

BRAC-Ain o Salish Kendro Joint Legal Aid Programme
A Comprehensive Review

Dilruba Banu

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Research and Evaluation Division, BRAC
BRAC Centre, 75 Mohakhali, Dhaka 1212, Bangladesh
Tel: 9881265, 8824180, Fax: 880-2-8823542, 8823614
E-mail: research@brac.net

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Abstract

BRAC-Ain o Salish Kendro (ASK) joint legal aid programme was initiated to promote legal awareness among the poor along with providing them legal assistance to resolve their problems. This study intended to review BRAC-ASK joint legal aid programme at different steps of its operation. Both qualitative and quantitative data was collected for this study. Findings showed that BRAC staff could develop their capacity to implement the legal aid programme in an effective way. The programme required close supervision by BRAC and ASK at its every stage of operation, which a single PO could not ensure. The programme needed to be held more workshops and seminars at village level to make the programme widely accepted by the community people. The programme dealt with sensitive issues so liaison with the local police and the political parties was necessary for BRAC staff's personal security. The activities of panel lawyers should be strongly monitored. The paralegal *sebikas* can share only those activities of legal aid programme which are more convenient to them compare to other BRAC staff. BRAC members had better knowledge on different aspects of legal aid programme than that of non-members. Around one-fourth of the respondents who received assistance from BRAC evaluated the legal aid programme either fairly effective or completely ineffective to solve their problems.



1. Introduction

1.1 Operation of legal aid programme

In mid 1980s, BRAC initiated its para-legal programme to promote legal awareness among the members of its village organisations (VOs). The programme was re-organised and expanded as Human Rights and Legal Education (HRLE) in the early 1990s. The purpose of HRLE was to raise awareness about the legal rights among BRAC members, increase knowledge of laws, provide skills for their application and develop self-confidence to resolve minor problems through *salish* (village mediation). The assumption was that the HRLE training would help the BRAC members to protect themselves against illegal, unfair and discriminatory practices. BRAC gradually realised that providing HRLE training was not enough for the poor. While legal awareness training was essential for the poor, they also needed legal assistance and help to resolve legal problems that they had experienced. Such a changed scenario and voice raised from the grassroots encouraged BRAC to initiate the legal aid programme for the poor. The legal aid programme has started changing the traditional system of mediation that discriminates against the poor and particularly women. Instead of having decisions imposed upon them by traditional elite, mostly men, through village *salish*, women can now participate in a process of mediation facilitated by BRAC, which encourages the use of laws for protecting the rights of women. BRAC extended its legal aid services to the poor non-BRAC members later.

As a pioneer legal aid and human rights organisation in Bangladesh, Ain o Salish Kendro (ASK) promotes and protects human rights of the disenfranchised, particularly women through education, legal mediation, training, public interest litigation and advocacy. ASK also collaborates with network partners, and other non-government organisations to promote legal redress for women through regular legal aid clinics. In 1998, ASK's Outreach Unit collaborated with BRAC to offer prompt, effective and low cost legal assistance to BRAC's group members. This joint legal aid programme was a follow up of BRAC's HRLE programme, in which two ASK members were involved. In response to a demand from BRAC group members a pilot programme named "BRAC-ASK Joint Legal Aid Programme" was launched in 1998 at Manikgonj and Mymensing of Dhaka Division.

This programme was extended to another 25 districts of Dhaka and Rajshahi Division year by year.

BRAC-ASK joint legal aid programme is designed as a partnership. ASK provides orientation and training to BRAC staff involved with this programme such as Programme Organisers (social development), Regional Sector Specialists (social development) and the Area Coordinators to run the programme. The purposes of the training are to familiarise them with existing laws, court procedures, and filing of cases at the police station. The training included six-day intensive theoretical discussion on the law followed by three-day practical and another three-day fact-finding training. ASK coordinates, supervises and monitors the programme through coordination meetings, clinic visits and clients' workshops. After each field visit, which includes the above mentioned activities, staff lawyers of Outreach Unit report to the BRAC head office suggesting improvements in the programme or offering solution to problems. To facilitate conduct of litigation cases ASK selects panel lawyers who act as the local legal representatives of the complainants in the court. The lawyers make the final decision regarding the procedures of a particular case in the court. In addition, the lawyers regularly meet the relevant BRAC staff every two months to review progress of the on-going cases and discuss new cases. BRAC group members who are in need may seek legal assistance from the panel lawyers free of cost. The fees are paid to the lawyers by BRAC. In this way ASK provides technical support whereas BRAC provides logistic support.

The legal aid clinics are run once a week at the BRAC area offices. The clinic operation requires that the relevant BRAC staff should attend all-day and record all cases or complaints brought to her/him by BRAC members. After receiving the complaints, PO consults with Area Manager or Area Coordinator to decide which complaints can be resolved through *salish* (mediation). If the matter cannot be mediated the PO facilitates filing of case at the police station or in court. The clinic programme emphasises resolving the conflicts or disputes through local mediation unless there is serious violation of basic human rights such as acid attacks or rape victims. During 1998–2000, a total of 3,258 complaints were received by the legal aid clinics of which 1,476 cases have been settled

through mediation and only 152 have been sent out to court. The complaints covered many issues such as maintenance, dowry, physical torture, dispute related to land, polygamy, divorce, *hilla*¹ marriage, rape, acid throwing, kidnapping, trafficking and fraud (BRAC 2000:66). As part of the programme, BRAC staff is expected to routinely follow up each case for six months after the mediation or settlement.

With the assistance of ASK, BRAC has now been planning to expand the legal aid programme in other districts where BRAC has its microfinance and other development programmes. Such expansion needed comprehensive review of the programme activities. The Research and Evaluation Division (RED) of BRAC with the assistance of ASK was assigned to conduct an assessment of the programme.

1.2 Objectives and scope

The objectives of the proposed study were to carry out i) a comprehensive review and ii) an assessment of the impact of BRAC-ASK joint legal aid programme. The study was planned to be implemented in two phases. This report explored only the questions of the first phase for a comprehensive review. Special emphasis has been given on:

- capacity of BRAC staff to implement the programme,
- effectiveness in resolving the minor complaints through *salish* or mediation,
- sensitisation and acceptance of the programme in the community,
- role of panel lawyers in mitigating the complaints, and
- possibility of inclusion of the paralegal *sebikas*² in the programme.

It has been expected that the report of the first phase would provide information regarding the strengths as well as the problems of running the programme. At the second phase the assessment of the programme impact will be looked at both individual and system levels.

¹ A matrimonial dictate on the reunion of the divorced couple. The wife needs to marry another person, live together with him for a minimum four months, get divorced and then remarry the previous husband with whom the reunion is intended (Rafi, Hulme and Chowdhury 2000:27).

² A female field worker of BRAC provides human rights and legal aid knowledge to rural women.



2. Methodology

2.1 Sampling

As sample areas a total of six regions, two from each, were selected purposively from three types of programme phases i.e. pilot project (1998), programme started in 1999 and programme started in 2000. All sample regions were located in Dhaka division (see Annex Table 1 in details).

To conduct the household survey, BRAC group members and non-members were selected as follows:

- Firstly, four BRAC areas were selected randomly from each of six sample regions.
- Secondly, ten villages were selected randomly from each sample BRAC area.
- Finally, five group members and five comparable non-members were randomly selected from each sample village, therefore, in total 2400 households were selected for the survey. It is note worthy that the 2400 sample households were not necessarily the complainants of the legal aid clinic.

2.2 Data collection tools

A combination of qualitative and quantitative approaches has been used to collect information for the study during September and October 2002.

- The survey was done on randomly selected 2400 households equally divided into BRAC group members and non-members to get information on difficulties experienced over the last five years, awareness on BRAC-ASK joint legal aid programme and its effectiveness.
- Thirty one in-depth interviews were conducted with BRAC group members from the clinic registers who received the services of legal aid programme to make an assessment on effectiveness of the legal aid clinic and on the capacity of BRAC staff.
- All relevant Regional Sector Specialists (RSS), Area Co-ordinators (AC), and Programme Organisers (PO) of the study areas were interviewed to know the operation of the clinic, their capacity to implement the programme and possibilities of inclusion of paralegal *sebikas* in this programme.

- Six panel lawyers, one from each region, were interviewed purposively to know how they mitigate complaints in the court.
- Six informal group discussions, one in each region, were held with the community people including members of Union Parishad, village leaders and religious leaders to know how they assess the legal aid programme.

The report was written on the basis of recorded data³. The author was not involved in designing of this study and in collection and recording of data. Therefore, even though the report depended quite extensively on the analysis of qualitative information the author's observation in particular and understanding in general could not be incorporated in the writing.

2.3 Study management

The study was implemented jointly by the Research and Evaluation Division (RED) of BRAC and ASK although BRAC carried out the major responsibility of conducting the study. A set of study instruments i.e. questionnaire, checklist, etc. have been jointly prepared incorporating questions that were appropriate and relevant to this study. The draft questionnaires and checklists were tested in the field and reviewed before finalisation. RED recruited the field interviewers and supervisors and selecting them adequate standard and quality were maintained. They were given an extensive training and the practice sessions were held in the field outside the study villages. Strict supervision of fieldwork was maintained as much as possible to ensure quality data.

RED addressing several dimensions of the legal aid programme wrote the report. The draft report has been sent to the BRAC management involved in this programme and relevant officials of ASK for reviewing. After receiving comments from them, the report has been finalised.

³ The person assigned for this study died after the collection and recording of the data. Analysis of the findings in this report lacked her understanding what she wished to focus in this study. However, the report intended to analyse the findings as much as possible.

2.4 Limitations

There were only a few households that encountered problems needing legal assistance over the last five years preceding the data collection. Out of 2400 samples only 306 households reported that they faced problems over the last five years and 245 households, not necessarily all of them came from 306, were just aware about the legal aid programme of BRAC. Therefore, 47 households out of 245 went to the legal aid clinic at BRAC for legal assistance. Hence only those 47 households were targeted for quantitative analysis of the programme. It appeared after collecting the data the study did not need any sample survey to assess the legal aid programme rather a survey administered by a shorter questionnaire on some specific variables followed by in-depth interviews might give better understanding on the programme. Nevertheless, the survey revealed the extent to which BRAC's legal aid programme serves the community and the wide range of variables of the survey would definitely help as a baseline to assess the impact of legal aid programme at the second phase of the study.

As the number of respondents who went to the legal aid clinic for assistance was very small, the analysis of data could not disaggregate the findings among three sample groups based on programme duration i.e. pilot project, programme started in 1999 and programme started in 2000 which was planned initially.

3. Capacity of BRAC staff to implement the programme

3.1 Staff training on this programme

Since inception of this programme ASK has been providing technical assistance to BRAC in designing the curricula and providing training to BRAC staff to familiarise them with existing laws, court procedures, and filing of cases at the police station. Findings show that the RSSs and POs of BRAC's social development programme were provided a package of training on legal aid under this programme. The package included a six-day paralegal training i.e. basic training on legal aid, and a five-day training on fact-finding, filing and documentation. This allowed them to make an initial assessment of how a case should be dealt with. Similarly the ACs received a three-day orientation on legal aid. BRAC staff mentioned that training was not adequate to know the programme in details

due to time constraints. They could not receive adequate practical training for that reason. BRAC staff suggested extending the training period. They asked for specific training on law and court proceedings to be included in the training package. They faced difficulties while working with panel lawyers, as they could not understand the mode of law practice.

Due to difference in package and length of the training BRAC staff reported differently on the procedure of the legal aid clinic (for details on the procedure please see Annex Flowchart 1). Findings show that except one, the POs knew better about the categorisation of filing cases in different courts compared to RSSs and ACs. Out of 23 interviewed three POs did not mention about the follow up period. Three said that it was for one month. Two POs did not know whether a new complaint would be filed if the decision of the *salish* would not work. Four RSSs and all 24 ACs interviewed confirmed the six-month follow up period for a case after being mitigated in the *salish*.

There was a mixed idea among the BRAC staff about the time limit of a case to be filed up. Thirteen POs mentioned there was no limitation of time to file a case. Another five said that cases on dower and maintenance payment should be filed up within three years of the cases occurred. In case of rape, murder, acid burn and so on FIR must be lodged immediately. Time limitation for filing a polygamy case was one year. The ACs and RSSs did not have clear idea on time limitation to file a case.

3.2 Make the community people aware about the services

In-depth interview with BRAC members who received the services of legal aid programme revealed that BRAC members were informed about the legal aid clinic in their regular VO meetings i.e. weekly financial meeting, *gramsabha* (issue based meeting), *polli somaj* (federation of BRAC VOs at the ward level), and so on. Existence of legal aid clinic and its activities were also discussed in BRAC's local community leader workshop and HRLE classes of the group members. The members mentioned that they also heard about this facility from their relatives and acquaintances who had already received legal assistance from the clinic. Table 3.1 illustrates significant difference in survey findings that 95% respondents who were informed about BRAC-ASK legal aid programme knew

about this service from VO meetings or its related activities whereas about 59% of non-members knew from their neighbours. It was observed that the respondents knew about the programme from single source.

Table 3.1 Sources of awareness about existence of BRAC-ASK legal aid programme

Sources	Study population		
	BRAC	Non-BRAC	All
VO meetings, BRAC staff	95.4 (185)	35.3 (18)	82.9 (203)
Neighbour	3.6 (7)	58.8 (30)	15.1 (37)
Others	1.0 (2)	5.9 (3)	2.0 (5)
Respondents aware about legal aid programme	194	51	245
Total population	1200	1200	1200

The RSS reported that BRAC announced in public about the existence of legal aid clinic and its activities in surrounding areas of the clinic. It resulted on the community as 35% of non-members said that they learnt about the services from BRAC (Table 3.1).

3.3 Responsibilities of BRAC staff

Along with other six components of social development programme the PO had a wide range of responsibilities for its legal aid programme as the POs reported. Table 3.2 shows that the POs mainly carried out the major responsibilities of the legal aid programme. Nevertheless, RSS and AC also had an active role in organising meetings and workshops. Apart from these the POs organised meetings with the help of BRAC group leaders while necessary. The POs of BRAC microfinance programme also helped them. The complainant reported that the POs were very helpful for all sorts of work, they even brought the complainants to the court.

Table 3.2 Responsibilities carried out by BRAC staff at sample areas

BRAC Staff	Responsibilities
PO	<ul style="list-style-type: none"> • made community people aware on the programme, • attended the clinic on every Sunday, • maintained the register of complaints, • listed and recorded complaint in the fact sheet, • sent notice to the opponent, • conducted <i>salish</i>, • contacted with both complainant and opponent party, • maintained correspondence with the panel lawyers,

	<ul style="list-style-type: none"> • ensured complainants' attendance in the court, • organised workshop for the complainants, and • provided medical assistance to them.
AC	<ul style="list-style-type: none"> • resolved problems through <i>salish</i>, and • organised meetings and workshops.
RSS	<ul style="list-style-type: none"> • supervised the programme, • observed <i>salish</i>, • conducted fact-finding and follow up, • contacted with panel lawyers and police to file cases, • attended human rights meetings with other NGOs, and • distributed the cases among the panel lawyers.

Of the 24 ACs interviewed 18 said that they could not give enough attention to this programme, as they have to oversee many other programmes. Other six carried out their duties properly as they mentioned.

The RSS mentioned that they distributed the cases among the panel lawyers in consultation with regional coordinator (RC). The cases were distributed according to their nature, panel lawyers' interest and their efficiency to handle such cases. Four RSSs reported that their involvement in the programme was not intensive due to their other responsibilities.

3.4 Problems faced in implementing programme

The study concentrated on the experiences of POs, RSSs and panel lawyers regarding problems they faced in implementing the programme in sample areas. It has been observed that different actors faced the problems differently.

The experiences of POs were:

- i. It was difficult for them to give emphasis on every single step of legal aid programme due to their workload.
- ii. They felt insecure while working at the field in critical cases. They even could not discuss about their personal security with the higher authority at head office.
- iii. BRAC field staff who lacked knowledge on human and legal rights used to create problems to run the programme effectively. POs recommended training for those staff.

The RSSs mentioned:

- i. Their working area was wide ranged so it was difficult for them to make contact with the complainants and the opponents while they were far away from the place of occurrence.
- ii. They needed direct access to the administration to mitigate the difficulties of some cases. They felt that personal identification card issued by BRAC would help them to get access to the local administration as they often work in very sensitive issue.
- iii. In a few cases panel lawyers did not drop the chance to take bribe from the accused persons and to work in favour of them. The junior lawyers were more heartfelt than senior lawyers in conducting cases.
- iv. In some cases court officials were corrupted, they demanded bribe to do their duty.
- v. BRAC appointed less qualified and inefficient POs in legal aid programme who did not have courage to do correspondence with the police, but maintaining contact with police has been considered as an integral part of this programme.

The panel lawyers argued:

- i. The POs of the legal aid programme were neither very efficient nor much educated. They needed extensive training on this programme. In some cases the complaint files were written with many errors. The POs needed to give complainant some basic orientation on court. While a complainant came to the court wearing expensive *sari* (a dress for female) and with heavy makeup on her face for a suit of maintenance, the court was not impressed because the case portrayed her as a needy woman. Once a complainant stood in the witness dock with betel leaves in her mouth. She could not talk to the judge for her mouth-full of betel leaves. It was a dowry case and the judge got so angry that he refused to listen to her.
- ii. The POs should prepare the complainants to memorise the complaint before going to the court. In many cases complainants made mistakes and lawyer had to file time petition to listen them another day.

- iii. The complainants off and on missed to submit relevant papers as evidence. In the case of deprivation to a wife from her rights original *kabinnama* was needed for filing case in the court, but complainant used to submit the copy of that. In the case of maintenance payment to a wife the date when her husband refused to give her support needed to be recorded. The date while the complainant left husband's house was a necessary information for that case as well. In most of the cases the complaint file lacked these information.
- iv. After filing the cases POs and the complainants used to not contact to them in regular basis. The RSS were not seen to follow up the cases. The lawyers commented that it seemed to them POs and the complainants left all the responsibilities to run the cases on the lawyers only.
- v. The process of filing case involves the court, the police and doctors. If all of them are not loyal to their duties fair justice has not been ensured which happened in many cases. Police also gives wrong information in FIR or charge sheet due to taking bribe. Court orderly and the clerk want to take bribe. The influential people of the villages sometimes want to receive the verdict in favour of them.
- vi. In some cases police took bribe and misguided the process of judgement. BRAC staff were not experienced to deal with police. It was alleged that the police received Tk. 60,000 as bribe from the accused of a rape case for giving the final report. Two lawyers said that sometimes complainants wanted to mitigate the problem in the middle of investigation because the opponent group tried to compromise the problem offering money to the complainant. Then the complainant tried to convince BRAC in this regard. BRAC did not allow this as this kind of compromise might encourage criminals to perpetrate more violence.

4. Effectiveness of the programme in resolving cases through *salish*

BRAC members who went to the clinic with their complaints reported that the *salish* arrange through the clinic was different in character compared to the traditional village *salish*. The village leaders used to charge a big amount of money from the clients in a traditional *salish* so poor people avoid to go there. The leaders sometimes organised *salish*

after requesting several times by the complainants. They were often corrupted by taking bribe from the accused persons and tended to give a favourable verdict to them. Moreover, they were annoyed to pay enough time to make a decision. They even did not take further initiative if the opponent did not accept the decision of the *salish*. The sample survey also confirmed this findings since it shows 27% of all 2400 respondents said that people used to pay money to dissolve case in village *salish*. Among them around 56% mentioned that the expenses were to give bribe to the village leaders (see Annex Table 2).

However, through the legal aid clinic BRAC ensured poor peoples' access to the *salish*, as it did not cost any. The complainants reported that the decision made by the *salish* through legal aid clinic was more effective than that of traditional village *salish*. For example, they mentioned that in village *salish* the decision used to not followed up properly so the accused persons got chances not to abide by the decision. So the complainants especially the women often did not get dowry and maintenance payment after being divorced. On the contrary the cases solved in *salish* arranged through the legal aid clinic the opponents were obliged to abide by the decisions made. No false case was brought in the *salish*. After receiving the complaint the BRAC staff used to go for fact-findings and while the case being resolved they continuously followed up the case.

The BRAC staff conducted *salish* through legal aid clinic in presence of local community leaders. Two senior persons of the village were selected from both the parties to form a committee that resulted on decision positively. Findings show that most of the cases *salish* held in the BRAC office and a few were held outside of BRAC because of the demand of the community leaders or the opponent. The opponents could not avoid attending the *salish* arranged by legal aid clinic. BRAC staff used to send notice twice to bring him/her in the *salish*. While the opponent avoided the meeting the panel lawyer sent them legal notice.

The complainants mentioned that torturing for dowry was a common case needed to be resolved in the *salish*. While they brought complaint on that, BRAC staff did counselling with both parties and tried to make the opponents aware about the law against it. They

were even informed that according to the law the perpetrator might be sent to the custody for this violence. In many cases it influenced the behaviour of the perpetrator in the following days as the VO members and non-members mentioned. They said that many villagers understood in the *salish* that verbal divorce were not legally accepted. Those cases had been solved and many couples resumed their conjugal life being undergone through *salish*. The respondents mentioned that any sorts of complaint could be resolved promptly in *salish*.

The POs mentioned that they faced difficulties during the follow up period after resolving the case in the *salish* through legal aid clinic. The opposite party often tried not to abide by the decision of the *salish*. Then the complainants reported again to the legal aid clinic. BRAC staff had to follow up those cases and made them obliged to follow the decision. VO members commented that sometimes POs failed to take any action against the opponents if they did not abide by the decision of *salish*.

The POs said that when opposite parties were very powerful, complainants tended to avoid coming to the clinic. In a few cases accused people threatened POs for taking complaints or filing cases. One PO said that they tried to explain the opposite party that they were playing the role of a mediator. To solve that problem they developed good relationship with local influential people and involved local elite to resolve the dispute.

The POs mentioned that the programme faced resentment and restraint from the local influential and fundamental groups. This problem was not addressed properly at the beginning of intervention. Local elite frequently questioned on BRAC's legitimacy to give notice to opponent group and to conduct *salish*. They felt the necessity of legal aid clinic needed to be well explained. One PO added it needed to be disseminated that BRAC has been operating this programme jointly with Ain o Salish Kendra, a legal aid and human rights organisation. The POs reported that special meetings were organised occasionally to resolve this problem. Meeting with UP chairman, members, *Kazi* (marriage register) and *Imam* (religious leader) would be helpful in this regard they mentioned.

Political pressure affected the programme sometimes. It became difficult to take decision in *salish* when political pressure was placed. They sometimes put pressure to withdraw cases on acid burn and rape. Local branch offices of the political parties were informed in this regard and their assistance was taken to manage the problem. Where needed the police and journalists were also informed.

The RSSs argued that the chairman and members of the Union Parishad threat BRAC staff at times. In a few cases by name of *salish* they destroyed the hope of justice taking bribe from opposite party. One RSS cited a case that a 65 year old woman was raped. The chairman influenced her son and put pressure on the RSS as a result the victim wanted to withdraw the case.

5. Acceptance of legal aid programme in the community

Table 5.1 presents the distribution of responses of BRAC-members and non-members, who were aware about legal aid programme, regarding acceptance of legal aid clinic by the community people. Majority of the respondents remarked that legal aid clinic was highly accepted by their family members and neighbours because of getting quick and fair judgement from the clinic. The programme has given the poor people access to the formal court which was their out of reach previously. Moreover, people could know their legal rights to some extent due to implementation of the programme.

The complainants mentioned in their in-depth interviews that formerly the complainant needed money to proceed a case in the court, now BRAC has been giving them free services. The programme has met women's needs in particular as the clinics were very close to their residence. Without taking help from others they can now immediately response to the violence perpetrated with them. Many of them could resolve their familial disputes through this programme as mentioned. They recommended implementing this programme all over the country for the sake of the poor people.

Table 5.1 Acceptance of legal aid programme by the community

Responses (N = 245)	Community				
	Village leader	Family member	Neighbour/ friend	Local government*	Religious leader
Accepted	40.8 (100)	92.7 (227)	73.1 (179)	22.4 (55)	18.4 (45)
Did not accept well	16.3 (40)	4.1 (10)	4.9 (12)	8.2 (20)	6.1 (15)
Did not know	42.9 (105)	3.3 (8)	22.0 (54)	69.4 (170)	75.5 (185)

* Chairman, members of the Union Parishad

Table shows the respondents who knew about the programme felt that there was less acceptance of the clinic among the rural elite like village leaders, members of local government and the religious leaders. The clinic might reduce poor people's dependency on them to dissolve their cases. Nowadays BRAC staff participates in the *salish* arranged through the clinic and report the fact what they find through following up the case. The complainants of the clinic commented that the rural elite had to go through the cases before taking a decision in the *salish*. They even could not earn money being impartial to the accused. It is noteworthy that there was a limitation to collect this information through survey on BRAC-members and non-members whereas a significant number of the respondents could not answer on the acceptance of the programme by the elite.

However, in the group discussions the village leaders, members of local government and religious leaders illustrated their positive and negative views on legal aid programme.

Positive views

The village leaders said that the legal aid programme was very helpful for poor people. They pointed out that BRAC selected lawyers for poor people who worked for them free of cost. BRAC brought poor people in the court and bore all cost for proceeding cases. BRAC also assisted to resolve the cases through *salish*. The village leaders opined that the villagers have got quick result on their legal rights through this programme. The programme worked against early marriage and dowry; therefore it helped the poor people greatly.

The *Imams* (religious leaders) said that BRAC helped the complainants getting all the dues from the opposite group which was not done before by any actor. They also commented that the complainants did not need to bear any cost in this programme.

Negative views

The village leaders felt that they have lost their supremacy for this programme as many people now rely on BRAC legal aid clinic to solve their problems. This programme was defamatory for the leaders. Such negative views could be better explained with the quantitative data in the later part of the report whereas around 53% of both BRAC member and non-member respondents who faced difficulties over the last five years took help from the village leaders either to get legal assistance or to dissolve the problems through *salish* (table 8.1). It implies that the leaders had the sole power to solve any sorts of problems of the villagers. Even though legal aid service was available at the local level people used to go to the leaders getting way out from their problems. The leaders mentioned that it took long time to solve a case through legal aid clinic due to negligence and distortion of BRAC staff. They argued that it should be questioned how BRAC would mediate a case in *salish* whereas the village leaders often failed to do this job.

The leaders said that in handing cases through legal aid clinic the panel lawyers did not get money from the complainants so they were less interested to finalise a case in time that affected the entire process. The members of the local government mentioned that all the BRAC staff were not very active, they needed to give priority on finalise the case in time.

The *Imams* added that the village leaders formally took money from the complainants in village *salish*, so they are now losing this money for legal aid programme. Their right and power have been decreased for this programme. In this programme the leaders do not have sole power to make a decision in *salish*.

However, in their group discussion the rural elite suggested not to transfer the POs frequently that make delay in finalizing the complaints within a short period. They

recommended to file the complaints through the Union Parishad. It would help to find out the original fact and to make the accused obliged to obey the judgement. Without cooperation from the local administration they felt it would difficult for BRAC to run the programme successfully.

6. Role of panel lawyers in mitigating the court cases

ASK selected a panel of lawyers to help the complainants of the legal aid clinic for filing their cases at the court. One from each region, six lawyers were interviewed for this study and one of them was female. All of them have been practising law for 13 to 19 years and they were involved in legal aid clinic since inception of this programme in these areas.

The PO, AC and RSS reported that panel lawyer's responsibilities were to represent complainant in the court and conduct cases according to the complaint files. One PO said except court fee on land related case panel lawyers did not take any fees from the complainants and tried to dissolve cases as soon as possible. The AC added that sometimes lawyers took time to complete the case that is not expected.

The panel lawyers argued that sometimes they need to do extra work along with conducting cases in the court for this programme. They wrote legal notice and helped BRAC staff to deal with police station where necessary. As an example of extra work the female lawyer said that a six year old girl was raped in her working area and a case was filed accordingly in the police station. The local Member of the Parliament (MP) put pressure on the complainant to withdraw the case. The lawyer raised this issue in a meeting of the programme and decision was made to give assurance to the complainant that the clinic would help them to get fair judgement. When the lawyer met the complainant she understood that the whole family of the victim was under tremendous pressure from the MP to withdraw the case. All their neighbours stopped interaction with them. The father of that girl was scared that he might be compelled to leave the village if he would not withdraw the case. The lawyer talked to the local MP but she could not convince the girl's father. He already took decision of withdrawing the case. He argued that he have to live with local people, so the case was discharged from the court.

In response to the question about their involvement in legal aid programme the female lawyer mentioned that she has some responsibilities towards the society. As a woman she felt happy to help other women. In legal aid programme she participated in different meetings, and met and shared experience with other panel lawyers of other districts. These exposures were important for her profession she felt. Other two lawyers said that they were happy helping the poor and helpless people. Another one said that it seemed to him the legal aid programme of BRAC was a noble initiative towards development of the poor so he felt interest to join this programme. The number of legal aid cases they were handling at the period of interview was ranged 2 to 30 as six panel lawyers reported.

The survey findings show that out of 47 respondents who went to legal aid clinic for assistance only 21% needed lawyers to proceed their case in the court (see Annex Table 3). BRAC introduced the lawyers to them. In in-depth interviews the complainants of the programme commented positively on the roles of the panel lawyers. Most of them reported that the lawyers were efficient and gave enough time and attention on their cases. They behaved very well with the complainants and did not take money from them handling the case.

A few complainants objected that the panel lawyers were not always available in the court whenever they were looking for. They even did not want to talk to the complainants, rather said to send BRAC staff to them for consultation on the case. The lawyers remained busy with their other clients. They sometimes charged money from the complainants even though they came through the legal aid clinic.

The lawyers responded that they used to deal with the cases came through the legal aid clinic after their court time or at weekend, but the complainants came to them whenever they had chances which disrupted their other duties.

The panel lawyers were not satisfied with their honorarium paid by ASK for handling the legal aid cases. Four of them argued that the honorarium was not adequate to cover court expenses. They recommended increasing their honorarium to Tk. 5,000 for both criminal

and civil cases, which was Tk. 3,000 at that time. One lawyer said that the clerks (*muhuri*) did not get separate money for handling the cases, which they deserved. However, the lawyers expressed their satisfaction in other sense that they could help the poor through this programme even though they were given fewer honorariums.

7. Possibility of inclusion of paralegal *sebika*

All the respondents in this study argued that the issue of legal aid was very sensitive so the programme needed close supervision to be implemented properly. But the POs needed to give equal importance to all of the components of social development programme. So a question has been raised about the possibilities of inclusion of paralegal *sebikas* in legal aid programme. As the paralegal *sebikas* are involved in the human rights and legal education programme at grassroots level they might play a crucial role at every stage of legal aid programme as RSSs, ACs and POs mentioned.

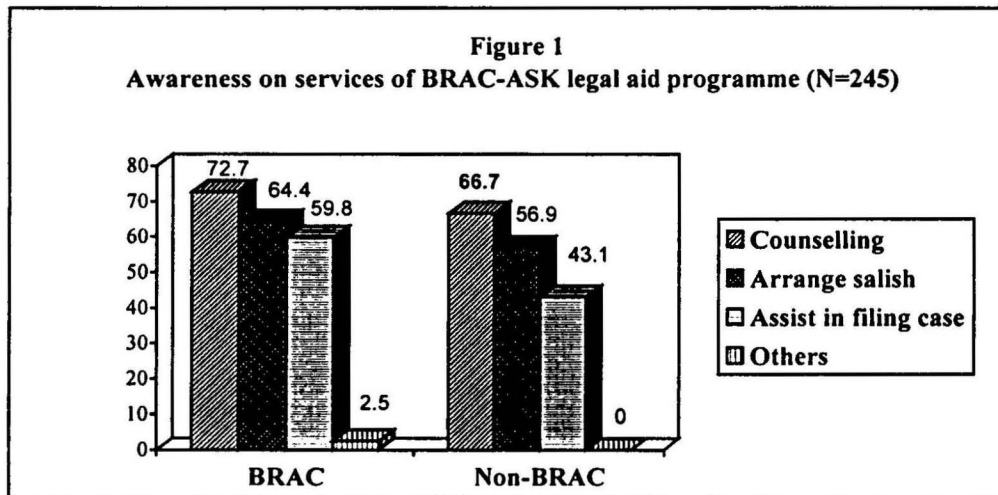
The *sebikas* are in a position to help in the publicity of the programme by raising awareness on legal aid services among the people. They can refer the victims to the clinic. They can even participate in fact-finding process for the cases filed in the clinic because they have access to all households in their working areas. The POs said that the *sebikas* are capable to take part in the *salish* as a representative of BRAC and can do follow up the cases which have been dissolved in the *salish*. The RSSs mentioned that it is easier to the *sebikas* bringing the complainants to the court and give basic advice on law. They can even contact with lawyer and take the victim of rape and acid burn to the hospital. The *sebikas* may help organising workshops related to raising awareness on legal aid at village level.

8. Assessment of BRAC-ASK legal aid programme

8.1 Awareness on legal aid programme

It is already stated above that 245 respondents out of 2400 samples in the survey were aware about the existence of legal aid programme. But survey data did not give any chance to reveal whether any of these respondents were aware about ASK as a joint actor of this programme. However, there were differences of awareness on the services of legal

aid programme between BRAC members and non-members (Figure 1). Both groups mentioned as far as they knew through legal aid programme BRAC mostly do counselling on the complaints reported in the clinic. Arranges *salish* to dissolve the complaints was second highest reporting of the two groups.



Note: multiple responses were counted.

However, there were significant differences on knowledge between BRAC members and non-members regarding some specific issues on what the legal aid programme used to provide services (see Annex Table 4). BRAC members have better knowledge on different aspects of legal aid programme than that of non-members. The findings referred to late involvement of non-BRAC members in this programme. It also indicated better access to knowledge for BRAC members due to their regular attend in VO meetings.

8.2 Need of legal aid services

The study found that only 12.7% of 2400 study households had experienced difficulties for which they needed legal assistance of any kind over the last five years preceding the survey (Table 8.1). Although the BRAC members appeared to have higher need of legal aid services than that of non-members, the difference between two groups was not significant. The village leaders whom they respect and trust were the primary sources of consultation (nearly 53%) about the legal issues followed by the elected members of the local government such as UP chairmen and members. Nearly 15.4% of the households reported to seek assistance from the legal aid clinic while about 21% went

to other sources or directly sought help from the lawyers. About 6.5% had no options and did not go anywhere for help.

Table 8.1 Need and sources of consultation for getting legal aid services over the last five years

Responses	Study population		
	BRAC	Non-BRAC	All
HH needed consultation	13.8 (166)	11.7 (140)	12.7 (306)
Source of consultation			
Village leader	54.8 (91)	50.7 (71)	52.9 (162)
Chairman/member	36.1 (60)	45.0 (63)	40.2 (123)
BRAC	24.1 (40)	5.0 (7)	15.4 (47)
Others	19.3 (32)	22.8 (32)	20.9 (64)
No where	4.8 (8)	8.6 (12)	6.5 (20)
Total respondents	1200	1200	2400

Note: Multiple responses were counted.

The respondents of 47 households who received assistance from legal aid clinic of BRAC briefly discussed about the type of services they received (Table 8.2). About 43% of them needed to go to the court for legal aid through the clinic. Thirty-four percent of their cases were dissolved through *salish* arranged by the clinic.

Table 8.2 Types of services received from the programme

Services	Study population		
	BRAC	Non-BRAC	All
Provided legal aid through the court	45.0 (18)	28.6 (2)	42.6 (20)
Arranged <i>salish</i> to dissolve case	30.0 (12)	57.1 (4)	34.0 (16)
All sorts of counselling	12.5 (5)	-	10.6 (5)
Could not help due to lack of relevant documents	25.0 (10)	14.3 (1)	23.4 (11)
Received assistance from BRAC	40	7	47

Note: Multiple responses were counted.

All the complaints reported in the clinic did not move *salish* or to the court as about 11% of the respondents mentioned that their complaints only needed counselling with BRAC. The survey data substantiate the qualitative findings that the complainants often could not provide necessary documents to run the complaint in the court and *salish*. Twenty-three percent of the respondents mentioned that even though they went to the clinic to get service but did not get any as their complaints lacked supporting documents. Even though the number of cases was very small to generalise, comparing between two groups BRAC

members appeared to have higher needs of legal aid through the court whereas the non-members needed more to dissolve their complaints through salish. Non-members have access to clinic for salish, not to the court, however, the study did not give any data on how the non-member households could manage services to the court from the clinic.

8.3 Effectiveness of legal aid programme

This sub-section focused on the perception of BRAC group members and non-members about the effectiveness of the legal aid programme. Regarding staff availability at the legal aid clinic majority of the respondents (89%) who received assistance from BRAC said positively (Table 8.3). Similar number of respondents reported that the staff were very attentive to hear their complaints and handled their cases carefully.

Table 8.3 Availability and attitude of staff at legal aid clinic

	Study population		
	BRAC	Non-BRAC	All
Staff available	90.0 (36)	85.7 (6)	89.4 (42)
Staff attitude			
Positive	87.5 (35)	100.0 (7)	89.4 (42)
Negative	12.5 (5)	-	10.6 (5)
Received assistance from BRAC	40	7	47

Table 8.4 illustrates that 53% of the respondents disagreed that the assistance they received from the clinic dissolved their cases completely. They argued that they were given right decision on their cases but the accused did not follow that decision later.

Table 8.4 BRAC dissolved the cases completely

Opinion	Study population		
	BRAC	Non-BRAC	All
Agreed	47.5 (19)	42.9 (3)	46.8 (22)
Disagreed	52.5 (21)	57.1 (4)	53.1 (25)
Received assistance from BRAC	40	7	47

Explaining the causes for not to resolve the cases completely, respondents mentioned in most of the cases of maintenance payment the accused persons discontinued to support the divorced or separated wives after some days of decision made. BRAC could not

understand that because they did not follow up the cases properly which they were supposed to do. Some of the cases were dissolved in the *salish* which needed to move to the court but BRAC did not consider it respondents said. They mentioned that people used to not abide by the decision of the *salish* strictly compared to that of the court cases. However, the overall evaluation of the programme complimented the findings of Table 8.4. Since about 28% of all respondents who received assistance from BRAC evaluated the legal aid programme either fairly effective or completely ineffective to solve their problems (Table 8.5).

Table 8.5 Overall evaluation of the legal aid programme

Evaluation	Study population		
	BRAC	Non-BRAC	All
Very effective	65.0 (26)	57.1 (4)	63.8 (30)
Fairly effective	10.0 (4)	28.6 (2)	12.8 (6)
Completely ineffective	17.5 (7)	-	14.9 (7)
No comment	7.5 (3)	14.3 (1)	8.5 (4)
Received assistance from BRAC	40	7	47

In qualitative analysis on the evaluation of legal aid clinic the complainants reported in both negative and positive way. Some complainants reported that while they asked legal assistance from the clinic they were not belonging to BRAC VOs. So they were refused to get any help from the clinic. They could manage to get legal support only after joining the VOs. Few of them mentioned that BRAC staff forced them to join VO while they asked assistance from the clinic and they were even impelled to receive loan from BRAC. The complainants argued that the cases which were discharged and did not go to the end that suffered them a lot. In most of the cases the complainants live in the same village with the opponents. Therefore, the opposite party used to make them harassed because of their reporting to the clinic. The panel lawyers added that a complaint could be discharged when the complainant was not present in the court. Similarly a complaint could be dismissed for the lawyers negligence if the lawyer failed to give regular attendance in the court.

Furthermore, the complainants mentioned that the staff of the legal aid programme were generally very active and sincere. Through the clinic they helped the poor and disadvantaged people of the community because they used to give legal aid free of cost. Through fact-finding process the clinic could make neutral judgement on their complaints as they felt. Legal aid clinic has provided the scope for a settlement acceptable to both parties in getting relief. Nevertheless, people were aware about their rights from the BRAC staff so violence against women has been decreased to some extent. BRAC has been playing an important role to reduce violence against women. One group member reported that her husband has been perpetrating mental violence on her over 8 to 10 years. While she heard about the legal aid clinic in VO meeting, she made a complaint there against her husband. In response to her complaint the *salish* made a decision in favour of her.

The POs assessed the legal aid programme that formerly rural women were not aware about law and their rights so they remained victim of any sorts of violence. They were submissive because of the patriarchal society. The situation has changed now due to implementation of different programmes under social development of BRAC. Women have been given priority over men in the legal aid programme. They were provided legal awareness and knowledge on their human rights.

The ACs cited that legal aid programme has given women opportunity to know about their rights. They are now aware on law and legal assistance those are available to them. Two ACs mentioned that sometimes women exercise more rights than men do.

The panel lawyers mentioned that prior to opening the legal aid clinic the village mediators used to take money from the accused especially in rape cases and have given decisions in favour of the accused that was often not accepted by the complainant and other villagers. So common people were annoyed to go to them for justice. Legal aid clinic has given people the scope to go a fair place for mediation.

The panel lawyers said people are now afraid that women could get help if their rights are violated. Women feel stronger as the programme is helping them and they are given priority to men. The media is raising awareness among the people, the newspapers are now publishing more news on violence against women. In recent past the family of a rape victim used to hide the incidence, now they are coming forward to shouting for justice. Women should come forward to claim rights and participate in all spheres of the society, the lawyers mentioned.

There were government and NGO activities on legal aid in the study areas. Among these BRAC-ASK joint programme is well designed and widely expanded as the panel lawyers reported. The government's legal aid programme failed to reach the people. There was a fund to handle the legal aid cases but money is not utilised properly. The government was also not very active to publicise this programme.

9. Conclusion and recommendations

This report intended to review the BRAC-ASK joint legal aid programme at different steps of its operation. In addition to that it has explored an assessment of the programme to a small extent based on data available. Since its inception the legal aid programme has been trying to give legal assistance along with raising the socio-political awareness of BRAC group members. The programme extended its assistance later to other poor in the wider community.

It appeared that BRAC staff could develop their capacity to implement the legal aid programme in an effective way. Even though there were differences in knowledge regarding operation of the programme among BRAC staff. Extension of training period can offer more extensive and practical training for them. BRAC should consider practical training at ASK. Refresher courses for the programme staff would help to recollect the lessons on law and to disseminate new information that may be promoted by ASK. Regular coordination meeting of the field staff with the senior programme personnel of both BRAC and ASK may enrich the operation of the programme.

The POs are responsible more to implement the legal aid programme compared to the RSSs and ACs. The programme requires close supervision at its every stage of operation, which a single PO cannot ensure because he or she is equally responsible for other components of social development programme. Various responsibilities might make them less capable. Moreover, frequent transfer of trained staff disrupts the continuity of programme implementation.

Recommendation 1 Separate PO should be appointed for legal aid programme to serve the complainants effectively. More extensive and practical training should be provided to the staff. ASK might offer training on law.

The complaints filed in legal aid clinic mostly needed to be resolved through *salish*. PO needs to strengthen the follow up process for a completed case in a regular basis, which will make the accused obliged to respect the decision of the *salish* or of the court. It will also increase both importance and acceptance of the programme among the community. Apparently the rural elite were annoyed to the clinic but they strongly recommended including the local administration to the clinic. They also suggested finalizing the complaints within a short period. However, monitoring from top to bottom level can intensify the follow up process. BRAC and ASK may follow up some important cases directly from their senior management.

Recommendation 2 Quick and effective result of the case should be ensured.

The POs should have easy access to the government offices where necessary. The programme deals with sensitive issues so liaison with the local police and the political parties is necessary for their personal security. Involvement of the government officials and local political leaders in this programme can make the result of the case operative.

The programme needs to be held more workshops and seminars at village level to make the programme widely accepted by the community people. It is necessary to make the people aware about their ownership on the programme. The village level workshop and

seminars may avoid the conflict with rural elite. Separate professional forums for marriage registers, teachers and students are needed on acceptance issue.

Recommendation 3 Local workshop should be organised regularly involving the local community in this programme.

Different actors of the programme were not very clear about the mode and cut off line of their responsibilities and it was identified as a problem in the programme. There was overlapping in the stated responsibilities of BRAC staff that might make a chance for them to avoid own duties. The panel lawyers tended to accuse the BRAC staff for not helping while the case was under trial. The charter of duties should be clarified to the BRAC staff and the panel lawyers during the training period.

Panel lawyers need to be more motivated. Their activities should be strongly monitored by ASK. Lawyers identified as less cooperative and dishonest should be dropped from the panel. The panel lawyers may not ensure quality work if their remuneration do not match with their efforts.

Recommendation 4 More attention should be given selecting the panel lawyers.

Paralegal *sebikas* might be involved in the legal aid programme and provided commission if they send a client to the clinic. It is noteworthy that in village *salish* the leaders used to raise question on the legitimacy of BRAC to arrange a *salish* and they rare accept the PO and RSS as a mediator. So there is less possibility accepting the *sebikas* to them in the *salish*. However, the *sebikas* are assigned to other responsibilities like giving awareness to the BRAC members on HRLE. Considering that the *sebikas* can share only those activities of legal aid programme which are more convenient to them compare to other BRAC staff. They should not be overloaded with other activities where they do not have access to like participating in court proceedings for the complainants of the clinic. Likewise law is too difficult to understand for them. Therefore, the *sebikas* can be engaged in publicising the programme together with fact-finding and case follow up processes.

Recommendation 5 Inclusion of paralegal *sebika* in legal aid programme might strengthen its operation.

It was not very clear to the service recipients to what extent they can get assistance from the clinic. They should be aware on the nature of assistance they are supposed to be given. It can be discussed in VO meetings. It would limit their expectation as well as make them cooperative to implement the programme effectively. In some cases complainants were not very oriented on their responsibilities. Sometimes they lost interest when their cases took long time to be finalised, they became irregular in the court that delayed the process to make the complaint dissolved. The programme needs wide publicity among the non-BRAC members in the villages as well. Otherwise the operation cost will be higher in regard to the number of complainants take assistance from the clinic. The services can be discussed in informal meetings with BRAC members and non-members initially in a regular basis and then in special forum. A committee can be formed in this regard at ward⁴ or union level.

Recommendation 6 Publicity of the programme needs to be increased. Voice should be raised among the community people on all sorts of discrimination against the poor.

⁴ A ward is one of nine administrative and political divisions within a union responsible for local development initiatives.

References

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Annex

Table 1 Sample areas of the study

	Regions	Area offices
Pilot project	1. Manikgonj	1. Betila
		2. Dargram
		3. Dhamrai
		4. Harirampur
	2. Mymensing	5. Chechua
		6. Dapunia
		7. Haluaghat
		8. Nandail
Programme started in 1999	3. Faridpur	9. Alfadanga
		10. Bhanga
		11. Madhukhali
		12. Talma
	4. Sherpur	13. Dhanshail
		14. Sherpur
		15. Shreebordi
		16. Tinani
Programme started in 2000	5. Netrokona	17. Barhatta
		18. Durgapur
		19. Kendua
		20. Purbadhala
	6. Rajbari	21. Ahladipur
		22. Baliakandi
		23. Goalanda
		24. Rajbari

Flowchart 1 Procedure of legal aid clinic

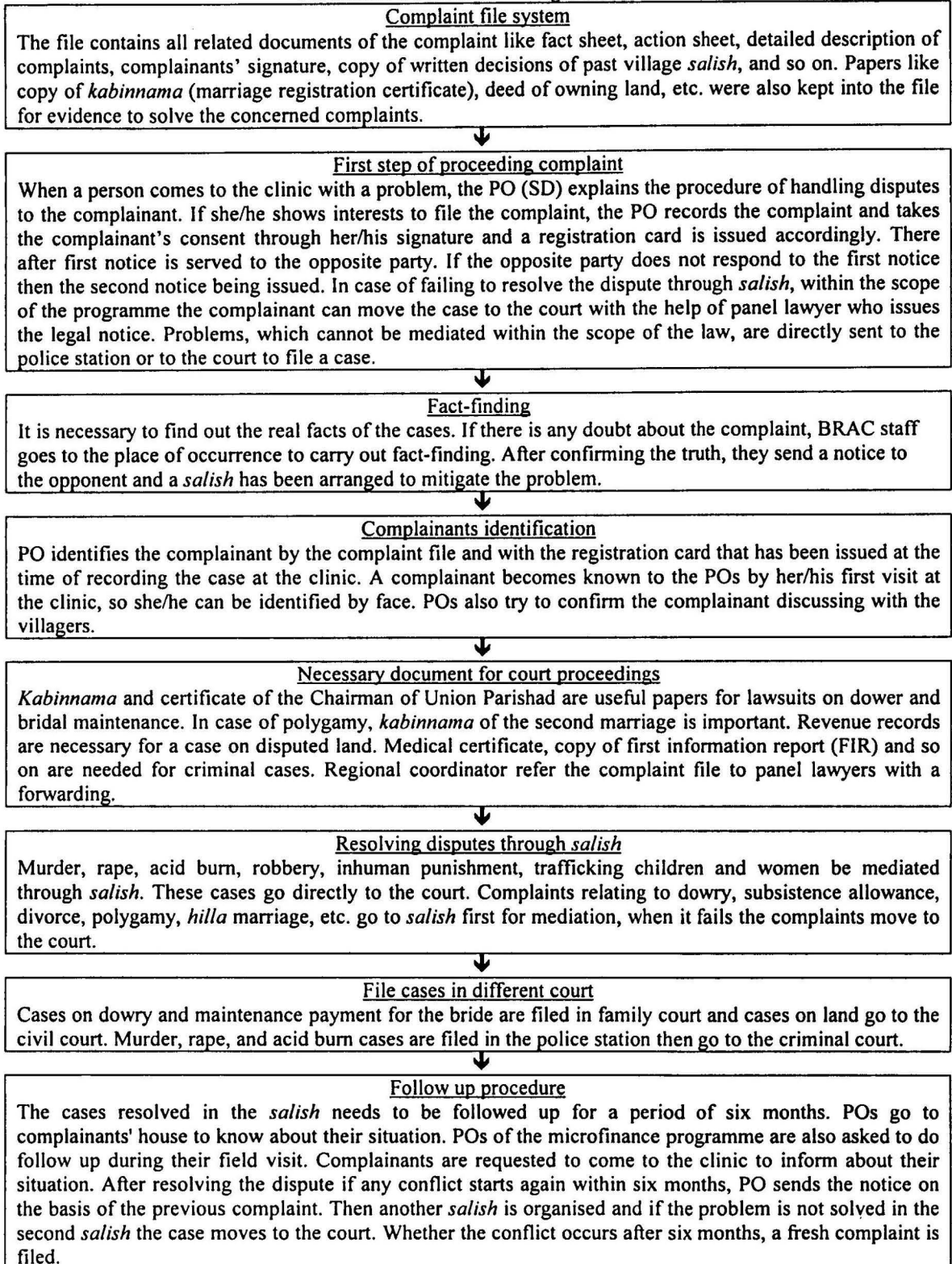


Table 2 Money needed to dissolve case in village *salish* and the expenses

Opinion	Study population		
	BRAC	Non-BRAC	All
Yes	31.2 (374)	23.3 (280)	27.3 (654)
Expenses (multiple responses)			
Bribe	57.2 (214)	53.9 (151)	55.8 (365)
Others	60.7 (227)	63.9 (179)	62.1 (406)
No	67.8 (813)	74.3 (892)	71.0 (1705)
Did not response	1.1 (13)	2.3 (28)	1.7 (41)
Total respondents	1200	1200	2400

Table 3 Respondents needed lawyers to proceed case in the court

Response	Study population		
	BRAC	Non-BRAC	All
Needed	22.5 (9)	14.3 (1)	21.3 (10)
Not needed	77.5 (31)	85.7 (6)	78.8 (37)
Went to legal aid clinic for assistance	40	7	47
Total respondents	1200	1200	2400

Table 4 Knowledge on issues on what the legal aid programme provide services

Issues	Study population	
	BRAC	Non-BRAC
Disputes	46.9 (91)	31.4 (16)
Violence against women	35.6 (69)	33.3 (17)
<i>Salish</i> through legal aid clinic	32.5 (63)	39.2 (20)
Divorce and maintenance payment	31.4 (61)	39.2 (20)
Dowry	26.8 (52)	21.6 (11)
Acid burning	20.1 (39)	3.9 (2)
Early marriage	17.5 (34)	11.8 (6)
Polygamy	9.3 (18)	9.8 (5)
Free case filing at legal aid clinic	9.2 (18)	9.8 (5)
Rape	3.1 (6)	3.9 (2)
Family law	1.5 (3)	-
Marriage registration	1.0 (2)	-
Terrorism	1.0 (2)	-
Others	8.8 (17)	4.0 (2)
Respondents aware about legal aid programme	194	51
Total population	1200	1200

Note: Multiple responses were counted.