

***Shalish* and the Role of BRAC's Federation:
Improving the Poor's Access to Justice**

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Table of contents

	Page No.
List of Diagrams and Table	i
I. Introduction	
1.1 Foreword	1
1.2 Statement of the Problem	2
1.3 Relevance and Justification	3
1.4 Research Objective	4
1.5 Research Questions	5
1.6 Sources of Data	5
1.7 Limitation of the Research	6
1.8 Organization of the Paper	6
II. Conceptual Framework	
2.1 Informal Institutions	7
2.1.1 Community	8
2.1.2 Rural Elite	9
2.2 Alternative Dispute Resolution	11
2.3 Patron-Client Relation	12
2.4 Empowerment	14
2.5 Analytical Framework	15
III. Strengths and Weaknesses of <i>Shalish</i>	
3.1 Situation of the Formal System	17
3.2 Advantages of <i>Shalish</i>	19
3.3 Disadvantages of <i>Shalish</i>	23
3.3.1 Corruption of and Abuses of Power	23
3.3.2 Lack of Inclusiveness	25
3.3.3 Conflict with Human Rights Principles	25
3.3.4 Biases with Judgment	27
3.4 Conclusion	28
IV. Relation, Interaction between Elites and Federation member, and Conflict among Elites	
4.1 Rural Elite and <i>Shalish</i>	29
4.2 Relationship between Rural Elites and Federation members	30
4.2.1 Social Relationship	30
4.2.2 Economic Relationship	31
4.2.3 Political Relationship	32
4.3 Conflict among the Elites	33
4.4 Conclusion	34
V. The Assessment of BRAC's Intervention	
5.1 BRAC's Village Federation	35
5.2 Successes of Federation	36
5.2.1 Case 1	37
5.2.2 Case 2	38

5.3 Reasons for Success	38
5.4 Failure Case	40
5.4.1 Case 3	40
5.5 Reasons for Failure	40
5.6 Empowerment Quandary of the Federation	42
5.7 Conclusion	44
VI. Conclusion and Recommendations	45
References	49

Abstract

System of informal justice is a reality in all countries of the world – especially in developing countries. In Bangladesh as there is no formal administrative justice system at the village level, *shalsih* (informal justice system) plays vital role in providing justice to the people – especially to the poor. Village elite is treated as the judge or justice provider to the people. The main problem is that they over exercise and misuse their power to do this. Almost in all cases they provide biased justice. Therefore, BRAC as a National NGO strives to motivate poor to organize themselves through forming Federation to protest in one sense and make sure the equal justice to all the villagers in other sense. The findings show that Federation is getting lot of successes towards achieving their goal although they face lot of challenges in their way now and then and in future as well.

1.1 Foreword

System of informal justice is a reality in almost all countries of the world. Their extent, their character and their importance vary greatly depending on a wide range of factors. Among those factors are the nature of the state and its capacity; the diversity of the population in terms of ethnicity/race, religion, ideology, language and income. Crucially important are also the levels of urbanisation and the type of economy (Scharf undated:1). Following socio-economic and cultural variation the indigenous informal justice system (Muhammed 1978; Adnan 1973) which controls society, had been in practice for quite a long time. As there is no formal administrative unit at the village level within their natural boundaries this system provides social administration to the villagers in many South Asian villages. It plays a role like a formal guardian for the villagers (Barman 1988). It is a traditional dispute resolution mechanism that operates at a local level. More precisely, it is a means of resolving conflict between individuals, family, lineage, neighbour about land, unlawful activities, ill-feelings, non-cooperation, etc., that take place in the rural society (Mohiuddin 1999).

The main facet of this system is rural elites who have several roles such as, according to Karim (1991:3), “religious and ritual activities, politico-jural functions, and economic and subsistence activities in the society”. In other words they play important role in “(1) mediating conflicts among community, (2) advising and negotiating marriages, (3) counselling litigants and often pleading cases in formal village court, (4) advising villagers on candidature for local councils and national political forums, (5) advising on religious and ritual affairs, (6) helping villagers obtain the financial means to pay for the funerals, and (7) offering sharecrops tenancies, lending grain, and accepting land mortgages” (ibid). But these groups are always from a small segment of the society and are higher class, influential in compare to the majority. They monopolize the power by controlling all types of existing components of rural politics. The poor are almost always prevented from making their voices heard in a traditional justice system. Therefore, they are deprived of social justice.

I. 2 Statement of Problem

Access to justice conventionally refers to the ability of individuals to appear before formal state courts or otherwise draw on the judicial and legal structures of the state. Theoretically, everyone is entitled to such access, which is a primary means of establishing human rights. Unfortunately, the gap between formal entitlements and actual access can be immense (Siddiqi 2003:4). Typically, justice within the formal state system is beyond the means of most poor people in the South. Exorbitant costs, excessive delays and backlogs, and a lack of knowledge or resources are major obstacles to those who seek justice in formal legal settings (ibid). Vested with a disproportionate amount of power, with little corresponding accountability, the police and the magistracy have become notorious for their susceptibility to external political pressure. Their ‘capacity to punish’ has become a prized resource, fundamental to party politics and especially vulnerable to corrupt practices (Islam and Rahman 2002:6).

The geographical distribution of courts also tends to be uneven, with the balance tilted toward urban centres. The access to the court is extremely limited; 8 out of 10 Bangladeshis live in village communities as the lowest formal court is at the district¹ level – three administrative units (Village, Union Parishad, Thana) away from the individual in a village. The overwhelmingly rural poor have to bear travel and logistics costs that pose additional burdens (Siddiqi 2003:7). As a result, large segments of the population who lack the information or the means to surmount the significant substantive and procedural barriers seek informal mechanisms to redress their grievances. These mechanisms do provide an escape valve for certain types of conflicts (Buscaglia 1996:24).

Moreover, the basic structure of the legal system is biased toward the affluent and the politically powerful. Nepotism and inefficiency can lead to individuals being subjected to frequent procedural harassment. Litigants even have to pay to have evidence collected promptly and appropriately. A common saying captures the

¹ District is an administrative division of Bangladesh government and the lower level after district are respectively Thana and Union Parishad – the lowest unit of local elected administration; and then Village.

general perception toward the courts: *He who gets trapped by the law falls into the mouth of a tiger* (Siddiqi 2003:7).

“The inadequacy of the legal system is compounded by the lack of awareness about their rights by large sections of the population, whose educational attainments and prevailing cultural norms also diverge from the constitution and legal code” (Jahangir 1982). The traditional justice system feeds this group of the rural society for many generations due to limitations of the state apparatus making proper legal measures and procedures inaccessible to disadvantaged section of the society (ibid). It appears that simply moving cases to be resolved quicker and to the greater satisfaction of the parties (Meyer 2002).

As the major part of the population the poor have the rights to get real justice but such entitlements have remained largely theoretical. The legal system remains obscure and inaccessible. It is ill equipped to deal with claims and claimants that are supported by the nominal forms of evidence required under the law: witness, legal documents such as marriage, divorce, land registration deeds and so forth (Siddiqi 2003). On the other hand in rural areas in particular implementation of the rule of law for the protection of disadvantaged members of society is tantamount to challenge the dominant authority and the prevailing cultural and moral values. Besides, in this system elite and political leaders of the society who manage the traditional mediation system do not favour the disadvantaged class in the passing of judgement over disputes (ibid).

To minimize and reconcile these disputes, since 1998 BRAC² has been intervening in the villages with their development effort to form federations (the detail has been discussed in chapter five), which are groups of three to five village organizations³ (VOs) with five members from each within a Ward⁴ and through which members aim to achieve high awareness of their social and political conditions, increase their ability to undertake and manage social and economic action and develop the ability to solve their own disputes through informal justice. So, whether they are in progress or not in their undertaking has been evaluated in this study.

1.3 Relevance and Justification

² Bangladesh Rural Advancement Committee – a National Non-government Organization

³ BRAC selects members who have less than 50 decimal lands and makes a group of 25 to 45 members in each group is called village organization (VO).

⁴ A Ward is a division of the elected local government body represented by a Union Parishad member. Based on size and population one village may have more than one Ward.

Many different organizations and their collected case studies show a pattern in cases of ready 'justice' that it is only the powerless and voiceless who have been subjected to punitive measures: the dependent poor and landless, women isolated in their homes, who are marginalized and unable to protest. The village councils often meet on their own initiative to accuse individuals of misbehaviour and to 'sentence them to a variety of punishments based on customary practices. A recent chart made by one of the leading legal aid and human rights organisations in Bangladesh showed that 23 women from a poor family have been victimized, five of them died and only ten cases were filed with the police (ASK Documentation Unit, 1998 in Munier 1999:3). This community justice to the poor is mostly manipulated by the rural elites in the rural areas according to their own explanation. So, the evidence leads to suggest of set of actions are needed to be planned to balance or keep it on the right track. This study helps explore policies to make the traditional justice more effective rather than cruel and illegal punishment.

As key figure in the community the rural elites control the villagers. Whatever happens in the village is traditionally solved by these elites in *shalish* – the traditional informal justice system (defined as concept in chapter two) to resolve disputes at the village. To study this significant informal institution is relevant as it might help explain the prospects and constraints of this institution and followed by putting forward a good direction to BRAC to adopt suitable policy for the members.

1.4 Research Objective

Shalish is an age-old institution serving the needs of the villagers tending to their livelihood. On the other hand village federation is an organization designed as deliberately complements the functioning of *shalish* for members. The study is based on the assumption that the members would be empowered through BRAC's intervention to participate and influence the verdict in *shalish* in order to obtain justice. The research addresses some important problems and provides some practical suggestions for different organizations and helps modify or strengthen this system in favour of the poor. Based on the above mentioned context, the research looks into the different aspects of *shalish*, relationship between elites and federation members and the achievement of BRAC's intervention through federation.

1.5 Research Questions

It is imperative to focus specifically on the identified problems to understand the subject matter of the research and for proposing particular strategies as well – the research paper aims at addressing the following research questions.

- 1) What are the strengths and weaknesses of *shalish* in providing justice for the poor?
- 2) What are the social and political relations, interactions and conflicts between informal and newly created institutions?
- 3) In what way did BRAC try to persuade this informal system?
- 4) How successful was the intervention, and what were the reasons for success and failure?

1.6 Sources of Data

1.6.1 Research area

For research primary data has been collected from eight villages from four area offices including Chandina, Debiddar, Faridpur Sadar and Modhukhali under Faridpur and Comilla regional offices. Two villages under each area office were selected for the study. Most of the area offices of BRAC have federation but because of communication and other facilities was motivated to choose offices.

1.6.2 Data collection technique

Data were collected through eight focus group discussions with the management committees and general members of the federation in. In addition, data was also collected through in-depth interviews with the rural elites, and with those participated in *shalish*. *Shalish* in that villages have been used as case studies.

1.6.3 Secondary Data

I have also used secondary data from different sources.

- a. Literature
- b. Documents
- c. Others (e.g. Case studies, newspaper, internet)

1.7 Limitations of the Research

It was difficult to collect the case studies and other information from the federation members, as they were afraid to disclose any kind of unfair verdict given by the rural elites in *shalish*, which might cause damage to the members if it was identified. Some sensitive issues, which happened earlier, had not been described again to anyone and

therefore it was difficult to crosscheck the information. I had a chance to observe only one *shalish* in the study area, which was incomplete as well. To understand the mechanism of *shalish* and the nature of participation of a federation direct observation of *shalish* process was essential but I did not do that as the occurrence of *shalish* was uncertain in the village and shortage of time to stay also constraint.

1.8 Organization of the Paper (The Chapters)

Following is the skeleton of the chapter outlines:

- ◆ **Chapter 1:** This chapter includes foreword, statement of problem, justification of the study, objective and the set of research questions, sources of data, data collection method, outline of chapters.
- ◆ **Chapter 2:** This chapter deals with the theoretical framework in which the existing theories about the concepts such as informal institutions: community, rural elite, alternative dispute resolution/*shalish*; patron-client relation and empowerment including operationalization of these concepts and theories.
- ◆ **Chapter 3:** This chapter explores the situation of the formal justice systems followed by strengths and weakness of the informal justice system in the rural community.
- ◆ **Chapter 4:** This chapter mainly points out socio-economic and political relationship between rural elites and federation members. It also deals with how elites were conflicted each other and the involvement of members.
- ◆ **Chapter 5:** This chapter has dealt with the process of BRAC's intervention to members and explained the cases of success and failure including the reasons behind the success and malfunction of the newly created informal institutions by characterizing the way of empowerment of the members.
- ◆ **Chapter 6:** This chapter concludes the overall evaluation of the intervention of federation through finding out the chances and limitations of it and pointing the suggestions for future strategy to overcome these problems.

CHAPTER II: CONCEPTUAL FRAMEWORK

This chapter aims at having a detailed and thorough analysis of the theories related to the specific focus of this research paper. For the analysis, I briefly consider the relevant theories of the concepts, which help comprehend the informal justice system and its related issues. The process, functions, the relation of existing institutions related with this system and the impact of interventions of BRAC has been looked into based on these theories.

2.1 Informal Institution

Primarily, institution refers, in anthropology and sociology, to “an endurable status and role, sets of which collectively shape the behavior of a group of people” (Wallis 1985:417). The other view of ‘institution’ has emerged within economics where institutions are seen as the ‘rules of the game’ that govern people’s interactions (Eggertsson 1990; North and Thomas 1995 in Islam 2003:97). Informal institutions may then be understood as the collection of social norms, conventions and moral values that constrain individuals and organizations in pursuit of their goals (North, 1991:97).

Unlike formal institutions, they are not sanctioned or codified via legal recognition, legal enforcement, or official access to power/ policymaking (Grzymala-Busse 2004:4). Rather, according to Lauth (2004:6), these are based solely on the fact of their existence and of their effectiveness. Examples of informal institutions include personal loyalties and networks, reputations, or personalistic resource distribution (Grzymala-Busse 2004:4). In informal institutions power sanctioned is linked largely to social mechanisms of exclusion. These are equally known and recognizable publicly, however, they are not laid down in writing (Lauth 2004:6). These can persist and have a direct impact when formal institutions are either sparse or unconsolidated, thus substituting informal rules for weak formal regulations (Bates 2000; Herbst 2000).

So, it is clear that the set of un-codified social norms, moral values, practices, beliefs exercised in the community is called informal institution while the formal institution

has codified rules and regulations, which must be obeyed by the members of that institution. The mechanism of implementation of these norms is through exclusion from the community whereas the formal institution controls behaviour through legal agency. In the study community as an important informal institution has been used to comprehend *shalish* and relation with federation.

2.1.1 Community

Since the late nineteenth century, ‘the use of the term community has remained to some extent associated with the hope and the wish of reviving once more the closer, warmer, more harmonious type of bonds between people vaguely attributed to past ages’ (Elias 1974, quoted by Hoggett 1997:5). Some focused on community as ‘a geographical area’ some on a group of people living in a particular place; and others which looked to community as an area of common life (Smith 2001:57). There have never been a theory of community, nor is even a satisfactory definition of what community (Bell and Newby 1974: xiii). However, Etzioni (2003:4) argued that community could be defined with reasonable precision. It has two characteristics: first, a web of affect-laden relationships among a group of individuals, relationships that often crisscross and reinforce one another (as opposed to one-on-one or chain-like individual relationship); and second, a measure of commitment to a set of shared values, norms, and meanings, and a shared history and identity – in short, a particular culture.

Community can be approached as a value. As such it may well be used to bring together a number of elements, for example, solidarity, commitment, mutuality and trust (Frazer 2000:76). Smith (2001:57) explores (after Willmott 1986; Lee and Newby 1983; and Crow and Allan 1994) community in three different ways as: place – territorial or place community can be seen as where people have something common, and this shared element is understood geographically; interest – in interest or ‘elective’ communities people share a common characteristic other than place. They are linked together by factors such religious belief, sexual orientation, occupation or ethnic origin; Communion – this is as a sense of attachment to a place, group or idea (in other words, whether there is a ‘spirit of community). “To earn the appellation ‘community,’ it seems to me, groups must be able to exert moral suasion and extract a measure of compliance from their members. That is, communities are necessarily, indeed, by definition, coercive as well as moral, threatening their

members with the stick of sanctions if they stray, offering them the carrot of certainty and stability if they don't" (Pearson 1995:47).

On the other hand there is a darker side of the traditional communities. It uses its moral voice to oppress people, is authoritarian by nature, and push people to conform (Etzioni 2003:5). According to Kymlicaka (1993:208-221), this oppression can entail the community prescribing roles of subordination, roles that limit people's individual potential and threaten their psychological well-being. Another facet of basic criticism is the charge that communities are authoritarian. Phillips (1993:183) remarks, "[C]ommunitarian thinkingobliterates individual autonomy entirely and dissolves the self into whatever roles are imposed by one's position in society". The political scientist Fowler (1991:142) sees the community as interfering with the necessary breaking down of dominant forces and cultures. Others mean that they are dominated by power elites or have one group that forces others to abide by the values of those in power (Etzioni 2003:7).

In the study the community is defined as a geographical boundary (study village) where people live and certain norms, values, beliefs are obeyed. The rural elites (defined below) preserve community norms and settle disputes through *shalish* according to above unwritten rules. To make *shalish* effective for members BRAC has formed federations, which represent groups of BRAC members which own less than 50 decimal lands within a Ward. It does not represent the entire of the poor in the community, only emphasizes BRAC's members. BRAC inspires members to organize themselves to demand their access to justice through collective action, as federations are representation of collective actors. As a part of actions striving to have justice and participation in village *shalish* and its success implies 'empowerment'. The factors that help succeed in *shalish* and become empowered depend on some internal factors such as interest and incentives of members or integration and fulfillment of needs, solidarity and capacity of organized communities, commitment, mutuality, trust, shared emotional connection, significant primary and secondary interaction; some are external like entrenchment and responsive of elites and also the intervention of government and contextual factors like incentives and opportunities. Lack of these factors turns federations into failure.

2.1.2 Rural Elite

Another element of informal institution is rural elite. There is wide variety of definitions and points of view in the study of elites⁵. In narrow sense Etzioni (1996) defines elites as “group of actors who have power”. In turn, elites are those functional groups, who have high status for whatever reason in a society” (Bottomore 1964:14). They are groups (including small leadership groups) with “considerable social influence” (ibid: 13), who can “collectively manipulate the masses” (Ahmed 1980:19). While elites are routinely understood to be incumbents: those who are collectively the influential figures in any sector of society, any institutional structure, any geographic locality. Idiomatically, elites are thus roughly the same as leaders, decision makers or influential (Marvick in Kupper and Kuper 1996:236). Likewise Dube (1951:57) uses the term “rural elite” to mean mostly “people coming from higher status groups and high income, some education, and urban contacts and who play an effective role in the village politics as decision makers”. In turn the rural elites as the individuals who dominate the village scene as leaders, spokesman, representatives of the village and who make important decisions in regard to village problems (Sharma 1979).

Karim (1984:177) defines elite (after Darshankar 1979; Narain et al. 1976; Rashiduzzaman 1968; Sirsikar 1978) who deals primarily with rural people occupying formal or informal positions in various formal and informal institutions and organizations of the villages. More precisely, Karim (1983); Zaman (1977) has defined the elite who play significant role in mediating the rural and political events and at the same time maintaining stability at the intra-village levels and the protectors of customary norms and values.

Hence the ‘elite’ in this study has been operationalised based on some characteristics such as wealth: owning plenty of land, employing village wage labour, renting out land to other poor or middle class farmers; family reputation, age and genealogical position i.e. elderly person of family, personality traits, education, connections and

⁵ The term ‘elite derives from the Latin word *eligere*, meaning to choose. It refers to the choice part or to the flower of a nation, culture, age group, and also sometimes to persons occupying high social positions’ (Keller 1963:25).

influence with outsiders, winning over local government election, numerical strength of family and lineage. Looking at the above characteristics rural elite can be categorized as economic, political and social elites who have money, strong linkage with the political leaders and hereditary ascribed social status. In the study land is used as a very important factor to denote rural elite including the informal affiliation with political parties. Religious leaders play an important role in the community - especially in *shalish*, although in most of the cases they are not treated as rural elite.

2.3 Alternative Dispute Resolution

Using the term ‘alternative justice system/informal justice/popular justice or *shalish*’ does need a little scrutiny, because the field of this justice system is one where no one theoretical approach is dominant at the moment (Scharf undated: 2). Each theoretical approach to the field brings with it new ways of making sense of the phenomenon, which is usually accompanied by names in order to distinguish it from the old, or discredited names: the field of ‘informal justice’- a name not beyond dispute itself (see Santos 1992) – is already littered with a range of different terms, which have gradually settled in over the last 30 years (ibid).

Different terms related this system have used in different countries based on the community culture. Firstly, if we see, the term “Alternative Dispute Resolution⁶ (ADR)” covers all methods of resolving disputes. More specific distinctions within the ADR concept, such as “arbitration”, “mediation” and “conciliation/negotiation”, are often used interchangeably and without much precision. Such distinctions may, however, be of relevance with regard to the dispute settlement process and the enforceability of the results. “Arbitration” usually is a process whereby one or several independent arbiters invite the parties to submit the facts and their arguments (oral and/or written procedure) and finally decide on the basis of equity or law. The arbitrator is empowered to render a binding decision to resolve issues in dispute⁷. Folberg and Taylor's (1984:7) defined mediation as: ‘the process by which the participants together with the assistance of a neutral person or persons, systematically isolate disputed issues in order to develop options, consider alternatives, and reach a

⁶ See, <http://www.gbde.org/agreements/adragreement03.pdf>

⁷ see, <http://www.ADR.com>

consensual settlement that will accommodate their needs'. "Conciliation/negotiation" normally is a process whereby an independent conciliator actively guides the parties towards a fair compromise. If the parties do not agree on any compromise, they are free to go to court.

On the other hand some scholar calls ADR differently like popular justice, which Merry (1992:162) defines as an informal process 'for making decisions and compelling compliance to a set of rules', and takes as its primary concern the 'social demands of community living' (Depew, 1996: 23).

The term '*shalish*', which is usually used in Bangladesh profoundly, refers to a community-based, largely informal process through which small panels of influential local figures help resolve community members' disputes and/or impose of sanctions on them (Golub 2003:3). Ellickson (1972:58-59) defined the *shalish* as both judgement and discussion effecting punishment or compromise through satisfactory settlement of disputes. Following Ellicksons, Sarker (1976:149-50) regarded the *shalish* as a "compromise between the parties". Karim (1984:180) (after Bertocci 1970; Bhuiyan 1978; Islam 1974; and Zaidi 1970) has used *shalish* as a means to resolve conflict within the village. Schraf (undated:4) called it customary justice, which usually runs by village head/chief in counsel with their traditional culture or beliefs in term of pre-modern notions of statehood and local governance. These are not recognized by the state law as official forms and their decisions and subsequent enforcement actions have no force in law. It has no fixed dimension and its size and structure depend entirely on the nature and gravity of the problem at hand.

In study alternative dispute resolution or *shalish* has been defined as an instrument or tool of controlling community's norms, values, culture as well as a mechanism to keep up the social harmony followed by resolving disputes about land, marriage, divorce, illicit relationship, other petty disputes between individuals, villagers, villages by the rural elite or elders, if it is justified or unjustified to other people. As a matter of fact *shalish* is a process in which the litigant having complained against the accused to the rural elites who come to sit together with the parties including the enthused villagers - male and female (female normally remains behind the curtain or in concealment at home or on the back side of the school ground or home peeping without exposing themselves) or on a certain date in a certain place (normally a common place in the village) for solving the problems through series of questions and

answers depending on the nature of problem to extract the real facts and finally the president of the *shalish* declares its ultimate decision done by the small board called jury board, which sometimes obeyed by both group and sometimes not.

2.4 Patron-client relation

The rural elite and his counterpart make a mutual but highly unequal relationship between them, which is literally called patron-client relationship. This relationship plays significant role in village power structure and its continuation. The patronage relationship is “essentially unequal in character, involving domination and submission” (Zaman 1984:20). The “inequality” is the “key element” in a patron-client relationship and it invariably involves “the superiority of one over the other” (Clapham 1982:4). This relationship is a “special case of dyadic (two persons) ties involving a largely instrumental friendship in which an individual of higher socio-economic status (patron) uses his own person of lower status (client) who, for his part, reciprocates by offering general support and assistance, including personal services, to the patron” (Scott 1972:8). In this relationship, exchanges are multi-stranded and the balance is cleared in the long run (ibid). This relationships are based on reciprocity, a mechanism often alleged, for mutual benefit, an apt descriptions of it is: “A relationship involving an interchange of non-comparable goods and services between actors of unequal socio-economic rank” (Powell 1970:412).

The basis of patron-client relationship is concentration of critical resources: property. The dyadic relation, this way, is transformed into economic dependence and political domination. In other words, patronage as a cross-cultural pattern may be defined as an informal relationship between persons of unequal status and power, which imposes reciprocal obligations of a different kind on each of the parties. As a minimum, what is owed is protection and favour on the one side, and loyalty on the other. The relationship is on a personal, face-to-face basis, and it is continuing one (Silverman 1965:176). These relations can be considered as a specific type of class relations (ibid). Wertheim (1974:237) sees patron-client relationships as ‘vertical lines [which] cut across the social class divisions’, and he emphasizes the functions which the relationship has for the parties involved: protection for the farmer, political influence and loyal labourers for the patron.

Intricate mutual-help and patron-client relationships in village communities can be

reinterpreted in terms of the theory of social interactions (Hayami and Kikuchi 1981:17). Clear expectations of the mutual observance of the reciprocal rights and duties developed from close social interactions are the basic condition for mutual help and patron-client relationships. In the absence of such expectations, no agreement may be reached by tacit bargaining, and anarchy may prevail as the result of opportunism based on mutual distrust – a “prisoner’s dilemma” or non-cooperative game (Nash, 1950:155-62).

Based on the above theories the patron-client relationship has been used in the study to denote the socio-economic and political relationship and conflict between federation members and the rural elite. Two types of relationship have been explored between the patron and client: vertical lines and horizontal lines. The former is emphasizes on class divisions through the function of the protection to the supporter – federation members from attacking other elites or other ordinary people, by lending money when in need, exerting political domination upon them and expecting loyalties. The latter is emphasized by its social relationship helping each other in different social ceremonies like son/daughter/brothers marriage ceremonies and religious festivals, supporting in election, increasing muscle power in fighting between elites in the community.

2.5 Empowerment

Theoretically the term empowerment became popular in the field of development since mid ‘80s. Gradually it started to integrate issues relating to women’s emancipation and rights as forms of empowering them. The process of challenging existing power relations, and of gaining greater control over the sources of power, may be termed empowerment (Batliwala 1994:130). Basically this donor-fancy concept has not been testified in the context of poor people’s empowerment. However, the centrality of the notion of empowerment is located in the dynamics of the legitimate sharing, distribution and redistribution of power. Rather, he further describes some characteristics in a manner that means the wider change in social and economic institutional arrangements, political ideologies, and traditional practices. Such changes should be directed a) to create a new collective identity of the marginalized group for the demolition of the structure of subordination imposed on them, b) to provide the required space for their intervention in all issues of their collective social concern, c) to provide access to knowledge, ideology and resources

for their material and social well-being, d) to generate a social environment free of inequities disfavoured these people; and e) to ensure the basic enabling provision to each member of the society required for their self-fulfilment and expression (ibid).

Some other scholars define empowerment in terms of control over community resources (e.g. Korten 1999), others as related to the means required for an escape from poverty (Schneider 1999:52). Wills (2001:7) has cited another group of authors' (e.g. Friedman 1992; Galijart 1987; Stiefel & Wolfe 1994) definition of empowerment as involving 'participation in decision-making' on matters important to the empowered subject(s). But he supports the last definition seems to be the clearest when it comes to capturing the basic element of 'power' in 'empowerment': the power of decision-making, of choosing between alternatives, also when others don't like it. The empowerment concerns, mentions, decision-making over many different things, ranging from control over resources (time, money, household budget, land, labour, use of a community's mobilisation power etc.), to access to inputs (credit, government programmes); to holding own leadership and external agents accountable; to the freedom to make life-choices; to the division of tasks, ranging from household chores to non-caste bound free choice of kind of work; to the setting of priorities in planning on policies and programmes; to the participation in different activities and so on (ibid:7).

An interesting way of conceptualising women's empowerment was cited in one of Kabeer's article. She argued that empowerment cannot be defined or measured and for many feminists, the value lies exactly on this 'fuzziness' and may see it as a 'breathing space' to strategize what empowering women means and what needs to be done in order to 'empower' women (Kabeer 1999). She further defines empowerment as a term of the 'ability to make choices' and this should depend on the dimensions like resources (pre-conditions), agency (process) and achievements (outcomes) (ibid: 437).

The term 'empowerment' is used in the study as the access of the federation to the rural power structure – especially greater access to social justice; participation in the decision making process in *shalish*; the ability to challenge, resist and influence a change in a misjudgment handed down by the rural elite. Naturally the word 'empowerment' is difficult to operationalize and characterize in real sense but here I have used this only based on the magnitude of federation's participation in *shalish*

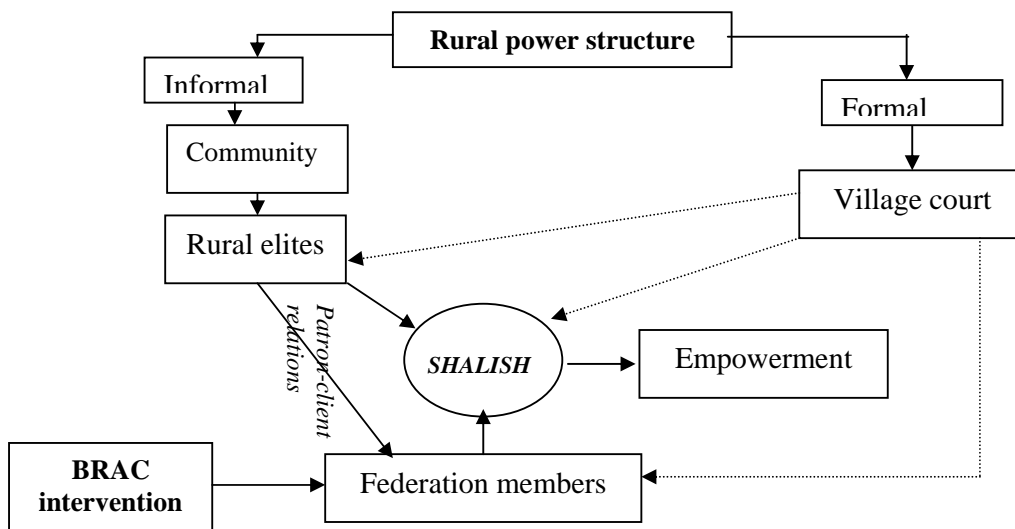
and the ability to seek and influence the justice of the elite passed down in the community and putting it on a more acceptable track. Based on the federations' success and failure empowerment is understood. If they succeed they have empowered by influencing the verdict or vice-versa.

2.6 Analytical Framework

Using the concepts presented above the paper explores the merits and demerits of *shalish*, the relation, interactions between institutions and attempts an evaluation of BRAC's intervention to federation members. It also looks into the rural power structure in Bangladesh which is basically two types: formal and informal which play important role in solving all kinds of disputes through *shalish* in Bangladeshi villages (see diagram1). These institutions have strong relations and interact with each other.

Under the formal institutions the village court headed by the chairman does judicial functions legally given by the government of Bangladesh. He (normally no female) exercises his power to resolve disputes among the villagers which beyond the control of rural elites. He also keeps up good relations with rural elites and interacts little with federation members (shown in the diagram by small indicating dot).

Diagram 1: Analytical framework for the study



On the other hand community being abstract and indiscernible informal but influential institution determines villagers' life everyday and every moment through *shalish* by the elites. With the concept of patron-client relation the socio-economic and political relationship between elite and federation members has been defined in this study.

BRAC is intervening with federations to promote social justice and to encourage

participation in *shalish*. The outcome of the intervention is, therefore, empowerment. This analytical framework helps explain whether federation members have achieved any empowerment or not and what are the reasons behind the success and failure to achieve their objective in rural Bangladesh.

CHAPTER III: STRENGTH AND WEAKNESS OF SHALISH

Traditional justice system is the most important means of conflict resolution in the different parts of the world especially in developing countries like Africa, Latin America and South Asia. It is estimated that, in many developing countries, informal justice deals with the vast majority of disputes (Buscaglia 1996; Siddiqi 2003; Wardak 2002a, Scharf undated). However, in some developed countries such as UK, USA, Ireland and other countries have recognized alternative dispute resolution system through ‘Ombudsman’ to reduce the pressure of formal court and get the justice quickly. Although there are some limitations of this system but in most cases an increasing number of complaints are now being resolved through this process (Doyle 2003).

Therefore, *shalish* is widely used in rural areas, where there is often minimal access to formal state justice. It tends to address issues that are of deep concern to poor people, including personal security and local crime; protection of people’s entitlements; and resolution of family and community disputes⁸. Despite these advantages there are many problems found in this system as well. So, this chapter deals with the advantages and disadvantages of informal justice system followed by discussion of formal justice system.

3.1 Situation of the Formal System

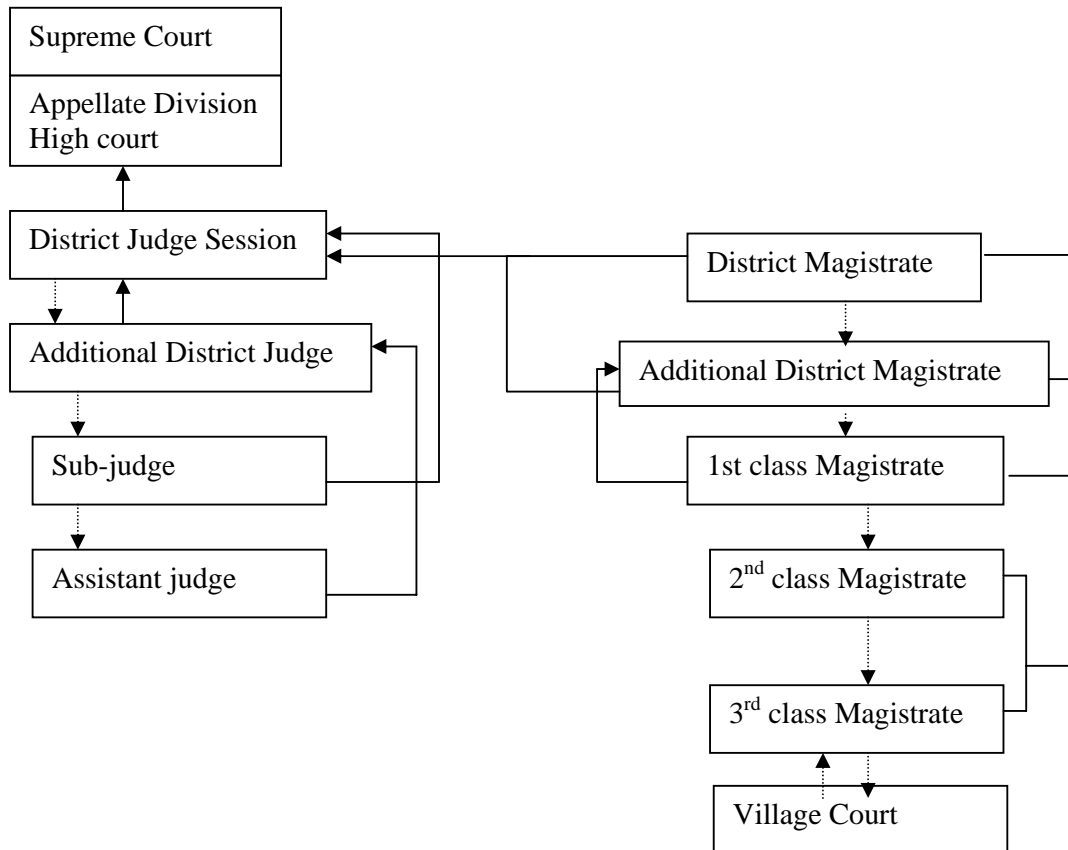
Having inherited most of the laws in Bangladesh from British, India and Pakistan the legal machinery system of the judicial system in Bangladesh is divided into three tiers in respect of criminal cases, and two tiers in respect of civil cases (Diagram 2). It is important to mention that only the upper echelon of the court is independent, and lower courts defer to it.

It is seen that any criminal case is time consuming: usually it takes six months to two years and some times more to reach judgment in Bangladesh. Land related cases usually take five to ten years some time about twenty years to be solved. These excessive procedural formalisms and administrative complexities block the filing and resolution of relatively simple cases or alimony cases brought by the socially segments of the population and hampers the access and diminish the quality of justice

⁸ See, <http://www1.worldbank.org/publicsector/legal/BriefingNSJSSFinal.doc>

(Buscaglia 1996:13-18). This is a country where the courts are so reviled and ridiculed, held in such contempt, so 'sold out' by common acknowledgement, that the thought of resort to the judiciary for the settlement of important conflicts has been a bad joke for generations (Mackenzie 1974).

Diagram: 2 Judicial system in Bangladesh⁹



In a survey of one district in Bangladesh found that pending cases was reported by 85% households involved in the court cases. Regarding expected time for settlement of pending cases, 53.9% of the accused/plaintiffs reported that they were uncertain about the period when settlement would be reached. And about 79.8% of them reported that delays in reaching settlement were deliberate and due to (i) court's high handiness (43.1%), (ii) lawyers business interest (42.4%) and (iii) opponent's ill motive and manipulation (53.5) (Transparency International of Bangladesh 1997). Therefore, about two-thirds of disputes do not enter the formal court process; instead, they are either settled at the local level, through informal settlement by local leaders or a village court, or they remain unsettled (Golub 2003:7).

⁹ The straight line shows the movement and control of the cases and dot lines show the administration over the courts.

The Village Court Ordinance of 1976 and Conciliation of Dispute Ordinance of 1979 empowers Union Parishad (UP, the lowest unit of local elected government) to settle civil disputes and petty criminal offences in rural areas (Golub 2003:7). Under the Village Court Ordinance the court can try to solve the disputes over property the value of which does not exceed Tk. 5,000 has the power to summon a person to give evidence, and can impose a fine of up to Tk. 5,001 on contempt charges. But unfortunately, lack of clear ideas, corrupt practices, non-cooperation among the local government functionaries and lack of adequate powers in the hands of the local bodies continued to hinder the working of the village courts and benches since their inception (Siddiqui 1998:2). Therefore, villagers put higher preference on traditional *shalish* (as shown in the table 1) for lodging complaints rather than other institution (Siddiqui 2003:94).

Table: 1 Villagers' preferences of institutions for lodging complaints

Justice system	1 st pref.	2nd pref.	3 rd pref.	4th pref.	Mean
Local arbitration	46	1	-	-	4.0
V. Court	1	41	2	3	2.8
Court	1	-	19	24	1.5
Police	-	4	20	16	1.7

3.2 Advantages of *Shalish*

Within the broader framework of state failure, advocates of alternative dispute resolution, especially proponents of community justice, have raised questions about the nature and locus of legal authority. Citing the failure of formal, state-sponsored legal systems to provide expedient and accessible systems of justice, it is argued that informal legal systems can regulate key institutions at a lower cost and in ways that reflect local conditions and customs (Khadiagala 2001:56). In other words this system is often preferred for a variety of reasons, including: low cost, speed, accessibility, cultural relevance, and responsiveness to poor people's concerns.

Villagers, according to Woodhouse (2004:59), prefer to resolve disputes informally because they perceived informal mechanisms to be cheaper, quicker and easier to use than the formal legal system. Time, distance and cost were especially serious obstacles in rural areas where, in some places, it takes villagers lot of time to travel to the district court to present for interviews. Hence the villagers feel comfortable to resolve their problem in informal village court as its informality is a means of

providing low-cost mechanisms for dispute resolution to the poor and uneducated (Depew 1996: 24).

Woodhouse (2004:27) has mentioned from his study that villagers, village leaders tends to stress community harmony, saying that resolving disputes informally enabled the community as a whole to remain peaceful and avoid embarrassment in the court. They describe their communities as one big family, characterized by family ties that should not be disrupted. "Our goal," said one village head, "is to act as a mediator and conciliator, to find a harmonious solution, not where one side wins and the other loses". Villagers perceive informal negotiation to be less socially disruptive than using the legal system. Their emphasis on harmony largely reflects the realities of village life, where people are known to and depend on one another. Besides these, villagers knew little about the law, distrust it and perceive it to be beyond their control. "If a dispute goes to the police, we don't know what happens...we can't control the process," said one villager. It is also reflected a fear of revenge and for village leaders a desire to preserve the status quo and avoid external scrutiny. If a problem is taken to the formal court, then there would remain a fear of revenge, one the other hand when it would be solved informally the perpetrators and the litigant's relation would be out of further conflict.

In Buscaglia (1996:18) from the survey results Edward (1986) has found seven major potential comparative advantages of informal alternative dispute mechanism in rural areas vis-à-vis the formal public court system. These are:

- 1) reducing the outcome-related uncertainty faced by the poorest segments of the rural population (57 percent of the sample of households consider it an advantage);
- 2) increasing the access of marginalized groups to a framework within which solutions to their conflicts emerge as a result of a participatory consensual approach that includes the parties and the complaint board as a "facilitator" (81 percent of the sample households consider it an advantage)
- 3) less abuse of discretion due to the more predictable application of rules to resolve a conflict (46 percent of the sample of the households consider it advantages;

- 4) lowering the users' direct costs of solving disputes (56 percent of the sample of the households consider it an advantages);
- 5) providing more transparent procedures and management of the disputes than the courts do (51 percent of the sample of the households consider it an advantage);
- 6) providing enhanced options available to the public to resolve disputes, away from the undue influence exercised by the "powerful" on judges' final rulings (14 percent of the sample of the households consider it an advantages); and
- 7) providing better practices and better mechanisms oriented to serve the interests of citizens through a "fairer resolution of the case" than civil courts do (79 percent of the sample of the households consider it an advantage)

Therefore, this system substantially reduce the potential workload of magistrate's courts, as it exists in almost every area or villages. They are accessible in terms of social status, wealth or education and legal representation is not necessary, so justice is affordable. Customary law in these courts consists of rules and customs of that particular community (Peters 2004:1). It is also important to mention that, as the formal justice system is elitist, corrupt and involved long delays most people avoid the contacts with it (Wardak 2002a:11-14). As a result, in rural areas traditional institutions of informal justice continue and people are happy to resolve their problem expeditiously and in cost-effective ways¹⁰ (Wardak 2002b). To its credit, traditional justice or *shalish* may well provide easy, free, comprehensible access to justice in situations where biases and power imbalances do not mitigate against fair consideration of disputes (Haque et al 2002; Bangladesh National Women Lawyers' Association 2001; Hashmi 2000 in Golub 2003:3).

As an alternative the creation of informal justice system practiced by the community since long ago chose to solve their disputes because all kinds of petty disputes in villages and occasionally, even murder and rapes are compromised locally by the traditional justices system as the formal system fails to punish the criminal (Malik

¹⁰ Enhancing the effectiveness of society's dispute resolution mechanisms is also a way to address social preferences through public policies within the judicial domain. Therefore, it is necessary to ensure that the institutions responsible for the interpretation and application of laws are able to attract those parties who can't find any other way to redress their grievances and solve their conflicts" (Buscaglia 1996)

undated). Besides this, it places special emphasis on the restoration of dignity, peace, and relationships, between offenders and victims; it provides restitution to victims and promotes the reintegration offenders into the community (Braithwaite 2003; Bottoms 2003, Hudson 2003; Johnston 2001; Van Ness 2003 in Wardak 2003:22)

Moreover, professional legal representation is not a characteristic of the informal justice system, nor can it be regarded as required. In this system parties are allowed to make full deliberations of facts and arguments without feeling for hesitation. Another feature is that social pressure plays an important role in achieving compliance of decisions of informal justice mechanisms (Islam 2003:3). In turn, the informal approach of traditional courts has a major advantage over their more formal counterparts, which sometime get bogged down in technicalities. The user-friendly procedure allows for parties to present their cases and have their witnesses give their version of events. Thereafter, the chiefs of village and his councillors can question them. Even members of the public can question the parties and witnesses (Peters 2004:1).

A recent report for the Asia Foundation, the international development organization that has extensively examined *shalish* and further explicates the nature, appeal of the traditional approach:

“*Shalish* generally serves as a platform for airing grievances, although *shalish* members have the option engaging in either mediation or arbitration to reach a solution, most commonly choose arbitration. This method involves unilateral decisions made by officiating members, whereas mediation engages opposing parties in reaching solutions of mutual satisfaction (Khair et al 2002:8-9)”.

“Delayed justice is the means of inflicting injustice through process of law,” said Mr. Justice V R Krishna Iyre. Although it is about formal justice system but he has expressed concern about the sufferings of delayed justice and argued for informal justice which can eliminate the endless afflictions of the poor litigants of a poor countries. In the adversarial system of judiciary the court is supposed to have a little intimate and direct knowledge of the facts and disputes. Consequently, the court has to do legal justice rather than real justice giving rise to the system credibility of evidence in confusion. Whereas, in the informal justice system credibility of evidence

is determined from the arbitrator's intimate and direct knowledge of the dispute (Islam 2003).

3.3 Disadvantages of *shalish*

Despite the popularity of *shalish* in the villages, many questions remain regarding the actual success in providing broader access to justice to poor. Recent research suggests that participants are generally pleased with the conciliatory, comprehensible, and flexible procedures of *shalish*, but the reasonable outcome may be minimal (ADR Workshop 1999¹¹). Poor people's preference for using *shalish* may reflect the weaknesses of the formal justice system, and does not necessarily indicate satisfaction with the systems themselves (Woodhouse 2004). There are some common problems associated with this system such as corruption and abuse of power, Biases in judgments, non-compliance with international human rights standards, such as discrimination or inhuman and degrading punishments, lack of inclusiveness, lack of accountability.

3.3.1 Corruption and Abuses of power

Traditional courts have played a crucial role in the dispensing of justice in the community. While critics see them as conservative and unable to deliver justice in the modern social, economic and political climate, other sees them as prototypes of the kind of dispute-resolution mechanisms desirable in a modern society (Peters 2004:1). Sometimes solutions are arbitrary and imposed on reluctant disputants by powerful village or community members. Such "solutions" are based less on civil or other law than on subjective judgments designed to ensure the continuity of their leadership, to strengthen their relational alliances, or to uphold the perceived cultural norms and biases. The *shalish* also is susceptible to manipulation by touts and local musclemen who may be hired to guide the pace and direction of the process by intimidation (Khair et al 2002:8-9).

Although the decisions are not always fair and equitable, they tend to carry a great weight within the community because they are issued by well-known and powerful

¹¹ see <http://www.info.usaid.gov/democracy/techpubs/adr/>

villagers. However, among those who, especially member's son/himself found guilty, lack respect for these decision-makers, it is extremely difficult to enforce rulings if the parties refused to comply (Woodhouse 2004). The perpetrators did not fear social sanction or did not take the threat of legal sanction seriously. So, it is difficult to resolve problems informally (ibid)

The poor villagers don't want to file a case in formal court as because of difficulties in access to court, financial disadvantage, literacy problem, the long-term unresolved case etc. Hence they prefer to solve the problem in village court. But in conflicts involving parties of unequal social or economic status, judgments invariably go in favour of the dominant group. The bias is particularly pronounced in the case of poor. Rulings on matters of custom or religion tend to be made on the basis of personal (and highly patriarchal) interpretations of texts and community norms rather than with reference to the legal framework (Siddiqi 2003:11). Nor are *shalish* rulings impervious to corruption, nepotism and the pressures of political patronage (Golub 2003:5). Moreover, the language of consensus – when the consensus is not reached democratically - becomes a powerful tool for suppressing dissent. The ideal of consensus and the restoration of social harmony frequently translate into the imposition of judgments that may be far from neutral. Appeals to act according to community norms effectively regulate the moral conduct of community members, especially women (Siddiqi 2003:11). Corruption also can infect the process in other ways, such as through a panel member's solicitation of bribes to nudge group's consensus in a given direction (Golub 2003:5). In his own thoughtful review of literature, Blair (2003:18) echoes Hashmi in concluding that “ social science analyses [of traditional *shalsih*] suggest that it is a corrupt and or deteriorating process. He cites:

Siddiqui, revisiting the Narail district village he had studied two decades previously, found that highly deficient *shalish* of his earlier scrutiny had gotten significantly worse over the intervening period. The elites dominating the *shalish* constituted the dominant male power structure, generally found against the poor (especially when one of the disputing parties belonged to the upper strata) and customarily discriminated against women, with increasing corruption in later years (Siddiqui 2000a: 147-148; 2000b: 299-310). Likewise, Aminuzzaman (2000) found high levels of corruption in the *shalish*

system. Tofail Ahmed, another local public administration expert, finds mastaans (local hoodlums) to have infiltrated many *shalish* bodies, undermining their validity and distorting their judgments (Blair 2003: 18).

3.3.2 Lack of inclusiveness

The traditional *shalish* is composed exclusively of male members, women are particularly vulnerable to extreme judgments and harsh penalties (Khair et al 2002:8-9). The structure of the traditional *shalish* reflects the unequal class and gender hierarchy that characterize social relations in rural Bangladesh. By convention, village elders and others who sit on a *shalish* are drawn from the elite and powerful sections of society; they are almost always male. Women are not only prevented from making their voices heard in a traditional *shalish*, their presence even on the margins of a public hearing is strongly discouraged. Men from impoverished backgrounds also find it difficult to voice their opinions freely, let alone preside over the proceedings (Siddiqi 2003:11). In her research she indicates that community level contentions over women's conduct and honor (*izzat*) often mask deeper conflicts over social, economic or political issues between males (Siddiqi 1998). It, then, reproduces existing social hierarchies and practices, and provides tool for disciplining individuals and groups who dare to transgress established social rules (Siddiqi 2003:11).

Shalish may involve voluntary submission to arbitration (which, in this context, involves the parties agreeing to submit to the judgement of the *shalish* panel), mediation (in which the panel helps the disputants to try to devise a settlement themselves) or a blend of the two. In a harsh, extreme version of its traditional form, however, *shalish* instead constitutes a de facto criminal court that inflicts trial and punishment on individuals who have not consented to its jurisdiction. A typical *shalish* may extend over numerous sessions and months and even remain unresolved (Golub 2003:3).

On the other hand, there are three constitutional controversial issues: the absence of legal representation goes against the Constitution; the exclusion and discriminatory light in which women are not allowed to preside over courts or participate in the proceedings (except as litigants assisted by men). Thirdly, the question whether elites

are appropriately qualified to preside over courts, as they lack training in law (Peters 2004:2). Hence, the legitimacy and accountability is a great concern in this system. There is always found that the judgments taken in informal court are not acceptable by the formal court.

3.3.3 Conflict with human rights principle

Social ostracism by no means represents the harshest, most extreme version (or perversion) of *shalish*, however. Amnesty International and other sources have documented numerous incidents of women, even rape victims, being lashed or even stoned to death for violation of local norms. Often these abuses stem from fatwas (religious rulings) handed down by local religious leaders who belong to the *shalish* panels or otherwise influence them, and who interpret or misinterpret *sharia* (Islamic law) to impose such rigorous treatment (Golub 2003:5). The following case described by Karim (1984:185-86) is seen an example to understand this atrocity:

Shah Jahan Ali, an inhabitant of Palopara had a beautiful wife. Ishaq was his close neighbour. The people of the neighbourhood (para) suspected Ishaq of having an illicit sex relation with Shah Jahan's wife. Shah Jahan was informed of the situation and one day he caught them having sex. He took the complaint to one village leader who, realizing the gravity of the crime, suggested a *shalish*. Members comprising elites from different categories found Shah Jahan's wife and Ishaq guilty and delivered a verdict to shave the head of lady and fifty whippings for Ishaq.

As a recent United Nations Development Programme (UNDP) paper explains in highlighting effective Bangladeshi NGO work in this arena, "many of the disputes, if not resolved in the early stages, lead to violence, especially domestic violence linked to dowry demands, second marriages, etc. Many land disputes also lead to physical assault and even murder, owing to the critical importance of land ownership for economic survival" (UNDP 2002:95). Over the last decades there have been incidences of murder by *shalish*. 'In stead of removing enmity and hatred and bring the accused and the victim to agree to a decision made in the traditional 'court' and settle all differences, to live in peace and harmony ever after', the *shalish* sessions

often end up in fatwas¹² and give punitive judgements, often against poor that was against human right principle (Shah 1998:227).

Consistent with the inclination toward arbitration and arbitrariness, Hashmi claims that the *shalish* finds to have offended community norms may be publicly shamed or, in unusual cases, socially ostracized (Hashmi 2000:99). He has cited Haque et al's (2002:22) case:

An Asia foundation report illuminate the case of a young woman whose husband's dowry demands led to his beating her and casting out of their home, adding the insult of severe social stigma to the injury of his physical assaults. She explains that a string of *shalish* sessions proved fruitless, and that the dynamic was such that "I could not speak I didn't have the chance to say anything.

3.3.4 Biases with Judgement

Nor do the power imbalances and victimization only materialize in the course of the *shalsih*. It often may prove too powerful, in the sense of imposing unfair judgements to them, leaving them with only other unsatisfactory courses of action (Golub 2003:6). An investigation by respected human rights NGO illustrates such a situation, in the case of a fifteen-year girl seeking support for the child resulting from her rape by a neighbour's son:

When the *shalish* gathered, [the father of the alleged rapist] organized a gang to break it up by using violence and money. It never reconvened. Meanwhile, a lawyer was found to represent [the victim] but it soon became obvious that he was taking advantage of a poor woman and her daughter by taking money from them and doing nothing in return (Odhikar 2001: 59).

However, there are other different downsides of the village-based *shalish* which has developed serious functional complications owing to intense factional infighting and rivalries in the villages. There are widespread corruptions in the informal *shalish* including improper attention that is being paid to relevant laws or accepted principles

¹² A religious decree; Arabic for opinion by a person learned in Muslim Law. But in Bangladesh, it is pronounced by people who have no legal authority, they do not clarify an ambiguous legal situation but weigh up evidence which traditionally was never a function of *fatwa* giver. Increasingly, *fatwas* are being used to bolster the authority of the *shalish*. Some of the decrees include inhuman punishments, such as, flogging, buried up to waist and stoned to death, beating with shoes etc.

of justice. The pressure of the rich, influence of money or special favour, fear of the local terrorists, and domination of orthodox religious views are identified to be the main bottlenecks responsible for unfairness in *shalish* (Siddiqui 1998).

Where an influential individual's interests are at play, this system can become distorted. It also can be biased due to patron-client relations: if a disputant is a political, personal or financial client of a *shalish* panel member (which can often be the case, since disputants often are poor and the panel members affluent), the latter might use his influence on the client's behalf (Golub 2003:7). Moreover, decision is taken in this process on the basis of subjective judgement and face value is highly emphasised. Sometimes cruel punishment and unfair trial procedures push the person to commit suicide, if he or she is not really perpetrator (ibid).

The proponents of informal justice claim advantages in cost, expedience, and cultural norms, but to Abel's (1982:8-9) assertion that informal justice ultimately fails because 'people want authority rather than informality'. People may want expedient and cheap justice but 'justice may be more important to them than speed'. As a result, people are willing to endure delays and to pay higher costs in government court because they want the 'leverage of state power to obtain the redress they believe is theirs by right, not a compromise that purports to restore a social peace that never existed'. The consequences are significant for, as Lev (1993:140) asserts: 'if the going myth is that law courts, people will use law to the limits of its assumed capacity to get things done If the understanding of politics suggests that powerful men get things done, then patron-client relations are likely to prevail'.

3.4 Conclusion

Although having punished rudely in most cases in *shalish* the poor, marginalized and disadvantaged groups prefer this system because it is villagers' friendly, culture specific and more economical. Therefore to make more effective intervention to *shalish* will be a bit easier than refurbish the formal system, which is a political as well as economic issue. But of course the government and other interventionist should ensure to use *shalish* properly for the benefit of the villagers.

CHAPTER IV: RELATION, INTERACTION BETWEEN ELITES AND FEDERATION MEMBER AND CONFLICT AMONG ELITES

This chapter depicts the relationship and conflict between rural elite – vehicle of traditional *shalish* - and federation members by the concept of patron-client relation. It identifies the elite and conflict among them and their way of doing *shalish* in the village.

4.1 Rural Elite and *Shalish*

Dube (1951:57) used the term “rural elite” to mean “people coming from higher status groups and high income, some education, and urban contacts and who play an effective role in the village politics as decision makers”. In turn, Schulze and Blumberg (1957 in Karim 1984:177) have identified the ‘positional approach’ and Rao (1968 in Karim 1984:177) the ‘reputational approach’ in identifying rural elites. In the study villages the person who holds a formal and legal position in a government office, educational institutions or union parishad are called positional elites. Those who have reputations as being powerful and influential in the community are reputational elites. In fact, sometimes there is overlapping between positional and reputational elites.

Land was the most important indicator in the study villages to categorize the elites. But the man who had land including muscle power, strong kinship network in the village or outside village was treated as the most powerful elite in the study village. Based on those two types of elites – senior elite (*boromatbbar*) and junior elites (*chotomatabbar*) were found in the villages. The senior elites owned a large amount of land and they also had business in local towns. They had better life style and were in a position in society. Most of them were the winner of local election. Numeric support of both senior and junior elite was also a source of authority to exert the influence respected by the villagers. Junior elites conducted *shalish* for their own

neighbourhood of the community, whereas senior elites resolved disputes involving the community and also for failure of junior elite to resolve in some serious disputes. Junior elite normally did not differ with senior elite in *shalish*.

It was found that elites never called *shalish* themselves and would not attend *shalish* until they were requested. All rural elites were divided on the basis of political party affiliation, which led to faction forming among them as well as among their followers or found conflict among them generation to generation. As a result the chance of a successful implementation of a *shalish* verdict was difficult. When there was a problem in elites' lineage they solved it by themselves, they did not invite other elite, as it was a matter of prestige. Bribing the elite and informal entertainment before commencing *shalish* was a great problem in village because it changed the verdict of *shalish* in favour of dominant groups. In most cases this was found in the villages.

4.2 Relationship between Rural Elites and Federation members

In Bangladesh “the rural power structure is a complex set of patronage relationships and arrangements between elites and the poor” (Januzzi and Peach 1980). These social relations mainly influence poor villagers' entitlement to (scarce) resources; and thereby, shape their strategies for survival (Jansen 1986:165-82). In these relations federation members and the rural elite interacted profoundly. These interactions or patron-client relation happened through a number of ways, following the community's norms, values, beliefs and the nature of livelihood in the village. The elites provide leadership, and serve as ‘brokers’ between villagers and the ‘outside’ the village including providing goods and services to the client, while in return they exert their influence and control over local governments getting political support (voting) from their followers (Zaman 1984:19-21). The relationship and interaction as observed in the community could be divided into three broad categories – social, economic, and political and could be explained in terms of ‘vertical and horizontal’ relations.

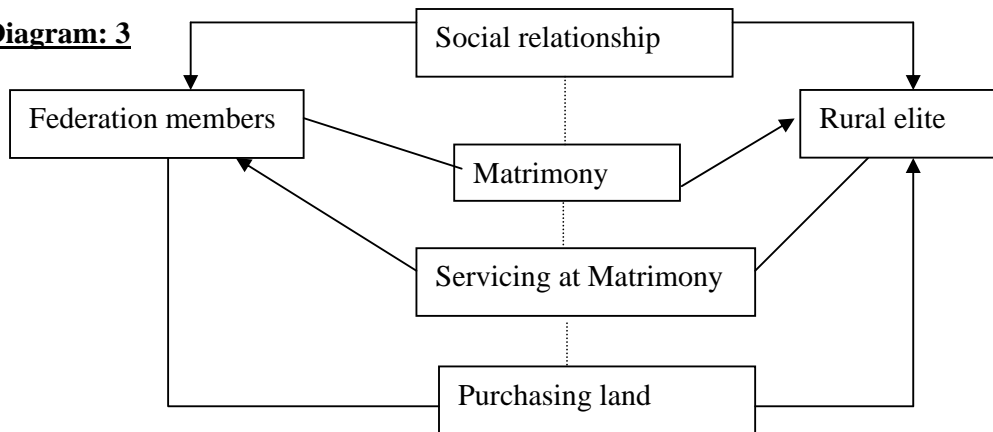
4.2.1 Social Relationship

In this relationship rural elite and federation members made a horizontal relation. They sought assistance from each other although elites were not bound to do that. It was found that rural elites had an important role to play in the matrimony held at the member's family. Members after deciding with whom they would arrange the

marriage of their children often took approval/opinion of the closer elites on the decision. On occasion elites also proposed whom in the village the members should select to be married to their children. The propositions were rarely ignored. The elites also played an important role in the bargaining on the amount to be paid as dowry, the number of guest that should be invited, the gifts that should be made and other decisions. The elites also had important roles to play in the marriage ceremony – registering the marriage, ensuring that the marriage was conducted as smoothly as desired. Elites were taken as guardian in the marriage because it was believed that their close involvement in the marriage would make conducting the marriage easier. In the case of any problem related to the marriage would arise the members would get help from the elites in resolving the dispute. They were also invited in other family occasions, e.g., circumcisions, where they also had an important position and role to play (Diagram 3).

Failing to invite elites in these important family occasions would result in the non-cooperation and their followers’ when members would need their help.

Diagram: 3



The federation members often took the advice of elites in important purchases, like a piece of land, for two important reasons. Firstly, they did not want to get deceived in the process of buying land or get into any dispute with others after the purchase. As the elites were usually well informed about all lands within the village their advice or involvement in the purchase was considered to be an insurance against probable problems that might emerge from the purchase. Secondly, elites’ consent was taken as the purchase might affect the interest of elite in some way. Purchasing a piece of land affecting the interest of the elite was likely to make them unhappy. The members

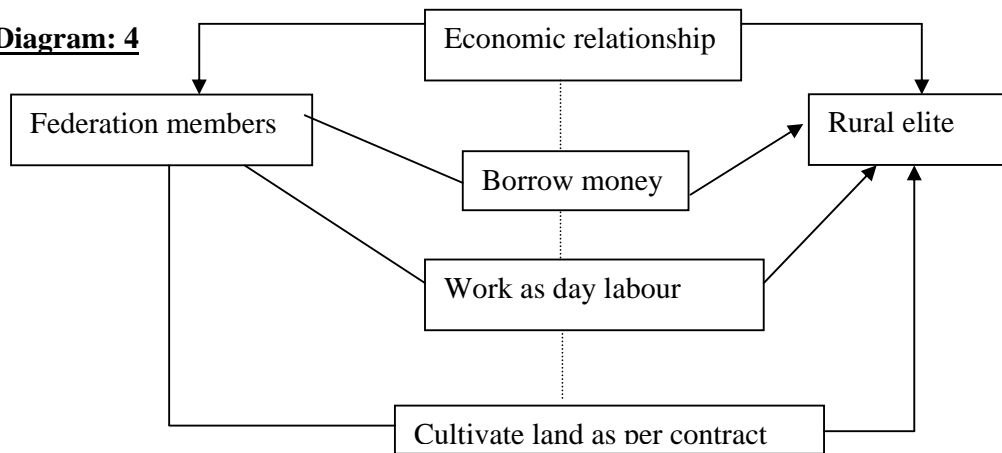
wanted to avoid such a development from buying land. A federation member was often asked by heads to help them in arranging marriage ceremonies and in other occasions where large numbers of guests were invited. Help in these cases usually included grinding spices, cooking food, bringing water, entertaining guests, washing dishes, and cleaning house after guests had left the house. Amina, a Federation member cited:

“I helped in the marriage ceremony of Gofur matbor by cooking food, taking food to the bride and others activities”.

4.2.2 Economic Relationship

This was vertical relationship in which rural elites stood at the top as the rich with large farmland and involved with other income generating activities like hatcheries.

Diagram: 4



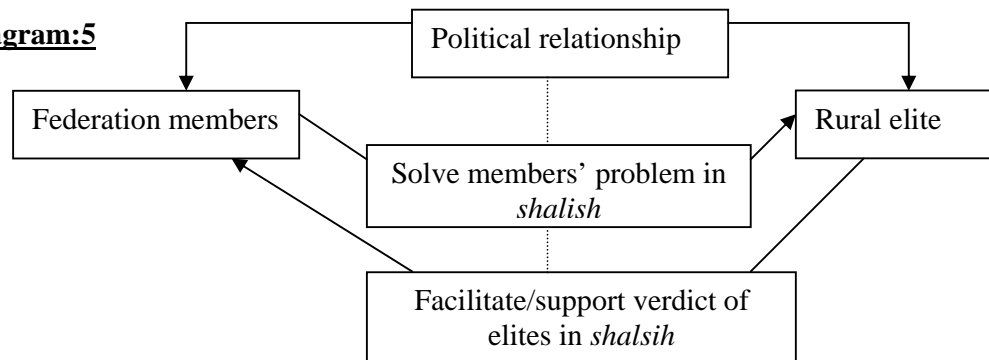
The federation members seasonally worked in the farmland of these elites sowing the seeds and harvesting and performing other income generating activities of them on a regular basis. In a number of instances elites had leased out their agricultural lands to members. Whatever was the mode of economic relationship – employment or contract – the upper hand in dictating the terms of contracts always lay with the elites. This was so because there was a large number of landless people besides the members in the village with whom elites could have easily established similar economic agreements. From time to time the members were in need of large amounts of cash to meet certain pressing needs like during the lean season some did not have money to feed their family or pay dowry for their daughter’s marriage or to manage the medical expenditure for her husband or other members of the family (Diagram 4). Finding no other sources the members in need were forced to borrow money from these elites.

Salma said, “My husband had been suffering from ill in the belly for a longtime and for his treatment I had to borrow money on interest from elite”. They were the main source to money lending but it had a lot of downsides. They not only charged a high rate of interest but also used force to realize the money lent to the members and sometimes due to inability to pay back in time members had been punished physically or cattle or goats were taken away.

4.2.3 Political Relationship

In this vertical relationship a case of disputes among the VO members or within their families they occasionally took help of the elites in settling the disputes. The

Diagram:5



elites also expected the support of the members to increase the number of their followers against other elites in the village. When there was a conflict between the elites, the members were asked to support them to increase their muscle power (Diagram 5). The supports were naturally expected as the elites extended help to the villager during the crisis (Karim 1991). The elites often came to an understanding with the members for their support in *shalish*.

4.3 Conflict among the Elites

Village people’s livelihoods are peculiar in that they sometimes fight and compete with one another and sometimes cooperate in order to cope with crises be they natural, social, political or economical. Through observation some sort of conflict was seen in the villages.

In the village people had different **Political party affiliations** from which they got some political support in times of need. But these affiliation cause fictions between the rural elites, UP chairman and their supporter as well. The political party, which remained in state power, enjoyed greater freedom to do justice for the villagers

whether it was justified or unjustified to others. These elites had always linked with the political leaders who lived in the town and had a good relation with police and the formal court as well. Rahaman (1981:44) in his book “*Rural Power Structure*” has mentioned, “not only these elites are well placed in the local areas, they are also intimately linked up with the outer world. They are the people who form the base of the national politics and often go to government officials and higher political leaders to ‘get things done’ for the people”. When the disputant was the follower of the opposition party, he or she suffered heavily by being charged too a large fine or by being hit physically or demeaned mentally and psychologically. Hence, the opponent could do little and though they had leaders in town, they remained underpowered. They would like to avoid comprehensive friction. The following case shows the conflict between rural elite and its impact to other villagers.

Branmmonkanda and Digholia villages consist of a ward. They have separate social jurisdiction but politically they involve each other. In Digholia, Jafor mia cousin of ex-chairman is the main influential matbor (elite). Khaleq sardar, Barekmia (cousin of Khaleq sardar), Malek sheik, Mohsin are junior elites (matbors). Without Jafor mia no shalishes had been held in this village. On the other side Khaleq was the main elite of Branmmonkanda. To defeat Khaleq matbor some junior matbors named Sattar boati, Razzak, Akter mondol and others formed ‘shanti (peace) committee’ and wanted to do all shalishes in the villages without Khaleq. Jafor mia from Digholia supported the ‘shanti committee’. So there was clear faction among the matbors and it was intensified when Felu mondol’s land was occupied forcefully by Razzak. Khaleq sardar supported Felu mondol’s son while Sattar and other matbors support Razzak. Several times they tried to solve this problem through inter-village and also intra-village shalish but failed because both sides were not seen themselves to be defeated finally remained unsolved. Khaleq matbor called Jafor and Robban chairman ‘autocrat’. Villagers blamed Khaleq matbor who used poor villagers for his interest in different conflict. The conflict also occurred during the local and national election.

Virtually, it was rarely found any conflict between federation members and elites but during the wrangle between elites the members who were closer to the elites got supported for various purposes in time of need would have to fortify them. Thus they got involved in the squabble of the elites. But most of the time members were seen affected physically and financially.

4.4 Conclusion

Whatever the nature of relations between the elites and members the study reveals that they were tied to the whims and desires of the elites because of their power on lives of the members – social, economic, and political. Therefore, the federation

members must be made understand the logic of their formation and strengthened by the organization to present it as an institution so that they can demonstrate their unity. On the other hand elites should be an ally for them to perform this mission properly. As an outsider, BRAC should provide the legal support to federation members and provides awareness to rural elites too.

CHAPTER V: THE ASSESSMENT OF BRAC'S INTERVENTION

In Bangladesh's present-day context, to revive and mould the traditional *shalish* on the right way, reflecting the spirit and aspiration of the people may prove a real challenge. However, one positive development that seems to have been emerging is that some NGOs have in recent years come forward to get involved in *shalish* (Siddiqi 2003). As a part of social development BRAC starts to form federations with a view to making the members empowered through seeking justice from elite and participating in *shalish*. So, in this chapter I discuss the federations' objective, activities and achievements followed by cases of success and failure and appraisal of empowerment of members.

5.1 BRAC's Village Federation

Starting from early 1980s NGOs intervened in the villages with their development effort and BRAC being one of these NGOs has been working for poverty alleviation and empowerment of the poor. The achievements of these objectives are pursued through its vital organ – the Village Organization (VO). In a village there are two or three VOs and each of the VOs has 25 to 45 members (BRAC 1998).

Individually the VOs often fail in achieving its objectives, as their size is not large enough to oppose the forces, e.g., the elite that control socioeconomic situation in the society. To overcome problems, BRAC has since 1998 federated the VOs into village federation in a ward. It is an apex body of groups of the poor that are organized and supported by BRAC. A federation may have three to five VOs with five members from each in a ward. Thus, a federation consists of 15 to 25 members. The president and secretary and cashier of the VO management committee, Human Rights and Legal Service or Health *shebika*¹³ and male member, husband or close relative of VO

¹³ HRLS *shebika* provides Human Rights and Legal training to VO members and legal service to all villagers.

member of social action committee who represent a VO to the federation. The federation has a management committee comprising of a president, a secretary, a cashier, and two executive members. They are elected directly by the votes of the members of the federated VOs concerned. As a policy president, secretary and cashier of the committee must not all be elected from the same VO. The members of the committee are elected for a three-year period.

The federation is a group of VOs through which members aim to achieve high awareness of their social and political conditions, increase their ability to undertake and manage social and economic action and the ability to control over their own destiny (Chen 1986). The objectives of the federations are to: (1) institutionalize VOs; (2) establish social justice; (3) participate in power structure through the leadership of target group (those who have less than half-an-acre of land and at least one member of the family selling manual labor of at least 100 days in a year); (4) advocate upholding the interest of the group; (5) ensuring proper use of local resources, and preventing the violation of human right (BRAC 1998).

The federation members meet bi-monthly and the meeting is facilitated by the Program Organizer, Social Development Program to discuss the problems and the actions. Among other important functions federation must participate in the *shalish* to ensure justice within the ward.

Program Organizers (PO) of Social Development program from BRAC were given targets to form federation each year. The selected members were brought to the office for an orientation on federation. They were given awareness training on some basic laws in a training center. Every month the old federations were given refreshers course and discussed about their achievement. Members' meeting is a forum, through which the participants become capable of organizing as pressure groups in their own locality. It has established itself as independent institutions, a forum through which the Village Organization (VO) members can aspire to uphold and safeguard their social and legal rights. It is a part of the community and trying to negotiate the member's problem as well as sometimes other poor non-members of the BRAC.

5.2 Successes of Federations

As the poor are effectively excluded from direct participation in politics and the decision making process – in other words, can not include themselves in the activities

of existing organizations – they have to organize themselves with some type of bargaining power (Berner 1997:127). But “group building and collective action among the poor are highly conditional and precarious process” (Nelson 1979 in Berner 1997:52). However, “the networks of personal, social and economic interactions and interdependencies and the characteristics of a locality can become a solid basis for organization building and collective action” (Urry 1985:43). To turn this collective action into reality the poor need to establish close and stable interconnection and communication structures with one another (Berner 1997:56). Moreover, to actively challenge the dominance system reactive and spontaneous resistance, this group needs alliances with factions of the upper class (Friedman and Salguero 1988:19). Representing a segment of these sub-ornate groups in the community federations’ success and failure has herein been characterized based on the following factors:

1. Internal Factors

- ◆ The values that are shared in common by the members, primarily those of solidarity, honesty, reciprocity and trust, in contrast to individualism.
- ◆ The rules of conduct observed by members in the organization like the fulfillment of commitments, discipline, respect, openness and readiness
- ◆ The leadership

2. External Factors

- ◆ The capacity to cooperate and work with other agency in the community.

3. Contextual Factors - the broader framework of incentives, opportunities.

The following case studies were made with a special focus on collective action by the federation to seek justice and participation in *shalish* to influence.

5.2.1 Case 1: Dispute with a Boundary Pillar

A pillar demarcating the Mouza boundary as well as that of Jaganathdi village was stolen. There was a rumor that the pillar had magnet inside considered to be valuable. After the theft a federation member under the benefit of doubt filed a case against Gafur and Rahim. In return Gafur and Rahim filed case against Alauddin. After some day police found the pillar in the village as abandoned and handed it over to a union parishad member. A shalish was called in the middle place of the village so that the feuding parties might withdraw their cases. Chairman of union parishad, local journalist, four senior elites of the village, and members of the federation attended the shalish. It was convinced in shalish that the pillar did not have any magnet and decided that it should be reinstalled to its original location. Then to decide how the feuding parties might withdraw the case, the chairman presiding over

the shalish formed an eight-member jury board. Monowara, the secretary of federation was in the jury board. Some member in the jury proposed as Alauddin filed the case first so he would have to withdraw the case and his counterpart would do later. But Monowara protested that both the parties would have to withdraw each of their cases by themselves at the same time. After a debate Monowara's point was accepted by all. The cases were withdrawn from the court and the problem was solved. Monowara was praised for her active role in the shalish.

5.2.2 Case 2. Polygamy

Redu got married for second time despite his first wife and five children and after that he started selling his land. According to the community norms second marriage is illegal without the permission of first wife. Another important thing was that the land was their only sources of income so selling land was a matter of surviving of the family.

Nasima informed this to the federation and went to chairman and other elites with more than 30 women and men in their group to demand justice through shalish but they did nothing despite the promise. Finding no alternative way, the federation member decided to arrest Redu by police. Members raised a fund by receiving donation from the villagers including both BRAC and neighbors for giving to police to get Redu arrested. On his way to second wife he was arrested and complied to register all of his land at the name of his sons in exchange of his release from the imprisonment with the presence of chairman and other elite.

5.3 Reasons for Success

A number of factors were observed to have contributed to the success of the federation in the above cases.

Normally in the village most of the women were illiterate and felt shy to talk in front of men, as it a patriarchal society. Males in the community are still a dominant force and solve disputes through *shalish*. Women are discouraged to participate in *shalish* or any other social activities together with males but after joining the federation, some members were trained up to lead the federation members as good leader and to be vocal in *shalish*. Moreover, these leaders had no complains from the family especially from husband to participate in *shalish*. All these conditions made them succeed to bring not only the fellow members but also other villagers to support the federation to resolve the dispute of Nasima (case 2); and on the other hand to play important role in the jury board (case1) was a victory for the federation. Despite their success in few cases it is difficult to wrap up the achievement of the federation based on these factors because very few members had the ability and mobility to speak out in *shalish* and even to win over the community, overcoming the norms of the family despite BRAC's support to help them become more outspoken.

Observing the case 1 it was simple and amusing but it could have been terrible to both parties in dispute if the police did not show sympathy to them. Because the police could have continued the case and have received bribe from both sides in the name of arresting the accused. Luckily the police ordered UP chairman to solve this dispute through *shalish*. Anyway, good relation with some junior and senior elite, background of the family, and linkage with the extended kinship in the village helped the member to partake in the jury board of *shalish* and to be able to influence the decision and thus placed her better idea which was successfully granted by other members of the board. But the same federation members were not able to protest in other cases where a girl got pregnant through an illicit relationship with an elite's son who refused to marry her. So, counting success of federation by being a member of jury board would be overvalued of triumph.

In case 2 it was clearly found that the solidarity and obligations among the federation members helped save a member from the brink of destruction. Although they were not able to reach to their goal at first, taking it morally they convinced the members to do so and others to be united and eventually they found out an alternative way to solve this problem. The leadership of the federation president was one of the other factors that inspired neighbors to join with the members to help protect the vulnerable condition of the victim and get justice from the chairman and other elites. But in other cases (case 3) the members failed to unite themselves to protest the ill verdict. So the sustainability of solidarity among the members was very dim.

Among external factors the federation members were able to communicate efficiently with the law enforcing agency to solve Redu's problem (case 2) which was unresolved in *shalish*. But they were unable to finish the drama eventually without the help of elites.

Winning the local election was an important factor that led the president of federation to be respected by the elites and the villagers led to better access for the proceedings of *shalish*. It was a source of her authority to become a leader to keep in touch with other elites in the village. Besides this, all members received an intensive Human Rights and Legal Education course by BRAC in which they learnt about the severity of child and women abuse law. The accused must serve at least ten years imprisonment according to this law. Therefore, this training helped them to succeed in solving Nasima's problem. However, providing knowledge about HRLS might help

the members sometimes but mostly the application of it inside the members were absent. They could not solve their own problem without the help of elite and so there was a doubt of further success. Further, winning an election could be one step to take part in the structure of *shalish* process but not a sufficient reason to win over to look for justice. Therefore, the amount of success of the federation was very little more than failure.

5.4 Failure Case

One of the challenges that any group faces for collective action is translating the preferences of individuals within them into some measure of group preferences. To win over these challenges two aspects of the problem might be pointed out. One is the motivation for group action in the first place, and the second is what might be meant by referring to the preferences of a group. To fulfill the preferences, according to Nelson (1979:252) 'incentives' and 'capacity' to build and maintain organization, both necessary preconditions. But it is a lack of factors - be they internal, external or contextual - that leads the federation to failure in getting justice. In other words the lack of mutual solidarity, incentives; a poor capacity to organize and their integration into, and ability to act were reasons of failure. Moreover, political fractionalization, inexperience, lack of knowledge, and poverty were an obstruction to the members in achieving justice. The following cases were done with a focus on these factors, which lead to the members' failure to take steps in *shalish*.

5.4.1 Case 3: Damage of Paddy

Surath and his wife (BRAC member) caught Khaleque's cow as it ate up some green paddy but all on a sudden Khaleque and his wife began beating Surath Ali and his wife. In this fight nobody was seriously injured but Khaleque's wife got her admitted to a hospital in local town to give an impression that she was seriously injured in the fight. This was done as part of plot to harass Surath Ali. Accordingly Khaleque called for a shalish in which the chairman including members of union parishad and other elites from the same village participated in the shalish. The president and all other federation members were also present in the shalish. Rahman and Malek's wife decided to attend shalish as non-party witnesses to the incidence although they were not asked to attend the shalish. After hearing detail of the incidence chairman formed a jury board of four elites. The board imposed a fine of \$85 (Tk.5,000) to Surath. The president of federation talked with chairman and protested against the judgment, chairman said that he could do nothing against the decision of the board. The common people as well as other federation members did not say anything in the shalish fearing that they would be subject to board's wrath if they protest to the verdict.

5.5 Reasons for Failure

The following factors have enforced the federation to be unsuccessful in *shalish*.

Informal political affiliation and infighting among elites and their supporters made for a tense situation in the village. They were divided into different groups based on informal political affiliation and they were always busy with dominating and humiliating each other through exercising socio-economic and political power – especially by the ruling party. The elites who were the supporter of the ruling party exercised power over the opponent taking even a trifling matter such as case 3. They dared not protest the misjudgment as they thought that it would create further troubles towards them.

In the failure case members were not found to be so organized to protest or to influence the verdict in *shalish*. Because most of the federation members in this village did not have enough faith in the federation's ability to argue their in front of the rural elite. The reason was that as an organization the federation was represented mostly by women who were not appreciated by most of the villagers. The established patriarchal society compelled women to be less mobile. They also opined that it was and would be a part for a man who always performs. The internal cohesion problem and lack of capacity to organize these members to overcome these inclinations was found in federation. A small number of members dared to speak in *shalish* but they were severely criticized while peculiarly they were allowed to speak as witnesses in *shalish*.

The question of incentives of helping each other and the risk of contending with the rural elite was a big concern that disheartened the federation members to unite them successfully to resist ill verdict of elite. As an organization of poor most of the time members had to keep busy themselves in search of their means of daily survival. They had to work as day labor in elites' land, borrow money during the lean season including for other social necessities. They would fall in trouble when they would defy the rural elites' ambition. Therefore, these socio-economic dependencies to elite were invisible reasons not to differ with elites.

The lack of internal networking for sharing message of dispute and *shalish* among the members was important causes for failure. They should inform of *shalish* to all the federation members when it arranged in any neighborhood (*para*) of the village so

that all members together might participate and raise their voices for true justice. In above cases, they did not inform all the members to take part as a group in *shalish*. Sometimes members of the federation, in other cases, even the victim him/herself, were not interested to bring to light the incident to other people as because of prestige or sometime anxious for other rural elite. The victim also believed that federation would be unable to solve his/her problem and so he/she did not disclose it to others. In above cases they had good relation with one elite who was the supporter of the opposition party so he had little role to reduce the nature of punishment Surath (case 3).

The federation members did not have enough knowledge and information which considered to be preconditions for success in seeking justice. They did not know the right process of communicating with the formal court, police or other relevant officials and even they would not be treated well in that place. Lack of courageous leadership made them failure to organize the group for collective participation and could not motivate other members to turn the individual preferences to group choices. Hence, they were unable to protest the harsh verdict for Surath. Only president of the federation talked to chairman to change his decision in *shalish* but when it was over. Members were afraid of that they would be harmed e.g. by filing a false case or insulting any time, if they disagree with the elites.

5.6 Empowerment Quandary of the Federation

The discussion can usefully start from *shalish* for a generic view of empowerment as “any process by which people’s control (collective or individual) over their lives is increased” (Somerville 1998: 233). In other words, ‘empowerment’ is as a means to the realisation of rights (Barker 1991; in Zippay 1995: 74). To get these rights the federation’s participation in *shalish* and the seeking of justice would be empowerment as it is the true end of participation (Friedmann 1996; Rakodi 1991). So, the consequence of participating in *shalish*, collective action for justice and gaining greater control to solve their problems (Friedmann 1996:164) would be empowerment for the federation. Friedmann also refers to empowerment as the “self-organisation of the poor” preserving some dignity and gaining control over the means to social justice (ibid). Following the theories the indicators of empowerment that have been used to understand the empowerment of federation is to have access to justice, participation and influence in the decision making process of *shalish*. BRAC’s intervention for the

poor members through informal institution like the federation and its empowerment has been explained based on the success and failure of them getting justice and participation in *shalish*.

Looking at the case 2 it is clear that federation member and with big ally could not firstly be able to do anything by seeking justice from the chairman and other elites. Even to file a case to police they had to seek help from elites as federation member did have seldom access to police station. Because of union parishad membership and good leadership inspired members and the neighbours to come together to get things done but the ultimate upshot came with the help of the rural elites. However, this is a little triumph of federation but there was a dilemma whether they succeeded as a federation or just being neighbour felt to save a poor family from becoming poorer.

The case 1 was obviously a great accomplishment by the federation member. Being a woman, the secretary of the federation got a chance to be a member of jury board to take decision of *shalish* and finally influenced the judgment, which was a step towards empowerment. But it would be misleading to drop this success to federation's bag because the factor such as vocal and poor woman backed by the rural elite might help to get the chance to have a say in the verdict. In addition to that when I was present in a *shalish* to see the mechanism of it and active participation of federation, no members – especially women were not sitting together with elite talking in the *shalish*. Even one elite asked the federation president who was also a member of the union parishad to take seat for participation with them but she did not come out from the curtain. All other members were beside the *shalish* place (behind the home). So, it is doubtful to be believed to become member of jury board in other *shalish* in that village. Moreover, most of the cases were failure in regard to seeking justice and strong participation in *shalish*. So the success cases that described by the federation were difficult to take as victory of them.

On the other hand observing the same federation (case 3) could not be able to protest the unlawful and false case done by so-called elite. Their solidarity, moral obligation, good networking, alliance with other elite did not work at this moment although the president of the federation simply endeavoured to request the *shalish* leader to rethink the verdict but rebuffed. Members did not want to aggravate the elite's anger further so that their life might be in bad odour. So, the fragile empowerment process had been stumble in this case.

It is clear that members participated in *shalish* as villagers and not to influence the verdict of elite as federation member. Rather they were not allowed to participate in *shalish* let alone speaking. As a UP member had a right to be part of *shalish* but not as a federation member because of being women and poor as well. All the male guardian of federation had little role in *shalish* rather sitting in *shalish* just to be an attentive listener of elites' way of doing or onlooker.

Therefore, it is very difficult to characterize the federation's empowerment. It is a predicament whether they had succeeded in their mission or not. However, based on the so-called success and failure cases with its critical analysis it can be said that the federation had been forward little towards empowerment but they have a long way to go to achieve their ultimate goal.

5.7 Conclusion

The federation and its functioning are prospective for the betterment of the members including the rest of the poor. But it is formed with a majority of women which conflicts with the society's norms and values, yet it could help solving their problems by themselves. It may also increase the strength of the organization when educated women like school teacher and members from middle class or even better off families would be convinced to join the federation. Moreover, members must have solidarity within the organization and better connection with other encouraging elite.

CHAPTER VI: CONCLUSION AND RECOMMENDATIONS

Shalish is a conventional institution spontaneously created through trial and error over a long period of time, and thus very much ingrained in the psychic of the rural society. It is also a part of social structure supported by social values and norms, and has a function, contributing to the continuation of rural society when it is in its ideal form. The absence of an alternative affordable and effective institution for litigation probably contributes to the existence of *shalish* in the village.

As an instrument to social control and dispute resolution, *shalish* is the easiest, quickest, cheapest and most popular mechanism in the rural village. Poor and marginalized groups are always dependent on this system because of the time-consuming, expensive, unfaithful formal judicial system in Bangladesh. But the rural elites use *shalish* as the best weapon to reprimand poor villagers. Lack of legitimacy by the formal system, accountability; violation of human rights principles, subjective judgments and strong biases by the elite to preserve his prestige and interest are the salient problems of *shalish*.

Realizing that *shalish* would stay in the village for days to come until a better alternative replaces it BRAC intends to make *shalish* more effective particularly benefiting the poor members. In such an initiative BRAC has maneuvered a device under which the members might play a role through federations in the *shalish*, and in turn, make it beneficial for them. But the federations were facing certain challenges in playing such a role. The genesis of the challenge lies in the process how the federations were formed. The intervention was not up to the mark. Although there were success in some *shalish* but in true sense lack of complete cohesion among members and capacity to organize and building social network within and outside members were not found in the federation. The reasons behind these were that the federations were supposed to function according to a guideline but considerable deviation from that was observed. The selected members were brought to the office for an orientation on federation. This was done irrespective of whether the members were willing to join federation. The members became part of the federation as membership was proposed to but in most cases it was imposed on them by the

Program Organizer. As per policy members were supposed to conduct bimonthly meetings to discuss their problems and find out the way of solution. In none of the federations meetings were arranged by the members themselves.

Quite a good number of members both male and female had no interest in attending meetings. They believed that woman, for being too weak to play a role in *shalish* would not be able to do anything. In spite of such attitude, some of them attended the meeting just to keep up with the formalities to continue BRAC membership. On the other hand, there were members willing to attend the meeting but failed to do that for variety of reasons. Like members were afraid of reproached from husband, mothers-in-law and other family members, as they did not like such participation; some could not manage time as they had household works; some had to go to work at the time when meetings were held; again some had problem in attending the meeting, as these were held at a place far away from their home.

Male members of the federation were recruited from personal connection of the VO members' husband or close relatives of these members. It seemed that their liking to work for the federation was not a motive in including them in the federation. These male members were particularly reluctant to participate in *shalish* and federation meeting. Dropout of the member from the VO was also a hindrance in smooth functioning of the federation in some cases. In number of instances VO members who also happened to be the members of a federation dropped out from the VO for defaulting in repaying loan. These dropouts were replaced by new members to keep the VO size intact. These newly recruits, besides becoming VO member were also made the member of the federation who were not oriented anything by the PO.

Federation has not yet been to justify to its members on the issues why they should be part of the federation, why they should work for it and how working for the same will benefit them both collectively and individually. They failed to show a shadow organization in the community, which could restrain the illegal verdict done by the elite. The cases and its analysis prove that there are many limitations to be overcome by the federation to get justice including the flaws of formation and intervention, which is far away from objectives.

Certain limitations in proper functioning of federation such as poverty, illiteracy and strong differentiation based on socio-economic condition, lack of opportunities in

Bangladesh made federation member intentionally or unintentionally dependent on the rural elite. They had to seek help to rural elite in terms of customary necessity, borrowing money in time of crisis and working elite's land for their daily survival. Hence withdrawal of elites' supports to members would mean irreversible loss of the members. Some of the members were also obligated to the elite, which they were not in a position to get rid of. That is why a member remarked – *I am a poor woman. I have many problems, so I have to go to the elite as he helps me by giving money and providing security whereas federation is unable to do. So I could not protest when elites did any injustice in the shalish.*

Moreover, to contravene elites, community norms, and sanction such as ostracised from other people, physical tortures, held by police, or just forced to leave the village were usual punishment. As a result members would not dare to disagree with the elite. Even if members, when disputes unresolved in *shalish* or village court, filed case in the court in most cases they failed to keep up with its cost. Since they could not afford, they were deprived of justice. Moreover, they did not get justice there as judgement in most cases was manipulated by money. Some time they were forced to withdraw the case from court and came back to *shalish* for solution of the dispute otherwise they had to be threatened by elite. In such cases federation were unable to face this challenge rather remaining silent.

RECOMMENDATIONS

Under such a complex situation it is very difficult for the members to make *shalish* an effective institution. Therefore, multi-dimensional approaches are needed to work out this problem. A united force was considered essential to set up social justice and rights of the poor.

As it could be very difficult to take step for comprehensive legal reform to bring the formal justice back on the right track it would rather be easier just to amend the traditional justice system. And it might be helpful for people to complain or seek justice if the branches of village court are expanded to every community.

Federation should start solving their own problems by making *shalish* within the members except elite as they are the big group in the community and to do this BRAC can intervene to them first and take further initiative on the basis of its success. Including to this the organizational strength of the federation should be enhanced by

bringing discipline in it. BRAC staff should play an active role in the process. The formation of federation should be rationalized to the members, so that they spontaneously participate in the activities of the federation.

As the community norms, values, beliefs, customs are not easier to change BRAC should form community friendly federation like male federation rather than female majority or only female federation for solving the female's problem that might be accepted by the elite and other community people. To succeed in this mission the knowledge, mobilization for change, training about the laws that affect their lives and guidance should be provided by BRAC.

Without forming federation in every ward BRAC should take a pilot project in a particular area to intervene the members including other poor people in the community and form federations to raise voices for social justice and as such the success of the project can be extended in other parts of the country. Or BRAC should take a project together with government, other community based organizations for intervening *shalish*. Interventions to rural elites are also necessary as they are not aware of the laws and thus make them efficient to contribute in *shalish*. Moreover, as not all the elite exploit the poor so federation should make alliance with the elite to strengthen their social capital.

Economic deficiency is the main obstacles for federation members. Therefore BRAC should create some opportunities to reduce dependency on rural elite and after that political empowerment would be easier. Providing credit is not always enough for them, as they don't have enough marketing facilities or play as mediator for this purpose. To sell their products and services the organization should create proper market. And to reduce the political supremacy the members should form a vote bank and make themselves a united power in all demands and protests. Such mobilization of the poor will give them strength to stand against the elite not to misuse their power in the village when needed.

REFERENCES

- Abel, Richard L. (1982) 'Introduction', in Richard L. Abel (ed.) *Politics of Informal Justice*, Vol. 1: The American Experience, pp. 1-13. New York: Academic Press.
- Adnan, Shapan (1975) 'Social Structure and Resource Allocation in A Chittagong Village' (Mimeo), Dacca: Village Study Group.
- Ahmed, E. (1980) *Bureaucratic Elites in Segmented Economic Growth: Bangladesh and Pakistan*, Dhaka: University Press Limited.
- Aminuzzaman, S. (2000) Baseline Survey for Capacity Building Interventions of BUILD Project, Dhaka: CARE Bangladesh, March-April.
- Bangladesh National Women Lawyers' Association (BNWLA) (2001) Violence Against Women in Bangladesh – 2000: A Report, Dhaka: BNWLA.
- Barman, D.C. (1988) *Emerging Leadership Patterns in Rural Bangladesh: A Study*, Dhaka: Centre for Social Studies.
- Batliwala, S. (1994) "The Meaning of Women's Empowerment: New Concepts from Action". In *Population Policies Reconsidered: Health, Empowerment, and Rights*. Massachusetts: Harvard University Press, pp.128-138.
- Bates, Robert (2000) *States and Markets in Tropical Africa*. Princeton: Princeton
- Bertocci, P.J. (1970) Elusive Villages: Social Structure and Community Organization in Rural East Pakistan. Unpublished Ph.D. dissertation, Michigan State University, East Lansing.
- Bell, C., & Newby, H. (1974) *The sociology of community: Selection of readings*. London: Frank Cass.
- Berner, Erhard (1997) *Defending a Place in the Society. Localities and the struggle for urban land in Metro Manila*. Manila: Ateneo de Manila University Press.
- Bhuiyan, A. Quadir (1978) The Family in a Village in Bangladesh. Unpublished Ph.D. thesis, Delhi University, Delhi.
- Blair, Harry (2003) Civil Society, dispute resolution and local governance in Bangladesh: ideas for pro-poor programme support. Report prepared for the Department for International Development (DFID), Dhaka: U.K. High Commission (May).

- Bottoms, A. (2003) 'Some Sociological Reflections on Restorative Justice' in *Restorative Justice and Criminal Justice*, edited by A. Hirsch, J. Roberts, A. Bottoms, K. Roach and M. Schiff, Oxford: Hart Publishing.
- Bottomore, T.B. (1964) *Elites and Society*, Middlesex: Pelican Books Limited.
- Braithwaite, J. (2003) 'Principles of Restorative Justice' in *Restorative Justice and Criminal Justice*, edited by A. Hirsch, J. Roberts, A. Bottoms, K. Roach and M. Schiff, Oxford: Hart Publishing.
- BRAC (1998) Social Development Program Module, Dhaka.
- BRAC (2001) Challenging the Frontiers of Poverty Reduction, Dhaka.
- Buscaglia, Edgardo (1996) "Introduction to Law and Economics of Development," *Law and Economics of Development*, New Jersey: JAI Press.
- Chen, A. Martha (1986) *A Quiet Revolution: Women in Transition in Rural Bangladesh*, Dhaka: BRAC.
- Crow, G., and Allan, G. (1994) *Community Life: An introduction to local social relations*, Hemel Hempstead: Harvester Wheatsheaf.
- Clapham, C. (ed.) (1982) *Private Patronage And Public Power: Political Clientelism in the Modern State*, London: Frances Pinter (publishers) Limited.
- Darsharker, A.Y. (1979) *Leadership in Ponchayati Raj*. Jaipur: Panchshell Prakshan.
- Depew, Robert C. (1996) 'Popular Justice and Aboriginal Communities: Some Preliminary Considerations', *Journal of Legal Pluralism*, 36: 21-67.
- Dube, S.C. (1951) *Indian Village*. London: Routledge and Kegan Paul.
- Edwards, Harry (1986) "Commentary: Alternative Dispute Resolution: Panacea or Anathema?" *Harvard Law Review*, Vol. 99, No. 668.
- Eggertsson, T. (1996) *Economic Behaviour and Institutions*. Cambridge University Press.
- Ellickson, Jean (1972) Islamic institution: perception and practice in a village in Bangladesh. *Contributions to Indian Sociology*, New Series, no. VI, December
- Etzioni, A. (1996) *Comparative Analysis of Complex Organization*, New York: The Free Press of Glencoe
- _____ (2003) "Communitarianism," *Encyclopaedia of Community: From the Village to Virtual World*, Vol. 1, A-D, Karen Christensen and David Levinson, eds. Sage Publications, pp. 224-228.
- Folberg, J. and Taylor, A. (1984) *A Comprehensive Guide To Resolving Conflict without*

- Litigation*, San-Fransisco: Jossey Bass.
- Fowler, R.B. (1991) *The dance with community*. Lawrence: University Press of Kansas.
- Friedmann, John (1992) *Empowerment: the Politics of Alternative Development*, Cambridge Mass: Blackwell.
- _____ (1996) Rethinking poverty: empowerment and citizen's rights, *International Social Science Journal*, 148 (June) pp. 167-172.
- Friedmann, John and Mauricio Salguero (1988) The Barrio economy and collective self-empowerment in Latin America: A framework and agenda for research. *In power, community and the city*, ed. Michael Peter Smith, 3-37, New Brunswick and Oxford: Transaction.
- Frazer, E. (2000) *The Problem of Communitarian Politics: Unity and Conflict*, Oxford: Oxford University Press.
- Galjart, Benno (1987) Participatory Development Projects: the History of a Research Project and Summary of Results, *Netherlands Review of Development Studies*, No. 1.
- Golub, Stephan (1997) A Measure of Choice: A Strategic Review of the Madaripur Legal Aid Associations Current Impact and Possible Future Directions, Prepared for the Ford Foundation. The Madaripur Legal Aid Association, The Norwegian Association for Development Cooperation and The Asia Foundation.
- _____ (2003) Non-state Justice Systems in Bangladesh and the Philipines: paper presented for the United Kingdom Department for International Development.
- Grzymala-Busse, Anna (2004) Informal Institutions and the Post-Communist State. <http://www.yale.edu/ycias/globalization/busse.pdf>
- Haque, Tatjana, Karen L. Casper, Debbie Ingram, Riffat Jahan (2002) *In Search of Justice: Women's Encounters with Alternative Dispute Resolution*, Dhaka: The Asia Foundation, April.
- Hashmi, Taj (2000) *Women and Islam in Bangladesh: Beyond Subjection and Tyranny*, London: Macmillan.
- Hayami, Y., and Kikuchi, M. (1981) *Asian Village Economy at the Crossroads: An economic approach to Institutional Change*. Tokyo: University of Tokyo Press.
- Herbst, Jeffrey (2000) *States and Power in Africa: Comparative Lessons in Authority and Control*. Princeton: Princeton University Press.

- Hoggett, P. (1997) 'Contested communities' in P. Hoggett (ed.) *Contested Communities. Experiences, struggles, policies*, Bristol: Policy Press.
- Hudson, B. (2003) 'Victims and Offenders' in *Restorative Justice and Criminal Justice*, edited by A. Hirsch, J. Roberts, A. Bottoms, K. Roach and M. Schiff, Oxford: Hart Publishing.
- Islam, A.K.M.A. (1974) *A Bangladesh Village: Conflict and Cohesion – An Anthropological Study of Politics*. Cambridge: Schenkman.
- Islam, M. Nur (2003) Informal Justice System: Bangladesh Perspective. *Court Corridor*, issue no. 75. www.thedailystar.net/magazine/2003/01/12.
- Islam, S. Aminul (2003) "The Informal Institutional Framework in Rural Bangladesh" in Kazi Ali Toufique and Cate Turton (eds.) *Hands Not Land: How Livelihoods are Changing in Rural Bangladesh*. London: DFID.
- Islam, S. Aminul, and Rahman, Zillur H. (2002) *Local Governance and Community Capacities: Search for New frontiers*. Dhaka: UPL
- Jahangir, B.K. (1982) *Rural Society, Power Structure, And Class Practice*, Dhaka University, Dhaka: CSS
- Jannuzi, F.T. and Peach, J.T. (1980) *The Agrarian Structure of Bangladesh: An Impediment to Development*, Boulder, Colorado: Westview Press.
- Jansen, E.G. (1990) "Processes of Polarization and the Breaking up of Patron-client Relationships in Rural Bangladesh", In: O.D.K. Norbye (ed.) *Bangladesh Faces the Future*, Dhaka: The University Press Limited.
- Johnston, G. (2001) *Restorative Justice: Ideas, Values, Debates*, Cullompton: Willan.
- Kabeer, N. (1999) "Resources, Agency, Achievements: Reflections on the Measurement of Women's Empowerment", *Development and Change*, Vol. 30, No.3. ISS, The Hague, pp. 435-465.
- Karim, A.H.M.Zehadul (1983) "Rural Elites and the Power Structure in Bangladesh: A Case Study of Puthia Union in Rajshahi District". Unpublished M.A. paper, Dept. of Anthropology, Syracuse University.
- _____ (1984) "Rural Elites and Their Role in Conflict Resolution: Three Arenas and Some Cases." *Bangladesh Journal of Sociology*, Vol. 2. No. 2
- _____ (1991) The Samaj Activities and Leadership Role in Rural Bangladesh, *South Asian Anthropologist*, 12. (1&2): 1-10.
- Khadiagala, S. Lynn (2001) The Failure of Popular Justice in Uganda: Local Councils and Women's Property Rights, *Development and Change*, Vol. 32, pp. 55-76.

- Khair, Sumaiya, Karen L. Casper, Julia Chen, Debbie Ingram, and Riffat Jahan (2002) *Access to Justice: Best Practices under the Democracy Partnership*, Dhaka: The Asia Foundation, April.
- Kymlicka, W. (1993) Appendix I: Some questions about justice and community. In D. Bell (Ed.), *Communitarianism and its critics*. Oxford, UK: Clarendon.
- Korten, David (1990) *Getting to the 21st Century*, Kumarian Press.
- Kuper, A. and Jessica Kuper (1996) 'Elites' In the "*Social Science encyclopaedia*". London and New York: Routledge.
- Lauth, Hans-Joachim (2004) *Informal Institutions and Political Transformation: Theoretical and Methodological Reflections*. ECPR Joint Sessions of workshops – Uppsala. W 18: Comparing Transformations: The Institutional Paradigm.
- Lee, D., and Newby, H. (1983) *The Problem of Sociology: An introduction to the discipline*, London: Unwin Hyman.
- Lev, Daniel S. (1993) 'Social Movements, Constitutionalism, and Human Rights: Comments from the Malaysian and Indonesian Experiences', in Douglas Greenberg, Stanley N. Katz, Melanie Beth Oliviero and Steven C. Wheatley (eds.) *Constitutionalism and Democracy: Transitions in the Contemporary World*, pp. 139-58. Oxford and New York: Oxford University Press.
- Mackenzie, P.J. (1974) *The Appearance of Justice*, New York: Charles Scribner's Sons.
- Malik, S. (undated) *Access to Justice: A Truncated view from Bangladesh*.
[www.4.worldbank.org/legal/legop_judicial/ljr_conf_papers/malik.pdf](http://www4.worldbank.org/legal/legop_judicial/ljr_conf_papers/malik.pdf)
- Matthews, R. (1988) *Informal Justice*. *SAGE Contemporary Criminology series*, Vol. 4. www.sagepub.com/book.aspx?pid=5556.
- Merry, S.E. (1992) 'Popular Justice and the Ideology of Social Transformation', *Social and Legal Studies* 1: 161-76.
- Meyer, Jon'a-F (2002) "It Is a Gift from the Creator to Keep Us in Harmony": Original (vs. Alternative) Dispute Resolution on the Navajo Nation. *International journal of Public Administration*. Vol. 25 (11), pp. 1379-1401
- Mohiuddin, K.M. (1999) *Participation of poor in rural shalish: discussion of NGO role*, Dhaka University, Dhaka: CSS
- Mohammed, Anu (1978) 'The Bangladesh Village' (in Bengali), Bichitra, Dacca.

- Munier, Deena (1999) ASK Documentation Unit, 1998; In *Fundamentalism and Violence Against Women: salish in Bangladesh*. MDS, The Hague: Institute of Social Studies.
- Narain Iqbal et al. (1976) *The Rural Elite in an Indian State*, New Delhi: Morohav Books.
- Nash, J.M. (1950) "The Bargaining Problem," *Econometrica*, Vol. 18 (April), pp. 155-162.
- Nelson, Joan M. (1979) *Access to power: Politics and the urban poor in developing nations*. New York: Princeton University Press.
- North, D.C., and Thomas, R.P. (1995) *The Rise of the Western World: A New Economic History*. Cambridge: Cambridge University Press.
- North, Douglas C. (1991) "Institutions", *Journal of Economic Perspectives*, Vol. 5, No.1, pp. 97-112. www.edrd.com/pubs/econ/workingp/25.pdf
- Odhikar (2001) *Women and Children in Disadvantaged Situations*. Dhaka: Odhikar, April.
- Pearson, D.E. (1995) Community and sociology. *Society*, 32 (5), 44-50).
- Peters, Melanie (2004). *Traditional Justice on Trial*.
<http://www.csls.org.za/dw/art6e.html>
- Phillips, D.L. (1993) *Looking backward: A critical appraisal of communitarianism thought*. Princeton, NJ: Princeton University Press.
- Powell, J.D. (1970) Peasant Society and Clientelistic Politics. *The American Political Science Review*. LXIV: 2
- Rahman, Atiur (1981) *Rural Power Structure: A Study of Local level Leaders in Bangladesh*. Dhaka: Bangladesh Books International
- Rao, Ranga (1968) "Rural Leadership in Conflict: A Study of an Andhra Village." *Economic and Political Weekly*, Vol. III, No. 17.
- Rakodi, C. (1991) Developing institutional capacity to meet the housing needs of the urban poor: experience in Kenya, Tanzania and Zambia, *Cities*, 8, pp. 228-245.
- Rashiduzzaman, M. (1968) *Politics and Administration in Local Councils: A Study of Union and District Councils in East Pakistan*, Dacca: Oxford University Press.
- Santos, B. (1992) "State, Law and Community in the World System: An introduction", *Social Studies*. Vol. 1, No.2.

- Sarker, P.C. (1976) Aspects of Caste and Social structure in a Rural Community of Bangladesh. Unpublished M.Phil. thesis, Rajshahi University: Rajshahi.
- Scott, James (1972) "The Erosion of Patron-Client Bonds and Social Change in Rural Southeast Asia". *Journal of Asian Studies*, Vol. 33, pp.5-37
- Scharf, W. (undated) Non-state justice system in Southern Africa: How Government should respond. Institute of Criminology, University of Cape Town, South Africa. <http://www.ids.ac.uk/ids/law/pdfs/scharf.pdf>
- Schulze, R. O. and J.U. Blumberg (1957) "The Determination of Local Power Elities." *The American Journal of Sociology*. Vol. LXIII, No. 3, November.
- Shah, N. (1998) "Faislo: The Informal Settlement System and Crimes Against Women In Sindh". In *Shaping Women's Lives: Laws, Practices and Strategies in Pakistan*. (Eds.) Shirkat Gah, Lahore, pp. 227-252.
- Sharma, S.S. (1979) *Rural Elites in India*. New Delhi: Sterling Publishers Pvt. Ltd.
- Siddiqui, Kamal (1998) 'In Quest of Justice at the Grass Roots', *Journal of Asiatic Society of Bangladesh*, Vol. 43, no.1.
- Siddiqui, Kamal (2000a) *Local Governance in Bangladesh: Leading Issues and Challenges*. Dhaka: University Press Limited.
- Siddiqui, Kamal (2000b) *Jagatpur 1977-97: Poverty and Social Change in Rural Bangladesh*. Dhaka: University Press Limited.
- Siddiqi, M. Dina (1998) "Taslina Nasreen and Others: the Contest over Gender in Bangladesh" in *Women in Muslim Societies: Diversity within Unity*. Herbert Bodman and Nayereh Tohidi (eds.) Lynne Rienner.
- Siddiqi, M. Dina (2003) *Paving the way to justice: the Experience of Nagorik Uddyog, Bangladesh*. Action World: London.
www.oneworld.action.org/download/pavingtheway.pdf
- Silverman, Sydel F. (1965) 'Patronage and community Nation Relationship in Central Italy', *Ethnology*, IV, 172-189.
- Sirsikar, U.M. (1978) *Rural Elites in a Developing Society*. New Delhi: Orient Longmans.
- Schneider, H. (1990) Participatory Governance for Poverty Reduction. *Journal for International Development*, 11, pp 521-534.
- Somerville, P. (1998) Empowerment through residence, *Housing Studies*, 13, pp. 233-257.

- Smith, M.K. (2001) 'Community' in *the Encyclopaedia of Informal Education*.
www.infed.org/Community/Community.htm.
- Stiefel, M., and Wolfe, M. (1994) *Voice for the Excluded: Popular Participation in Development, Utopia or Necessity?* London: ZED Books.
- Transparency International of Bangladesh (1997) Survey on corruption in Bangladesh, Dhaka: Uttara.
- United Nations Development Programme (UNDP) (2002) "Human Security in Bangladesh: In Search of Justice and Dignity", Dhaka: UNDP, September.
- Urry, John (1985) Social relation, space and time. In *social relations and spatial structures*, eds. Devek Gregory and John Urry, 20-48. Basingstoke and London: Macmillan
- Van Ness, D. (2003) 'Proposed Basic Principles on the Use of Restorative Justice: Recognising the Aims and Limits of Restorative Justice' in *Restorative Justice and Criminal Justice*, edited by A. Hirsch, J. Roberts, A. Bottoms, K. Roach and M. Schiff, Oxford: Hart Publishing
- Wallis, R. (1985) 'Institution' In A. Kuper and J. Kuper (eds.). *The Social Science Encyclopaedia*. London: Routledge Kegan Paul.
- Wardak, A. (2002a) 'Structures of Authority and Establishing the Rule of Law in Post-War Afghanistan', a Paper Presented at Establishing the Rule of Law and Governance in Post Conflict Societies, Conference Organised by Harvard University, the United Nations Association - USA, and Koç University, Istanbul, July 11 - 14.
- Wardak, A. (2002b) '*Jirga*: Power and Traditional Conflict Resolution in Afghanistan' in *Law after Ground Zero*, Edited by John Strawson, London: Cavendish.
- Wertheim, W.F. (1974) *Evolution and Revolution: The Rising Waves of Emancipation* (Harmondsworth).
- Willmott, P. (1986) *Social Networks, Informal Care and Public Policy*, London: Policy Studies Institute.
- Wils, Frits (2001) Empowerment and its Evaluation: A Framework for Analysis and Application. *Working Paper Series No.340*, Institute of Social Studies. The Hague.

- Woodhouse, Andrea, et al (2004) *Village Justice in Indonesia: case studies on access to justice, village democracy and governance*; Indonesia: World Bank Social Development Unit.
- Zaidi, S.M. Hafeez (1970) *The Village Culture in Transition: A Study of East Pakistan Rural Society*. Honolulu: East West Center Press.
- Zaman (1977) "Social Conflict and Political Process in Rural Bangladesh: A Case Study". Unpublished Mphil. Dissertation. University of Rajshahi, Bangladesh.
- Zaman, W.A. (1984) *Public Participation in Development and Health Programs: Lessons From Rural Bangladesh*, USA: University Press of America,.
- Zippy, A. (1995) The politics of empowerment, *Social Work*, 40, pp. 263-268.