organizations indicate the same.

Similarly, though I did not interview Banchte Shekha personnel on this visit to Bangladesh, it seems fair to conclude that the Association has helped it in ways that in turn benefit the material circumstances of its clients. I base this on both my 1993 observations of Banchte Shekha's work and the aforementioned reports of it finding MLAA training useful.

In describing MLAA's role regarding other NGOs' work, I again emphasize the word "contribution." The Association's personnel would be the last to claim central responsibility for what other NGOs and their clients have achieved. But their role nevertheless is noteworthy.

At the same time, I extrapolate somewhat in concluding that MLAA has had significant impact beyond its service area. My interviews and document review indicate that a good number of organizations have benefitted from MLAA's services. I assume that the same applies for at least some that I did not have time to identify and contact. This is not to say that more than

enthusiasm for MLAA's work, rather than vice versa.

⁹ Of course, MLAA does provide training in human rights and other topics outside the context of mediation. I focus this discussion on mediation, however, because it is most central to the Association's work and because it represents a more concrete and more easily assessed contribution to other NGOs' operations and their clients' well-being.

selected parts of Bangladesh are benefitting from MLAA's contributions to other NGOs work. But it does confirm that the impact is positive where the interaction has occurred.

3. National Policies

MLAA's formal forays into policy advocacy are just beginning. Still, there may be one or two respects in which it has already indirectly contributed to reforms.

The main impact may stem from a 1992 international conference on public interest litigation that it organized with ASK, and from a follow-up domestic seminar in 1996. A number of members of the Supreme Court (from both its Appellate and High Court Divisions) attended. It is quite possible that exposure to broader jurisprudential horizons contributed to a 1996 Supreme Court decision that significantly expanded standing to bring suit beyond parties personally aggrieved. This in turn expanded the potential for public interest litigation.

Of course, the main credit for this decision goes to the Court itself and to the trailblazing case brought by the Bangladesh Environmental Law Association, which led to the decision. My only point here is that these conferences might have made a modest, indirect contribution to this important step forward.

Even more indefinite, but still noteworthy, has been MLAA's role when national questions arise that affect NGOs. Most significant was its contribution a few years ago when a wave of religious fundamentalism challenged Bangladeshi NGOs' motives and accomplishments. Of course, the Association was just one player in a large-scale NGO response. Furthermore, it functioned on not just a national level, but on a local level in terms of rallies and meeting with local officials. But the fact that it did contribute to a largely effective NGO response merits praise.

D. MLAA's Organizational Capacities

In many respects, the proof is in the pudding regarding MLAA's organizational capacities. That is, an NGO's impact on the community and national levels is the most important indication of its being well run. And even to the extent that it succeeds despite being poorly managed, such success is the bottom line that makes any administrative inadequacies relatively unimportant.

Nevertheless, the quality of a MLAA's personnel and procedures merit consideration in any overall assessment of the organization. This is partly because no evaluation can comprehensively cover all of its operations and achievements. So

if the organization seems to be run well, it is more likely that apparent evidence of impact is solid and represents just a portion of its accomplishments. To the extent that MLAA is functioning well, this also provides grounds for optimism regarding its ability to survive and thrive as new challenges and opportunities emerge

In fact, based on my limited exposure to it, MLAA does seem to be managed quite competently. On balance, its orientation structure and staffing seem sound, though one significant matter needs further attention. Evidence of its achievements breaks down into three categories.

1. Procedures

MLAA seems to have sound and thorough procedures in place for such tasks as tracking cases, organizing mediations, scheduling training and compiling records.¹⁰ I base this conclusion partly on interviews with staff members involved with litigation, mediation and training activities. But of equal importance were the reviews Dr. Khan undertook of the organization's forms and files during these interviews. The reviews, coupled with the questions we asked of the staff, indicated that MLAA's record-keeping is among the most comprehensive of any NGO I have seen come across. In addition, the staff was able to quickly retrieve additional information that we requested.

Regarding training, for example, MLAA appears to have put rather impressive and extensive systems in place. In its Expanded Mediation Program (EMP), it has employed clear criteria for selecting NGOs whose staff and mediation committee members are being trained at MLAA's facility. The selection of twenty one NGOs out of seventy-seven that applied has been based in part on the number of years they have been in operation, their number of beneficiaries, whether they are registered with the government, whether they are registered with the government, whether they have a legal aid program and their geographical locations (to ensure that EMP covers much of the country).

The extent to which MLAA tailors its initial EMP training differently for each NGO is less clear, though it does survey and discuss specialized needs prior to and at the outset of training, and though it does provide specialized classes for NGOs from Christian, Hindu and hill tribe areas. On the other hand, I question to what extent initial mediation training of this sort

¹⁰ While I have no reason to doubt the organization's financial management capacities, this aspect of its operations was beyond the scope of my review (not to mention beyond my expertise).

ever can be individualized for audiences that do not know what they need to know until they begin to learn it. I suspect that such individualized guidance comes more into play when MLAA personnel pay follow-up visits to these NGOs.

Dr. Khan and I reviewed MLAA records and forms that reflect an admirably systematic approach to training. In line with its seven-day EMP training of other NGOs' senior staff and supervisors, for example, the Association has prepared a rather thick manual detailing the nature of the instruction. The schedule for one sample day we reviewed consisted of : a review of the previous day's feedback; land disputes; Hindu law; the difference between mediation and litigation, and the advantages of mediation; and legal aspects of mediation (e.g., which alleged criminal acts can and cannot be mediated.

The approach also includes forms and procedures for reviewing on a daily basis how the training was conducted. At the end of each day, participants fill out forms evaluating how the training was conducted. Their responses are reviewed and discussed with them at the start of the next day's sessions.

MLAA also employs pre-and post-training tests to assess what participants have learned during its longer courses (e.g. of a week's duration). The questions pertain to such matters as what are human rights, naming five important human rights, the distinction between litigation and mediation, whether a mediation worker can become involved in any kind of a dispute, whether a mediation worker is a judge, the minimum age for marriage and the date that the Universal Declaration of Human Rights was adopted.

The (relatively new) Monitoring and Evaluation Project, in contrast, is not nearly as organized as the Association's training efforts. Yet as I emphasized to that project's personnel, it is normal for a new unit to take time to get its feet on the ground, particularly when dealing with work as challenging as collecting data on case results. In addition, the problem with the project's procedures are not so much a matter of record-keeping as MLAA sorting out what kind of information it wants to collect and why. I address this question in the "Future Directions" section. But even as this project gets up and running, MLAA is to be commended for taking the initiative to start this self-evaluation process.

2. Personnel

I am not in a position to evaluate MLAA personnel. It does seem, however, that the organization runs quite smoothly even now that Executive Director Huq is splitting his time between the Association and BLAST. This is a testament to its staff as a whole and its senior staff in particular. I found that by and large the personnel with whom I met were competent in explaining

what they do and why they do it, as well as adept at answering my many other questions. Furthermore, the senior staff seem to be open to new ideas and directions for the organization, particularly as these pertain to its work in its service area. For example, they reportedly meet with each village mediation committee once per year to solicit feedback on how the program can be more useful.

3. Involvement of Women

One issue that looms over MLAA is that of increasing women's influence in its activities, whether as mediation committee members, staff or clients. It has made admirable strides regarding the latter in the past year. In fact, its 1995-96 Annual Report seems to underestimate the number of women MC members. It represents them as just 3 percent of the membership, whereas the same report's training figures set the percentage at over 20, and data provided by mediation workers put it at 30 percent. Regardless, there may still be room for progress in this regard.

There also is room for progress regarding women's staff roles. Women occupy six out of sixty three mediation worker positions and no senior staff slots, for example. There is no doubt that recruitment of women for rural field work is difficult. But other rural NGOs in Bangladesh, including some trained by MLAA regarding mediation, employ far more women for mediation coordination and other outreach activities.

Finally, despite MLAA's efforts, shalish remains a male-dominated procedure that sees some women returning to husbands who have mistreated them and may continue to do so. Even where mediation committee members know the law, the force of community pressure they exert on abusive husbands - and therefore the resolutions they seek - seems limited by their own underlying attitudes.

There is no denying that this springs from economic, attitudinal and cultural roots that run deep in society, resulting in many women being treated as a combination of property, liability and whipping post. It also seems clear that, despite the remaining difficulties with shalish, MLAA puts a significant dent in its clients' problems, and in a modest way may be addressing those societal roots.

In reviewing MLAA's achievements this section has accorded MLAA considerable praise for its work on behalf of women. The next one explores what more it might do in this and other regards.

VII. CHALLENGES AND POSSIBLE FUTURE DIRECTIONS

This section explores possible future directions for MLAA. As I emphasized at the outset of the paper, the suggestions are only that. They spring from a healthy respect for the organization, its senior leadership and its entire staff, and a desire to supplement rather than substitute for the Association's own ideas on where it can go from here. I obviously leave it to MLAA to decide which to adopt, modify or reject.

The growing prominence of MLAA as a training ground and a model for other Bangladeshi NGOs presents it with the opportunity to spread its approach to legal aid throughout the country (and, with modifications, perhaps even abroad). But with the opportunity comes a kind of responsibility. Other organizations, community leaders and lawyers from far beyond Madaripur now come to MLAA for training and guidance on what legal services should involve. MLAA accordingly needs to make sure that the model and training it provides do the most possible for the populations it serves.

I offer suggestions on both strategic and operational levels. The former apply to the overall thrust of MLAA's work. They accordingly are rather general. The latter type of recommendation aims to convert these general, strategic ideas into concrete steps reflected in the organization's operations. I hope that these steps make more sense by my placing them, in a strategic context. But I urge MLAA personnel and other readers to consider these operational suggestions even if they disagree with my strategic perspective.

I am not precluding the possibility that MLAA already is carrying out some of the following suggestions to some extent. While my discussions with the organization's leadership and staff were far-ranging, and while we did have a wrap-up meeting during my final evening in Madaripur at which I presented some suggestions, we certainly did not delve into every detail of the Association's work and plans.

To the degree that I recommend initiatives already under way, I hope that my comments are nevertheless useful to the Association in explaining to donors and other outside parties the steps it is taking and how these may require additional resources. I am far less concerned with whether these initiatives spring from this paper than whether MLAA continues to evolve as an organization that tries new approaches in response to changing challenges and opportunities. I welcome MLAA feedback, either to me or to its donors, along the lines that "we already are doing this." Hopefully, though, not all of the suggestions here will prove redundant.

One final, fundamental note regarding the recommendations made here: Many cost money. To the extent that some make sense to MLAA and to current and potential donors, adopting them may impose additional expenses on the organization.

A. Overall Recommendations

While MLAA already is working with and serving women and other NGOs to a considerable degree, its operations, clients and internal processes all would benefit from even greater interaction with them. The Association accordingly should consider working more with other NGOs and NGO personnel in its service area and neighboring districts. This could take many forms. One is to explore ways of integrating its work more with theirs regarding family planning, income generation or other development priorities. This could include focusing on the groups that these other NGOs form.

The Association also should try to find ways of drawing more NGO personnel into the mediation committees it has formed. Their developmental perspective and relative level of education could help to subtly shift the dynamics of how the committees operate. It should seek to integrate more individuals with NGO experience into its staff as openings arise.

Similarly, MLAA should seek ways of expanding the roles of women in both mediation and its staff. It should build on its substantial recent progress in introducing women into mediation committees and otherwise facilitating their participation. Though staff recruitment is difficult, it also should try to recruit more women as mediation workers and for other positions, including supervisors. This certainly should not be done, however, by replacing current staff. Rather, it should take place as attrition or expansion occur.

MLAA training and information dissemination for both community members and other NGOs is interactive and effective in many ways, but still could benefit from focusing on the legal issues that most immediately confront clients. It should draw on its staff's own experience to ascertain which issues arise the most frequently, and structure its training and publications appropriately.

As the leading organization for mediation in Bangladesh, MLAA has both the opportunity and in some respects the responsibility to ascertain how other NGOs have adapted its model to their own operations. Through field visits and conferences involving NGOs that have been applying the MLAA model for years, it could deepen its own expertise and spread information about lessons learned.

The Association has taken impressive initial steps regarding policy advocacy. In addition to working on the legislative level, as planned, it should explore ways of becoming more involved with advocacy through the other two branches of government. MLAA already is aware of the potential for working through one of those branches, the judiciary, to pursue public interest law. But it also should investigate ways of affecting the decisions made by ministers and senior civil servants, since they set many of the policies that have broad ramifications throughout Bangladesh.

In pursuing policy advocacy, MLAA clearly will want to work in tandem with other NGOs. Nevertheless, it should consider hiring one or more attorneys who will be based in Dhaka. This person (s) nevertheless should spend substantial amounts of time in Madaripur. The time in Madaripur will enable them to gather information that will assist the Association's advocacy work.

While the Association's Monitoring and Evaluation Project, is an excellent initiative, it could benefit from more guidance and training on how to gather and analyze data. Among the priorities that it should then address is the need to clarify for both MLAA and outside audiences the results of the Association's achievements. It should, for example, assess the elements of what currently are summarized as "resolved" mediation cases. It also should perform follow-up studies to confirm the degree to which parties abide by their mediation agreements.

B. MLAA as a Development Organization

Is MLAA a legal aid or development organization? The question merits scrutiny because I encountered some ambivalence within the organization regarding this aspect of its institutional identity. If a development organization is one that helps people realize more choice and control in their lives, MLAA certainly fits this (admittedly crude) definition. Its education, litigation and mediation services increase clients' options to varying degrees.

But the potential distinction between legal aid and development work goes deeper, and holds ramifications for MLAA's operations. Some see legal aid as providing important services to clients, but not addressing the underlying conditions that spawn the need for those services. A development body, in contrast, strives to break down the social, economic, cultural and / or political barriers that block people from asserting more control over their lives.

In fact, MLAA's own 1995-96 annual report identifies it as practicing "structural legal assistance," an approach that addresses these barriers (or "structures"). A wide range of

literature on legal services in developing countries further clarifies the difference between traditional and developmental legal aid in ways that put the Association more in the latter camp and argue for it to move even further in that direction.¹¹

For MLAA to address its institutional ambivalence on this matter would not require a wholesale reorganization, or for it to be an institution that it cannot be or does not want to be. Rather, it would involve a gradual series of strategic and operational adjustments that could shift it further toward the developmental end of the NGO spectrum. These changes would have to be gradual to take place within the constraints posed by the society of Bangladesh. They mainly involve a greater role for women and with other NGOs.

C. Greater Interaction with Local NGOs and NGO Personnel

A repeated suggestion that came up in discussions with diverse NGO personnel is the notion of MLAA working more with NGOs and their staffs in its service area.¹² This interaction could take a number of forms and yield a number of benefits.

1. An Expanded Resource for Local NGOs

While MLAA's Expanded Mediation Program spreads its approach to mediation to many parts of the country, there is an argument to be made for spreading NGO mediation outward from its center in Madaripur District. As pointed out in the aforementioned Casper/Kamal study, the impact on dowry, related violence and other legal problems may be greater where the husband's family does not have the option of seeking brides in neighboring areas where operations protecting women's rights have not been established. It accordingly may benefit MLAA's own service delivery by expanding the surrounding area where NGO legal services are provided.

¹¹ See, e.g., Buyung Nasution, "The Legal Aid Movement in Indonesia: Towards Implementation of the Structural Legal Aid Concept," in Access to Justice: Human Rights Struggles in Southeast Asia, 31-39, ed. Harry M. Scoble and Laurie S. Wiseberg (London: Zed Books, Ltd. 1985); Gridley Hall and Burton Fretz, "Legal Services in the Third World," Clearinghouse Review (December 1990).

¹² In addressing this suggestion, I am aware of MLAA's aforementioned recent experience in which it explored cooperation with a national NGO, only for such potential cooperation to fall victim to what MLAA saw as excessive politicization on the part of that NGO. This indeed provides grounds for caution, but need not preclude cooperation with large NGOs.

One way to do so, of course, is simply to expand MLAA's operations to neighboring districts. But even if the funds necessary for this were available, such expansion could tax the Association's current staff structure.

Another, more modest approach, then, might be for MLAA to serve as a resource for NGOs in its service area and neighboring districts, employing an approach somewhat along the lines of its work with the Shariatpur Development Society. It could provide initial training and guidance to NGO staff on setting up their own mediation program, as well as help with identifying and training appropriate local lawyers who could provide litigation assistance.¹³ Either MLAA attorneys or other supervisory staff could undertake regular follow-up visits to these other NGOs to advise on progress and problems they encounter.

2. Membership in Mediation Committees

A crucial factor affecting the dynamic of shalish is the membership of the mediation committee. One way of affecting this membership is to seek to add persons with NGO backgrounds, particularly but not exclusively women, to the mix. Some may have a certain status in the community by virtue of their NGO work. Most would bring a broader, developmental perspective to the committee's deliberations.

One possible disadvantage of bringing in persons with NGO backgrounds are that they may not be welcome by current mediation committee members due to those very backgrounds. Another is the fact that NGO personnel may be younger than many MC members. Yet another is that the same progressive orientation that makes these persons desirable members may break up the spirit of cooperation that pervades a given committee.

Of course, MLAA needs to be sensitive to these factors. But they may be outweighed in many instances by the status, outlook and sensitivity to community dynamics that accrue to NGO experience. In addition, such persons may have higher educational levels than other MC members, which would enable them to grasp the law better and influence shalish accordingly.

In addition, what I propose here is not recruiting these persons explicitly as representatives of NGOs, but rather as individuals respected in their communities. They offer the additional, substantial strengths of being relatively well

¹³ Both the practical problem of travelling to other districts for cases and what I understand to be the requirement that attorneys must receive district-specific approval to practice weighs against MLAA attorneys taking on cases beyond its three current districts.

educated and/or having experience dealing with issues confronting women. Once identified, these individuals could be added to MCs through expansion of those bodies or in the occasional instances where another individual's membership ends.

3. A Greater Focus on Groups

Many Bangladeshi NGOs focus on group formation for income generation or family planning purposes. Various sources, including MLAA staff members, suggested that the organization conduct a greater number of grassroots training sessions for women on the legal issues they most commonly face. To my mind, working with NGOs to train group members - - that is, individuals organized by NGOs into units organized for income generation, family planning or other purposes - - could yield the best results.

MLAA's own experience with its Women's Rehabilitation Project echoes that of other NGOs in Bangladesh and abroad: Where disadvantaged populations are organized in some way, members of the resulting groups are more likely than isolated individuals in the general population to assert themselves and support each other in times of need. And even outside the developmental context, the theory and reality of democratic pluralism holds that organizations represent and support the interests of members more effectively than members do individually.

For some Bangladeshi women, group participation may be their first chance to physically and psychologically get beyond their restricted household existence. Over time, such participation couples with NGO contact to make some more prepared to express themselves.

These lessons play out in a number of ways. In Bangladesh, my own 1993 observation of Banchte Shekha, as well as those of other persons who have had more exposure to the organization, indicate that it has greatly improved the shalish it organizes. The impact has been on both women's roles and the outcomes. The Shariatput Development Society (SDS) and other development NGOs that (like Banchte Shekha) have been trained by MLAA regarding mediation also report that their work builds on and benefits from group formation for income generation, family planning and other purposes. And my own experience in the Phillippines and shorter-term exposure and discussions regarding other societies indicate that client organization bolsters legal services' effectiveness.

I must emphasize that in citing these illustrations I am by no means suggesting that MLAA become another Banchte Shekha or SDS. It has a proven, effective formula that covers a far larger population than these other NGOs. Of equal importance, it would be counterproductive to undertake an overhaul of a legal services body that does not have the need, inclination or orientation to

become a very different type of institution. Development experience is littered with too many failures for me to advise that MLAA abandon its formula for success.

Nevertheless, MLAA's own evolution (regarding, e. g., its geographical expansion, shifting its focus into mediation and training other NGOs) shows that its clients and in fact the Bangladeshi NGO community have benefitted from its trying new approaches. It accordingly might consider further work with groups.

What form might such work take? Primarily, MLAA could try training sessions for groups formed by other NGOs in Madaripur and neighboring districts.¹⁴ The training need not - - in fact, should not - - be very sophisticated, given the nature of the target audience. Rather, it should acquaint them with only the most basic aspects of the law as it pertains to women, farmers or other target groups. It accordingly should be provided by Association staff, rather than by attorneys.

In a more limited but immediate vein, MLAA also could consider training for current and future groups members associated with its Women's Rehabilitation Project. By virtue of their own experience, many already have a rudimentary knowledge of some facet of the law, and may be that much more interested in learning more.

Given the level of legal ignorance among most audience members, the training sessions might be useful even if they lasted just a few hours. They of course should be structured to employ simulations or other creative techniques that illustrate basic legal problems and lessons. Lectures would likely be ineffective.¹⁵

The immediate purpose of working with groups would be to familiarize those in the best position to use legal information with some basic background regarding those rights most relevant to their specific situations. Training group members could affect subsequent mediations by making women more likely to attend and participate - - especially if they and their relatives are directly involved, but perhaps even if not.

A secondary purpose would be to spread this knowledge

¹⁴ Whether and to what extent MLAA should undertake such training in neighboring districts and thanas outside its own service areas may hinge on whether it also is training NGOs in those areas to organize mediations.

¹⁵ A broader exploration of how MLAA can best conduct training is provided below.

through the word of mouth that is the main source of information dissemination for a largely illiterate population. Of equal importance, such educational activity would make potential beneficiaries aware of MLAA's services and the opportunities to act on their new knowledge.

Finally, rudimentary training regarding the law can be the starting point for more specialized education that serves the community in a sustainable way. I address this point in the next section.

4. Paralegal Development

By increasing contact with NGOs and groups they organize, MLAA may have greater opportunities to initiate paralegal development. That is, through periodic training and follow-up advice, it could cultivate the development of selected group members and NGO personnel to become community resource persons regarding the most common legal problems that arise. Of course, the group members' knowledge of the law likely would remain more rudimentary. This more rudimentary knowledge would confine them to a voluntary, informal role.

Still, they and the staff paralegals could, at the very least, answer their neighbors' and fellow group members' basic legal questions. They might also assist them in approaching MLAA or other NGOs for legal help. The more sophisticated might aid them regarding mediations.

I do not want to understate the challenge of developing paralegals. First of all, they are more likely to be useful if at least literate and somewhat educated - - traits in short supply within many groups. In addition, a paralegal may encounter opposition from her husband, family and community to playing even an informal role. Finally, I emphasize the term "paralegal development" as opposed to "paralegal training." Becoming a paralegal is much more a process of learning through experience than attending a few training sessions. It hinges on having a source of greater expertise who can answer new questions.

Yet none of these obstacles present an absolute barrier to MLAA experimenting with creating more paralegals. Development experience offers enough examples of persons who exhibit unexpected capabilities even in the absence of education and in the face of opposition, particularly if they have knowledge and NGO support on their side. For example, at least one Banchte Shekha mediation worker demonstrates a remarkably resolute approach and in-depth knowledge of the law despite just a few years of formal schooling. And MLAA's own experience confirms at least the more modest lesson that community mores can evolve to accept gradually changing roles for women.

As for the need for a source of greater expertise, MLAA and other NGOs' already have such a support system in place in terms of their respective mediation workers and field workers. These persons can provide the back-up and ongoing education needed as new questions arise for community paralegals.

Might any of these paralegals move beyond a voluntary, informal role? Clearly, a limited education limits one's possibilities in this regard. But it is conceivable that with sufficient aptitude, interest and experience a paralegal could reach a point where he or she has the knowledge and standing to serve as a mediation worker or even a mediation committee member.

D. Greater Female Participation in Shalish

MLAA has made impressive strides in recent years regarding the involvement of women in mediations it organizes, as well as its other services for women. As previously noted, both the number of women attending shalish and the quality of the participation I observed in 1996 compared favorably with 1993. But the dynamic of these sessions, like the society they reflect, remains male-dominated.

As already discussed, one important mechanism for increasing women's involvement in shalish is stepped-up contact with other NGOs in neighboring districts. Are there additional steps that the Association can try in order to strengthen women's role in mediation in particular and their communities more generally?

I. Training for Female Community Leaders

By virtue of their status, education and frequent contact with other women, union parishad members and teachers can be valuable sources of information for women in their communities. MLAA already is reaching these individuals to a limited extent through its training activities, such as the Community Legal Education Project. It might take this focus a step further by intensifying such work. Trainees with the appropriate aptitudes and orientations could be tapped to be mediation committee members.

In addition, at the very least this effort would make them community resource persons regarding the law. The more astute trainees might even be invited to additional sessions that would enable them to play a more active, quasi-paralegal role in advising women and referring them to MLAA where appropriate.

2. Encourage More Participation at Mediation Session

Despite the laudable increase in women's participation in mediation, one phenomenon I observed and that others reported to

me was that female mediation committee members remain less likely than males to attend shalish. And where they and other women do attend, the women play a less active role than men.

One way to address this is to make a firm policy that MLAA mediation workers should encourage women committee members to attend. The mediation workers also could reach out to teachers, union parishad members, NGO personnel and other women trained by MLAA and ask them to go to mediations. Furthermore, the Association's mediation workers should specifically ask women their opinions at important stages in every mediation. The experience of participating actively at the mediation workers' behest could eventually lead to some women participating more at their own initiative.

3. Encourage Other NGOs to Promote Female Participation

MLAA mediation training for NGOs and mediation committee members from other parts of the country offers the opportunity to expand their horizons regarding female participation. Of course, it is not as though training itself will open these doors. The experience of MLAA and other NGOs indicates that it often takes time for men and women alike to adjust to this notion, even in the face of NGO efforts at persuasion.

Nevertheless, the MLAA training can spark or nudge along this process. It can do so in a few different ways. One might feature having male MC members from Madaripur attend training and explain why having women participate is advantageous. Male mediation committee members I interviewed mentioned that they appreciated having women participate (as members or otherwise) because the female in a dispute would tell the other women things that she would not tell the men. Others mentioned that it was appropriate for women to participate in shalish because "women are coming up in society." Though neither of these reasons translates into an endorsement of women's rights, they still represent a leap beyond a perspective that sees no role for women.

Another possibility would be for the training to include simulations that alternative scenarios in which women do and do not participate. Structured properly, these could illuminate the advantages of having women as MC members and of inviting other women to attend and contribute to shalish.

Finally, the trainees could be brought to actual mediations to which MLAA has made a special effort to invite women to attend and contribute. I would not view this as a distortion of the process, but rather a realization of what MLAA tries to do anyway. The only question is whether such participation might disturb male trainees rather than encourage them to consider female participation. My thought is that it would do more good

than harm, but this clearly is a judgment call the Association would need to make based on its own experience and perhaps on some judicious experimentation.

E. A Greater Staff Role for Women

As an organization that primarily serves women, MLAA benefits from understanding their needs and problems as well as possible. And as an institution that serves as a kind of model for its clients, its community and NGOs, how the Association interacts with these audiences is an important complement to the specific services it provides. MLAA can advance both of these priorities by recruiting more women for its staff. (As of this writing, only six of its sixty-three mediation workers are female.)

MLAA's own experience with shalish indicates that women are more likely to open up to female MC members, and conversely, the women in whom they confide are more likely than men to fully grasp their problems. This has ramifications in terms of its own staffing. And to the extent that MLAA staff is female, it sends a signal to various audiences regarding the capabilities of women to handle positions of responsibility.

I neither want to overstate these points nor understate the value of MLAA's male staffers. The men that MLAA employs generally are sensitive to women's needs. They do a good job of addressing those needs. What's more, gender does not equal empathy: Plenty of men relate well to women's legal problems, and plenty of women do not.

In addition, gender does not equal effectiveness: In a male-dominated culture, male employees may carry more weight in relating to village leaders both within and outside shalish. Finally, there is the practical problem of recruiting women who are sufficiently educated, free to travel and, for mediation workers, based in the unions they serve.

Acknowledging these factors is one thing. Being overwhelmed by them is another. The fact that MLAA's male employees do a good job does not weigh against increasing the number of female staffers who can bring other strengths to the organization. Thus, for example, there is a trade-off between the male employees' influence on men in the community and the capacity of women to relate to clients and go set an example for the community. To bring in more women to a staff that is so heavily male would create a greater balance.

In terms of practical recruitment difficulties, a couple of general considerations apply. First, a plethora of Bangladeshi NGOs employ women field workers for family planning and other

purposes. In fact, a number of NGOs trained by MLAA employ at least as many women as men in mediation worker positions. So it might in fact be possible for MLAA to gradually include more women mediation workers. In addition, not all women it recruits would necessarily be field-based. Some might move into more easily filled office positions.

Finally, though there might be some trade-offs involved in having more women staff members, this is by no means a zero sum game. The entire organization, males included, would benefit by working more with women on a professional basis and taking their perspectives into consideration.

What, then, are specific steps the Association could take?

1. New Staff Positions for Men

I should emphasize that I am absolutely not recommending that MLAA dismiss men in order to bring in women. Doing so would be most unfair and unwise. Staff expansion or attrition may create opportunities for women to move into employment by the Association. But above and beyond this, it is possible that new MLAA initiatives could create opportunities for experienced male employees while opening doors to hire females. For example, to the extent that MLAA adopts this report's proposals regarding paralegal development or outreach to neighboring districts, it will need to draw on staff with appropriate experience. Thus, it could serve two important ends with any one programmatic initiative: filling important new positions with seasoned male employees, while creating openings for new female hires.

2. NGO Contracts

Through its current and potential activities, MLAA stands to create a pool of educated women who already have some very basic knowledge of the organization, an interest in human rights, and an introduction to the law. One way to expand its female staff is to draw on that pool for recruitment. One important source could be NGO personnel.

A possible benefit of greater interaction with local NGOs would be that this could bring MLAA into contact with more women who possess an educational and professional background useful for its work. I am not suggesting that the Association lure other NGOs' employees away, nor am I assuming that there is a plethora of eligible individuals in its operating area. But there is a turnover in most organizations (about 5 to 10 percent per year for MLAA's mediation workers), which means that staff of one NGO occasionally do become available for other work. And even to the extent that such staff remain with their NGO, they may be in contact with others who have NGO experience and who become available.

The advantages of seeking out women with previous NGO backgrounds are manifold. The backgrounds may make them relatively assertive in carrying out various responsibilities. They bring a developmental orientation to their work, which means that they may be able to link legal issues to other client needs and problems, and assist or advise them in ways that reach beyond the legal sphere. They bring valuable field experience to their work. And, building on this orientation and experience, some may even provide ideas that MLAA could use in improving its training, outreach and mediation activities.

3. Local Colleges

Another source of recruits could be the young women from local colleges who have attended MLAA human rights workshops. While they clearly are too young to undertake field work straight out of school,¹⁶ and while their unmarried status possibly could compromise their social acceptance and physical security, I have encountered enough relatively young women doing NGO field work in Bangladesh in 1993 and 1996 to assume that middle age is not a requirement for this type of employment. So I should emphasize that I am speculating on these possible barriers, not drawing conclusions regarding them.

In any event, the recommendation here is not to deploy them to the field upon graduation. Rather, MLAA, could provide office-based internships for two to six months to recent graduates (including those who may be a few years out of school). They could, for example, help process client intake. Doing this would serve the organization by allowing it to ascertain the interns' capacities to be regular employees, and by providing these potential staff members with an in-depth introduction to the organization. It would serve the interns by providing perhaps their first professional experience, acquainting them with legal issues and MLAA procedures (in case MLAA eventually hired them), and exposing them to NGO work more generally (which could increase their opportunities for such work down the line.)

Even if MLAA did not hire them immediately (and it should of course provide no assurance of eventual employment at the outset of the internship), this program would create a pool of individuals who might return to the Association as staff members one day and who, in any case, would bring their background to bear in whatever work they might take up in the community. And if and when MLAA did hire them, it could start them in office jobs rather than as field –based mediation workers.

¹⁶ As I understand it, these local colleges are more like the American equivalent of high schools. Their graduates are only seventeen or eighteen.

4. Teachers

Another group with which MLAA has regular contact is teachers. Though much of the training it provides them is designed to allow them to teach basic human rights to their students, their education and status in the community might make them appropriate as mediation workers. As with NGO staff, the idea here is not to hire them away from their existing jobs. But to the extent that they may occasionally leave on their own, they become possible candidates for recruitment.

Another option is to retain them on a part-time basis (assuming there is no government prohibition of this), so that they would carry out mediation worker responsibilities on weekends or after school. Given the reported need (by local NGOs and MLAA staff) for more in-depth coverage of current MLAA-assisted unions, the teachers could supplement the work of full-time mediation workers. And given the clear need for MLAA services in new, neighboring unions, one way to start expanding would be to utilize part-time employees, such as teachers, who start out with community respect. The additional advantage of teachers in both these regards is that community women know who they are and where to find them to request assistance.

5. Supervisory and Senior Level Staff

MLAA is by no means alone as an NGO that primarily serves women but that lacks female representation in its supervisory and senior staff. But the issue remains. Above and beyond the fundamental issue of fairness if qualified applicants can be recruited, such representation can benefit the organization in a number of ways. First, it brings to the table a perspective on the organization's operations, challenges, policies and clients' needs that may differ from that of men. It is not a criticism of the male senior staff to say that we, as men, may not be as aware of some of these matters as are women.

Female representation on the supervisory and senior levels also would enable regular female staff members to more readily share their ideas, concerns and problems. MLAA's own mediation experience indicates that women more readily communicate with other women than with men regarding certain matters. What applies to clients can also apply to staff.

Including women in important positions of responsibility also sends a signal to employees, clients, the community and other NGOs about the fact that women can and should assume positions of responsibility.

In making these points, I am well aware of the fact that identifying women with the qualifications to take on these responsibilities can be very difficult for a rural organization.

Once place to start is within MLAA's current ranks. Contact with a wider range of NGOs could also reveal appropriate candidates. An aggressive recruitment effort for persons outside Madaripur also is an option. At this point, the point is not the result, but that MLAA sees the benefits and makes the effort.

6. Internal Review

Thus far, this discussion of greater female staff roles has focused more on quantity as a way of affecting quality. I have emphasized that more women on staff would affect the ways it carries out its work and the signals it sends as a model for outside audiences. But there may be other steps MLAA could take to affect the role that women play within the organization. One step would be to commission an outside organization to help it better integrate current and future female employees into setting the tone for the organization.

In making this recommendation, I am not arguing that there is anything wrong with the way that the Association relates to its female staffers. Rather, any organization could benefit from such an internal review. The need becomes more salient for MLAA because of its special focus on women as clients, and because of the example it sets for outside audiences.

What form would the review take? To ensure maximum openness and cooperation, it would be strictly for MLAA itself, not for whatever donor might fund it. It would be conducted by one or more Bangladeshis selected by MLAA after interviewing prospective candidates to reach a level of personal and professional comfort. And it would consist of periodic observation of office and field operations spread over several months, as well as interviews with staff members, clients and other outside parties.

The focus of the review would be to examine assumptions that underlie how the organization relates to women. This would by no means be an evaluation. Rather, it would aim to get staff to look at these assumptions. What if any actions they subsequently take would be up to MLAA. Such actions of course would be tempered by the reality of the environment within which it operates.

7. General Community Outreach

In the above discussions, I state a preference for working with group members and NGOs because they offer the crucial advantage of already operating within an organizational structure. They thus are more likely than the general population to take advantage of basic legal education. Nevertheless, there are two ways in which MLAA should consider reaching out to the general population.

1. Promoting Community Awareness of MLAA

Some MLAA staff members suggested promoting community awareness of MLAA through posters and other devices. Though much of the population is illiterate, this initiative nevertheless may make more people aware of MLAA's services.

2. Village-Based Training

Organizing short, village-based training sessions for members of the general population could prove worthwhile if MLAA is unable to establish appropriate relationships with other NGOs and the groups they assist. Under these circumstances, a more general outreach might be preferable to no outreach at all. At the very least, it would raise awareness of MLAA's and its work, and might well draw clients. These very basic sessions conceivably could be conducted by mediation workers, perhaps as question and answer workshops.

G. Training and Information Dissemination

MLAA training appears to have become more sophisticated over time. Individuals and organizations that had received training from the Association a few years ago spoke of it favorably, but described it in less positive and participatory terms than those who received more recent exposure. In the session I observed, for mediation committee members and staff from MKSS, the lawyer conducting the training engaged his "students" in a useful question and answer exchange regarding details of inheritance law.

Nevertheless, there appear to be several respects in which MLAA could strengthen its approaches to training, both for audiences in its service area and NGOs from elsewhere. Some recent trainees supplement their praise for MLAA with suggestions on how it could improve its work. The aforementioned question and answer session aside, for example, much of its teaching about the law consists of lectures and is less participatory than teaching about mediation. Nor is it clear that MLAA is determining how much information participants retain over time, or that it is using its training as much as it could to nudge its trainees toward broader perspectives on women's rights.

In fact, MLAA acknowledges that it has by no means perfected the art of training people regarding the law and mediation. In fact, it makes the point that despite international exposure, staff attendance at trainers' training courses for development workers and other initiatives' it has not come across great examples of legal literacy training. I tend to agree that few lessons in this field have been documented and even fewer disseminated, despite the considerable resources invested by donors.

The following suggestions, then, spring more from personal observations than widely established practices, but hopefully will be of some use.

1. A Greater Focus on the Most Common Legal Problems

What is wrong with lectures, modified perhaps by question and answer sessions, as a mechanism for conveying legal knowledge? The answer goes back to the way in which people learn, whether in a developing society or in the West.

Basically, people seem to grasp and retain that knowledge that is most useful to them most frequently, and that they can put into an appropriate context. This is what “learning on the job” is all about. This lesson also pertains to mediation workers and committee members. They are much more likely to retain key information about situations that arise most frequently in shalish, rather than the broad array of information presented in a lecture. With respect to inheritance, for example, it is not a criticism of the aforementioned MKSS trainees to wonder how many of the intricate rules they can recall a week, month or year later. (I certainly had trouble recalling those rules after the completion of my own Islamic Law course at law school.) Nor can we assume that even the best students can retain even a fraction of the information. As one Bangladeshi attorney put it “These inheritance rules could fill up 100 pages.”

How to deal with this problem? I suggest that MLAA legal training be as participatory as its mediation and other training, and that it focus on the most common issues that arise for clients. Developing a revised curriculum would start with the Monitoring and Evaluation Project (discussed below) identifying the problems that come up again and again for MLAA clients. The Training and Staff Development Project would then build those problems into simulations or other teaching devices that illustrate how they play out in reality. And that unit’s post-course exams would ask trainees to demonstrate knowledge of these most common problems and applicable legal rules, with review of the exams providing reinforcement of their knowledge.

2. The Nature of Daily Assessments

MLLA’s practice of soliciting trainees’ feedback at the end of each day and reviewing it the next day is laudable. It might, however, consider shifting the focus of this process from how the training was conducted to what was learned. While it is useful to get some feedback from trainees regarding the former, Dr. Khan’s and my brief review of their responses (as well as general experience in many societies) indicates that people are reluctant to criticize and eager to express appreciation. It also is not clear how MLAA uses this feedback

But the more important argument regarding a focus on what was learned pertains to a matter of priorities. The time put into assessing the learning process might be better devoted to testing trainees regarding the day's lessons, and providing them feedback (based on their test response) that clarifies their understanding of the days' most important lessons. This is not to dismiss the worth of soliciting participant feedback regarding their training. But if MLAA is to put thirty or sixty minutes per day into a review, the larger focus should be the substance of what, they are taught rather than how they are being taught it.

3. Follow-up Testing and Feedback for Other NGOs

Of course, the real "test" of how effectively MLAA imparts knowledge pertains not to how much information trainees retain at the end of day or week, but how much they retain months or years later. MLAA follow-up visits to other NGOs under EMP (and possibly other programs) provide an opportunity to do follow-up testing six and twelve months down the line. The main point of the testing would not be to grade them, but rather, based on their responses, to fill in gaps that, have developed in their understanding of the law and mediation. And as with the training itself, the exams should focus on the most important rules and processes.

In a related vein, these follow-up visits should not just be to evaluate how other NGOs are doing regarding shalish. Of equal or even greater importance, they should afford these other NGOs the chance to ask questions and discover what issues and legal rules they are overlooking in mediation and other interactions with clients. An experienced MLAA observer can illuminate issues that these other NGOs may not even know exist.

4. Follow-up Training, Testing and Feedback for MLAA staff

A matter that came up both in discussions with MLAA staff and in observation of mediations was the question of deepening their knowledge of the law. Follow-up training would of course be useful. In addition, the staff might benefit from occasional tests of their knowledge. As with the other recommended steps, the focus would be on the most common issues that arise. The point would be to improve staff skills rather than evaluate individuals. Accordingly, the tests should be taken anonymously, to ascertain overall staff expertise rather than individual knowledge. Based on the results, senior and supervisory staff should explain the relevant rules and procedures to their subordinates.

A thornier matter involves points of law that the staff may not even realized it does not know. This came up in a shalish we observed, in which a participant was making unfounded assumptions to the effect that the wife could revoke her right to dower. The

dynamic of the session changed when Dr. Khan interjected, correcting the error and in effect buttressing the wife's legal position. The general problem this illuminated was that there may be situations in which mediation workers and committee members do not even realize what they do not know.

How to address this? My initial thought was that MLAA lawyers should occasionally sit in on mediations, noting respects in which staff do not recognize legal issues, correcting them on these points, and subsequently educating the organization more generally regarding these matters. But the Association persuasively argued that the presence of lawyers alters the whole dynamic of a shalish in undesirable ways. By interjecting, they become the focus in the dispute at hand. In addition, community awareness of lawyers attending a given session might well open the door for one or both sides to bring attorneys to other mediations in the future.

In the absence of lawyers, I do not see any very good ways of filling gaps in legal knowledge where the staff does not even know there is a gap to fill. Perhaps MLAA could experiment with occasionally utilizing attorneys, despite its very understandable reservations. And presumably, there may be some situations where supervisors pick up on these points. Perhaps, too, if MLAA offers internships to more law students in the future, they could note such points without interjecting during the session.¹⁷ In any event, these matters would be the subject of subsequent training, testing and/or review.

5. Training of Trainers for Other NGOs

There seems to be some ambivalence within MLAA about conducting training of trainers (TOT), to facilitate other NGOs' instructing their clients, staffs and other audiences about the law. One concern is that MLAA could put itself out of a job, by creating competitors for trainees and funding.

Another concern is that other organizations will misapply or misinterpret what they learn from MLAA. This springs from experience (as acknowledged in footnote 12, above). The Association had been discussing undertaking trainers' training for a large, national NGO, before splitting with it over that organization's apparent politicization during the 1996 elections. If that NGO had in fact blended the legal training with partisan work, its links to MLAA could have tarred the Association with a biased, political brush.

There also are practical problems. As with popular education and legal literacy, extending general TOT methodologies

¹⁷ I address this possibility in a bit more detail below.

to the legal field may be easier said than done. Teaching about law and mediation is difficult enough, without in turn teaching how to teach about these subjects. And there is the fundamental question of priorities. Devising and implementing a formal TOT program could take MLAA resources and energy away from other resources.

Despite these problems, it might be worth MLAA's while to cautiously explore this field. The concern about competitors for funding is a valid one, but if MLAA were to carve a niche regarding TOT, its leading position might be fortified rather than weakened. Of equal importance, Bangladesh does not seem in danger of being saturated with legal information, training and services. Quite the contrary. As a leading legal aid organization, it is MLAA's mandate and responsibility to do what it can to expand more Bangladeshis' legal horizons - - as long as doing so does not stretch it too thin.

Despite the practical problem of TOT in the legal field, MLAA already is training trainers to some degree through its various programs. A 1995 MLAA program for trainers from Nepal explicitly did so. EMP's main focus on other NGOs' senior staff and supervisors amounts to an informal kind of TOT, in the sense that they will in turn guide mediation workers and committee members in their home districts. In fact, I heard favourable second hand reports of MLAA providing TOT to other NGOs. These indicate that they found MLAA training useful for passing on information, even the Association did not conceptualize it as TOT.

An added MLAA focus on TOT could build on what it is already doing, through gradual adjustments in its current training programs and/or a new initiative explicitly oriented toward training trainers. Perhaps its donor partners could help the Association determine whether applicable expertise exists elsewhere in Bangladesh or in other countries.

6. Training of Trainers for MLAA Staff

The immediate beneficiaries of an MLAA focus on TOT need not just be other NGOs. As discussed above, its own mediation workers could benefit from increased knowledge of how to convey the law to their communities. Whether acting informally in doing so, or in organizing modest discussion/training sessions on their own, these field workers would become even greater community resources if they became skillful at teaching others about the law. The recommendation, then, is for MLAA to expand its modest efforts along these lines.

7. Using Training to Broaden Participants' Perspectives on Women's Roles

Through its training of mediation committee members, other NGOs and other audiences, MLAA makes an effort to affect their attitudes regarding women's rights in general and female mediation participation in particular. It tries, for example, to make men more sensitive to these matters by having them see women not only as wives, but as daughters, mothers and sisters as well. The underlying argument is that the men would not want their own female relatives to be treated poorly.

MLAA also encourages NGOs and mediation committee members it trains to have one-half of the participants be women. In the one training session I observed, almost all of the mediation committee members associated with MKSS were male, in fact. But they did articulate a commitment to achieving one third female membership. Given the initial difficulties that many NGOs have in persuading men to accept women in these roles and drawing women into them, this commitment was noteworthy.

Nevertheless, the question arises of whether MLAA training is pushing to advance recognition of women's rights as much as possible. I do not suggest that a few days of training can reverse a lifetime of ingrained attitudes. But MLAA might explore additional steps that might nudge those attitudes in the right direction. One approach that has already been described involves focusing the training more on the core issues and problems that affect clients. A greater focus on this could translate into a slightly broader perspective on women's rights.

As described above in a more general way, another initiative could involve how the information is presented. Creative pedagogic devices might prove useful. For example, brief simulations could contrast how a women client interacts with an all-male shalish and with a mixed membership body, dramatizing how she feels freer to share important information with the latter (or, more specifically, with its women members). Another device might involve drawing on male MC members from Madaripur to help train those visiting from other areas. It would have them engage in discussions with trainees about how in their experience women's MC membership (and other pro-women initiatives) have proven to be good ideas.

8. Other MLAA Lessons for Other Organizations

Even outside the formal classes and other exposure that MLAA provides trainees from other NGOs, there are numerous other lessons they can acquire during their visits to Madaripur. One involves the Association's very wise involvement of local officials, prominent lawyers and other leaders in its training and activities. Influential individuals can create problems for

an NGO, particularly one that helps balance the scales of justice somewhat for women and poor farmers. By involving such individuals in training and other activities, the Association minimizes potential suspicion and hostility toward its work.

Of course, such cooperation can reach a point where an NGO becomes coopted in the course of heading off potential opposition to its work. This does not seem to be a problem for MLAA.

Another example of useful exposure for NGOs visiting Madaripur would be MLAA's very impressive record-keeping system. It is more comprehensive than that of any other legal aid NGO I have come across. Other NGOs can learn a great deal from it in building their own legal aid/mediation services.

Yet another lesson that MLAA could eventually offer other NGOs is how they can monitor and evaluate their own work. But because the Association's efforts in this regard are just getting off the ground, I will discuss this matter below.

9. Informational Materials

Reviews of MLAA's informational materials by both Dr. Khan and Mr. Islam, TAF's own staff expert on training methodologies, were on balance positive. But the two did reach consistent conclusions regarding ways in which the materials could be strengthened. While a few documents seem very useful (e. g., publications regarding children's and workers' rights), many are translations of international documents or otherwise too technical for most MLAA trainees and other audiences to grasp. I heard similar NGO comments about MLAA's monthly newsletter: It is too technical and translation-oriented to be useful for many audiences, including NGOs.

The central way to address these comments echoes the aforementioned recommendation regarding training. Based on staff experience and input, MLAA should consider preparing a very basic booklet for its personnel, other NGOs and mediation committee members from near and far. It would summarize, say, the 50 or 100 most common legal problems that arise for clients and in shalish, and the pertinent legal rules that apply to them. For the purposes of this booklet, the rules should not be translations of the relevant laws, but rather straightforward and simple summaries of the applicable provisions.

One attorney familiar with MLAA's work suggested that a complement to such a publication would be a series of more specific booklets that simplify and summarize the law regarding the major range of issues that MLAA addresses. One could focus on inheritance, another on dowry, yet another on land transfer. Again, they would spring from MLAA's own experience with the questions that arise most frequently. To the extent that the

more general publication described above sufficiently covers most questions, these more specific publications might not be necessary. But to the extent that it cannot delve into enough detail, the need for supplemental specific booklets becomes more salient.

An analogous publication would focus not on the law, but rather on challenges that arise in conducting mediation session. What to do about a participant who seeks to dominate discussions? How to encourage women's participation? Where to draw the line so that mediation does not become arbitration in shalish? Mediation workers and committee members might benefit from taking away from training some practical, written advice regarding these and numerous other issues.

MLAA reports that it already is working on preparing a brochure of "do's and don't's" regarding mediation. That brochure is not exactly what I am proposing here, which is somewhat more in- depth. But because it would be more basic it might be more necessary. And the Association's experience with the brochure might indicate whether a more detailed publication is warranted.

Yet a third types of publication might address not so much the law itself, but the responsibilities of various government divisions (regarding, for example, land transfer and registration), and how to approach them for help. I realize that even with such a booklet in hand, an individual might find dealing with a government bureaucracy a daunting prospect. The material accordingly might be appropriate for NGOs assisting citizens, rather than for individuals.

Finally, the MLAA newsletter constitutes an opportunity to update the information presented through its other publication, as new questions arise or as new laws and Supreme Court decisions come into effect. As with these documents, the consensus of feedback seems to be that the newsletter would benefit from being simpler and more practical in nature. With the rise of computer technology, some updates and advice for the newsletter could be prepared in formats similar to the aforementioned publications, and plugged into revised editions of them.

One NGO suggested that the newsletter also contain case studies and analysis drawn from MLAA's experience, and that it be divided into two sections. One section would be pitched at NGO staff, and might explore how such issues as how village politics affect mediation (along with suggestions on how to deal with this phenomenon). The other section would be more basic, and would be aimed at (literate) regular citizens.

H. New Forms of Interaction with Other NGOs

Various sections of this report have addressed how MLAA might train and work with other NGOs in the future. But there are other ways in the Association and the broader Bangladeshi NGO community could interact to their mutual benefit. One rather comprehensive initiative would be a series of MLAA field visits to and exchanges with selected NGOs engaged in shalish; followed by an MLAA-organized conference bringing all such organizations together; resulting in a publication articulating lessons learned, and possibly the organization of a network of these groups; followed by MLAA visits a year or more later to some NGOs that attended the conference, to explore their experience in introducing approaches that they learned there; followed by one or more subsequent, similar conferences every two years, to share experiences and lessons in this evolving field; and possibly complemented by related conferences for other audiences, such as NGOs not previously involved in shalish. These ideas are discussed in more detail below.

1. Field Visits by MLAA Personnel

For MLAA to continue to play a leading role regarding legal aid and mediation, it would benefit from seeing how other NGOs have adapted the lessons they have learned from it. What I have in mind is somewhat different from the EMP visits that MLAA personnel are paying to newly trained NGOs around the country. These mainly are designed to monitor those organizations' progress in starting mediation activities. In contrast, this recommendation is for MLAA to visit other NGOs that have had mediation programs in effect for at least a few year, in order to learn from and compare experiences.

Such visits become almost a responsibility for MLAA in its capacity as the leading organization in this field. If it is to continue to pass on lessons learned to other NGOs, whether through training or more informally, it needs to accumulate more exposure to the best practices tried throughout Bangladesh. Many or most organizations trained by MLAA have adapted their approaches to local conditions and the fact that their mediation/legal aid programs may build on ongoing involvement in such work as income generation, family planning and/or group formation. The upshot is that their programs, as described to and observed by me in 1993 and 1996, differ from MLAA's to varying degrees.

My point certainly is not that these other programs are "better" than that of MLAA. In fact, a number of other NGOs have informed me that the Association's mediation work remains the leading and most comprehensive effort in this field. But that does not mean that it has nothing to learn from other NGOs.

What, then, could be learned from such visits? The benefits would, at the very least, be fourfold. First, MLAA's own work in its service area would be strengthened to the extent that it learned of useful methods for teaching its various local audiences about the law. Particularly in view of this report's recommendations that it reach out more to cooperate with other local NGOs' operations and personnel, it also might profit from the experiences or NGOs that already have integrated mediation with their other development work.

Even the negative lessons might be very useful. MLAA's prominence means that it receives advice from various sources about new approaches it could try. Whether coming from lawyers, NGOs, donors or even this report, the Association could save itself time and effort if it has learned that other NGOs' experiences with such suggestions have proven unsuccessful.

Third, and as already emphasized, MLAA could integrate its lessons learned into the training, exposure and advice it provides other NGOs in the future. Its value would increase significantly if it can inform them not just of the law and its own experiences, but of lessons accumulated throughout the country. This "value added" could involve, for instance, discussing with family planning NGOs how other organizations involved with such work have taken on legal services programs to the benefit of their operations in both fields.

Finally, these field visits clearly should not be one-way transfers of experience. If undertaken in the proper spirit, they would constitute opportunities for other NGOs to learn from MLAA even as it is exposed to their work. In this vein, MLAA should offer to host representatives of other NGOs in the same ways that they may host its personnel, so as to facilitate full-fledged exchanges of experience.

MLAA already has taken its first steps regarding field visits along the lines described here. At the time of my 1996 visit, Executive Director Huq was preparing to visit Banchte Shekha, some of whose personnel had been trained by MLAA. I recommend that this exposure be expanded beyond Mr. Huq. Because Banchte Shekha has a particularly dynamic program that integrates mediation with community development, income generation and consciousness raising (though the trade-off is that it serves a much more limited population than MLAA), it would be a good place to start other MLAA senior staff members' exposure to how other NGOs conduct shalish.

As suggested above, MLAA also might benefit from exposure to NGOs that have combined family planning with legal services, such as the four it trained a few years ago. While I believe that USAID funding (through TAF) for the legal services components was cut off (rather prematurely, perhaps) due to changes in that

donor's priorities, at least one of those NGOs maintains an ongoing legal services program. Others may be continuing mediation work in a more modest, informal manner.

MLAA also should consider visits to mediation operations carried out by NGOs it has not trained, to determine whether their contrasting approaches hold useful lessons. Of course, the value of such visits would hinge on relations between MLAA and the operation in question.

Who should undertake such visits for MLAA? Executive Director Huq is an obvious candidate, though he may want to restrict his exposure in view of the other demands on his time, such as BLAST and broader involvement in policy advocacy (discussed below). One approach would be to have senior staff undertake these trips, accompanied perhaps by one or more supervisors and mediation workers who can provide some feedback on how other NGOs' work looks to persons more involved with the nitty-gritty of organizing and conducting mediations.

2. Conference on NGO Mediation in Bangladesh.

MLAA also should consider organizing a conference through which a variety of NGOs could exchange experiences and lessons regarding mediation. The gathering should be held at MLAA because it is a leader in the field, because of its good facilities, and because its location eliminates the distractions that a gathering in Dhaka would hold.

The conference would not be a training session. So while MLAA would play a crucial role, the purpose would not be for it to solely impart its experiences and approaches to others. Rather, it would provide a forum for exchanging lessons learned and frustrations encountered. If disagreements emerged over approaches and strategies, so much the better. If constructively framed, differing perspectives themselves provide food for thought and learning.

The substance of the conference obviously would require far more thought and familiarity with shalish than I could provide here. But the sessions might most productively be problem-based, addressing such thorny issues as how to increase the quantity and quality of women's participation; mediation and litigation as mechanisms for combating violence against women; refining the relationship between mediation and litigation (and perhaps between mediation workers and lawyers); how to combat dowry in a district when it continues unchallenged in neighboring districts; the best ways of teaching staff about the law and mediation; the best ways of teaching MC members (and possibly the broader community) about these matters; comparing and increasing the impact of various NGOs' informational materials; and integrating legal services with other development programs.

In terms of maximizing usefulness of the conference and obtaining donor funding for an integrated series of activities, the gathering might best build on the aforementioned MLAA visits to and possibly exchanges with other NGOs conducting mediation. While such visits certainly would not cover all of the NGOs that might attend, pre-conference exposure of this sort would help MLAA put together the best possible agenda. In fact, an additional explicit purpose of the visits would be to discuss the conference agenda.

Given the Association's evolving links with BLAST and ASK (and their own involvement with shalish), it might want to co-organize the event with them. Of course, I recognize that too many cooks spoil the broth, and that having even three cooperative and very competent organizations such as these put a conference together can complicate more than facilitate matters. But at the very least, careful consultation with them would seem very worthwhile. BLAST brings a growing nationwide network of offices that could coordinate mediation and litigation with local NGOs throughout the country. ASK brings urban experience with shalish and expertise regarding women and development. And by the time the conference takes place, ASK's current research project on NGOs and shalish would be completed.

Yet another reason for cooperating with BLAST and ASK in putting together the conference is that policy recommendations may emerge from the event. If in fact these three organizations' plans to cooperate on policy advocacy reach fruition, the conference could constitute a launching pad for initiatives in this regard.

Who would attend the event? Certainly, senior NGO staff from a diversity of organizations involved with shalish. Also, informed observers (some of whom may also be involved with NGOs), such as Karen Casper, Sultana Kamal, Nazrul Islam and Dr. Khan. Unless MLAA feels that donor presence would inhibit discussion, I would strongly recommend that their personnel also attend. They would profit greatly from doing so.

Finally, if space and resources permit, each NGO might be encouraged to one or two of its most dynamic mediation workers to the event. Whether these persons would feel free to speak freely in front of their better educated bosses is an open question. But if so, their actual experience with the problems and possibilities of mediation might constitute tremendously valuable contributions.

Whether selected MC members also should attend is a judgement call for MLAA to consider, though I would advise against it. If properly selected, they certainly would bring valuable insights and perspectives to the event. But it could be that they would soften its focus and inhibit some discussion of

how to best affect community attitudes. And as a practical matter, MLAA's accommodation capacities and the optimum size of the event might weigh in favor of restricting attendance to NGOs and informed observers.

The outcome of the conference would of course be greater dissemination of knowledge among organizations that thus far have shared relatively little information about their experience with shalish. It also might include a practical publication in Bangla and English (not a record of proceedings), that includes lessons learned (where a consensus emerges) and perspectives exchanged (where it does not).

The publication would be distributed to two and possibly three audiences. One would be the participants, of course. More broadly, the publication would be provided to other Bangladeshi NGOs currently or potentially involved with legal services. Finally, if some of the lessons prove potentially applicable beyond the borders of Bangladesh, it could be circulated to other legal services groups and donor offices abroad.

MLAA also might want the conference to explore whether the NGOs attending would like to create a network of organizations involved with shalish, as an ongoing vehicle for exchanging information and advice. But I put forward this suggestion with some hesitation. While formal networks sometimes sound appealing to donors (and consultants), they sometimes create more work than they are worth and are less useful than ongoing informal contacts.

Another possible and more concrete follow-up to the conference would be a series of field visits carried out by MLAA a year or more later. Through these, its personnel could observe whether other NGOs have modified their legal services work as a result of information shared at the gathering. And if so, how have their innovations worked out?

Looking a bit further over the horizon, one possibility to keep in mind is that such gatherings could be organized every two years, to keep track of and exchange information on evolving strategies and techniques pertaining to mediation. A fair amount might well change during that period (pertaining, for example, to female participation in shalish, or ways of integrating mediation services with other development work). Periodic conferences could track such innovation and evolution for all NGOs involved, and keep MLAA at the cutting edge of the field.

Of course, MLAA may not be able to definitely plan even one follow-up conference. Much depends on how the first conference transpires, as well as on funding (probably directly from donors, but possibly from NGOs that have staff development line items in their budgets). I nevertheless mention the possibility of

follow-up conferences because keeping this in mind could help MLAA derive useful lessons from the first gathering regarding how subsequent conferences should be organized.

3. Workshop Introducing NGOs to Mediation

MLAA also should consider organizing another, related conference at its facility. It would be a workshop for NGOs that currently do not organize shalish. They could be legal services NGOs and, perhaps more importantly, NGOs engaged in other types of development work. (“More importantly” because these other NGOs constitute a much broader universe of organizations.)

Again, roles for BLAST and ASK in putting together this event might be appropriate. The formers’ involvement might be particularly useful, in that its nationwide network could hook up with NGOs that have an interest in shalish but no experience with it and no resources to hire lawyers to conduct training and litigation.

4. Other Related Conferences

MLAA also might want to organize conferences for particularly dynamic mediation workers and/or mediation committee members from across the country, if in fact such persons could bring back lessons learned to their colleagues in their communities. I put forward this idea very tentatively, though. It strikes me as a lower priority than the other potential conferences described above. At this point, I place it on the table just in case MLAA should see more value in it than I describe here.

I. Policy Advocacy and Implementation

A variety of influences have come together to spark greater interest in policy advocacy on the part of Bangladeshi NGOs. Most generally, these seem to reflect the fact that, particularly as formal democratic structures solidify after the downfall of authoritarian regimes, NGOs in many countries become more attuned to the need and opportunities to build on their grassroots experience by affecting laws, regulations and other government policies. Like, for example, Nepal and the Philippines, this phenomenon is gathering force in Bangladesh. Another factor is donor willingness to support NGOs in building up their policy advocacy capacities (though donors justifiably steer clear of advocating specific policies themselves).

MLAA fits into this trend. It has built up what one Dhaka attorney calls a “gold mine” of experience with problems besetting human rights and the legal system in Bangladesh. It also has established substantial credibility with the government.

It now is exploring ways of translating these assets into influence on relevant policies.

Most notably the Association has prepared a proposal with BLAST and ASK that, if funded (as may be the case by the time this report is completed), would involve the three in a collaborative endeavor regarding parliamentary advocacy. This section of the report accordingly seeks to build on MLAA's demonstrated interest in and capacity for policy advocacy, by making suggestions that compliment the ideas articulated in the aforementioned proposal.

Because MLAA is and should be aiming to coordinate its policy advocacy work with other NGOs, some these suggestions may resonate more broadly than for just the Association itself. To the extent that they have merit, some ideas might even be more appropriate for other organizations than for MLAA. The Association is in the best position to decide whether and how it should adopt any of these itself, and which might be referred to organizations with which it is cooperating.

1. Ministerial Decisions

MLAA's planned parliamentary advocacy work is, of course, very important. But a number of lawyers and NGO leaders I interviewed informed me that, like other countries, many significant policies are adopted through rules, regulations and procedures promulgated by ministries. Land transaction procedures, for instance, which could be reformed on a ministerial level, currently can take two years to complete. Similarly, a number of policies regarding how police relate to women could be influenced through ministerial rather than women could be influenced through ministerial rather than legislative advocacy. An example here would be expansion of an experimental all-women police unit initiated in Dhaka.¹⁸

Like all policy advocacy, persuading government ministers or senior civic servants to adopt useful reforms is not a simple matter. Even identifying the relevant regulations and the appropriate officials to address requires learning a great deal about the policies, politics and personalities that shape a given bureaucracy.

Still, ministerial advocacy might prove worth pursuing for at least two reasons. First, it might reform some policies that currently impinge on the clients served by MLAA and other NGOs. In addition, it might prove less daunting than legislative advocacy, particularly once the Association and its allies become

¹⁸ Masud Arif and Morshed Ali Khan, "Husbands mostly shirk duties to wives," *The Daily Star* (Dhaka), 23 November 1996, pp. 1, 12.

more familiar with the government offices involved with a given set of policies.

Another advantage of exploring advocacy on the ministerial level is that it would provide MLAA and its allies with Dhaka contacts who could be of service in pushing through policy implementation and accountability by lower level local officials. (Potential policy implementation work is addressed below.)

More often than not, ministerial and legislative advocacy do not necessarily overlap. But an interface could occur on at least two levels. First, some policy changes might involve both new legislation and implementing regulations (or other regulatory changes). In addition, some regulatory reforms that might not require new legislation might nevertheless necessitate parliamentary action regarding ministerial budgets.

2. Judicial Policies and Practices

Another type of policy impact that MLAA is well placed to address involves procedural logjams and counterproductive facets of court operations. The Association could draw on its litigation experience to identify ways in which these could be changed. It could then seek to persuade the Supreme Court (and other appropriate bodies or individuals) to institute relevant reforms.

3. Public Interest Litigation

As a rural - based NGO cooperating with Dhaka-based organizations, it probably does not suit MLAA's purposes or orientation for it to play a lead role in public interest litigation. Its allies might be better placed geographically and organizationally for that function. Nevertheless, there are at least two respects in which the Association could contribute to such litigation in important ways.

The first builds on the aforementioned experience that the organization already had with putting together conferences at which Supreme Court justices were exposed to international standards regarding public interest law. MLAA could play a similar role in expanding justices' legal horizons in the future. Of course, the point would not be to influence them regarding pending cases. Rather, it would be to provide information that constitutes a context for considering whatever public interest cases might arise down the line.

The other potential contribution to public interest litigation pertains to the aforementioned Bangladeshi attorney's comment about MLAA sitting on a "good mine of information." The specific situation that gave rise to the comment was one in which the Association was in a position to document to the Supreme

Court that placing prisoners in iron fetters around the clock was a common practice, based on its own observations in local courts and prisons. MLAA might be able to provide analogous documentation for suits brought by other groups in the future, thereby playing an instrumental role without stretching to mount such suits itself.

4. Policy Implementation

As crucial as government policies are, the unfortunate fact of life in Bangladesh and many other countries is that all too often the law is neither implemented nor enforced. The reasons for this are manifold, but frequently translate into ignorance, indifference or hostility on the part of the officials responsible. In a sense, MLAA already addresses this problem through its mediation and litigation work. Is there anything else it can do regarding policy implementation?

In its own service area, MLAA might consider greater interaction with District Commissioners, Government Pleaders and other local officials to whatever extent advisable. It also might draw on its greater contact with Dhaka-based officials through policy advocacy work, persuading those officials to convince district-based subordinates to carry out their responsibilities.

But MLAA's greater impact might stem, like public interest litigation, amassing data about which laws are not being enforced in its service area. This information could help as a persuade Dhaka-based officials to issue orders and otherwise pressure their district-based subordinates. I am under no illusions about the capacity of the central government to make things happen on the district level just by issuing orders. But under some circumstances regarding some officials, such action might bear fruit- - particularly if it is accompanied by local action by affected citizens.

J. Fulfilling MLAA's More National Orientation

MLAA has already decided to move toward a more national orientation. This is reflected in its training of other NGOs and in its commitment to a policy advocacy role. The decision is a wise one, but may well require taking additional steps. Such steps are discussed here.

1. Staff Attorneys

A number of factors weigh in favor of the Association taking on one or more attorneys who would split their time between Dhaka and Madaripur. Most immediately, for MLAA to become more involved with policy advocacy and implementation could well

require additional legal staff. Executive Director Huq has the legal expertise and stature to represent the Association in high-level discussions with ministers and members of Parliament. But for MLAA to adapt what it has learned in the field to what it advocates in Dhaka probably involves other attorneys who can integrate rural experience and reactions into policy advocacy.

More specifically, such staff attorneys would work with lawyers from BLAST, ASK and other NGOs to analyze proposed laws and regulations and devise proposals of their own. They would work with Madaripur-based staff to ascertain what the communities' greatest legal problems area, and how they respond to current or potential law proposals. They would prepare arguments, papers and briefs that strengthen their allies' presentations to the Supreme Court, Parliament and ministries.

These persons would operate on a level of detail for which Executive Director Huq does not have time, leaving him free to deal with the "bigger picture" of both policy advocacy and overseeing MLAA's operations. And they would bridge MLAA's potential institutional gap between its Dhaka-based and rural work.

On a more general level, the experience of other legal services NGOs in Bangladesh, as well as such countries as Sri Lanka and the Philippines, indicates that attorneys can best contribute to policy advocacy when their experience and orientation is grounded in the grassroots realities of how policies do or could affect ordinary citizens. Furthermore, such attorneys take on a more developmental orientation when they are full-time staff, rather than pro bono lawyers. It involves familiarity with the details of citizens' legal problems on the one hand and government policy-setting mechanisms on the other.

Senior MLAA staff members do have legal backgrounds, but it would be counterproductive to take them away from their strengths carrying out very good field work. Better to recruit new staff who can function best in Dhaka while acquiring field experience, and who also could contribute to other important organizational tasks such as preparation of proposals and reports (as discussed below).

Another argument in favor of full-time attorneys relates to looking toward the long term for MLAA. Fazlul Huq appears to be as dynamic and pioneering an individual as when he started the Association nearly twenty years ago.¹⁹ But MLAA will need individuals to learn from and perhaps ease into certain of his

¹⁹ Even when beset by a kind of viral flu that left him third and sometimes dizzy during my visit to Madaripur, Mr. Huq remained intellectually energetic.

functions eventually.

Current senior staff are doing an impressive job at running ambitious Madaripur-based programs. But policy advocacy, inter-NGO cooperation on a national level and donor interaction might require other skills that would complement theirs. Now may be the time to bring in other attorneys who can manage those functions down the line.

My sense is that one or more of these attorneys should be junior, perhaps just out of law school. Their immediate functions in providing policy advocacy support for Executive Director Huq do not require more senior personnel. As junior attorneys, they actually might be more open to learning about new ways of practicing law, of utilizing mediation, and of integrating MLAA's work with those of other NGOs on a grassroots as well as policy advocacy level. And because there is after all no guarantee that they would remain with MLAA, the exposure to its work at a formative stage in attorneys' careers would be serve them well if they moved on to other NGOs, governmental work and/or respected roles in the bar. Finally, because any more responsible future positions within MLAA would only emerge over many years, it might be best to hire junior personnel who would start out with more modest expectations than might senior colleagues.

I understand that recruiting attorneys to be based in Madaripur might be difficult. If so, they could well be Dhaka-based, as long as they spend considerable amounts of time in Madaripur. Doing so would put them in touch with both the legal needs of the population they serve and the data that could buttress their policy arguments.

2. Expansion of the Executive Committee

MLAA has grown into an organization with national (as well as community) impact and orientation. It might accordingly want to consider expanding its Executive Committee to reflect this reality.

The question is not just a matter of principle. It has practical implications. An Executive Committee that includes, for example, prominent members of the Dhaka NGO and legal communities might be able to provide MLAA with guidance and assistance regarding policy advocacy, NGO coordination and donor cooperation. Its members might have international connections that could supplement those of the Association's staff and donors, to the benefit of its fund-raising and operations. And to the extent that this report's suggestions regarding increased integration of MLAA's work with other development NGOs have merit, Committee members' contacts and experience could be useful in this regard.

Finally, again looking toward the long term, such an expanded Committee could be instrumental in identifying funding sources other than international development agencies. True, the short-term prospects for this are limited. But there are growing efforts in to encourage intra-Asian philanthropy (spearheaded, in part, by TAF) and to establish models through which NGOs can accept domestic donations without compromising their independence. It is unclear, for example, whether the Western model of contributions from law firms and prominent lawyers is at all workable in Bangladesh. But it will be much more difficult to explore ideas such as this without well-connected, Dhaka-based Board members.

K. Law Students

It practically goes without saying that the future of the legal profession in Bangladesh resides in its law schools. Almost as obvious, but nevertheless worth emphasizing for this report, the perspectives that today's law students bring to their legal careers (and thus to public services, legal service and development) will be formed in part by their experiences during law school. Such experiences are crucial, because in both the West and many developing countries legal services attorneys gain their first taste of such work as part of their legal education.

How can MLAA contribute to these experiences? As already noted, it already has done so in a modest way through student internships. And a Ford-funded program may provide additional avenues for students from Dhaka University and other universities to work with NGOs involved with legal services. Either in conjunction with this initiative or separately, MLAA may want to launch three initiatives that would benefit law students and its own operations.

1. Field Exposure

One program could provide annual exposure, for as much time as students could spare, to legal services and development work in MLAA's rural setting.²⁰ The six of activities could include

²⁰ I realize that it is more difficult for female students to go to MLAA, but any special efforts if could make to accommodate them would yield particular benefits. More specifically, it would strengthen their appreciation of the legal problems women face and the need for women professionals to play a role in addressing those problems. Perhaps such arrangements could include shorter internship periods or visiting MLAA in the company of a chaperon.

observing and assisting with shalish and litigation. It also might include exposure to local NGOs such as the Shariatpur Development Society, to see how they carry out their core programs as well as their mediation work. The purpose of such exposure to the work of local NGOs would be to provide future lawyers with a better grasp of the overall developmental context into which legal services work can and should fit. Finally, the law students might help carry out special projects pertaining to specific client groups, such as Madaripur-area workers.

Another potential value of students relates back to a problem previously identified in this report: MLAA mediation workers and committee members sometimes do not know that they are overlooking legal issues that arise during shalish. As already noted, having lawyers sit in on mediations to help correct this problem could create an even larger one, in that they may dominate and otherwise upset the dynamic of the process. But if advanced students sat in on shalish, they could note legal issues that the participants might be missing, without intruding on the process. They could convey their observations to MLAA staff through subsequent review sessions.

This is not to say that Association staff neglects key legal issues, or that law students' knowledge exceeds their in most respects. But to the extent gaps in MWs knowledge exist, the law students could ask questions that might identify issues the staff may occasionally overlook.

2. Research Assistance

Another program might involve law students in carrying out supervised legal research in Dhaka in conjunction with MLAA's policy advocacy work. Travel to Madaripur might even be carried out as a part of this program, particularly if there is a need to gather data there. But the main thrust would be to research the laws, rules and regulations that MLAA might be trying to reform or have implemented.

3. Clinical Legal Education Credit

For both of these proposed programs to work best, students should receive academic credit for participation. While Dhaka University and possibly other law schools have launched clinical legal education programs, MLAA and other NGOs could invigorate such efforts by lobbying to have the students receive a maximum amount of course credit.

L. Monitoring and Evaluation

As noted above, MLAA's Monitoring and Evaluation Project represents a significant step forward for the organization. It also comprises a potentially useful contribution to legal services in Bangladesh and beyond, in that it constitutes a comprehensive effort to amass information about accomplishments and lessons learned. As such, it could be a great model for legal services NGOs elsewhere.

Nevertheless, as an operation that is just finding its footing, there are many respects in which the unit could strengthen its operations. A full-fledged assessment of the information it should seek and how to do so would require a much lengthier discussion than I can provide here. (In effect, it would amount to a rather comprehensive separate report.) Nevertheless, this section seeks to sketch the types of information that would reflect MLAA's impact, and ways of gathering such information.

I admittedly offer a rather ambitious agenda below regarding monitoring and evaluation. In doing so, I do not mean to present such work as a science. It is not and cannot ever be that regarding legal services. Nor do I recommend that MLAA necessarily pursue each and every recommendation, unless it sees fit. Rather, as with the rest of this report, I simply suggest that the Association decide which types of information suit its needs. It should then find appropriate examples and sample populations to work with regarding evaluation.

1. The Purpose of MLAA Monitoring and Evaluation

How MLAA uses its new unit hinges on its purpose. I would suggest that it mainly view evaluation as a way of learning about and improving its operations. Like any organization, there are strengths and weaknesses in the Association's work. There are accomplishments and failures, as well as results that fall between those two ends of the spectrum. But until MLAA gets a better overview of what it is and is not achieving, it is difficult to build on its strengths and address its weaknesses.

Another reason for MLAA to refine its self-evaluation work pertains to its role as a leader in the legal services field in Bangladesh. It already serves as a model for BLAST and other organizations embarking on mediation. Through its training programs and more informal contacts, the Association also should offer instruction on how other NGOs can evaluate their own work in this field.

Of course, evaluation also pertains to attracting and maintaining funding. This is not to say that donors always focus on the same level of detail that MLAA may want, or that all

results will buttress its case for funding. But there is an increasing donor interest in determining results. By taking the initiative to document its achievements, MLAA stands a better chance of being evaluated by donors based their confirmation of information it develops.

2. Training and Oversight

Before delving into recommendations regarding the types of impact MLAA should try to document and how to do say, I should emphasize the potential for the Association to try to work with Bangladeshi social scientists and/or other professionals with experience in gathering quantitative and qualitative data. The head of the evaluation unit has had ten days of relevant training- - and even this has been very general in nature, not specific to legal services work. It is admirable that he admits that he and his staff would benefit from more exposure to evaluation methods.

What might be the best way to get such exposure? It could involve bringing in a social scientist or a similarly qualified individual to observe MLAA's work, help it refine what it wants to learn, and provide advice on how to gather that information. This consultation process might involve an initial week's exposure in Madaripur, a series of recommendations based on that exposure, review of the recommendations by MLAA to decide which to try implementing, one or more follow-up visits of at least a few days each to observe the practical difficulties of gathering information, and a review of how the data is compiled and presented.

As the Association refines its procedures and expertise, what types of achievements should it seek to monitor, evaluate and document? How should it do so? The following sections address these questions.

3. Community Level Impact Regarding Knowledge and Attitudes

MLAA is involved with a number of activities geared toward enhancing the legal knowledge of workers, college students, mediation committee members and other audiences. A hope underlying its mediation work is that it has the important byproduct of making community members more aware of basic facets of the law, even if they personally have not been involved in MLAA-organized shalish. Furthermore, this report recommends additional community education work - - with groups formed by other NGOs, for example. How can MLAA assess whether these various types of activities actually yield better knowledge of the law in its service area?

And how can MLAA determine whether it is affecting attitudes in the community? This latter question is important, because if

people know the legal limits and prohibitions on domestic violence, dowry and taking a second wife, they may be less likely to feel such acts are justified. And a change in attitudes can affect behavior and material circumstances (which are discussed in the next section).

One method of assessing changes in knowledge and attitudes is to conduct very basic surveys of sample audiences MLAA is educating. Such surveys could take place just before a training session begins, at its close and a year later. The last survey may be particularly important, because it determines whether people have retained any changes in knowledge and attitudes.

A related method is to compare these final survey results with those for similar populations that MLAA is about to train. This “pre-training” population would constitute a kind of control group. Even if the “before-after” surveys described above were to yield modest results, they might be more dramatic compared to populations that have not yet received any training.

To the extent that such surveys reveal that MLAA has achieved greater trainee knowledge, they validate its educational work. To the extent that they indicate changes in attitudes, so much the better. Finally, to the degree that they indicate little change in knowledge or attitudes, or that some populations have benefitted more than others, MLAA should be looking for lessons learned and ways to adapt its educational work in the future.

As for whether MLAA mediation work has a positive ripple effect on community knowledge, one approach would be to do comparative surveys of general populations in communities where it is active and in communities where it is not. Even if all these surveys reveal is a greater awareness in MLAA-served areas regarding where to go (e. g. , to MLAA to get help and information, that would indicate a marked improvement over the situation facing most Bangladeshis.

4. Community Level Impact Regarding Behavior and Material Circumstances

For those populations that MLAA assists just by giving them better knowledge of the law, it might want to make follow-up inquiries to determine whether they acted on that knowledge in any ways. This would apply to workers, college students and groups organized by other NGOs. If in fact trainees report that such knowledge has contributed to changes in behavior or material circumstances, the Association should pick a few examples that come to its attention and verify the information if possible by interviewing relatively objective third parties (such as NGO worker, community leaders or neighbors). It should prepare short case studies that demonstrate that improved knowledge can

translate into concrete benefits.

Much of MLAA's impact regarding behavior and material circumstances flows from its mediation and (to a lesser extent) litigation programs. The remainder of this section accordingly addresses such work. As previously noted, MLAA has made admirable initial strides in putting together systems for compiling data on mediation and litigation case resolution. This data provides summary information regarding apparent impact on behavior and material circumstances pertaining to clients. But it does not delve into some key questions that could better illuminate MLAA's impact in these regards.

One such question regards the degree to which mediation agreements, out of court settlements and court decisions are honored or enforced in marital disputes. For men who consent at a shalish to treat their wives better, for example, MLAA may want to follow-up a year later in samples cases to determine whether and to what extent they have kept their word. Depending on the circumstances and the agreement, the Association might ask whether the husband still hits her, or is paying maintenance, or is allowing her to remain in the house, or has stopped his heavy drinking or gambling.²¹

Whom would MLAA ask, and who would do the asking? Of course, the most direct source of information for many disputes is the client herself. But she may be fear that discussing continuing problems may ignite a smoldering situation. Or she may be reluctant to provide information for other reasons.

An alternative or supplemental approach, then, might involve interviewing neighbors, relatives and possibly other community members about a wife's situation. Members of the mediation committee that heard her dispute might be sources of follow-up information.

Who, then, would gather the information? The inevitable tension with this type of follow-up is that the mediation worker who knows the client personally may be most likely to elicit open responses from him or her, but also is the most potentially biased source of information. MLAA's approach in its tentative forays into field research may well constitute the best compromise. That is, its plans to use mediation workers from neighboring districts to gather information may blend some measure of objectivity with a knowledge of the types of issues that arise and how to encourage clients to open up about their situations.

²¹ In an analogous vein, follow-up regarding land disputes might focus on implementation of an agreement.

For such information to be useful, it would have to be broken down into more detailed categories than those MLAA currently uses. (For mediation, these categories currently consist of “resolved,” “refereed to court” and “dropped”.) And once MLAA completes this basic research, it should consider analyzing the results and conducting further inquiries toward the end of determining what kinds of factors tend to contribute to agreements being honored. Does it make a difference if women were members of the mediation committee for a given dispute? Do committee members play any informal follow-up role that contributes to the agreements holding up? How effective is the more initiation of litigation in compelling enforcement? Do these inquiries reveal anything about which factors persuade husbands to undertake mediation and honor subsequent agreements?

In making these suggestions, I emphasize that the purpose here is not to pretend that evaluation is a science. But to the extent that MLAA arrives at even partial answers to these or any other questions, it might be able to direct its resources and training appropriately.

Nor am I suggesting that the everyday experiences of mediation workers do not provide valuable insights into how former MLAA clients are faring, or which aspects of the program work best and which need strengthening. In fact, MLAA should draw on such insights through structured discussions on a regular basis. But such discussions should complement more formal studies along the lines suggested above, in order to provide the Association with the maximum amount of useful information for guiding both its own work and that of other NGOs exploring mediation.

Finally, and most emphatically, these inquiries are not designed to reduce clients to the role of objects of study. MLAA should of course be of assistance if a survey indicates that a given client’s problems have returned, and/or if the client requests additional help.

5. National Level²² Impact Regarding Other Organizations’ Capacities

A central focus of EMP is to increase the capacities of other organizations to carry out mediation. But because, as I understand it, USAID, TAF and MLAA already have systems in place to evaluate this aspect of its work, I will steer clear from detailed analysis on the theory that my advice to MLAA would complicate rather than clarify matters. I do offer a few

²² By “national level” here, I refer to impact on NGOs across Bangladesh, but not necessarily affecting the entire country.

comments for donors in Appendix A below.

6. National Level Impact Regarding Knowledge and Attitudes

As discussed in the “Training and Information Dissemination” of this report, MLAA should do follow-up surveys of other NGOs’ personnel and mediation committee members a year after their training to determine the extent to which they retain their knowledge. The test could also probe changes in their attitudes, particularly on the part of the mediation committee members.

Such a test would benefit these individuals as well as MLAA. It could make this part of the basis of a review session with them, so that their answers could be the basis of further instruction. And it would help them strengthen their own evaluation methodology.

7. National Level Impact Regarding Behavior and Material Circumstances

Organizations and individuals trained by MLAA, particularly regarding mediation, presumably convert this training into programs that yield benefits regarding behavior and material circumstances in their communities. MLAA naturally should not claim the main credit for their accomplishments. But it should encourage them to adopt evaluation techniques that can document such impact. It could strengthen their work by helping them to do so. And to the extent that they provided such documentation, MLAA justifiably could take some credit for the contribution that its training sessions constituted.

8. National Level Impact Regarding Policy Advocacy

As MLAA moves more into policy advocacy, it should strive to assess how it and its allies contribute to Bangladesh in this regard. Such contributions can take the form of policy deliberation (where these NGOs play a role in the three branches of government considering whether to adopt new laws, regulations, decisions or other policies), policy adoption (where they actually make policies part of the law of the land), or policy implementation (where such policies really are put into effect).

How should MLAA verify its contributions? Perhaps the best method is a case study, in which a social scientist or another observer conducts interviews and reviews relevant documents to prepare a short paper analyzing the role(s) of MLAA and its allies regarding specific policies. The interviews would be with MLAA and other NGO personnel, as well as with relatively objective third parties who could discuss their work on a specific issue. The documents could be newspaper reports, draft bills, legislation and court briefs. In addition to documenting accomplishments in this vein, such a review could focus thinking

for future reference, regarding what MLAA and its allies are doing right and wrong regarding policy advocacy.

9. Women's Staff and Mediation Roles

If in fact an MLAA priority should be to increase women's roles in its staff and mediation committees, one important device will be to set targets for how much the number of female staff and mediation members increase in a given year, and monitor whether the Association is able to hit these targets. I emphasize that these should not be requirements for MLAA. But having these numbers in mind can power its effort.

M. Relating to Donors and the International Community

Relating to donor organizations and the international community is a fact of life for MLAA, as well as for most established NGOs in most developing countries. My impression is that its leadership has developed a very good relationship with the persons representing its funding sources, one in which they learn from and respect each other. Moreover, the MLAA donors with which I have had contact are to be praised for maintaining support over considerable periods of time, rather than quickly sifting from focus to focus and NGO to NGO as some development agencies do in some countries. MLAA has merited such ongoing assistance. The Bangladesh NGO community, the clients it serves and thus the MLAA donors' impact have all benefitted from continuing support for the Association's growth.

As an individual who has funded and evaluated a number of legal services organizations and other programs, I wish to offer some suggestions regarding how the Association might relate and report to donors in the future. I offer these with some hesitation, however. Different donor organizations and donor personnel have their own preferences about how grantees should relate to them. This includes proposal and report preparation. With this section in particular, then, MLAA might want to get donor feedback on whether my ideas match theirs.

1. Involvement of Dhaka-Based Personnel

If in fact the Association does bring on at least one attorney to support its policy advocacy work, as suggested above, it should consider having him or her contribute to preparing reports and proposals. There are at least two reasons for doing so. First, such an individual presumably will have the advantage of very good English, which will contribute to the clarity of such documents for foreigners.

In addition, the fact that this person will probably be

Dhaka-based raises the potential problem of his or her being too divorced from the heart of MLAA's work. I already have suggested a few ways of integrating the Association's potential Dhaka operations with those it carries out in Madaripur. One additional vehicle would be report/proposal preparation, because it would ensure that the new attorney develop and maintain an overview of the Association's overall work. This would in turn serve this person in describing MLAA's work to Dhaka-based donor personnel.

2. Distinguishing Activities from Achievement in Reporting

It can be useful for MLAA and various audiences to be clear on the distinction between activities and achievements in considering its work. An "activity," for example, might be a training session for mediation committee members. The "achievements" (or impact) flowing from this and other mediation-oriented activities is that the committee members and perhaps others have better knowledge of the law, that certain of their attitudes may change, and that MLAA-organized shalish results in better material circumstances for women and/or altered behavior by their husbands.

On a policy level, an activity might be MLAA pressing for reforms through the legislature, ministries or courts. The impact on the policy deliberation process would be if the government considers its proposal or criticism. Impact on policy adoption would be far better yet, for this would involve the government actually accepting its recommendations. And should MLAA also contribute to the government putting a policy into effect, the Association's impact on implementation should be discussed in its reports.

MLAA need not and should not claim sole credit for any of the achievements sketched above, for typically its accomplishments will flow from cooperation with other individuals or organizations. It is enough for the Association to discuss how it has contributed to a given instance of impact.

A focus on impact would be helpful for various types of readers. It demonstrates to personnel of current donors (and possibly their superiors and/or home offices) that they have invested in an organization that is doing a good job. For potential donors, documenting impact similarly indicates that MLAA would utilize their funds well.

Finally, and in some ways of greatest importance, MLAA reports might be very useful for other NGOs in Bangladesh and abroad. The ultimate test of a model for them should be not just how it operates, but, more to the point, what it achieves. To the extent that MLAA can produce reports that describe achievements, the elements that contribute to success and the

lessons learned from failures or problems, it will do a great service to other organizations and the populations they serve.

3. Presentation of Both Quantitative Data and Case Studies

Compared with some legal services NGOs whose reports I have reviewed in other countries, MLAA currently does a very good job of compiling information and a good job of presenting it in the reports if prepares for donors and other readers. But for that information to be more illuminating, MLAA should consider breaking down its reporting category of “disputes resolved” into subcategories of what those resolutions involved. It also would be helpful if its reports described a few specific, successful mediation or litigation cases, so that the reader could appreciate the flesh and blood behind the Association’s statistics.

4. English Training for Selected Staff Members

Certain MLAA staff members expressed an interest in English language training. I endorse this interest, and am pleased that the Association already is supporting staff efforts to upgrade their language skills. It is not as though a short term course will make them-fluent. But even if it just raises their English skills a notch, it will be a worthwhile investment.

Of course, this is by no means to preclude foreigners learning Bangla, But for better or worse, MLAA often needs to describe its programs, achievements and lessons to foreigners in the language most commonly used globally. I am not just speaking about donors. Conferences, electronic messages and other vehicles for international information exchange often function in English. MLAA staff and those with whom they interact will mutually benefit from smoother communication.

5. Senior Staff Visits to Foreign Legal Services Organizations

I realize that Mr. Huq has had extensive contact with foreign legal services NGOs and that other senior staff members have had other types of international exposure. But I am not sure that other senior staff have observed the work of legal services NGOs abroad. I believe that those with appropriate language skills would benefit.

The legal services NGOs I know best and feel free to recommend are in the Philippines, because they often integrate their operations with other development concerns and because they combine grassroots work with policy advocacy. But Mr. Huq and donor personnel may have additional thoughts on this.

6. More Senior Staff Contact with Donor Personnel

As Executive Director Huq takes on a greater role with both BLAST and with MLAA policy advocacy, other senior staff members may need to interact more with current and prospective donors. Based on my own highly favorable contact with them, this would be a positive development. They struck me as very capable of explaining the organization's work.

7. Beyond a Legal Aid Perspective in Seeking Funding

This "Future Directions" section of this report ends where it began, with a suggestion that MLAA think of itself as a development organization. As such, it may be eligible for support from additional donors, above and beyond those that support legal aid and human rights work.

Perhaps the most significant potential pool of donor organizations are those concerned with the status of women. MLAA can make a very good case for being viewed as an NGO that address this issue. Perhaps with enhanced self-evaluation, it could make the case even more strongly. This might involve demonstrating that MLAA's work cuts violence against women. It could even include arguing (and hopefully showing) that reduced violence or other benefits of MLAA's work affect women's material circumstances with respect to family planning, for example.

Other potential donors might be those concerned with mediation, conflict resolution or agrarian issues. I am by no means saying that MLAA misrepresent itself in seeking new support. Rather, it should recognize that its appeal to donors lies not just in what it does (legal services), but in the impact it has (for women, for children, for workers, for farmers, for peaceful settlement of disputes). It should approach potential donors with that developmental impact in mind.

APPENDIX A: ADDITIONAL OBSERVATIONS FOR DONORS

Though this report is concerned with the work of the Madaripur Legal Aid Association, in the course of my research various issues and ideas arose that relate more centrally to donor organizations' work. I offer a few of those here.

Research on Widespread Information Dissemination

One of the many strengths of MLAA's approach is that it provides concrete avenues for Bangladeshis to address their legal problems. My own experience and discussions with donor and NGO colleagues indicate that an investment in such an approach is more fruitful than devoting the same funds to widespread nonformal legal education, through which citizens learn about human rights in general but have no mechanisms for dealing with the specific legal problems that confront them. But many funding organizations pour resources into such programs that emphasize breadth over depth. And I definitely do not want to present my impressions as unassailable conclusion.

There is a temptation to say that these alternative strategies do not boil down to an "either/or" situation. But in fact the limited resources available do make setting priorities important, especially in the many countries where there are opportunities to carry out both types of programs. To enhance effectiveness over the long run, then, donors may want to assess the relative merits of these alternatives. I already have suggested ways of better determining the impact of the more "depth-oriented" approach represented by MLAA. Whether in Bangladesh or elsewhere, donors might want to explore assessments of whether populations touched by the "breadth-oriented" strategy in fact experience lasting benefits regarding knowledge, attitudes, material circumstances and other types of potential impact.

A. Comparison of Different NGO Approaches to Shalish

Two central issues that this report has tried to address are the degree to which MLAA has modified traditional shalish as much as it can to better serve its clients, and what additional steps it can take in this regard. I conclude that MLAA has done a very good job, but that there are additional steps it can take. Yet I certainly have not observed the full range of approaches to shalish practiced throughout Bangladesh. Donors may want to do so, by funding research that compares the dynamics that occur within shalish organized by the broad spectrum of NGOs' pursuing this activity, and by examining the lasting impact of these NGOs' results. The purpose of such studies would not be to challenge any given NGO, but to be of use to the Bangladeshi NGO community generally.

The Relationship of Legal Services and Other Development Work

The aforementioned Casper/Kamal study prepared for TAF (and described on pages 9-10 of this report) is particularly exciting because it documents how legal services and other development efforts (in this case, family planning) can be integrated to the benefit of both programs. Though more in-depth research on this issue may be warranted, the findings certainly suggest that projects with an integrated approach merit support. It also would be interesting to explore whether effective legal services in and of themselves may contribute to other development priorities. Might health, family planning or livelihood development of women benefit by virtue of the work of MLAA or organizations carrying out similar programs?

Clarify Positions Regarding Policy Advocacy

One surprising comment I heard in a few NGO interviews²³ was that some donors' perspectives on NGO policy advocacy were unclear. These individuals expressed uncertainty about whether donors want to support NGO involvement in such activity. My own opinion, as presented in this report, is that such work can and should be supported toward the end of promoting popular participation in governance, though donor organizations need to steer clear of advocating policies themselves. To the extent that donors agree, they may want to make their positions clear to their NGO partners.

Setting Appropriate Standards for MLAA

I believe that all of MLAA's donors understand the daunting obstacles it faces in its work. Nevertheless, I am concerned that evaluation of its USAID-funded Expanded Mediation Program may be subject to standards that may be too rigid. MLAA may do an excellent job of introducing other NGOs to mediation. But whether and to what extent those NGOs implement subsequent mediation programs will mainly be their responsibility. Thus, the target output identified by Schedule B of TAF's August 25, 1996 Letter of Agreement with MLAA, may be too ambitious in stating that "each NGO trained will undertake 15 mediations per month." Given the challenges of launching such a program, I would estimate that if even half of these NGOs reach this target they (and MLAA) will be doing very well.

More generally, I hope that USAID will be sympathetic to the fact that the real value of MLAA's contributions to these other NGOs will lie in results that may surface only years down the line, in the form of changes in knowledge, attitudes, material

²³ I should make clear that MLAA, ASK and BLAST were not sources of this perspective.

circumstances and other types of impact described in this report. I realize that USAID/Dhaka is sympathetic to these concerns, and that the reporting requirements and outputs it identifies are in line with an evaluation system promulgated in Washington. I hope that in reviewing MLAA's operations, deciding whether it wants to continue funding, and relating to USAID/Washington, it will bear in mind the long term perspective necessary for effective development assistance.

The Value of Long-Term Support

There sometimes is a tendency in development circles to expect that an NGO can become sustainable in societies where local resources are in short supply and, even if available, come with very problematic strings attached. The concern over sustainability is legitimate. Still, Ford, TAF and NORAD deserve great praise for resisting the temptation to limit support for MLAA on this basis. Long-term support for the organization has created what appears to be lasting benefits for clients to whom it has provided services, even if MLAA itself remains dependent on foreign support. What's more, the duration of this donor assistance has enabled the Association to evolve in a manner that benefits not only its service area, but also NGOs and other populations throughout Bangladesh.

APPENDIX B: GLOSSARY

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| ADR | : Alternative Dispute Resolution |
| AFSC | : American Friends Service Committee |
| ASK | : Ain O Shalish kendra, a Dhaka-based NGO |
| Aungkur | : a Madaripur-based NGO |
| Banchte Shekha Association | : a Jessore-based women's movement |
| BLAST | : Bangladesh Legal Aid and Services Trust, a Dhaka-based legal services NGO |
| CDS | : Centre for Development Services, a Dhaka-based NGO |
| EMP | : Expedited Mediation Program |
| Ford | : Ford Foundation |
| MLAA | : Madaripur Legal Aid Association |
| MW | : mediation worker |
| MC | : mediation committee |
| NGO | : Nongovernmental organization |
| NORAD | : Norwegian Agency for Development Cooperation |
| MKSS | : Manob Kallyan Swabdombi-Songhta, a Gaibandha-based NGO |
| PSF | : Palli Shishu Foundation of Bangladesh, a Dhaka-based NGO |
| Service area | : The region in which MLAA provides legal services to community members (i. e., all of Madaripur and Shariatpur Districts and part of Gopalganj district). |
| Shalish | : The traditional community arbitration/mediation procedure that MLAA and a growing number of other NGOs organize and modify so that it is more purely mediation and so that it constitutes a free and effective alternative to most litigation. As used in this report, "shalish" refers to the NGO-modified practice. "Traditional shalish" refers to that not modified by NGOs. |
| SDS | : Shariatpur Development Society, an NGO. |
| TAF | : The Asia Foundation |
| TOT | : Training of trainers |
| USAID | : United States Agency for International Development |

APPENDIX C: ABOUT THE AUTHOR

Stephen Golub is an attorney and international development consultant who has been exclusively involved with overseas legal services, human rights, NGOs, the status of women and democratic development since graduating from Harvard Law School in 1985. His international consulting and research projects have focused on these subjects, as well as legal systems, civil society, local government, the environment, elections, humanitarian emergencies and refugees. The projects have included a Fulbright Senior Research Fellowship, and work with the International Human Rights Law Group, the Lawyers Committee for Human Rights, the U.S. Agency for International Development (as team leader) and the Carnegie Endowment for International Peace. Mr. Golub has authored journal articles and reports on project evaluation, legal services, democratization, natural resources management, and strategies for legal systems and democratic development. He has field experience in all major regions, and particular expertise regarding evaluation.

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