

Evaluation Report

Final

**Project Evaluation of MLAA's
Access to justice and Human Rights-Phase-II**

Prepared for DANIDA HRGG-PSU

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Introduction

This study aims to review the programs and associated issues of Madaripur Legal Aid Association (MLAA) for the period covering 2007-2010. The study has been conducted for MLAA's development partner Danida HRGG-PSU. Following the TOR, the specific objectives of this study include:

- Assessment of achievement in relation to pre-established output indicators and targets.
- Assessment of the outputs in relation to project objectives
- Evaluation of the sustainability and long term impact perspectives for the achievements of the project in relation to the long term development objective.
- The contribution of the project to cross cutting concerns, especially related to gender equity.
- The involvement of the target group in project developments and decision making.
- Assessment of coordination and collaboration with other local organizations working on the similar issues
- The cost effectiveness in terms of produced outputs.

The report has been structured in the following way: section 1 provides an introduction to the methodology of the study. Brief profile of MLAA has been provided in section 2. Section 3 introduces the core program components of MLAA. Section 4 and 5 briefly mention gender as crosscutting theme of MLAA's programs and introduce the M&E system respectively. Section 6 provides detailed Evaluation of MLAA Activities during the period between 2007-2010. Section 7 reflects on the sustainability of the program. Involvement of the Target Groups in Project Design and Implementation has been discussed in section 8. Section 9 deals with the question of gender equity in program design and output. Section 9 is on the assessment of MLAA's coordination and collaboration with other local organizations working on the similar issues. Section 10 discusses the cost effectiveness in terms of produced outputs.

1. Methodology

The principal research method followed in writing this report was document analysis that is the use of secondary sources. Major reports, evaluating various programs of MLAA during the period between 2007 and 2010 have been reviewed. These include: record and reports from all program desks, annual activity reports, previous evaluation and appraisal reports, records of MLAA's monitoring and evaluation cell, case studies that were available in MLAA's journal 'Yogo Chetona'.

In addition, various primary sources have also been used. Program beneficiaries of MLAA and local CBO members were interviewed. A few Chairmen and Members of Union Parishad (UP), who conduct Village Court (VC) and Arbitration Council (AC), were interviewed on an individual basis (KII) as well as on a group basis. All interviews were carried out in Madaripur. Discussions were also carried out with various staff of MLAA across the hierarchy of the organization.

2. ABOUT MLAA

MLAA (Madaripur Legal Aid Association) began its journey with a small group of social workers and volunteers to provide legal aid assistance to the poor, disadvantaged people, especially women. It was formally established in 1978 with the aim of promoting legal and human rights in the local community and institutionalizing pro-poor and gender friendly dispute resolution process. These activities are carried out through village level mediation, based on Madaripur Mediation Model (MMM) and also through Union Parishad's (UP) Village Court (VC) and Arbitration Council (AC). In addition, the organization conducts other activities including– local and national level policy advocacy, human rights related awareness campaign in the community, human rights education program for youth and school students and program for continuing capacity building of MLLA (see below for elaboration and evaluation of the core programs). Among these activities, 'Legal Aid Service' is the original program of MLAA. These programs help underprivileged people, especially women, to establish their rights related to individual, family and property ownership. The last component tends to have positive impact on the socio economic status of target people. All these activities constitute the core components of MLAA's 'Access to Justice and Human Rights' program.

MLAA is a voluntary organization run by an executive committee. The general members of the organization elect the committee. A team of full time workers, headed by secretary and a panel of advocates run the day to day administration.

MLAA initially started its activities in districts of Madaripur, Shariatpur and Gopalganj. During the last few years it has expanded its existing programs to 32 Union Parishads (UPs) of Jessore and Magura districts through Banchte Shekha (BS), a partner NGO whose personnel has been trained by MLAA. BS has two years of experiences and good understanding of the MLAA programs and this was an important factor why MLAA chose BS as the implementing partner.

It needs to be noted that there is a vast demand amongst the human rights oriented local NGOs in different areas of Bangladesh to become partners of MLAA. MLAA has so far provided technical support and training to about 125 local NGOs including BS on mediation and legal aid programming. At present more than 13 partner NGOs are working with MLAA in different parts of the country.

The Primary stakeholders of MLAA, as suggested earlier, are the poor and disadvantaged/marginalized people and the destitute women particularly from the rural areas. No less important are the MLLA's secondary stakeholders, who play a critical role in ensuring success of services provided by MLLA. Such stakeholders include, UP representatives, rural civil society members, lawyers, judicial officials, law enforcement agencies, other NGO activists, students and journalists.

3. Core Components of MLAA

3.1 Disputes Resolution through Mediation

As the traditional formal and informal justice system has largely failed the marginalized people, MLAA has established Madaripur Mediation Model (MMM), a modernized form of Shalish. This program focuses on creating accountability and transparency within the formal and informal justice systems to give the poor members of the community, especially women, the justice they deserve. MMM is particularly effective in addressing family related disputes (dowry, second marriage, assaults, divorce), community disputes and minor criminal offences. Although the method of dispute resolution of MMM is very similar to traditional Salish, the difference is that it involves skilled mediators, who are trained on civil law and mediation procedures. MMM emphasizes restorative justice and encourages mutual settlement.

Members of Community Based Organizations (CBO) are critical since their participation and opinion in mediation process ensure success of mediation and sustainability of the decision reached. Thus, MLAA mobilizes CBO leaders from the community and organizes different courses for them in its training center (TARC). These courses focus on the legal aspects of mediation, its importance as well as responsibilities and skills required by CBO members in mediations. MLAA also arranges workshops for women CBO members to create gender awareness and to avoid gender biased decisions at the Shalish.

3.2 Capacity building of local community to facilitate greater access to justice by the poor

MLAA undertakes different training programs, workshops, meeting for the UP representatives, local elite, religious leaders, madrasa students, local lawyers and local government officials (local police) to create awareness among these actors regarding so they can contribute to greater access to justice for the poor. These activities of MLAA aims to make these actors aware of the correct interpretation of Muslim law, the formal legal system and human rights (especially women rights). Also, these programs bring all the relevant stakeholders together so that they can share and discuss about the existing problems and search for solutions.

MLAA also organizes street dramas for general public to educate them about their rights on local justice system or VC, AC and Mediation.

3.3 Capacity building of Village Court (VC) and Arbitration Council (AC) of UP

VC is not active in most regions of Bangladesh. MLAA has therefore taken initiative to provide technical assistance to the UP for activating VC. These supports include educating UP chairmen and other VC members, motivating them to participate at VC and appoint a new chair if the existing chair is unavailable. Other supports of MLAA consist of providing court documents and assuring the VC decisions to be in compliance with the **PDR Act**.

Since the limitations of ACs are similar to VCs, they are also not active in most of the regions of Bangladesh. Hence, MLAA is providing information on ACs to all of their VC related training with UPs and CBOs. The purpose of providing this information is to activate ACs.

3.4 *Free Legal Assistance*

One of the core components of MLAA's program is providing free legal assistance to people who cannot afford lawyers to represent them in the formal court. It files court cases (family, appeal and criminal case) on behalf of the marginalized people including children to secure their rights. This program is particularly designed to assist women to help them establish their rights and their socio economic status.

MLAA takes a further step to follow up on the implementation of court's verdict and to monitor the impact of such verdict on the plaintiff's social, family and economic life. In addition, MLAA organizes meeting for its clients, where they can share their concerns regarding ongoing cases and find out solutions with the help of MLAA. Moreover, MLAA arranges various meetings at district level (Madaripur, Shariatpur and Gopalganj) for lawyers and their associates to motivate them to provide legal aid to the destitute people.

Additionally, the victims of physical assault receive free medical support through MLAA. The poor plaintiffs also receive financial support from MLAA to obtain evidence documents, in order to prove their rights in the court.

3.5 *Advocacy to ensure greater access the justice*

The main purpose of advocacy is to identify the legal and procedural shortcomings of the informal and formal justice system. These shortcomings are shared with the relevant stakeholders (local government officials, lawyers, UP chairmen) to push for positive changes at the policy level and local justice institutions. To bring about such positive changes, MLAA carries out various activities. These include, publishing a bi-monthly newsletter 'Yugo Chetona.' This news letter publishes case studies, articles on human rights (HR) issues, activities of MLAA and legal issues to influence the relevant stake holders. It also observes different international HR days, which include Human Rights Day and Women Rights Day. The purpose of observing these International Human Rights days is to make educational institutions (students, teachers) and local NGOs knowledgeable regarding human rights so that they can take action against HR violations. Furthermore, MLAA organizes workshops at district and Upazilla levels where the relevant stakeholders (government officials, UP representatives, and other influential persons) are motivated to express their concerns regarding various legal, procedural and infrastructural limitations of AC and VC. They are also encouraged to work collectively to identify these shortcomings and resolve them.

3.6 *Institutional Capacity Building*

Through Institutional Capacity building, MLAA organizes different training programs and workshops for its staff members, local government institutions (AC and VC) and community members. These trainings are designed to inspire the above target groups to promote human rights and educate them to develop concrete skills in relevant laws and mediation.

Trainings are also provided to madrasa teachers to make them aware about existing family laws, human rights (especially women rights) and local judicial system. Through these trainings, they learn about male and females equal rights, and can utilize such knowledge in disputes resolution process.

4. Gender as a Cross Cutting Theme

Illiteracy, lack of proper education and patriarchal norms are the main barriers in realizing equal rights and status for women. Considering women's vulnerable position, MLAA has incorporated gender related issues in all of its activities and programs. During the program period, it organizes trainings and day long workshops at the community level. The participants of these events are women CBO members, MLAA staff, female UP members and women leaders from local community. The purpose of these activities is to raise awareness of women's rights for the secondary stakeholders of the project (UP representatives, rural civil society members, lawyer, judicial officials, law enforcing agencies, NGO activists, students and journalists).

5. Monitoring and Evaluation (M&E) System of MLAA

MLAA has developed an M & E system, which is essential to assess the quality of the program as well as for meeting the various needs of the different stakeholders. The following are the MLAA's objectives for its M & E:

- To monitor the activities of the field workers and of their supervisor and to evaluate the performances of different projects and inform senior management about the progress of the project
- The degree of participation of CBO members (especially women Shalishkars) in the mediation process
- To monitor the performance of the UP representatives in relation to justice related services (VC and AC)
- To monitor and evaluate the implementation of the program as planned

6. Evaluation of MLAA Activities during the Period between 2007 and 2010

The following sections are based on various monitoring reports produced by the M&E department and discussion with MLAA staff, local stakeholders and beneficiaries.

The observations on the performances of different core activities are made on the basis of findings in the process monitoring reports. Indicators of process monitoring are the following: effectiveness of the ongoing activity measured against implementation plan, observation on progress of projects, analysis of the project coordination system and qualitative assessment of project outcomes. The process monitoring findings show the level of effectiveness of VC and AC and mediation during the period of 2007-2010.

6.1 VC and AC

In relation to VC the findings show that in most cases UPs are documenting VC proceedings as per rules and procedures by using prescribed formats and percentage of such documentation has increased over the years. Also the numbers of UP chairmen and UP members who are skilled on VC have increased (this is also true for AC). Most of the disputes are also being resolved in accordance with the law and procedures. At the same time it has been found that some UP representatives are avoiding proper documentation process since such activities tend to be tedious and time consuming.

In the case of AC, the findings show that in some maintenance cases, husbands did not continue with the provisioning of maintenance as per ruling. Most of the applications for allowing polygamy have been rejected. In general, polygamous practice in rural society has become rare. In most cases of divorce the husbands did not appear before the AC. In few cases, reconciliation has been done and couple continued to live as married partners.

6.2 Mediation

In the case of mediation some deficiencies in the program implementation have been observed over the years. Hence, strong recommendation has been made to the management in order to improve project implementation plan. There is also lack of punctuality among participants of the CBO and courtyard meetings. Therefore challenge of motivating people is clearly there and MLAA needs to properly plan its community related activities. On the positive side, the findings reveal that women are playing leading role (as Shalishkars) in the mediation process within the program area.

6.3 Legal Aid

The Legal Aid program has, to a large extent, broadened the access for marginalized people, particularly women, to the formal judicial system. Majority of the verdicts of the court has gone in favor of the MLAA clients who received legal aid support within the program area. But there are problems associated with the program implementation. Program tracking activities, such as updating court's documents and keeping track of relevant records are not done properly. Such problems are particularly true for Shariatpur and Gopalganj.

6.4 Assessment by Pre-Established Indicators

- The assessment issue is-by 2010, 30% women members from each CBOs are involved in mediation process within the target areas.

The findings of period between 2007-08 indicate that 40.1% of women members are attending CBO meetings. Also, women performing the role of chairperson in mediation reached a percentage of 12%. In 2009-10, the findings show that the quality of women members role in CBO as the following: good role in 8.3% cases, medium role in 41.9% cases and weak role in 1.3% cases.

- The assessment issue is-by 2010, in 60% cases disputing parties obtained legal remedy.

The findings of the program area show that, during 2007-08, out of a sample of 385 resolved disputes, 78.4% of decisions of the agreement made by the parties obtained the legal remedy. On the other hand during the period of 2009-10, the findings of the monitoring report indicate that out of 360 resolved disputes 80.1% decision of the agreement made by the parties obtained legal remedy, which indicate the rate of successful outcomes is higher than previous year. During the same period, findings from the Banchte Shekha(BS) working area (Jessore & Magura) show that out of 155 resolved disputes, 63.9% of the disputing parties obtained legal remedy, which is lower than MLAA's own working areas.

- The assessment issue is-by 2010, 60% of disputed resolutions were in accordance with the law and procedures.

In 2007-08 reporting period, the assessment has been done on 209 cases and out of which 85.2% VC cases followed proper rules and procedures. The VC hearing done by UP chairman percentage is 60.8%. Also, VC's overall documentation situation shows that 42.1% documentation was done properly. And the percentage of decree fully executed was 80.9%.

In 2009-10 reporting period, assessment of VC has been done by interviewing 200 beneficiaries and the assessment of AC has been done on 85 resolved cases. In the case of VC 85% of the cases followed proper rules and procedures. The percentage of VC hearing done by UP chairman was 85.5%. The process of proper documentation has increased to 95% of the cases and the percentage of decree fully executed was 73.5%.

In terms of AC cases, 64.7% of the 85 resolved cases maintain the decisions of AC. AC hearing was done by the chairman of AC in 89.4% cases. Also, AC's overall documentation situation shows that in 87.1% case it was done properly.

- The assessment issue-by 2010, 50% women have got judgment in their favor for receiving their entitlements (land or money as compensations) within the working areas.

The result of the finding shows that, out of 63 cases that have been assessed, 52.38% of women have got proper judgment in their favor for receiving entitlements (land or money as compensation) within the working area. The money compensation includes dower and maintenance. The finding also presents the causes for which the beneficiaries defaulted in collecting benefits. These causes include-location change for work purpose, absence in the court due to illness, applicants left for Saudi Arabia, client did not provide Kabinnama (marriage certificate) and locally settled cases based on mutual compromise.

- The assessment issue-by 2010, 40% women are playing leading role in the mediation process within the working areas

The assessment has been done by random sampling method and 302 beneficiaries (women 185 and men 117) have been interviewed. The result shows that women CBO president role in 4.7% cases good, in 15.3% cases medium and in 0.7% cases weak. The study shows that 20.6% mediation sessions have been presided by the women leaders.

- The assessment issue-by 2010, 40% Madrasa teachers and students can explain the importance of Human rights of the women after participating in trainings, TOT and workshops.

The findings show that about 39.4% madrasa teachers know about human rights and 36.4% madrasa teachers have some idea about human rights. Also, 93.9% of madrasa teachers agreed on equal rights for both men and women.

- The assessment issue is-by 2010, in 50% of cases client within the working areas are able to explain their role in the court after discussions in opinion sharing meetings.

The objective of M&E cell is to measure the percentage of the client who can explain their role in the court. And the finding shows that 96.7% clients know the next date of case after attending the opinion meeting. However, only 43.3% clients know about the purpose of the next case date. The latter finding shows that majority participants are not capable of identifying the present problems and need to attend in few more opinion meetings.

- The assessment issue is- by 2010, 50% of CBO members are capable to share their experiences with the social elites on AC and VC union level meetings.

The finding reveals that 89.5% of CBO members, who participated in the MLAA's training, can share their experiences with the social elites on AC and VC meetings and only 10.5% are unable to share. The rise in percentage is due to MLAA's organized trainings and workshops for CBO members. Also study shows that 69.4% CBO members have got clear understanding of the topics that are taught. As a result they are capable to share their experiences with the social elites.

- The assessment issue is-by 2010, 50% of the community people are made aware about the local level justice system through drama, posters and leaflet.

The study shows that more than 50% of the community people are aware of local level justice system through MLAA. About 73.2% people are familiar with village court.

The following chart shows the sources of information regarding AC and VC:

Source of Information	% rate of informed people
Through program worker	34.2
Courtyard meeting	12.7
Street drama	3.6
Workshop	5.5
Leaflet	1.9
From other general people	2.5
Through CBO member	12

Through chairman	5.1
Through chowkider	3.4
Other	17.1

- The assessment issue-by 2010, frequency of violence against women (beating, divorce for dowry, sexual abuse and exploitation) has been reduced by 40%

Although the overall picture of violence against women is relatively high, the study shows that it has been reduced in MLAA's program areas. The finding shows that 63.3% of women have experienced no abuse for being women. The other 36.4% women experienced various abuses such as dowry, family dispute and polygamy.

- The assessment issue-by 2010, 40% of the UP chairmen and at least 4 members of each UP will gain skill on AC and VC and are able to follow the proper procedure and methods to resolve disputes.

The findings reveal that 41.1% of UP representatives acknowledged that they follow AC and VC's procedures properly and 58.1% observed that procedural changes have taken place in their VC and AC. All of the participants of the study felt that the trainings have increased their confidence.

6.5 Assessment by Objectives

The assessment is going to explore the extent to which each core component implemented its principal objectives during the project period of 2007-2010.

Note that in 2010, the project mainly focused on four components, which are: legal aid, mediation, case disposed through VC and dispute resolution through AC. Hence the data for other core components are not available for 2010 and not been included in the following tables.

- *Advocacy*

In order to provide proper justice to the marginalized people of society, MLAA is carrying out advocacy at the policy level to reform the negative aspects of the existing legal system. The following are the type of activities that MLAA has performed since 2007 to 2010. The tables also represent the number of participants in each activity during this period:

Table 1 (Observation of women's day)

Year	Male participants	Female participants	Other participants	Total participants
06-07	67	76	-	143
07-08	42	52	31	125
08-09	119	272	-	391

This table shows that the numbers of overall participants have increased and this growing number implies increasing awareness among community members.

Table 2 (Observation of human right day)

Year	Male participants	Female participants	Other participants	Total Participants
06-07	52 students	55 students	11 teachers	118
07-08	32 students	87 students	11 teachers	130
08-09	89 students	67 students	16 teachers	172

Similar positive trend can be observed here through increasing number of participants over the years.

Table 3 (Advocacy workshop at district and upazila level)

Year	Male participants	Female participants	Number of workshop	Total participants
06-07	14	8	1 at upazila level	22
07-08	44	28	1 at district level	72
08-09	663	185	3-district level & 10-upazila level	848

This huge increase in participation has been possible by organizing more and more workshops at district and upazila level. This also means, more relevant stakeholders are getting aware and becoming motivated to bring changes in the policy level.

Table 4 (Bi-monthly news letter)

Year	Number of issues of the newsletter	Number of copies
06-07	6 issues	1500
07-08	5 issues	7500
08-09	5 issues	7500

This table indicates that MLAA is able to reach out to more people as number of copies of newsletter has increased.

- **Capacity building**

Capacity building involves improving efficiency of the relevant stakeholders related to local justice system, so that local justice institutions (both formal and informal) remain functional and accessible to the poor and marginalized members of the community.

The following tables show the trend of male/female and other groups' participation through out the period monitored:

Table 5 Courtyard meeting with household members

Year	Male participants	Female participants	Number of meetings	Total participants
06-07	12904	75404	6464	88308
07-08	4883	27497	2374	32380
08-09	9743	54231	4648	63974
09-10	9159	55229	4633	60424

Clearly numbers of meetings and participants have declined after the period 2006-07 but both numbers seem to become stable since 2008-09. MLAA leadership needs to evaluate the fall in the numbers for both meeting events and participation since 2006-07.

Table 6 Quarterly coordination meeting with union CBO members on AC, VC and Mediation

Year	Male participants %	Female participants %	Number of meetings
07-08	39%	61%	337
08-09	61.68%	38.32%	452

Note- 06-07 data are not available

In the meetings with CBO members, participants (especially male members) get the opportunity to learn about gender and this increase their gender sensitivity. Therefore higher percentage of male participants in the program period shows success of MLAA in reaching the more important target group. Falling numbers of women participants should be great concern since women also need to be sensitized about gender issues to ensure gender equality and greater gender justice in the community.

Table 7 Union level meeting with CBO members and social elite

Year	Male participants	Female participants	Number of meetings	Total participants
06-07	2545	1300	97	3845
07-08	1901	1575	88	3476
08-09	3130	1888	127	5018

The above table indicates that MLAA has increased the number of union level meetings over the years. Hence, number of participants over the years has also increased. This all together implies, more and more people who can influence the local justice system are getting aware and become motivated to ensure the growth of accessible and functional local level justice system.

Table 8 Street drama

Year	Number of shows	Number of people attended
06-07	50	65800
07-08	30	40260
08-09	58	74800
09-10	54	63750

Street drama is a simple medium to reach the ordinary people and make them aware regarding the local justice system. Performance of MLAA, over time, is not very encouraging and the management should focus more on this so that numbers increase in terms of event being organized and people coming to these events.

View of an audience regarding street drama

“I got to know about VC through the drama. Also this event taught me about the formation of VC, the evil of polygamy etc. But it is also necessary to disseminate detail information on the process of VC at the grass root level, so that people can become more conscious and take the opportunity and benefit to resolve their disputes through VC.”

Table 9 Campaigning

Table	Number of campaign	Number of people reached
06-07	98	42500
07-08	76	52290
08-09	33	77213

Campaigns include rally, handbill distribution and posters distribution at the community level for dissemination of information on AC and VC. Although the number of reached has increased substantially over the years but it seems the number of campaign has fallen behind quite dramatically. If MLAA could have maintained the number at least at the level attained during 2006-07, the number of people reached could have risen further.

Table 10 workshop for madrasa students

Year	Male participants	Female participants	Number of workshop	Total participants
07-08	758	719	37	1477
08-09	813	1111	48	1924
09-10	727	717	36	1444

The purpose of these workshops is making madrasa students knowledgeable regarding family laws, human rights and existing local justice system. The above table indicates that MLAA has followed a relatively consistent number of workshops over the years. Thus, total participants have also stayed relatively unchanged. MLAA should take initiative to increase the number of workshops, so that more madrasa students can participate and learn about these systems.

- ***Booklet on AC, VC and Mediation***

In order to disseminate information on AC, VC and mediation, MLAA has developed teaching materials on family laws, VC and AC, in the form of handbook for the community people. These booklets are essential learning tools for the interested stakeholders who like to know about AC, VC and mediation. These booklets can also be used later on to refresh their memory and to share with other interested stakeholders. During 07-08 period, 5500 copies of booklet have been published.

- ***Dispute Resolution through Mediation***

Mediation allows clients to resolve family conflicts, community disputes, and minor criminal offences at a nominal cost and with minimal delay. Usually these disputes get resolved in two to three months.

The following chart shows the numbers of dispute related cases MLAA have received to resolve through the period observed

Table 11 Mediation Cases

Year	Number of case	Number of Case solved	Number of cases transferred to district court	Number of Rejected case
06-07	12328	8480	602	1911
07-08	9627	6596	316	1637
08-09	11136	8013	1438	491
09-10	10290	1293	103	1060

For each of the above time period, the cases that were not resolved are due to-lack of documentary or oral evidence and absence of clients in the mediation. The reports of MLAA show that in 2006-07, 94% of case decisions have been implemented and only 6% of disputing parties never follow the decision of the agreement. Similarly, in 2008-09, 94.96% of all decisions have been implemented and only 5.04% have not been implemented. The other two period's achievement is not given in the reports.

Moreover, through mediation and with the cooperation of CBO members, MLAA was able to recover compensation for the beneficiaries and over the reporting period, the amount has increased. For instance, in 2006-07 period, Tk 6,36,31,711 has been recovered by MLAA for its beneficiaries. The figure rose to: in 2007-08, Tk 6,50,15,763, in 2008-09, Tk 7,52,56,543 and finally in 2009-10, Tk 8,38,77,627.

A positive observation regarding women's participation in mediation is that, in 2009-10 period, 46% of the mediations have been chaired by a female CBO member, whereas in 2008-09, only the rate was 16.33%.

The following case study illustrates a scenario where a beneficiary was able to recover her compensation through mediation.

Case study of Mediation

Applicant: Shahnaz Akter (Rikta), daughter of Alauddin Talukder, villege-East Dinara, UP-Chamta of Naria- Upazilla under Shariatpur district.

Opponent: Khasru Sarder, husband of Rikta.

Details story: Rikta and Sarder got married on 1997. They have one daughter, who is nine years old. This family of three was leading a happy life. Some time later Sarder left for Italy. During his living in Italy, Sarder's father, mother and brothers spread some bad rumors against Rikta and asked Sarder to come back home. Sarder came back and divorced Rikta soon without discussing with her about the veracity of allegations against her. Sarder then got married for the second time and purchased a house in Dhaka. Some time later, he again left for Italy and his second wife started residing at the newly purchased house in Dhaka. When Rikta got to know about these incidents, she rushed to the new residence and demanded to live there with her daughter. In order to stop Rikta, Sarder's father and brothers took assistance of police. Rikta could not take any further step because; by this time their divorce was executed (90 days passed after issuing the divorce notice). The police officer in charge advised Rikta to go back to her village and inform the case to the local community leaders.

After Rikta returned to her village she complained to the local elites about her predicament but failed to get any assistance from them. Then she went to a mediation worker of MLAA at Chamta Union Parisad and told him the about the case. With an aim to have a peaceful settlement of the problem, MLAA issued a letter to the opponent party, asking them to participate in a mediation session.

On the given date, both parties, local CBO members, UP chairman and ward members were present in the session. After a long discussion, the panel members reached a solution that the opponent would pay Tk 2,84,000, as dowry and maintenance money to Rikta and her daughter.

The opponent party paid the entire amount in different installments. Rikta took the whole amount of awarded money in front of the witnesses including chairman of the UP. She then used the money to open a fixed deposit in a bank.

The disputed parties also agreed that the daughter would live in Dhaka and continue her study for a better future.

Rikta got dowry and maintenance money, which were her only consolation

- ***Dispute resolution through Village Court (VC)***

Village Court Act, 2006 is an important dispute resolution institution of Union Parishad and MLAA has taken initiatives (trainings and workshops for the relevant stakeholders) to activate this institution in its program areas. Under VC Act 2006, the verdicts are legally binding. In each UP, MLAA has provided one worker to assist in its VC activities. The nature of cases that VC gets include- money related issues, physical assault, theft, land related issue and verbal abuse.

The following table shows the number of VC cases MLAA received during the project period of 2007-2010.

Table 12 Cases in Village Court

Year	Number of cases (including pending cases from previous year) MLAA received through VC
06-07	5480
07-08	3399
08-09	3399
09-10	2504

Note that in 2009-2010 period, the application number dropped slightly due to interruption in UP election. As a result, the UP chairmen were not fully committed to their responsibilities as they would if their elected position was certain. A shortcoming of VC Act is there is no law for appointing a new chairman if the existing UP chairman is unavailable. MLAA is working with the lawmakers to improve this situation.

In 2006-07 out of 5480 cases that MLAA received, 4647 disputes have been resolved and 343 got rejected. Furthermore, among the resolved cases of VC, the percentage of female disputant comprises 38% and male disputant 62%. In 2007-08, MLAA resolved 2841 cases and 267 cases got rejected. And 90.40% of these cases were criminal case and 9.6% cases were civil case. The percentage of women applicants of VC was 39% and men applicants are 61%. In 2008-09, 3288 cases have been disposed of and 280 got rejected. And 87% of these cases were criminal case and 13% were civil case. The percentage of women applicants of VC was 39.4% and men were 60.6%. In 2009-10, 2345 cases were resolved. Only 114 of these cases were civil in nature and the remaining 2231 were criminal. The percentage of women applicants was 41% and 59% for men.

The above observation demonstrates that, over the reporting period, number of resolved cases of VC has remained high. Also, in general the percentage of male applicants is high in VC, which is probably due to high percentage of criminal case applications. On the contrary, female applicants are a minority that can be related to smaller number of civil case applications.

The following case study of VC where indicates that when UP chairpersons are trained in VC laws and procedure, they are able to provide fair judgment.

Case study of Village Court

Sharothy Mondol got back her hard earned money through VC

Applicant: Sharothy Mondol, Satpar Union Parishad of Gopalgong district

Opponent: Vorot-neighbor of Sharothy, same village

Details of the dispute: Sharothy and her husband were both very poor day laborers. They had a son, who became severely ill before the occurrence of the dispute. In order to provide treatment for the son, Sharothy decided to sell their cow, as they had no other source of money. Sharothy's neighbor Vorot showed interest to purchase the cow and both parties agreed a price of Tk 20,000 for the cow. Vorot paid Tk 10,000 instantly and committed to pay the rest Tk 10,000 on the following day. When Sharothy went to Vorot the next day, he was unable to pay off and promised to settle the debt in two to three days. After three days, when Sharothy again went to Vorot for the money, he was still unable to clear the remaining balance. At this time, he did not even promise a future date to settle the debt. As she could not solve the problem herself, she then went to village elites and explained them the situation. However, they did not show any interest to her problem. Finally, an UP member suggested her to go to the chairman of UP to file case at the VC. After examining her application, the chairman of the UP accepted the complaint and asked Vorot to come to the UP.

The chairman of VC, who is also the UP chairman, fixed a date for hearing and asked both parties to appear at the VC along with their witnesses. Although both parties appeared on the specified date, the chairman was absent due to his involvement in other business. Hence a subsequent hearing day was fixed. Unfortunately, the applicant Sharothy, failed to present her witness on the specified date. As a result, a new hearing date was fixed. In this new date, both parties were present with their witnesses. After the hearing, the applicant's complain proved to be true and the opponent party admitted his mistake as well as agreed to pay the rest. The VC announced its decree and ordered the opponent to pay Tk 10,000. Vorot paid the money on the same day in presence of the chairman and village elites. And Sharothy got the money through VC.

- **Dispute Resolution through Arbitration Council (AC)**

In most part of Bangladesh, ACs are not active and hence MLAA has been trying to disseminate information on the laws, rules and procedures of AC in all of its training programs with UPs and CBOs.

The following table presents the number of cases MLAA received during the project period of 2007-2010:

Table 13 Number of Cases of Arbitration Council

Year	Number of cases MLAA received through AC
06-07	2845
07-08	1544
08-09	1777
09-10	1042

Here, the number of cases received in 09-10 period have decreased for the same reason as observed in VC cases.

The next table shows the percentage and nature of cases as well as percentage of male/female disputants that AC confronts over the years:

Table 14 Nature of Cases in AC

Year	Divorce	Maintenance	Polygamy	Male disputants among resolved disputes	Female disputants among resolved disputes
06-07	24%	75%	1%	6%	94%
07-08	26%	73.5%	0.5%	8%	92%
08-09	14%	84.8%	1.2%	7%	93%
09-10	8.8%	90.4%	0.8%	8%	92%

The above table shows that women are mostly responding to ACs and ACs are also responsive to the needs of women and women's participation in ACs is much higher compare to VCs.

In 2006-07, AC of Union Parishad recovered total amount of tk 5,35,600 for 'maintenance' purpose. Also, in 2007-08, tk 2,30,500 has been recovered through ACs. In addition, in 2008-09, tk 2,81,650 has been recovered. Finally in 2009-10, a total of tk 1,49,800 has been awarded for maintenance. Recovery of maintenance has helped women to empower themselves within the households. However, note that the amount of maintenance money have decreased over the years, though the percentage of maintenance cases increased during the observed period. It means as stated in 'process monitoring findings,' that certain number of husbands did not continue the maintenance as per AC's ruling.

Increases in family reconciliation and divorce execution with mutual understanding have also been observed in the examined period of AC's performance. The following case study demonstrates a situation where family tie has been reestablished.

Case study of Arbitration Council

Applicant: Hajera Begum (24), daughter of Idris Mollah, village- Purbakhandi, UP- Dhanukathi under Upazilla- Damudya, District- Shariatpur

Opponent: Suman Khan (30), son of Salamat Kha, village- Dasmontara, UP- Dhanukathi under Upazilla- Damudya, District- Shariatpur

Details of the case: Suman Khan and Hajera Begum got married on 2005. After the marriage, Suman took Tk 30,000 loan from his father-in-law and did not give the money back. Due to this reason, both husband and wife often got into conflict.

In 2008, Suman Khan went to the nearest Nikah (marriage) register office and issued a divorce letter to Hajera. At that time Hajera was pregnant. Once the chairman of UP was presented with the divorce letter, he gave a notice to both Suman and Hajera to resolve their dispute through AC.

The UP chairman, by virtue of his official position also became the chairman of AC. The AC then fixed a date for hearing. On the hearing date, the AC chairman and the other members with the help of disputing parties came to a solution that Suman Khan will withdraw his divorce proposal and will continue to live a married life with Hajera Begum.

Suman Khan accepted and followed the verdict of AC.

Withdrawal of divorce and restoration of conjugal life of Suman Khan and Jahera Begum

- ***Legal Aid Program***

Legal Aid Program of MLAA is designed to help poor people, particularly women, to establish their rights and consolidate their socio economic status. The kinds of cases MLAA handle are criminal, family (cruelty to women, dowry related, second marriage) and land related disputes.

In 2006-07 reporting period, 1617 cases were handled that includes 609 newly filed cases and 1008 pending cases from previous year. Among these cases, 583 cases were disposed of and 1034 are now pending.

As discussed earlier, MLAA's next step of this activity is to follow up on the disposed and pending cases. In this reporting period, MLAA has done a follow up examination on 58 cases out of which, 44 were disposed of and the rest were pending. Out of the 44 cases, the verdicts have been properly implemented in 33 cases, where plaintiffs are awarded and defendants are punished. These verdicts involve simple bailouts, mutual settlements, establishing rights through awarding and/or recovering money/land for the plaintiffs. The rulings also ensured punishment which include- imprisonment, money compensation (including criminal case), recovering money for maintenance and dowry. For the 9 other cases, the applicants never continued their suits due to their absence before the court.

During this reporting period MLAA has organized 13 meetings with concerned lawyers, their associates, judges and representatives of the law enforcing agencies with an aim to increase their empathy towards the poor clients.

During 2007-08 period, 1460 cases were handled, which included 1047 pending cases from previous year and 413 newly filed case. Among these cases, 472 cases were settled and only 20 of these cases went against the clients of MLAA. Also during this reporting period, MLAA has organized 5 meetings with the concerned lawyers and their representatives. The increased number of settled case in the favor of MLAA's clients depict that lawyers and their law associates are becoming more compassionate to the clients.

During 2008-09, 1416 cases were handled which include 428 newly filed cases and 988 pending cases from the previous year. Among these cases, 393 cases were disposed and 1024 are now pending. In this reporting period, MLAA has done a follow up examination on 82 cases of which, 37 were disposed of and 45 were pending. Monitoring report of this period revealed that most parties followed their agreement. The clients got money or other compensation according to the agreement of verdict. Additionally, with the assistance of MLAA, 107 couples continued their marriage. MLAA also organized 5 meetings with the concerned lawyers and their representatives.

In 2009-10, MLAA was responsible for 1419 cases of which, 983 were pending from previous year and 436 are new this year. 447 cases have been resolved this year. The court reached in verdict for 181 cases, of which 140 are in favor of the MLAA's clients. 33 cases were dismissed due to default on the part of the defendants. The remaining 972 cases have been carried over to next year. 9 individuals, who failed to comply with court order in family matters, were each sentenced to 3 months in prison. In addition, with the assistance of MLAA, 120 couples were able to reconcile their differences and continued their marriage.

The following case study on legal aid shows how one MLAA's client benefited through its Legal Aid Program:

Case study of Legal Aid Program

Court case- Farida Akter finally succeeded to achieve her legitimate demand of maintenance and dowry money

Applicant: Farida Akter (27), daughter of Fazlul Haque, village- Tulashar under Sadar Upazila, district- Shariatpur.

Opponent: Azad Millah, son of Late Daliluddin Mollah, village- Domshar under same Upazila and district.

Details of the case: Farida Akter got married with Azad Millah on 2000. Azad Mollah used to work for a garment factory in Dhaka as a Cutting Master. After two years of their marriage, they became parents with a daughter, whose name was Afroza. Azad was not happy with the fact that he was a father of a female child. He started to neglect his wife after the birth of their child. Most of the time, he would keep his wife to his father –in-law's house. He also spent most of his time in Dhaka and did not contact his wife. When Farida asked her husband the reason for his behavior, he simply demanded dowry of Tk 50,000. Azad continued pressuring Farida for the dowry money.

Finding no other way, Farida went to MLAA, at Shariatpur district office and filled up an application. The Shariatpur district office of MLAA then tried to resolve the dispute in a peaceful manner through mediation. MLAA invited Azad Mollah, by fixing various dates. However, Azad Mollah only appeared in two dates. Eventually he left for Dhaka and did not contact with Farida Akter or MLAA's Shariatpur district office.

Later, with Farida's consent, Shariatpur district office filed a case under dowry prohibition Act. After filing the case, the court issued a warrant and fixed a date for the couple to appear before the court. When Azad got to know about the issuance of warrant, he rushed back to Farida and resolved the dispute through MLAA mediation and agreed to pay Farida Tk 50,000. Farida got her money soon after.

The follow-up investigation of the MLAA staff revealed that Farida Akter fixed deposited the money with a bank.

7. Sustainability of MLAA Projects

Project sustainability of any human rights oriented organizations (or organizations that deal with community legal services) is always problematic since such projects in general deal with poor people, who tend to have very little financial capacity to buy human rights/legal services. Also such services are predominantly public good in nature, which means citizens can free ride on the beneficial effects of the services provided in the community and it is difficult to exclude anyone from the services provided. The point is, sustainability of community legal services (CLS) cannot be judged from an economic cost-benefit perspective or from a revenue generating criterion. Program or project sustainability can also be attained by other means such as creating ownership of the program/project by the community or more usefully by the state. For organization like MLAA, which deals with CLS, it is more practical and realistic to ensure sustainability in its program/project through building ownership of such program/project among community and state.

Given the socio-economic conditions of rural Bangladesh and the socio-legal rights status of marginalized people and women in rural society, the role of MLAA would remain relevant for many years to come. Also during the last five years MLAA has develop some creative strategies to ensure that its different core projects become sustainable. Building synergy between MLAA's core activities and community as well as local government was aimed at making these activities efficient and at the same time developing a sense of ownership over these activities by the local community and the local government. The VC and AC function in the project areas of MLLA with shared ownership, which possibly over the long run make the active presence of MLLA to manage the institutions almost redundant. Similarly, one could hope that active involvement of CBO leaders in the mediation process would increasingly marginalize the current dominant role of MLAA in the process over the long run. But in the short and mid run, the role of MLAA as agent of institution building as well catalyst of change in the normative structure of rural society will remain critical.

Still for MLAA, financial sustainability will remain as a major challenge given the nature of its work. It is clear though that MLAA is seriously exploring the possibilities for raising funds as well as saving funds. The training and Resource Centre continues to be a major source of income (rental fees form meeting venue and residential training facilities). Training given to other development partners on a payment basis is another major earning source. This also include sale of training materials. In addition MLAA saves a substantial amount of funds every year by using its own training facilities and not hiring elsewhere. Also MLAA's organizational sustainability is achieved through retraining its professional staff and continuing to build their expertise. Staff continuity is a key element of sustainability for a service organization like MLAA.

MLAA could have generated revenue through providing service to government legal aid program (National Legal Aid Organization). Over the years government has proved that it is ill suited for motivating and communicating poor to avail services provided by it. These tasks should be left with NGOs and organizations like MLAA could have provided such services on a payment basis. For this to happen, MLAA and other similar organizations should lobby government pro-actively.

Most recently, MLAA has got involved with the large scale government initiated (funded by EU and UNDP) VC development and its nationwide replication program. In the short run it is a major revenue generating source for MLAA but MLAA should strategically consider to develop an advocacy program to convince government as well as donor community to increase the geographical scope of this program and to operate it over a longer period of time. Institution building is never a short term endeavor. Any long term project (at least 15 to 20 years) would probably result in sustainable institution building at the local level and provide CLS oriented organization like MLAA a steady source of revenue.

8. Involvement of the Target Groups in Project Design and Implementation

Participation of stakeholders in the project design and implementation is largely inbuilt in MLAA's programming. It encourages local citizens and particularly educated and conscious segment of the society (secondary stakeholders such as CBO and UP leaders, local officials, lawyers etc) to be part of the project design from the very beginning of the process. Stakeholders' inputs are taken ranging from rudimentary institutional design to advocacy strategy related to law reform relevant for the poor. Inputs from local stakeholders are collected through community level meeting at the grassroots as well as through formal workshops organized at the MLAA premise and attended by the local elites and government officials. One typical example is a four day long program planning workshop where MLAA staff from the field to top management level as well as local elites participated to deliberate on issues such as log frame, activities and action plan design. Since MLAA works on the UP based VC and AC, it puts special emphasis on getting opinion from the UP leadership.

MLAA also try to ensure broader participation of all relevant stakeholders during the implementation phase of the projects. Mediation process has inbuilt mechanisms for the participation of litigants as well as local elites. The elected UP officials and local CBO members are usually involved during the monitoring and periodic participatory evaluation of the projects. They also participate in the formation of ADR committees. Local CBO members also participate proactively in social monitoring of ADR as well as VC and AC. All local stakeholders are kept informed about the progress of the project through workshops, publications and reports.

At the administrative level, MLAA organizes Upazila based workshops on the functions of VC and AC for government officials such as UNO, ADC and DC. In these workshops, DC and ADC often work as resource persons and in the MLAA trainings on VC concerned UNOs act as facilitators.

MLAA also organizes opinion sharing meetings on its activities with the judges, senior officials of law enforcing agencies, lawyers and their clerks. The outcomes of such meetings are not only these stakeholders become informed about the activities but it tends to generate compassion and sympathy among them regarding the travail of poor people seeking justice. In many cases these officials have intervened to speed up the process in the matter of legal procedures like trial, issuing and execution of warrants and summons.

9. The contribution of the project to gender equity

By default CLS activities are predominantly centered on women related issues. Given this reality, MLAA management increasingly internalized gender values within its program and developed institutional mechanisms so that services remain gender sensitive. This is manifested in the practice of increasing recruitment of female staff (now more than 50%) in the organization and in larger participation of women (about 35%) as mediators. Also the process and outcomes of both AC and VC seem to be gender friendly as various research and evaluation study have indicated. Qualitative assessments (author's interview and previous evaluation reports) tend to show that women have become more knowledgeable about the activities of MLAA and they also become vocal in various institutions they take part (in mediation, CBO meetings etc). In terms of program outcomes, as various monitoring reports indicate, women have benefited on socio-legal dimension within MLAA's project areas. In general, factors like domestic violence, dowry incidents, divorce rate, hilla marriage, polygamous practice, child marriage have shown downward trends and positive factors like provisioning of maintenance and registration of marriage are showing upward trends.

Still gender equity in programming has remained a challenge for MLAA. For instance, the ratio of female-male participation in CBO is still not equal (40% for women). Findings from monitoring reports also show that women's participation in dispute resolution (as mediator, panel judges etc) continues to be low, for instance, only 14% of the chairpersons in mediation is women. Such state of affairs deserves special attention by the MLAA policy makers to search for appropriate institutional design and changes in programming strategies.

10. Assessment of coordination and collaboration with other local organizations working on the similar issues

MLAA collaborates with various relevant government organizations as well as local NGOs. It closely works with government legal aid program (MLAA is a member in government's District Legal Aid Committee in three districts where it mainly runs its program) mainly providing services related to client motivation and community awareness building. Such collaboration between civil society and the state has a tremendous potential to build efficient and sustainable legal aid program thereby effectively broadening the access to justice for the poorest and marginalized sections of the society. But such potential is yet to be realized due to bureaucratic sloth and lack of commitment on the part of the government. In fact it is a well known fact that government fund allocated for legal aid remains unutilized every year. MLAA could perhaps initiate vigorous campaign and lobbying with the government policy makers to take the legal aid program more seriously with greater commitment and zeal. In this regard MLAA could build alliance with other influential NGOs with similar interest (such as BLAST, Ain-O-Shalish Kendra and possibly BRAC) to influence government policy on legal aid. As we suggested in the sustainability section, such pro-active collaboration between the state and NGOs in the area can contribute to greater financial sustainability for the latter.

Other important local government agencies such as Department of Social Welfare and Women Affairs Directorate frequently communicate MLAA to get legal services for their clients. MLAA also pro-actively communicate with these agencies which culminated in the current synergistic and productive relations between MLAA and these agencies. MLAA should definitely continue such collaboration and should initiate networking with other relevant government agencies.

MLAA also strategically network with other local NGOs, which provide income generating services (IGS) for their clients. Certain beneficiaries of MLAA, who have become destitute, recently divorced women and women who have been abandoned by their husbands, are sent to these NGOs so they can be economically rehabilitated through micro-credit or through other forms of micro-enterprises. MLAA continues to monitor such women on a long term basis. This policy is highly commendable and MLAA should be encouraged to continue this policy. MLAA should focus on the development of more efficient collaborative arrangement between different complementary service providers (as mentioned above) which will help to expand its referral service network. It should also play a leadership role in human rights and legal empowerment related advocacy in the specific region that it operates.

11. The cost effectiveness in terms of produced outputs

Services of NGOs which focus their activities on CLS cannot be judged by strict economic cost benefit analysis. Even if we use such criterion, officials of MLAA argue that the money and land and other forms of financial benefits (alimony, maintenance etc) that they recover for their clients, possibly make their activities largely cost effective. Also the benefits (enjoyment of right and liberty and peace in personal and communal lives) of making hundreds of thousands people (over the few decades of MLAA's existence) aware of their rights and providing information regarding where to go and seek for redress, would far outweigh the costs of programs involved. One should also take into account the money saved by thousands of MLAA beneficiaries by not going to court to settle their cases. MLAA should commission economic/financial study by competent people to assess the cost-benefit dimension of their program outputs.

12. Recommendations

- Developing routine administration (proper documentation, maintaining formal process) within UP is a considerably difficult task to handle as MLAA's experiences in nurturing VC and AC in UP have shown. As evidence indicates, many UP representatives are still very reluctant to follow proper documentation process since they find such activities tedious and time consuming. MLAA will have to put more effort (close supervision, more training/orientation) to change the institutional behavior of UPs.
- There seems to be lack of incentives/interests among CBO members to participate in courtyard meetings. Therefore challenge of motivating people is clearly there

and MLAA needs to properly plan its community related activities. If communication is a problem then MLAA should invest more resource to develop effective communication strategy. Communication tools should be developed along the lines of 'edutainment,' i.e, using popular theatre, VDO screenings, mass media products to raise awareness about related issues.

- There is a need for building capacity of the personnel in relation to legal aid program. Evaluation reports and discussions with MLAA staff indicate that program implementation in this area is below expectation. Program tracking activities, such as- updating court's documents and keeping track of relevant records are not done properly. MLAA is strongly recommended that it upgrades its human resource in this area through suitable training and more importantly the program should be monitored more efficiently.
- In many areas, particularly in community mobilization and participation, there is a trend of declining women's involvement. This should be a great concern for human rights organization like MLAA. The organization should investigate why this trend persisting and how to reverse it.
- Engaging more women field staff is one way of doing it. In addition, inclusion of women and increasing their participation in the shalish process should be continued. Efforts to build capacity of women shalishkars and create popular support for inclusion of women into the process should be sustained.
- Madrasa education program is highly commendable. Such program should be done on a larger scale and curriculum of this awareness program should emphasize the transformation of knowledge, attitude and practice of this younger generation.
- Madrasah students should also be exposed to issues such as liberal understanding human rights, women's rights, synergies between state law and shariah law etc. These issues can be introduced through additional events targeting the madrasa students (for instance, through seminars and other large scale discussion programs).
- Relevant booklets on laws and human rights used by MLAA, should be disseminated in large numbers and on a wider scale, particularly for teachers and imams, so they are able to use these materials in class.
- Recommendations on sustainability, networking and ensuring gender equity in programming have been provided in the appropriate sections above.

