



MEGHALAYA STATE LEGAL SERVICES AUTHORITY: SHILLONG
(Established under the Legal Services Authorities Act, 1987)

MATI Building, Additional Secretariat, Room No-120, Meghalaya, Shillong-793001
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Terms of Reference for

An Institution or a team of consultants

To conduct

A Baseline Study for the Project titled
“Training & Sensitization of Headmen/Village Courts
Under the District Council/Nokmas/Syiems on
Alternative Dispute Resolution (ADR)
With special reference on Mediation”

January-March 2023

INTRODUCTION

The idea of resolving matters outside the court room in an orderly manner is unknown to our societies. It has not been prevalent in Indian society in time immemorial. Mediation has been practiced by the rest of the country by their village elders in Panchayat system.

In Meghalaya, the panchayat system is foreign; however, dispute resolution through unique mechanisms is prevalent from time immemorial even before the advent of the British to these hills.

The Alternative Disputes Resolution (ADR) Mechanism mirrors a metaphorical bridge to this indigenous system.

The Alternative Dispute Resolution mechanism has been put in place and has been given legal validity by or law makers and is now an integral part of modern legal practice.

The Alternative Dispute Resolution mechanism is a tool in solving new generation legal conflict whether in areas of divorce, maintenance, alimony custody or in other matrimonial cause or even civil disputes in areas of land disputes, or ownership etc. Amicably settlement fostered by the principles of Mediation, Conciliation and Arbitration among others has greatly enhanced the success rate as far as activities where Alternative Dispute Resolution mechanism has been put to use is concerned.

In Meghalaya the Alternative Dispute Resolution mechanism of Lok Adalat has been in place for a long time and has been a huge success since the year 1999 or so. A large number of cases both pending and at pre-litigation stage has been resolving amicably before the Lok Adalats conducted in the State from time to time at regular interval. Thus, in view of the above and considering the importance of mediation, it can be noted that settlement of disputes at the grassroot level may reduce the burden of the courts.

In the area of Mediation, the Meghalaya State Legal Services Authority has taken a step in the right direction when the Mediation Centre in the State was set up in the year 2009 under the directions of Mediation Conciliation and Project Committee (MCPC) of the Supreme Court of India. At present, the Shillong Mediation Centre, which is situated in the office premises of the office of the Meghalaya State Legal Services Authority in Shillong is the functioning mediation center in the State.

It is to be mentioned that at present, there are 2 (two) Mediation Centres viz. the Shillong Mediation Centre which is in the office of the Meghalaya State Legal Services Authority. The other is the Williamnagar Mediation Centre which is not functional at the moment.

BRIEF ABOUT MEDIATION

Concept of Mediation:

Since long, mediation as a mode of dispute resolution is in practice in our country. Section 89 of the Code of Civil Procedure as amended in the year 2002 has opened the scope for alternative dispute resolution i.e. arbitration, conciliation, mediation and pre-trial settlement methodologies. Mediation is one of the effective and now well known alternative dispute resolution methods, which helps the litigants to resolve their disputes voluntarily and amicably with the assistance of a third party known as 'Mediator'. The mediator by his skills assists the parties to settle their disputes. Through mediation proceeding parties arrive at an equitable solution and are always in win-win position. Mediation proceeding are informal process in which the mediator, as a third party without the power to decide or usually without enforcing a solution, helps the parties resolve a dispute or plan a transaction. This proceeding is usually voluntary, confidential, transparent and time and cost effective also. By this technique of dispute resolution, parties resolve their disputes without any agony and they also save their valuable time and expenses of litigation as well.

Suitable Cases for Mediation:

Almost all civil cases of different nature where parties agree for mediation proceedings are generally fit to be referred to the mediation. But certain cases are particularly appropriate for referral to mediation and they are cases pertaining to recovery of money, rent, partition, matrimonial, labour, specific performance, damages, injunction, declaration, dispute between land-lord and tenant, cheque bounce cases, motor accident claim etc. Suitable criminal cases include offences covered under Section 320 Cr.P.C.

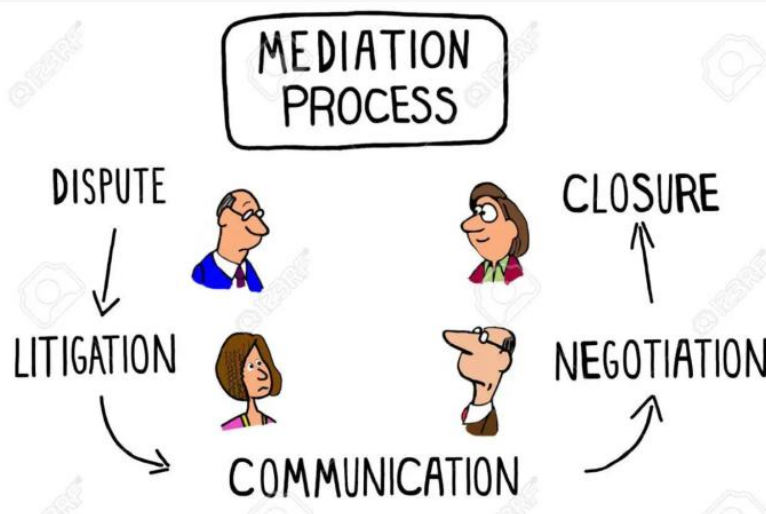
References of Cases for Mediation:

One of the fundamental principles of mediation is that parties are properly informed of their right and they be prepared for negotiations to reach agreements, which satisfy their need. In mediation, the key to success depends on Judges referring appropriate cases for mediation. The referral Judge has to ascertain whether there exists elements of settlement, then only a case has to be referred for mediation.

Stage for Reference to Mediation:

Whenever it appears to the Court that there exists elements of settlement, the Judge may refer the case to mediation and also whenever both the parties desire for it, they may seek reference to mediation.

PROCESS OF MEDIATION:

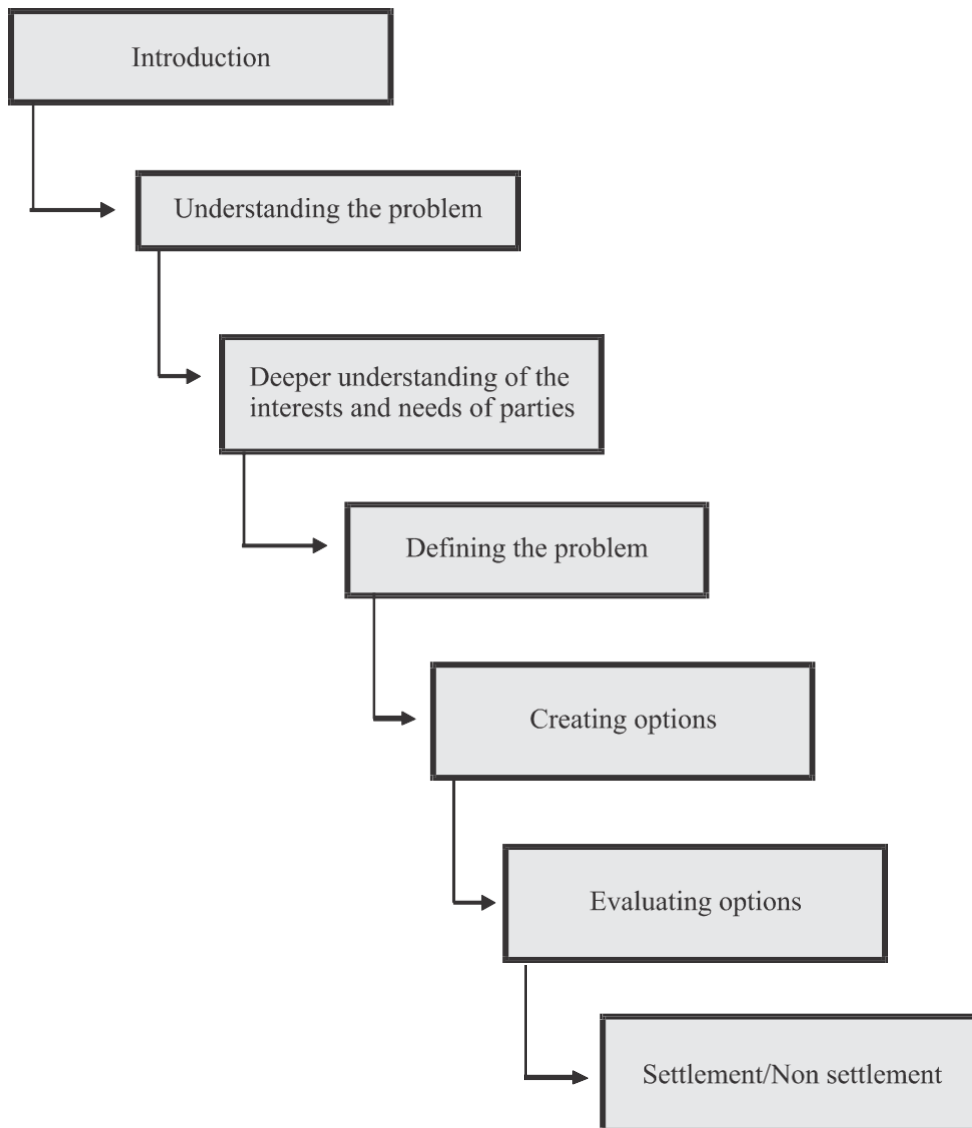


Mediation is a dynamic process in which the mediator assists the parties to negotiate a settlement for resolving their dispute. In doing so, the mediator uses the four functional stages of mediation, namely-

- (i) Introduction and Opening Statement,
- (ii) Joint Session,
- (iii) Separate Session, and
- (iv) Closing.

These functional stages are used in an informal and flexible

manner so that the mediation process gains momentum, following a specific and predictable course as illustrated below.



Each of the above phases reflects an essential pre-requisite in the dynamics of the mediation process which must be accomplished before moving to the next phase.

BRIEF ABOUT THE PROJECT

1. Project title:

“Training and Sensitization of Headmen/Village Courts under the District Council/Nokmas/Syiems on Alternative Dispute Resolution (ADR) with special reference on Mediation”.

2. Project Target Area:

2 Districts of Meghalaya i.e. Ri-Bhoi and West Garo Hills District.

The 2 Districts have been selected based on the criteria that- Ri-Bhoi District being the aspirational District of the State, whereas, West Garo Hills District has large area with many Akings’/Nokmas and Garo Hills Autonomous District Council is situated in this District under which there is an established District Council System and Village Courts.

3. Name of the Organization:

Meghalaya State Legal Services Authority, Shillong.

4. Contact Details:

Meghalaya State Legal Services Authority, Shillong,
MATI Building, Additional Secretariat, Room No- 120,
Meghalaya, Shillong – 793001.

Ph. & Fax: 0364-2501051, Email: mslsa-meg@nic.in

Website: www.mslsa.gov.in

5. Brief Background of the Organization:

The Meghalaya State Legal Services Authority (MSLSA) was constituted as per provisions of the Legal Services Authorities Act, 1987 in July 1998. In line with this, the Meghalaya State Legal Services Authority Rules, 1998 and the Meghalaya State Legal Services Authority Regulations, 2000 were notified. The Member Secretary, other officers and staff functions under the direct

supervision and guidance of the Hon'ble Executive Chairman. The main aim and objectives of this organization is to fulfill an onerous duty to ensure that the legal aid programmes and schemes are implemented in its letter and spirit through the State.

6. Project Goal:

To familiarize, train and sensitize the Headmen/Village Courts under the District Council/Nokmas/Syiems on Alternative Dispute Resolution (ADR) with special reference on Mediation and to sensitize on local customs and usages, so as to enable them to resolve disputes at the grassroots level. This endeavor will not only preserve the culture and tradition of the indigenous people, but also lessen the burden of the Court with unnecessary litigations.

The Training and Sensitization of Headmen/Village Courts under the District Council/Nokmas, Syiems on Alternative Dispute Resolution (ADR) with special reference on Mediation aims to help the Headmen/Nokmas/Syiems understand about the formal laws, basic distinction between civil and criminal matters, compoundable matters under CrPC and to impart legal knowledge to the weaker sections of the society in order to give them the knowledge that the opportunities for securing justice are not denied to any citizens by reason of economic or other disabilities and to make them understand that the operation of the legal system promotes justice on a basis of equal opportunity. It is also to ensure the dissemination of information and increase the knowledge about law and also the empowerment of individual to make active used of law.

Mediation which is one of the effective modes of Alternative Dispute Resolution (ADR) has gained prominence in resolving legal disputes in modern days. The headmen shall be trained with the latest method of mediation as prescribed by the Mediation and Conciliation Project Committee (MCPC) of the Hon'ble Supreme Court in Mediation Training Manual of India for resolving disputes among the villagers. The concept of Mediation is deeply rooted in the traditional system, it needs to be evolved with the contemporary aspiration.

The training and capacity building of the headmen will strengthen the governance and administration of justice at the grassroots level in the State of Meghalaya.

7. Duration of the Project:

2 (two) years w.e.f. January 2023 to December 2024 (including Baseline Study).

8. Focus Areas in the Project:

Mediation will be the main focus area in all the training programs and all other important formal laws, Legal Services Schemes, other benefits and customary laws will be also focused upon which are mentioned hereunder:-

Mediation, Legal Services Schemes & other benefits:

1. Mediation:

- | | | |
|---|---------------------------|---|
| a) Understanding conflict, | d) Process, e) Stages, | h) Communication, i) Negotiation, |
| b) Concept, | f) Role of mediators, | j) Impasse, |
| c) Comparison between litigation and ADR, | g) Training of mediators, | k) Role of lawyers, l) Role of parties. |

2. Compoundable and non-compoundable offences under section 320 CrPC.

3. Basic distinction between criminal law and civil law.

4. Lok Adalat

5. Free Legal Aid.

Important Formal Laws:

1. Fundamental Right and Duties.

2. Right to Information.

3. First Information Report.

4. Women's Right, Domestic Violence.

5. POCSO Act, Sexual harassment/abuse/offence.

6. Right to Education for children, Child Marriage.

7. Juvenile Justice Act, Children in conflict with law, Children in special need of Protection.

8. Drug abuse, Mob lynching. 9. Marriage law and registration.

10. Maintenance law.

9. Training of Headmen under the Project:

- ❖ C&RD Blocks in Ri-Bhoi District: Bhoirymbong C&RD block, Umsning C&RD Block, Umling C&RD Block and Jirang C&RD Block.
- ❖ C&RD Blocks in West Garo Hills District: Rongram C&RD Block, Gambegre C&RD Block, Dalu C&RD Block, Dadenggiri C&RD Block, Sellsella C&RD Block, Tikrikilla C&RD Block, and Demdema C&RD Block.
- ❖ The training programmes for Headmen/Nokmas includes *32 trainings, covering 11 C&RD Blocks, 2 (two) Districts* and 1933 villages with a total of *800 target participants (Headmen/Nokmas/Syiems) i.e. 16 Theoretical training sessions and 16 Practical training sessions and Mock Mediation*; 4 trainings for Advocates, etc covering 2 Districts with a target of 20 advocates, etc. and *600 target beneficiaries/participants for 1 (one) day Seminar/Workshop/Legal Services Camp* in 1 District which overall total to *1420 Participants/Beneficiaries* in all the programmes/trainings.
- ❖ Training of Headmen/Nokmas/Syiems will be done physically (preferable)/online depending upon feasibility.
- ❖ Training of headmen will be conducted using the method of mediation process from the prepared guidebook/manual on mediation training which will be based on the 40 hours training.
- ❖ Training of headmen will be done according to the selected focus areas i.e. on Understanding conflict, Concept, Comparison between litigation and ADR, Process, Stages, Role of mediators, Training of mediators, Communication, Negotiation, Impasse, Role of lawyers, Role of parties and other important formal laws, legal services, customary laws, etc.
- ❖ Training of headmen will be done both in theory and practical which will be 2 days training for one batch.
- ❖ Training of Headmen/Nokmas/Syiems will be done block wise.

OBJECTIVE AND SCOPE OF STUDY OBJECTIVE:

The baseline study will focus on the collection of data/information. The baseline survey should include the following:

- i.** Development of questionnaires by the consultancy team/institution in English language with translated version of the same into local languages if required for data collection and submission of the questionnaire both hard and soft copy to the MSLSA.
- ii.** Conducting a Baseline Survey data collection (through prepared questionnaires) **in order to understand the current scenario of traditional/community/village level Disputes Redressal System.**
- iii.** The baseline study should be carried out in any of the C&RD Blocks of Ri-Bhoi District and West Garo Hills District preferably 2 to 3 C&RD Blocks per District.

Consequently, it is vital to consider the impact that is going to create through the project also to be considered in the baseline survey.

SCOPE OF WORK:

The baseline study will cover Headmen/Syiems/Nokmas within the targeted districts of the project. The targeted direct beneficiary figure for the baseline study will be around 5 to 10 Headmen/Syiems/Nokmas per District.

METHODOLOGY:

An appropriate mix of qualitative and quantitative methods will be used to gather and analyze data/information, in order to diverse perspective to the baseline, and to promote participation of

traditional heads. Final detailed baseline methodology should be developed in consultation with the MSLSA project team. This baseline survey encompass administrative data as well as primary data based on the results frame work and its indicators of the project. Consultant team/team from the institution must propose a methodology and plan for this baseline assessment which will be approved by the baseline commissioning manager in consultation with project team members. Data triangulation is required to ensure the credibility and accuracy of data/ information gathered through various tools.

KEY TASKS AND OUTPUTS:

Baseline assessment will consist with three key phases namely-
a) Inception, b) data collection and c) finalizing the report, the details of which are given hereunder:-

a) Inception phase:

Consultant team will have a kick off meeting together with MSLSA project team to understand the project and to collect required documents such as Terms of Contract (ToC), project proposal, results frame work, etc.

The consultant team shall submit an electronic copy of the draft inception report to MSLSA as stated in the agreement. Before preparing inception report, the consultant team should engage with relevant project team to come to a consensus on the baseline assessment methodology, field visit plan, sampling and so on. Expect Consultant team to review progress markers, indicators and do the required changes with the consent of MSLSA team. Other than the indicators, it is required to identify and agree with the MSLSA team to understand the baseline situation of the areas that are going to have an impact through the project intervention.

The draft inception report should include a detailed methodology including tools, baseline frame work along with tools

to be used to gather data/information, quality assurance mechanism of data /information collection, sampling, pilot testing, roles and responsibility of team members, key milestone and detailed work plan.

The consultant team may be asked to make an oral presentation of the draft inception report.

Before the pilot test and data collection, training should be given to enumerators and facilitators for data /information collection if required.

After pilot test, consultant team can submit the final inception report including final translated tools into local languages, if any.

The inception report should be approved by the MSLSA before starting data collection.

b) Data collection phase:

Consultant team will be provided all the MSLSA contact details. Field project team will arrange the field discussion as per the field visit plan to meet the primary stakeholders. MSLSA will issue a reference letter, if required, for the team of consultant to contact stakeholders directly by themselves.

c) Finalizing the baseline report; this phase is consist with few steps:

➤ **Presentation:**

The preliminary results of the baseline assessment to be shared for validation with the MSLSA project team after completion of data/information analysis by the consultant team. Venue will be decided during the inception phase.

➤ **Draft baseline report:**

This report will be shared after incorporating feedback which is received during the presentation.

After receiving the draft final baseline assessment, MSLSA will provide feedback to the consultant team.

➤ **Final baseline report:**

The final report may be prepared after a few iterations of the report if the quality standards are not met within the first round. The Final report format to be agreed during the inception phase and include into the inception report. The final report should include the completed analytical framework of baseline assessment. Review and revision process from the draft report stage to the final report should not exceed 6 weeks. The soft copy of the completed database should be handed over to MSLSA with the final report.

The following outputs will be produced:

- a)** Draft Soft copy of the inception report including survey tools and analytical framework;
- b)** Both soft and hard copy of the final inception report including final; translated survey tools, sampling, methodology and analytical framework;
- c)** Electronic copy of draft report. Reporting format will be agreed during the inception Phase;
- d)** Preliminary Presentation of finding for validation;
- e)** Draft soft copy of the final baseline survey report including data sets;
- f)** Both soft copy and hard copy of the final baseline study report including data sets.

BUDGET:

- 1) The budget for this project will cover professional fees, travel costs, mobilization expenses and supply costs of the consultant team or an institution.
- 2) Upon consultation and mutual consent, the consultant team or an institution proposes an overall budget for the Baseline Study to MSLSA including the aforesaid expenses.
- 3) It is important to note that should there be any problem in the delivery of outputs pertaining quality and schedule, the consultant team or an institution is expected to make the necessary corrective actions without affecting the overall project delivery. This will have no additional cost to MSLSA.

QUALIFICATIONS AND EXPERIENCE:

Team of consultant or teams that are proposing by the institution should have;

- 1) Minimum 5 years of hands on experiences in conducting baseline surveys, evaluations for development project programmes in Indian context.
- 2) Excellent understanding of local issues, functioning of traditional institutions, including special focus on Disputes Redressal mechanism at the community/village/grassroots level.
- 3) Proven track of recording on assessing, Gender equality, conflict sensitivity, disability and economic development in projects and programme.
- 4) Proven track of records on quantitative and qualitative data collection tools and analysis and participatory approaches.
- 5) Experiences in using theory of change , outcome mapping , outcome harvesting to the development projects.

- 6) Strong interpersonal skills and ability to work with people from different backgrounds to deliver quality products within a short time frame.
- 7) Experiences and/or know-how of project implementation at the ground level.
- 8) Flexible, responsive to changes and demands and open to feedback.

PROPOSAL SUBMISSION:

In the entire above mentioned context, the Meghalaya State Legal Services Authority (MSLSA), Shillong calls for Proposals from Consultancy teams/Institutions to collect necessary baseline information with special reference to the current scenario of traditional/community/village level Disputes Redressal System in Ri-Bhoi District and West Garo Hills District.

The selected institution/team of consultant will work closely with the MSLSA Project Team along with other key stakeholders and social partners to ensure that data collection will provide the basic background on the work conducted in the areas of Disputes Redressal System.

The Meghalaya State Legal Services Authority (MSLSA), Shillong invites a team of consultants or Institutions to apply for this consultancy. Please send your proposal and acceptance letter for the Baseline Study to **Shri. E. Kharumnuid (MHJS), Member Secretary, MSLSA, Shillong** at the email address mksa-meg@nic.in **on or before the 3rd February, 2023.**

The full proposal should consist with Methodology, sampling method, relevant experiences / qualifications of team of consultants/ company and its team members, consent letter from each member,

work plan, division of labour among team members, budget, one of your sample of work related to the assignment, organization/institution profile and relevant supporting documents.

For any clarification regarding this assignment please write to the above email address or you may contact Shri. T.T.M. Sangma (MJS), Officer on Special Duty, Meghalaya State Legal Services Authority, MATI Building, Additional Secretariat, Room No. 120, Shillong- 793001 (Mobile no.: 87947-99409).
