

**Effectiveness of Village Courts: A Study on the Four Village Courts of  
Narayanganj District**

**A Dissertation  
By**

**Md. Mahfuzul Alam Khan  
BU ID No.-05272009**

**Submitted to the**

**Center for Governance Studies  
BRAC University, Dhaka, Bangladesh**

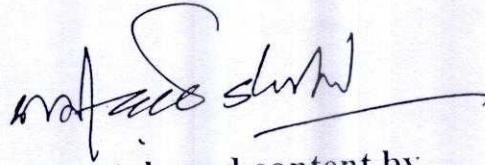
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## Abstract

The present study on the effectiveness of the Village Courts has been conducted on the Fatullah, Kutubpur and Kashipur Village Courts of Narayangonj Sadar and Sadar Village Court of the Bondar Upazila of the Narayangonj district. The main objective of the study was to assess the effectiveness of the existing Village Courts in the Union Parishads mentioned above and also to find out means for further improvement of the performance of the Village Courts. Six groups of respondents were interviewed during this study- the chairman, petitioners and the respondents in the Village Court, the local elites, lawyers and the complainants in the magistrate's Court. The case records and case registers of the Village Courts were also examined. The prevalent notion was that the Village Courts are not much effective. This study has found that though the Village Courts have limitations and drawbacks but still it is playing an important role in the settlements of disputes and maintaining social peace and tranquility in the study area. The performance of the existing Village Courts is constrained by poor implementation capacity and record management of the Village Courts, lack of knowledge of the Village Court Officials etc. An increase of financial and penal jurisdiction, supervision by the formal Court, proper election and training of the Court official and awareness creation and advocacy programs by the both Government and Non-Government Organization can make the Village Courts more effective.

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## List of Abbreviations

AL	-	Awami League
BBS	-	Bangladesh Bureau of Statistics
BNP	-	Bangladesh Nationalist Party
JP	-	Jatiya Party
MA	-	Masters of Arts
MLAA	-	Madaripur Legal Aid Association
NGO	-	Non-Government Organization
PDR Act	-	Public Demand Recovery Act
SDO	-	Sub Divisional Officer
SSC	-	Secondary School Certificate
UP	-	Union Parishad
UNDP	-	United Nations Development Program

## Chapter One

### Introduction

#### 1.1 General Background

*The Gram (Village) Adalat (Court) Ordinance 1976*, (Ordinance No. LXV) has been promulgated in Bangladesh in 1976 to save the rural poor from the sufferings and hazards of the formal courts. Bangladesh is one of the poorest countries of world and most of its population lives in villages. As a result it is not easy for rural poor to go to the formal courts in the district headquarters. The formal courts are generally expensive and follow lengthy procedures. As result, it is very difficult for them to sue and continue the cases at the formal courts. This results in compelling the villagers to rely on the traditional alternative local dispute resolution mechanisms such as 'Salish'. The system of 'Salish' has been practiced for centuries. Local leaders, either in groups or individually provide a forum for discussion and the resolution of local disputes. The strength and popularity of local leaders depend to a large extent on their tact, skills, integrity, fairness and overall ability to resolve local disputes. The more capable a leader proves at settling disputes, the more solid is his power base. But this 'Salish' is a very crude form of local judicial practice, which is very much influenced by the people who are members of rural power structure. These are also dominated by the people of different vested interest groups including the musclemen and local elites or even by the local touts.

At present there are 4,488 union parishads in Bangladesh (Statistical Year Book of Bangladesh-2004, p. 27). These union parishads play a very vital role in the economic and socio-cultural life of the rural people. As the chairmen and members of the union parishads are elected by the local people, they have greater accountability to them the chiefs of the informal 'Salish' procedures.

The Village Court Ordinance came in force from the first of November 1976. The Ordinance was promulgated to settle petty disputes of both criminal and civil nature, providing villagers with an alternative of less expensive means of dispute resolution near their homes.

## 1.2 Statement of the Problem

It is now nearly thirty years, after the promulgation of the Village Court Ordinance 1976. During these thirty years, no noticeable amendments or changes have been brought in that ordinance. It is often said that the Village Courts are not functioning effectively (Rahman, 2005, p.5) or still ineffective (*The Daily Star*, 20 June, 2004, p.5). Very few studies have been undertaken on the performance of the Village Courts in Bangladesh and basically no study has been found on the effectiveness of Village Courts in the suburban regions. That is the reason I undertook this study and tried to find out the answers to the following two research questions:

- a) Whether the Village Courts in the study area, with their existing structure, are functioning effectively to settle the petty disputes or not?
- b) What should be done to make this lowest level of judiciary more effective?

## 1.3 Rationale of the Research

Law and Parliamentary Affairs Minister, Barrister Moudud Ahmed informed the Jatiya Sangsad that a total of 10, 45,895 cases are pending in the Courts of the country, till April 2003, while replying to a question in this regard. Among these 3, 79,893 are civil cases, 6, 43,697 are criminal cases and 22,305 writ cases pending in the High Court (*The Daily*

*Ittefaq*, 29 June, 2006, p. 1). This statement indicates the level of back logs of cases in the formal Courts compared to their disposal capacity and emphasizes on the importance of dispute settlements through alternative disputes settlements arrangements like Village Courts.

Besides, when I was at Pabna and Brahmanbaria district collectorate office, as a magistrate, I myself sent a significant number of petty cases to the Village Courts, but I can hardly remember any instances of any information about the fate of those. At times the lawyers strongly opposed the sending of the cases to the Village Courts mentioning that their party would not get the 'justice' there. At that time it was the view of the legal practitioners about the Village Courts. It was a very striking dilemma for me. This made me quite interested to know the real effectiveness of the Village Courts in Bangladesh.

#### 1.4 Research Objectives

The general objectives of this study are to increase the literature and understanding on this issue. This will hopefully present a clear picture of the performance of the village courts in suburban areas like Narayanganj and this will hopefully contribute to bringing required changes in the Village Court Ordinance to make this forum more effective and useful for the public.

The following are the main objectives of the present study:

- To make an assessment of the factors contributing to the effectiveness of the Village Courts in Bangladesh from a sample survey of four Village Courts of Narayanganj district.
- To ascertain the number of cases received by the Village Courts and the rate of disposal of the cases.
- To assess the type of cases received and the nature of disposal of the cases.
- To assess the extent of implementation of judgments.
- To assess the satisfaction of the concerned parties with the judgments in the cases at the Village Courts.
- To assess the social perception about the effectiveness of the Village Courts.
- To find out the present strengths and weakness of the Village Courts.
- To recommend measures to make these Village Courts more effective

### 1.5 Scope and Limitations of the Study

This study was confined to four Village Courts of Narayanganj Sadar and Bandar upzillas of Narayanganj district. These Village Courts were selected because of the fact that the researcher himself resides at the Narayanganj town. As a result the researcher has the easy access to these Village Courts within a very short time. Narayanganj has a much higher population density (approximately 3096 per square kilometers in 2001) than average population density of Bangladesh (approx. 839 per square kilometers at the same

period). The male female sex ratio (110.9) is also much higher than the national ratio (103.2) but resembles other suburban districts like Dhaka (122.9) Gazipur (107.0). The Per Capita Gross District Production of Narayanganj district (Taka 33.040) is also much higher than the National average of the Per Capita Gross District Production (18,269) but again similar to Dhaka (43,852) or Gazipur (34,875). The literacy rate of this study district (50.77%) is higher than the national average (40.32%) but again similarity to Dhaka (64.26%) and Gazipur (56.26%)

It is generally considered that the Village Courts cannot work well in the suburban areas and this is one of the reasons of keeping the municipal areas out side the jurisdiction of the Village Courts. This study will certainly help the policy makers to think in the right direction. As all these Village Courts are within 5 to 10 kilometers of the district Court with easy access; so, most of the affluent persons has a tendency to go to the formal courts rather than to the Village Courts.

As the time was limited and rather short for collecting extensive data, so, this study was constrained by the time limitations and small sample size. All of these Village Courts are very much sub-urban in nature, so, this study has the limitation that the findings of these Village Courts may not be same for all the Village Courts of Bangladesh in general. As no NGO is working on the Village Courts in the present study area, so this study does not include the NGO sponsored 'Salish' activities, which are quite common in other parts of Bangladesh, especially in Madaripur or Sariatpur region. Fund or resource constraints of the union parishads leading to poor record management also pose difficulty in finding the case records and registers of the previous years.

## 1.6 Organization of the Paper

This study entitled "*The Effectiveness of Village courts- A study on the Four Village Courts of NarayangAnj District*" is divided into eight chapters.

*Chapter one* is titled "Introduction" in which general background, statement of the problem, rationale of the research; research objectives, scope and limitations of the study are discussed.

In *Chapter two* under "Literature Review" an attempt is made to discuss the available works on the Village Courts by various authors.

"Methodology" in *Chapter three* explains the research design and the plan and organization of the study.

*Chapter four* under "Discussion", analyses collected data to bring out and establish the trend.

"Findings and Lessons Learned" in *Chapter five* portrays the important findings and the lessons those can be beneficial for the improvement of the performance of the Village Courts are discussed.

*Chapter six* is titled "Recommendations" where the relevant suggestions emerging from the findings of the study for the future improvements of the effectiveness of the Village Courts are given.

*Chapter seven* accommodates "Conclusion" in which brief concluding remarks are made.

*Chapter eight* is titled "Bibliography" in which the sources of all reviewed materials are presented.

## Chapter Two

### Literature Review

DFID Briefing (2004, p.2) has defined the 'Salish' in Bangladesh as a means of dealing with disputes within the community and generally take the form of public event in which civil disputes are resolved through arbitration and/or mediation, by people with some standing in the community. It has also classified this 'Salish' into three categories:

- a. Traditionally administered by village or religious leaders,
- b. Administered by local government bodies
- c. A modified form introduced and overseen by the NGOs to make the traditional form fairer, such as by reducing gender discrimination.

Mahmud, A. (1987, p. 4) mentioned that the 'Salish' is a lingering legacy of the fast-disappearing feudal system in rural Bangladesh.

A study of UNDP (2002, p.91) expressed the view that 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 remain unsettled. Local dispute-resolution mechanisms cover both civil and criminal cases of varying degree, and no formal study of this system of adjudication has been undertaken to date.

and UP members usually have strong links to the communities they represent. community members also prefer to seek help from them. During their study, they observed that all 49 respondents, selected randomly from the various UP areas, knew the existence of village courts. That indicated a high level of awareness among villagers of the village courts. They have also found that regarding choice of institution, the Village Court fared better than the police or formal courts of justice.

The US Country study on Bangladesh (2005) stated that once cases leave the Village Courts, they become expensive affairs that may last for years, and few citizens have the financial resources to fund a lengthy court battle.

Jahan, F (2005, p.9) expressed that, there are four different structures of justice available to the South Asian women, who become the victims of domestic violence. These are: i) formal legal courts that follow the English Common Law system, ii) traditional village-based dispute resolution conference without any state control, iii) modified NGO-sponsored dispute resolution conference with indirect state control and iv) *Lok Adalat*, a government sponsored informal conference. Braithwaite (1989, 2002) was of the view that the three of them (i.e. traditional 'Shalish,' an NGO- sponsored mediation and the *Lok Adalat*) are informal, community-based, face-to-face mediation. Jahan (2005), expressed that a different set of three (formal courts, *Lok Adalat* and NGO- sponsored mediations) are committed to equal rights.

Mitra and Tata Institute of Social Sciences (2002) mentioned that one of the significant problems of Indian judiciary is the high number of backlogged and pending cases. To

overcome this problem, a statutory body, The *Lok Adalat* (The People's Court) was established under the Legal Services Authorities Act, 1987. The objective of *Lok Adalat* was to provide free and competent legal services to the weaker sections of the society, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities, and to organize *Lok Adalats* to secure that the operation of the legal system promotes justice on the basis of equal opportunities. *The legal aid committees or boards of the respective states organize Lok Adalats*. Its resolution is considered similar to the decree of a civil court or any other tribunals. *Local retired or working judges, lawyers, teachers and other members of a civil society organize Lok Adalats*. These people become members of the legal aid committees of boards of their respective states and resolve cases as mandated by the Government. Besides, the family *Lok Adalat* was established in 1996 and it deals with all sorts of family disputes including violence (to certain extent). This *Lok Adalat* provides an informal environment and victims are allowed to speak first. Victims may say whatever they want to say, and a resolution is reached after mutual negotiations among all the members. *Lok Adalat* provides speedy justice to women in need in an informal setting. However, *Lok Adalat* in many instances has also become a speedy way to get a divorce. Consequently, many victims do not feel satisfied with *Lok Adalat*.

Arafunnesa (1988, p. 27) has studied that the average expense of a case in the court of a thana magistrate was estimated to be a minimum of taka 16,511/- while the maximum was taka 1, 76,000/-. The similar view was also expressed by Ahmed (1993, pp-267-272).

1991 cited in Quader 1995). The village *Panchayet* settled disputes that did not come under the jurisdiction of professional and trade groups or castes.

The term *Panchayet* implies an assembly of five or more persons. The term was in vogue in Bengal, as in the rest of northern India, since time immemorial. During the ancient period, this village assembly or *Panchayet*, which was either nominated by the king or elected by the people of a village, was left undisturbed in the overall management of the village. The composition of the *Panchayet* was such that they represented different classes and castes. Kautilya's *Arthshashtra* mentioned the *gram-viddhas* (village elders) who were the esteemed members of the village assembly and whose duty was to assist the government officials in deciding petty disputes in the villages (Banglapedia, 2006).

The *Panchayet* system in Dhaka has been in existence, particularly among its Muslim population, since the beginning of the Mughal period, and has continued until the advent of the 20<sup>th</sup> century. A first attempt at reducing the power of the *Panchayet* occurred in 1793. However, following the revolt of 1857, a wave of instability led to the adoption of the Bengal *Chowkidari Act* of 1870, which revived the traditional *Panchayet* system. This was followed by the *Local Self-Government Act 1885*, a landmark in the history of self-government in rural Bengal. It provided for a three-tier system of local government for rural areas:

- (a) District Board, for districts
- (b) Local Boards for subdivisions and
- (c) Union Committees for village groups.

The *Village Self-Government Act of 1919* established a two-tier system comprising a district board and a union board. This system continued until Ayub Khan introduced the *Basic Democracy Act of 1959*. This Act set up

- a union council for every union comprising a number of villages,
- thana council for every thana comprising a few unions,
- a district council for every district and ;
- a divisional council for every division.

Its members, known as Basic Democrats, elected the chairman of the union council indirectly.

In 1972, the name of the union council was changed to *Union Panchayet*, which was again changed to *Union Parishad* in 1973. The system provided for a Chairman and nine members- three from each ward, all of who were to be elected. Accordingly, the first union parishad election was held in 1973. *The Local Government Ordinance of 1976* and a subsequent amendment provided for representation of two women and two peasant members to be nominated by the Sub-Divisional Officer (SDO). *The Local Government (Union Parishad) Ordinance of 1983* and *the Local Government (Union Parishad) Act of 1993* (as amended) brought about more changes with regard to both composition and functions. Major changes also occurred in other tiers of the local government via a number of acts and ordinances (UNDP, 2002, pp-93-94).

The present Village Courts of Bangladesh have been established by the *Village Court Ordinance, 1976* (Ordinance No. LXI of 1976), which was published in the Bangladesh

gazette, Extra ordinary dated 20-10- 76 (p-2993). The Ordinance has come into force from the first day of November 1976 (Article-1).

Section 5(I) of the Village Court Ordinance has mentioned that a Village Court shall consist of a chairman and two members to be nominated in the prescribed manner, by each parties to the dispute: provided that one of the two members to be nominated by each party shall be a member of the union parishad concerned.

According to the Section 5(II) of the ordinance, the chairman of the union parishad shall be the chairman of the Village Court, but where he is, for any reason, unable to act as chairman or his impartiality is challenged by any party to the dispute, any member of the Union Parishad appointed in the prescribed manner shall be the chairman of the Village Court. The appointment of the new chairman of the Village Court is done by the Upazilla Nirbahi Officer or UNO. Of course, before that, the chairman in question or any parties shall make petition to the UNO (Rule 12 of the Village Court Rules 1976).

Section 5(III), mentions that if either party to the dispute consists of more than one person, the chairman shall call upon the persons constituting that party to nominate the two members on their behalf, and if they fail so to nominate, shall authorize anyone of such persons to do so, and thereupon the persons so authorized shall alone have the right to nominate such members.

Section 5(IV), says that if any party to the dispute does not find any members of the Union Parishad to be impartial, he may seek the permission of the chairman to nominate any other person to be a member of the court in place of the member of the Union Parishad; and if the chairman is satisfied that there are good grounds for giving such permission, he may permit the party to do so.

Section 5 (V) mentions that where the members required under this section to be nominated, are not nominated within the prescribed time, the Village Court shall, without such members, be deemed to have been validly constituted for the purpose of this Ordinance, and trial shall proceed accordingly.

Generally a Village Court shall be constituted and shall have the jurisdiction to try a case when the parties to the dispute ordinarily reside within the limits of the union in which the offence has been committed or the cause of action has arisen {Section 6 (I)}.

According to Section 6(II), where one of the parties to a dispute ordinarily resides, and the offence has been committed or the cause of action has arisen, within the jurisdiction of one union, and the other party ordinarily resides within the jurisdiction of another union, then a Village Court be constituted in the union in which the offence has been committed, or as the case may be, the cause of action has arisen, but each party shall have the right to nominate, if it so chooses, its representatives from its own union.

#### **Section 7: Powers of the Village Courts to award compensation-**

(1) Same as otherwise provided in this Ordinance, a Village Court shall have no powers to pass a sentence of imprisonment for fine, but if it holds a person guilty of an offence

specified in Part I of the Schedule it may order the accused in the case to pay to the aggrieved person compensation of an amount not exceeding five thousand taka.

(2) In a suit relating to a matter specified in Part II of the Schedule, the Village Court shall have power to order payment of money up to the amount mentioned therein respect of such matter or delivery of property or possession to the person entitled thereto.

**Section 9: Enforcement of decrees-**

(1) Where a Village Court decides to award compensation to a person or to order the delivery of property or possession it shall pass a decree in such form and manner as may be prescribed and shall enter the particulars thereon in the prescribed register.

(2) If any money is paid, or any property or possession is delivered in the presence of the Village Court, in satisfaction of the decree, it shall enter the fact of payment or delivery, as the case may be, in the aforesaid register.

(3) Where a decree relates to the payment of compensation and the decretal amount is not paid within the prescribed time, the chairman of the Village Court shall forward the same to the union parishad concerned which shall proceed to recover it in the same manner as a tax levied by a union parishads is recovered under the Local Government Ordinance, 1976, the union parishad and shall be paid to the decree holder.

(4) Where the satisfaction of a decree can be had otherwise than payment of compensation, the decree may be presented for execution to the Court of the Assistant Judge having the jurisdiction and such court shall thereupon proceed to execute the decree as if it were a decree passed by it.

(5) A Village Court may, if it thinks fit, direct that the amount of compensation be paid in such installations as it may fix.

### **Cases Tried by the Village courts**

Section 3 (1) of the *Village Court Ordinance, 1976*, has mentioned that, notwithstanding, any thing contained in the *Code of Criminal Procedure, 1898* (Act V of 1898) or in the *Code of Civil Procedure, 1908*(Act V of 1908), all cases relating to offences specified in Part I of the schedule and to matters specified in Part II therefore shall, save as otherwise provided hereinafter, be tried by the Village Courts, and no Civil or Criminal Courts shall have jurisdiction to try any such cases or suit.

Section 3(2) of the Ordinance mentions that, a Village Court shall not try a case related to an offence specified in Part I of the Schedule (Annexure-1) if the Respondent in the case had previously been convicted in Part II (Annexure- 1) of the Schedule if –

- (a) the interest of a minor is involved in the suit;
- (b) provision for arbitration has been made in contract between the parties to the dispute
- (c) the Government or a local authority or a public servant acting in the discharge of his duty is a party to the dispute

Section 3(3), mentions that, the provisions of sub-section (1) shall not apply to a suit or proceeding to establish a title to any immovable property in respect of which an order for delivery of possession has been made by a Village Court or to recover possession thereof.

According to the Rule 3(3) of the *Village Courts Rules, 1976* (NO. S. R. O. 352L/76) an application to the Village Courts under this rule shall be accompanied by a fee of Taka

two if the case relates to part -I of the Schedule and by a fee of Taka four if relates to the part-II of the Schedule.

Rule 4 mentions that when the chairman of the Union Parishad rejects an application it shall be returned to the petitioner together with the order passed on it.

After the constitution of the Village Court, the chairman of the Court shall ask the respondent to submit his written objections against the application within a period of three days, and fix the day, time and place where the Village Court shall sit, and may direct the parties to produce necessary evidence in support of their respective cases.

(Rule13).

According to Rule 14(1) the Village Court shall try the case on the day fixed under rule 13, but for sufficient reasons, it may adjourn the hearing of the case, from time to time, for a period, which shall, in no case exceed seven days at a time.

Rule 14(2) - The chairman of the Village Court shall ask the witnesses to make statements on solemn affirmation or on oath and shall record or cause to be recorded the substance thereof.

Rule 14(3) - The Village Court may, at any stage of the case hold local inquiry in respect of any matter in the dispute between the parties.

Rule 16(1) mentions that if, in any case, on the date the case is fixed for hearing before the Court, the respondent fails to appear and if, in the opinion of the chairman of the

Village Court, he is negligent, the case shall be heard and decided in the absence of the respondent.

Rule 17(1) states that the decision of the Village Court should be recorded by the chairman of the Village Court in the register in Form 1.

Rule 17(2) - Every decision recorded under sub-rule (1) shall indicate whether such decision is unanimous, and if not, the ratio of majority by which it has been arrived at.

Rule 18 mentions that the chairman of the Village Court shall pronounce every decision of the Village Court in open court

Rule 23 describes that the chairman of the Village Court, or when there is no such Court, the chairman of the union parishad shall, on the application of any party to a dispute, allow the inspection of the records of the Village Court relating to the dispute on payment of a fee of 75 paise.

According to the Rule 24 the chairman of the Village Court, or when there is no such court, the chairman of the union parishad, shall, on the application of the party to a dispute, supply copy of the relevant record or entry in any register maintained under these rules or of any portion thereof, on payment of a fee calculated at the rate of fifty paise for one hundred words or part thereof.

Rule 27 mentions that the entries in the register of cases and the register of decrees and orders shall be numbered in every year according to the order in which the applications are admitted or the decrees or orders are passed.

Rule 28 describes that all records of the Village Court including the registers shall be deposited in the office of the union parishad and shall be preserved for a period of ten years in case of register and three years in the case of other records.

Rule 29 has mentioned that where an amount is to be recovered under section 9(3) of the ordinance, the chairman of the Village Court shall send the particulars in form VIII to the Upazila Nirbahi Officer for recovery of the same as arrears of land revenue.

Rule 30 mentions that the order stating the amount of fine to be recovered under section 12 (1) of the Ordinance shall be forwarded to the magistrate in the Form IX.

The study of Solaiman (1981, p. 31) on the two Unions of Savar upazila has found that the operation of Village Court is fairly encouraging. Most of the cases were settled through compromise. The percentage of appeal was insignificant.

Another study has found that the maintenance of records of the Village Court was very poor and dispute settlements usually took longer time. This study also mentioned that the chairmen and the members of the union parishads were not well conversant with the related laws to the disputes (Ahmed 1988, p. 93)

Rahman, Justice Latifur (2005) mentioned, "We have the Village Court Ordinance, 1976, but Village Courts are not functioning effectively. As large number of people lives in villages, practical reform should be undertaken for the Constitution of Rural Courts for speedy justice." Similar opinion has also been expressed by a number of writers including Rahman, A. (2004)

Ahmed and Quader (1993, p.) suggested an alternative structure of the Village Court, independent of the union parishads, which is more or less similar to those of the earlier mentioned *Lok Adalats* in India. They suggested that the judicial matters should be separated from the normal activities of the local government institutions. They recommended the following:

- i. Appointment of the retired government official of the locality or a teacher or a lawyer as an honorary magistrate in union level court or the Village Court and nomination of 5 to 7 juries by the district judge to help the magistrate.
- ii. The qualification for the said magistrates should be a minimum graduation degree and at least 50 years of age and the retired government officials and retired lawyers should be given preference.
- iii. The government would arrange a handsome honorarium and traveling allowances for the magistrates.
- iv. Considering the physical fitness, mental balance, honesty, success and efficiency, the magistrate may be appointed for a period of 5 years.
- v. The terms of reference of the magistrate would include attestation of certificates and responsibilities of Notary Public in the locality. He would be given the power of class III magistrate during his tenure.

vi. The district judge would appoint the juries and review their appointment every year. The procedure should be-

- One from the elected member of the union parishad.
- One from the elderly teachers of the union.
- One from among the Imams who is known to be a knowledgeable Islamic personality.
- One from among the minority community.
- One woman preferably from among the UP members.

## Chapter Three

### Methodology

The study is approached with the study objectives and the type of the answers research questions sought for. Using both open ended and structured questionnaire, with preference to open ended questionnaire, has collected both qualitative and quantitative data. In particular, in-depth interviews and case studies of individual Village Court litigations and the settlements have been used in the research strategy.

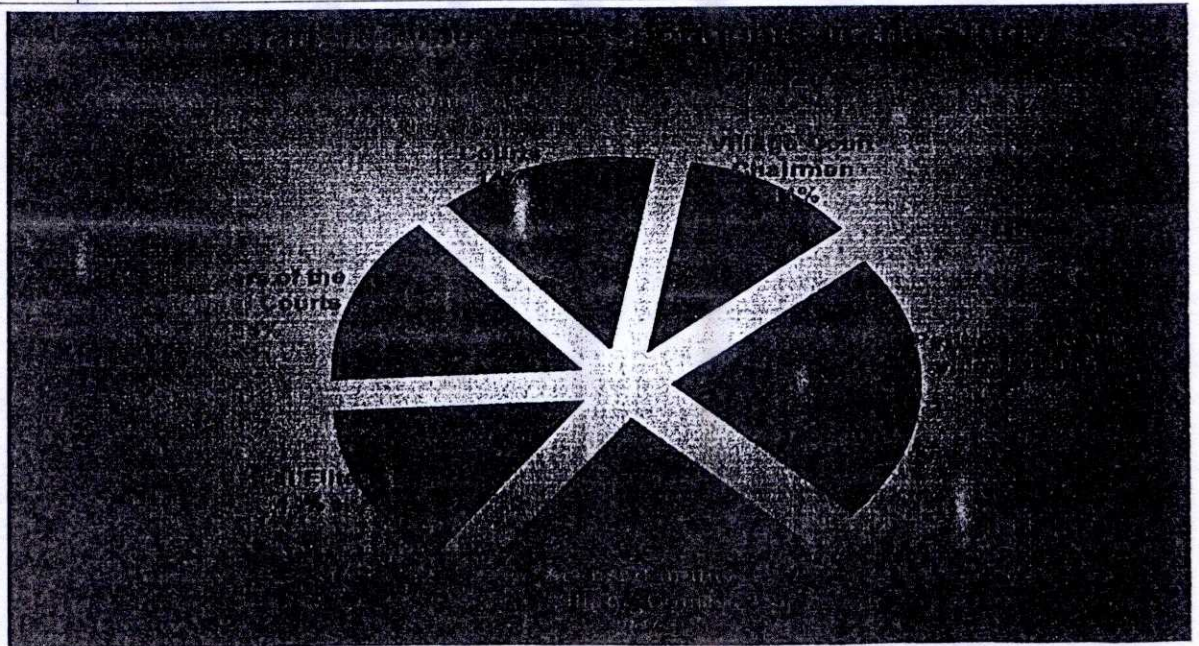
#### 3.1 Study Design and Research Methodology

This study relies on both primary and secondary sources. The primary data was collected with the help of eight sets of questionnaire for different groups of people who are either directly related to the Village Courts or indirectly related to the village court proceeding (Annexure-2). Though there were set questionnaire for collecting the information from the respondents, there were also informal interviews with the respondents which were not guided by the preset assumptions of the interviewer, but they were asked to discuss any issues and concerns related to the effectiveness of the Village Courts. This primary data was also collected with the help of discussions and personal interviews with the respondents. For obvious reason the chairmen of the Village Courts were selected directly from the four studied Village Courts, but the other respondents were selected randomly. At the same time, the 8 petitioners, 8 accused in the case and 5 local elites were selected randomly from each village courts. Two case studies from each Village Court were also selected randomly. 5 lawyers were selected from the magistrate's and session's judge court along with 5 complainants who are the petitioners and plaintiffs

either in magistrate's court or in session's court of Narayanganj (*Table 1 and Chart 1*). For better effectiveness of the data collection all the questionnaires were modified according the suggestions made by various respondents during informal discussions. The research was conducted between July2006 to August 2006.

Table 1: Types of Respondents in the Study

Sl. No.	Types of respondents	Number of Respondents
	Village Court Chairmen	4
	Petitioners to the Village Courts	8
	Accused in the Village Courts	8
	Local Elites	5
	Lawyers in the Magistrate's and Session's Judge Courts	5
	Complainants in the Magistrate's or Session's Judge Courts	5
	Total Respondents	35



### 3.2 Secondary Data Collection

Recorded documents of the Village Courts such as the case files and the registers were consulted to analyze the type of cases and the types of disposals of the cases. A detailed literature review was done to understand the effectiveness and contribution of the Village Courts in petty dispute resolution in the study area. The government gazettes and the circulars were also consulted to understand the spirit and insight of the ordinance. Two sets of questionnaires have been presented in tabular form for analyzing the trends of number and types of cases lodged and disposed off. For the case study, a formatted questionnaire was used.

### 3.3 Guideline for Data Collection

The responses to the research questions have provided important information to understand the present effectiveness of the Village Courts and changes required future to make this institution more effective.

### 3.4 Individual in-Depth Interview

Methods of data collection include eight sets of questionnaire. The first one is for the chairmen of the Village Courts to know their opinion regarding the effectiveness of the village courts with special emphasis on their understanding of the strengths and weaknesses of the existing Village Court Ordinance. The second set of questionnaire is for the petitioners of the Village Courts cases to assess their level of satisfaction regarding the functioning of the Village Courts. The third set of questionnaire is for the

accused in the Village Court cases to assess their level of satisfaction regarding the performance of the Village Courts. The fourth set of questionnaire is for the village elites to understand the levels of awareness about the existence and performance of the Village Courts. The fifth set of questionnaire is for the practicing lawyers in the formal courts i.e. in the magistrate or in the session's judge's courts. The sixth set is for the complainants in the formal courts. The seventh and eighth set of questionnaires are in tabular form and are for the analysis of the types of disposals and lodging of cases in the Village Courts. Entire questionnaires used for the individual interviews was open ended or semi-structured questionnaire.

### 3.5 Operational Definitions

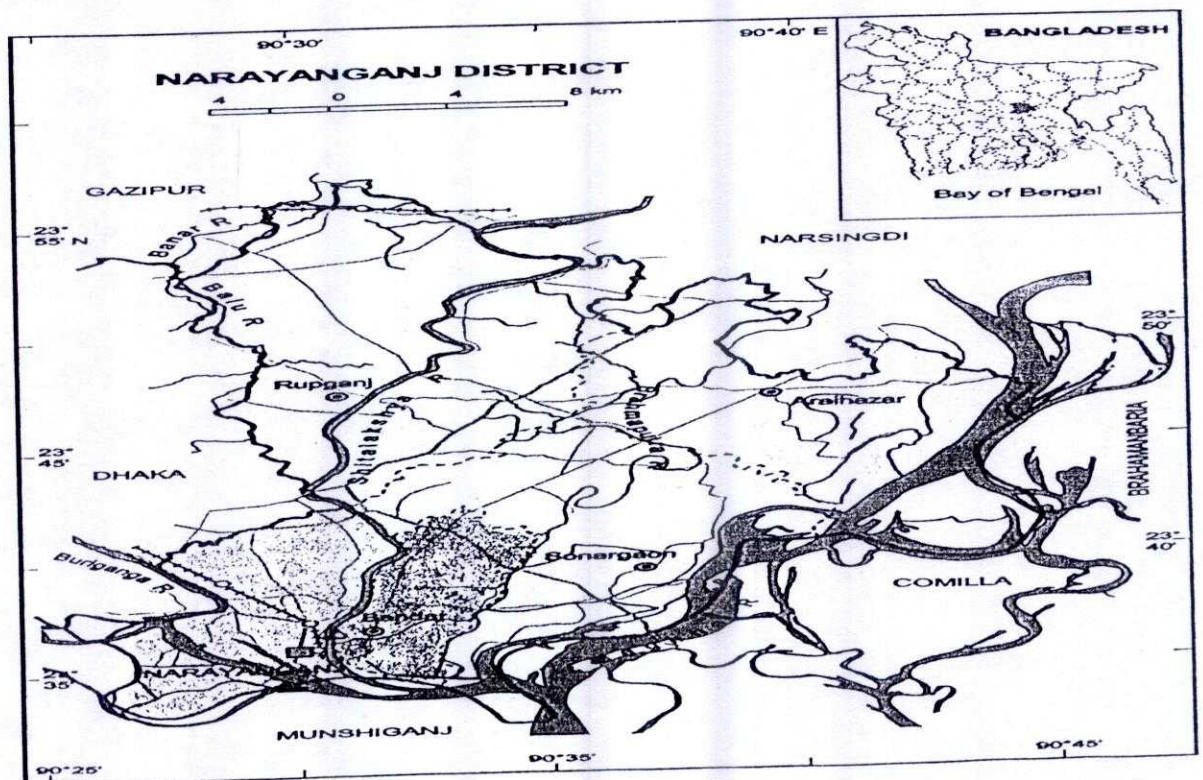
The following concepts are defined for the purpose of this study.

- "Respondents" mean the persons who are interviewed by the researcher for the purpose of the present study.
- "Petitioner" means a person who lodges a petition to the Village Court under the section 4 of the Village Court Ordinance, 1976.
- "Accused" means the person against whom an application is made under section 4 of the *Village Court Ordinance 1976*. These accused are designated as the respondents in the *Village Court Rules 1976*. But as those who were interviewed during this study have been designated as the respondents in this paper. So, for making these groups separated the respondents in the Village Courts have been designated as the *accused* in this present study.

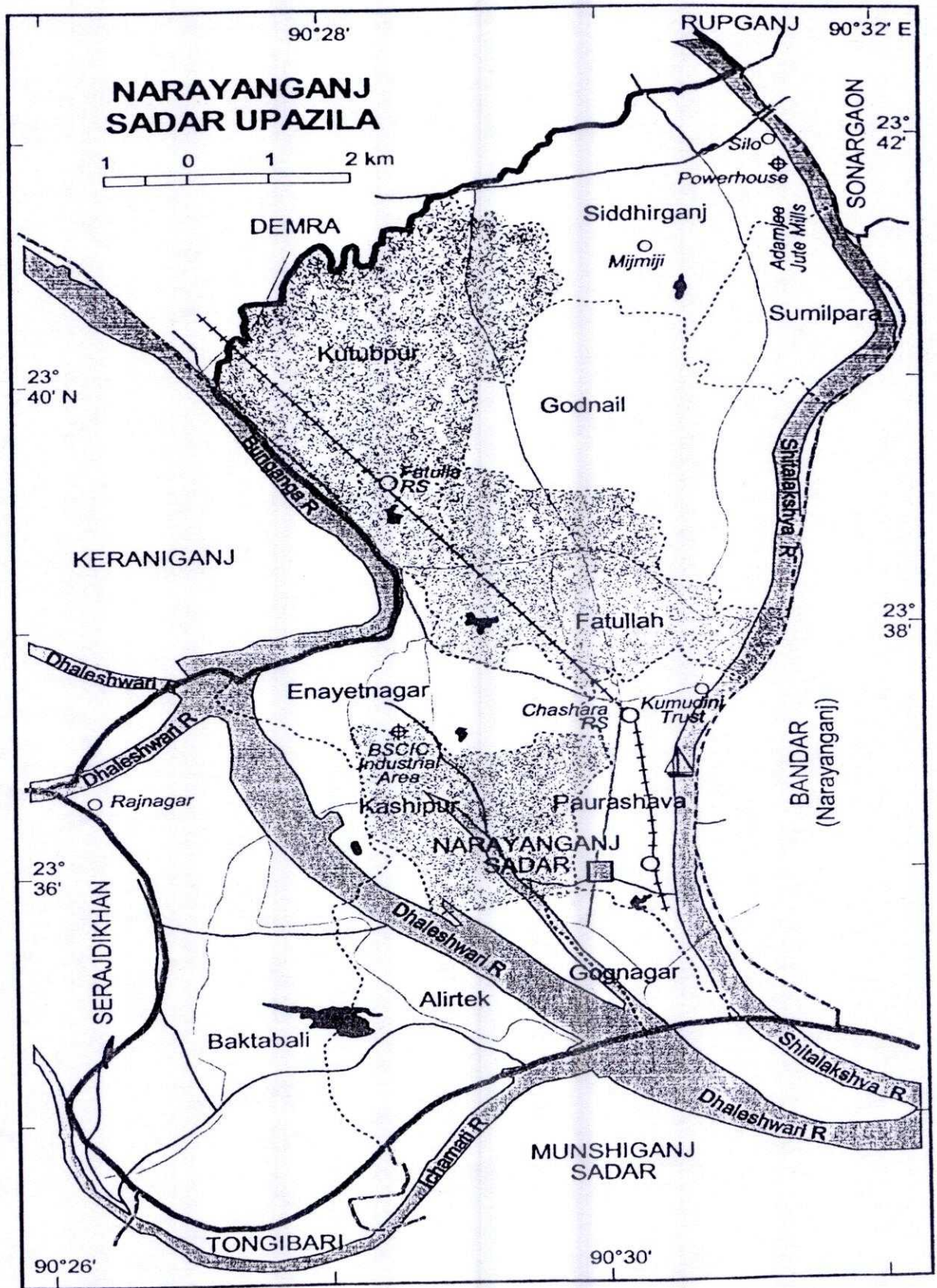
- "Salish" means an informal local mediation council, which provides a traditional alternative to dispute resolution in the community.
- "Village Court" means a Village Court constituted under the Village Court Ordinance, 1976.

### 3.6 Selection of Village Courts for Effectiveness Study

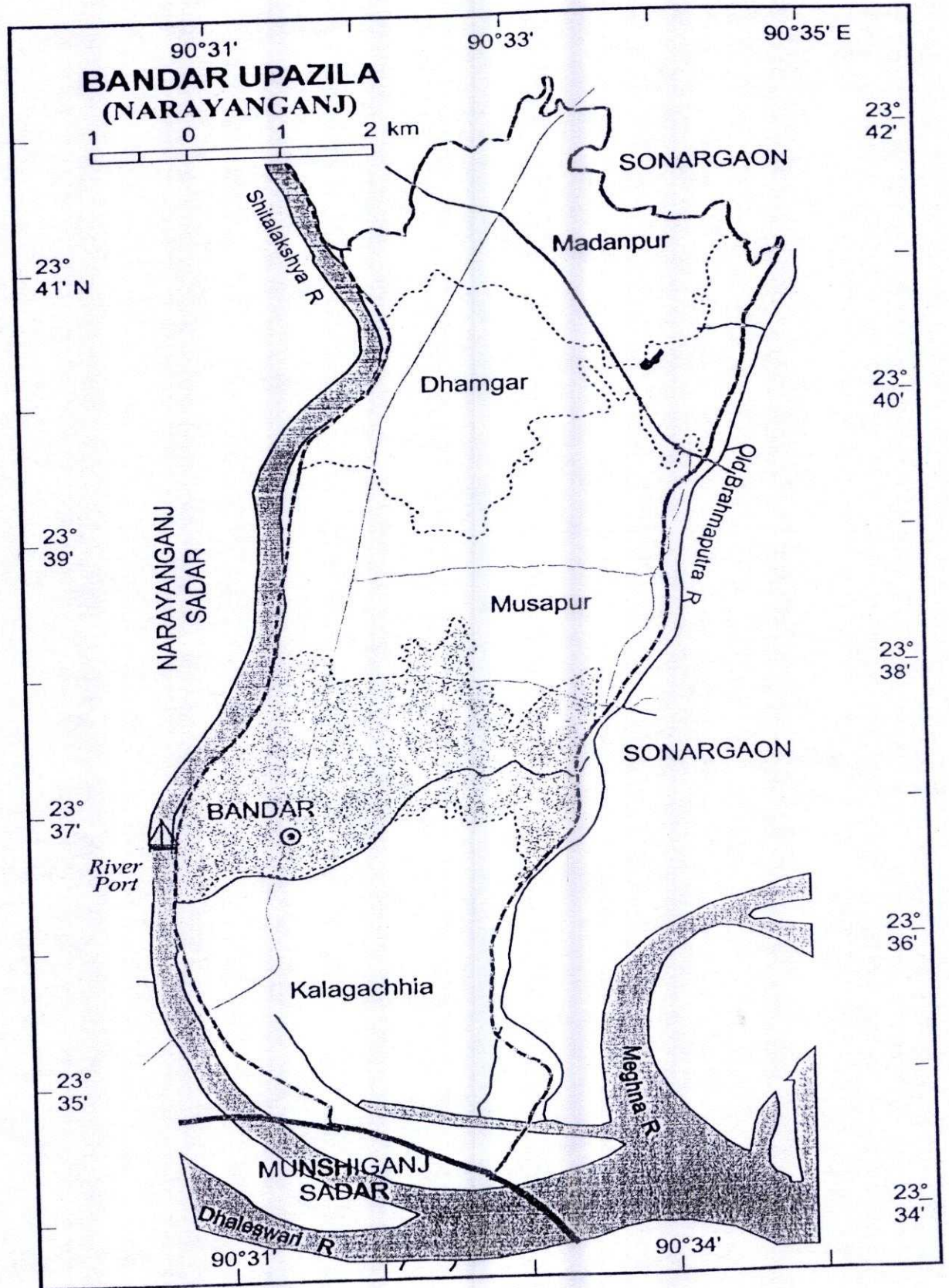
For the purpose of this study, the village courts were selected on the basis of their nearness to the formal judicial courts that is the District Magistrate's court and the Session's Judge's court. All the village courts of the Kashipur union parishad, of Fallullah union parishad, and Kutubpur union parishad of the Sadar Upazilla and the Bandar Sadar union parishad of the Bandar Upazilla of the Narayanganj district are within 5 to 10 Kilometer of the Narayanganj District and Session's Judge Court (*Map-1*)



Map: 1: Map of the Study Area of Narayanganj District



Map: 2: The Study Areas of Narayanganj Sadar Upazila of Narayanganj District



Map: 3: The Study Area of Bandar Upazila of Narayanganj District

### 3.7 Research Team

The research team consisted of the research fellow only.

### 3.8 Data Collection

Primarily, the data have been directly collected from the field and then computed the data to understand the different indicators of effectiveness of the Village Courts. In most cases direct indicators have used but in few cases certain proxy indicators (the indicators which indirectly establish the relation) were also used to understand the issues. For example for assessing the socio- economic condition of both petitioner and accused in the Village Courts the type of residing house has been used as proxy indicator.

### 3.9 Sampling Design

This study has been carried out in three Village Courts of the Sadar Upazilla and one Village Court of the Bandar Upazilla of the Narayanganj District. The chairmen of all these four Village Courts were interviewed. The village elites and the petitioner and accused in the case of the Village Court cases were selected randomly for interview. The trend of the Village Court cases and their disposals were directly checked from the court registers. The case studies have been prepared from the case records.

### 3.10 Data Analysis

The collected data have been analyzed to find out the effectiveness of the Village Courts. To find out the effectiveness, the percentage of pending and disposed off cases and the

rates and types of disposals have been calculated. The number of respondent satisfied with the judgments of the Village Courts has also been calculated. For better interpretation, the collected data have been presented in a tabular form. For easy understanding of the readers some times data have been presented in graphical or chart form.

## Chapter Four

### Discussion

#### 5.1 Chairmen of the Village Courts

Of the four chairmen of the Village Courts studied, only one has a graduation with a law degree, one chairman with Higher Secondary degree while other two have not completed the high school education. They have only completed the primary level education. Among these four chairmen, one has been the elected as chairman of that union parishad since 1973, one has elected for the second time, one for the first time. Rest one is not an elected chairman, rather he is an acting chairman of that union parishad. He is working as an acting chairman because of the death of the former elected chairman and injunction on the fresh election, by the civil court. All these union parishads were very close to the Narayanganj district town and all the Chairmen are businessmen with businesses closely connected to the district town. But all of them reside within the respective union parishads. The types of business include construction works, cotton mills, decorators, dying, garments etc. Though some of them claimed to have a yearly income of less than or equal to TK. 120000.00, but the types of their businesses and opinions of the other individuals interviewed indicate that none of them has got an annual income less than TK.12, 00,000.00. Besides as a sub-urban area of the Dhaka city, majority of the inhabitants of the study area are outsiders from the different parts of Bangladesh. But all the chairmen interviewed are local residents and member of local elite families with strong base in the respective communities.

Two of the chairmen were active member of two different political parties; one is the general secretary of the Upazila BNP- Bangladesh Nationalist Party. The other is the Vice President of upazila JP- Jatiya Party (Ershad). The later was not a party activist when he was elected as the chairman of the union parishad. As a result he did not get any support from the party in the election. The former one was strongly backed by his party in the UP election. Other two are not member of any political party, not even the supporter of any party but one declared himself as anti Awami League.

## **5.2 Functioning of the Village Courts**

The Village Courts have been functioning in all the four union parishads under study and the case records and case registers have been maintained in all the Village Courts. This is partly because of the sincerity of the chairman and secretary of the concerned union parishad and party because of the fact that all the union parishads have to send a monthly performance report of the of the Village Courts to the Deputy Commissioners office. This is why; they have to maintain the case registers. But the preservation of the case records and case registers is not that much satisfactory and two Village Courts could not present case records and case registers of years 2002 to 2004. Three Village Courts have a fixed day of the week for its activities. The fixed days are Sunday, Thursday and Friday. The other Village Court operates twice a week but there is no fixed day.

All the chairmen responded that, the most frequent cases lodged in the Village Courts are disputes related to the property and the mediation is the most frequent judgment passed by the Village Courts. One of them has also mentioned the most frequent cases are the

family dispute and disputes between the husband and wife. The responses of the chairmen corresponded with the secondary data collected from the case registers. Two of the Village Courts have been found to preserve the case records and case registers of last five years. The rest two Village Courts though claimed that they maintain and preserve all the case records and registers but were not be able to show the registers of year 2004 and back word. A total of 231 cases have been lodged in these four Village Courts during the year 2002 to 2006. The data of 2002 to 2004 were not available in two Village Courts. So, an average of  $231/14 = 16.5$  case were received by each Village Court each year, which also means that on an average, each Village Court received at least one case per month.

Of the 231 received cases the highest 125 (53 % of the total cases) cases relate to property disputes, followed by 25 (11 % of the total cases) cases are of family disputes. 22 (10 % of the total cases) are of disputes between husband and wife, 22 (10% of the total cases) are of area demarcation disputes, 14 (6% of the total cases) are of disputes of recovery of paid money and only 4 cases (2% of the total cases) are of affray and only 2 cases (1% of the total cases) are of threats (*Table 2 and Chart 2*).

All the chairmen mentioned that not all the cases those are accepted by them are within the jurisdiction of the Village Courts. They mentioned that as the studied area is an industrial area and as both the parties have confidence on the Village Courts, so in many instances, they settle the disputes, which are much beyond the jurisdiction of the Village Courts. Only one of the chairman said that sometimes compensations are also imposed as

a part of judgment and these compensations are recovered with the help of the elites of both sides but his claim was not been supported by the case records of that Village Court. None of them have ever recovered the compensation by enforcing the law under Public Demand Recovery Act 1923, as should it be done, according to the Ordinance. Others mentioned that they never impose compensations as a part of the judgment. All of them pointed to the maximum probability of non-recovery of the compensation as the cause. All of them mentioned that, if the judgment is not accepted by any of the party, they just advice the other party to go to the higher court. In such situation, only one Village Court has been found to a send forwarding to the higher court, stating the fact along with the opinion of the Village Court. All of them mentioned that, they have never penalized any one for the contempt of the Village Court.

All the chairmen admitted that generally, the disputes of criminal nature are not lodged in the Village Courts. The case records of the studied Village Courts also support these statements. Out of the 231 cases lodged during period under study, only 6 cases (3% of the total cases) are of affray or threats, which are directly criminal in nature. They have also admitted that they usually do not encourage such complains to be lodged in the Village Courts. Three chairmen mentioned that in many instances, they advise such petitioners to go to the formal courts. Only one chairman claimed that he tries to settle all the disputes even the criminal disputes, which are not within the jurisdiction of the court. It is important to note that this respondent is an office bearer of the ruling party.

### **5.3 Disposal of the cases**

There is significant number cases which are long pending in all the Village Courts. Out of 231 cases, there are 57 still pending cases, in all the studied Village Courts, which are one quarter of the total (25% of the total lodged cases) (*Table -3 and Chart -3*). Of course, of these 57 cases, 28 pending cases are of the current year, which is not actually pending. So, the actual pending cases are only 29, which are only 13% of the total cases.

The number of cases pending in the Village Courts varies from court to court and even from year to year within the same Village Court. In Kutubpur Village Court the number of pending cases are nearly absent, because except 2 pending cases of 2006, this court has only 1 pending case. The chairman of this Village Court has been elected for the first time and he has a strong political base in the ruling party. But Fattullah Village Court has 10 pending cases out of the total 42 cases lodged in 2005, which means that more than 20% cases of this court are at least pending for more than eight months. The chairman of this Village Court has been re elected consecutively since 1974 but is does not have political base. Kashipur Village Court had only (1+3) 4 pending cases out of (14+13) 27 cases in 2002 and 2003. But in 2004 and 2005 the pending cases have exceeded 50% of the total cases (4 out 8 in 2004 and 5 out of 8 in 2005). At present this Village Court does not have an elected chairman.

The causes mentioned by the respondents for long pending cases are: non appearance of any party in the Village Court, local mutual settlement of the disputes without reporting

to the concerned Village Court, difficulty of the parties to collect the relevant documents from public offices etc.

All the chairmen mentioned that the most frequent judgment or disposal of disputes in their courts is the mediation among the parties and they never impose any compensation in any case. Their statement is well supported by the case registers. The case registers show that from year 2002 to July 2006, 174 cases have been disposed off, out of a total of 231 lodged cases which is 75% of the total. Of these 174 cases, the highest 74 (42% of the total disposal) have been disposed off through mediation among the parties. There is no single case, where any compensation has been imposed on any of the party. The second highest disposal is the 46 disposals (26% of the total disposal) in favor of the petitioners, followed by 28 disposals (16% of the total disposals) in favor of the accused. These are followed by the 14 disposals (8% of the total disposals) through sending the cases to the higher courts. The cases are sent to the higher courts when the Village Courts find that the claim of the petitioner is true but because of either absence of the opposite party in the court or unwillingness of the opposite party to abide by the Village Courts decision. This happens when the accused is more powerful than the petitioners. But there are also situations when the court finds that the decision should go in favor of the accused but then the petitioners denied accepting that decision. In such situations, the Village Court advised the concerned party to go to the higher court and sometimes the courts also forward the case to the higher court stating the fact in writing. 3 cases (2% of the total disposed cases) have been stayed off by the order of the higher courts. The aggrieved

party has appealed against the order of the Village Court in one case (*Table-3 and Chart-4*).

All the chairmen mentioned that they do not allow the advocates to plead in their Village Courts and usually they do not come. But two of them have also mentioned that in case of very complicated issues like land litigations they allow and sometimes invite the advocates to help the court. Two of the five advocates interviewed mentioned that they have participated in the Village Court activities not as a nominated member but to assist the party of his interest. Interestingly, one lawyer mentioned that she herself lodged a case in the Village Court to settle the area demarcation dispute with one of her close relative and she is now highly satisfied with the performance of the Village Courts. All the chairmen stated that they never get any kind of assistance from any of the NGOs for the activities of the Village Courts.

All the chairmen more or less know the laws related to the Village Courts and its jurisdiction but there are ambiguities among them regarding the power to impose compensation. One respondent mentioned that the chairmen of the Village Courts cannot impose compensation on the guilty. Two chairmen even do not know about the power of the Village Court to penalize any one for the contempt of the court. None of the chairmen have any idea of the power of the Village Court to recover the compensation as public demand under the PDR Act. Two respondents said that they take 10 and taka 20 along with the government 2.00-taka fees. Other two mentioned that they do not charge any money from any of the parties, not even as fees. All of them mentioned that they have

only once received training on the Village Courts after the oath, along with training on other local government related topics.

The chairmen mentioned that the litigants come to the Village Courts because of the certainty of getting justice, less or no harassments, sufficient personal knowledge of the Chairmen and members of the court regarding any issue- which ensures better judgment, minimum involvement of costs, rapid disposal of cases and ultimately social peace etc.

The chairmen have pointed out i) poor or lack of enforcement capability of the Village Court, ii) pressure by the local elites, iii) powerful groups or political party, iv) maximum jurisdiction of the Village Court to try cases involving only Taka. 5000.00, v) lack of power of the chairmen, in general to punish the criminal - as the main constraints of the Village Courts. Three chairmen have suggested that the ordinance should be amended. Increase of jurisdiction of the Village Court to try cases involving more money is the amendment mentioned by all the chairmen, while one chairman demanded the magisterial power to arrest and imprison the guilty and he has also demanded the prisons to be established at the Union level. The other chairmen have mentioned that there is no need of any amendment; rather he emphasized on the strict legal and administrative support for the implementation of the existing Village Court Ordinance.

Table-2: Types of cases lodged in the studied Village Courts

Year	Village Courts	Total lodged cases	Disputes between husband and wife	Property disputes	Family disputes	Area demarcation disputes	Money disputes	Disputes of threats	Disputes of fraud	Affray
2006	Fatullah	20	3	13		2	2			
	Kutubpur	17	1	12	1	1	1		1	
	Kashipur	5		3		1	1			
	Bandar	7		3	3	1				
	<b>Sub total</b>	<b>49</b>	<b>4</b>	<b>31</b>	<b>4</b>	<b>5</b>	<b>4</b>		<b>1</b>	
2005	Fatullah	42	4	21	3	4	6	1	3	
	Kutubpur	17	2	11		1	2		1	
	Kashipur	8	1	3	2	2				
	Bandar	11	2	3	2	4				
		<b>78</b>	<b>9</b>	<b>38</b>	<b>7</b>	<b>11</b>	<b>8</b>	<b>1</b>	<b>4</b>	
2004	Fatullah	n/a	-	-	-	-	-	-	-	-
	Kutubpur	23	3	10	1	2	4		2	1
	Kashipur	8	1	3	1	2		1		
	Bandar	n/a	-	-	-	-	-	-	-	-
		<b>31</b>	<b>4</b>	<b>13</b>	<b>2</b>	<b>4</b>	<b>4</b>	<b>1</b>	<b>2</b>	<b>1</b>
2003	Fatullah	n/a	-	-	-	-	-	-	-	-
	Kutubpur	27	1	14	1		4		4	3
	Kashipur	13		8	1	1	3			
	Bandar	n/a	-	-	-	-	-	-	-	-
		<b>40</b>	<b>1</b>	<b>22</b>	<b>2</b>	<b>1</b>	<b>7</b>		<b>4</b>	<b>3</b>
2002	Fatullah	n/a	-	-	-	-	-	-	-	-
	Kutubpur	19	2	12			2		3	
	Kashipur	14	2	9	2	1			1	
	Bandar	n/a	-	-	-	-	-	-	-	-
		<b>33</b>	<b>4</b>	<b>21</b>	<b>2</b>	<b>1</b>	<b>2</b>		<b>3</b>	
<b>Grand total</b>		<b>231</b>	<b>22</b>	<b>125</b>	<b>17</b>	<b>22</b>	<b>25</b>	<b>2</b>	<b>14</b>	<b>4</b>

# Village Courts

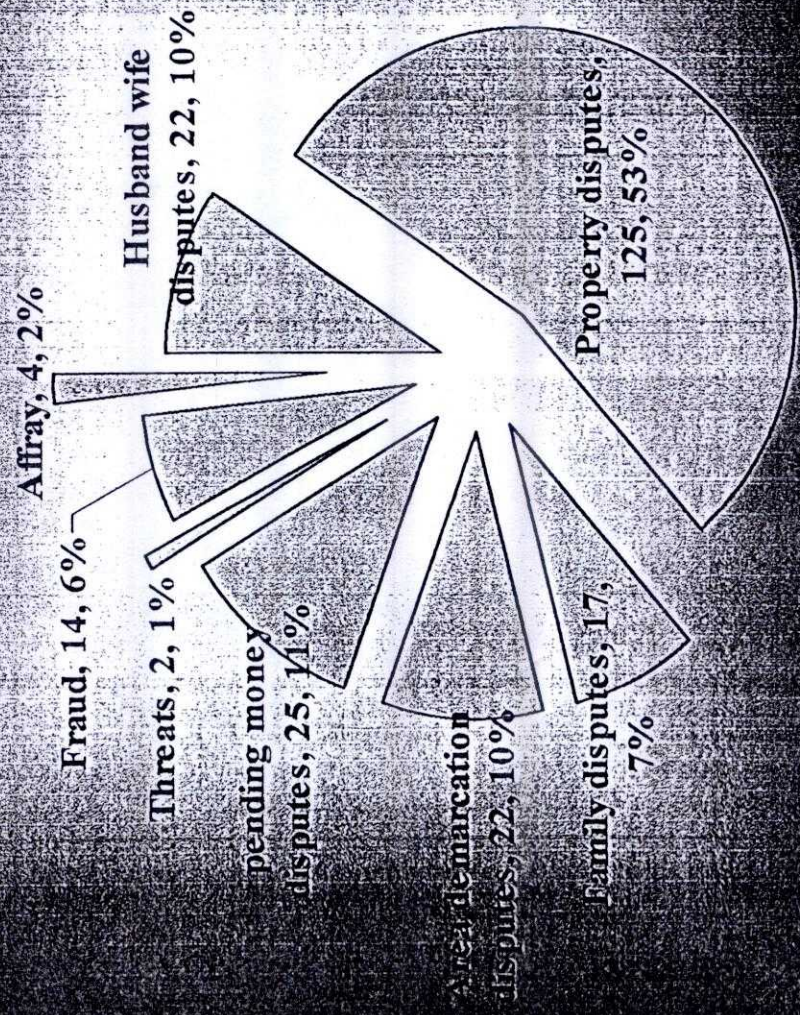


Table 3: Disposal of Cases in the studied Village Courts

	Total case lodged	Total Disposed cases	Number of mediated cases	Cases with judgment in favor of the petitioner	Cases with judgment against the petitioner	Stay off cases	Number of discharge cases	Case with fines	Cases send to the higher court	Appealed cases	Pending cases
2006	Fatullah	20	2	1						1	18
	Kutubpur	17	15	7	5	1			2		2
	Kashipur	5	1	1							4
	Bandar	7	3	3							4
	<b>Sub total</b>	<b>49</b>	<b>21</b>	<b>12</b>	<b>5</b>	<b>1</b>			<b>2</b>	<b>1</b>	<b>28</b>
2005	Fatullah	42	32	15	17						10
	Kutubpur	17	17	5	5				3		
	Kashipur	8	3	1	1	1					5
	Bandar	11	6	6							5
		<b>78</b>	<b>58</b>	<b>27</b>	<b>23</b>	<b>4</b>	<b>1</b>		<b>3</b>		<b>20</b>
2004	Fatullah	n/a	-	-	-	-	-	-	-	-	-
	Kutubpur	23	22	8	3	7			4		1
	Kashipur	8	4	2	1		1				4
	Bandar	n/a	-	-	-	-	-	-	-	-	-
		<b>31</b>	<b>26</b>	<b>10</b>	<b>4</b>	<b>7</b>	<b>1</b>		<b>4</b>		<b>5</b>
2003	Fatullah	n/a	-	-	-	-	-	-	-	-	-
	Kutubpur	27	27	8	5	9	2		3		
	Kashipur	13	10	5	1	1	3				3
	Bandar	n/a	-	-	-	-	-	-	-	-	-
		<b>40</b>	<b>37</b>	<b>13</b>	<b>6</b>	<b>10</b>	<b>5</b>		<b>3</b>		<b>3</b>
2002	Fatullah	n/a	-	-	-	-	-	-	-	-	-
	Kutubpur	19	19	10	2	5			2		
	Kashipur	14	13	2	6	1	2				1
	Bandar	n/a	-	-	-	-	-	-	-	-	-
		<b>33</b>	<b>32</b>	<b>12</b>	<b>8</b>	<b>6</b>	<b>2</b>		<b>2</b>		<b>1</b>
<b>Grand total</b>	<b>231</b>	<b>174</b>	<b>74</b>	<b>46</b>	<b>28</b>	<b>3</b>	<b>8</b>		<b>14</b>	<b>1</b>	<b>57</b>

Chart-3: Disposal Rates of Village Courts

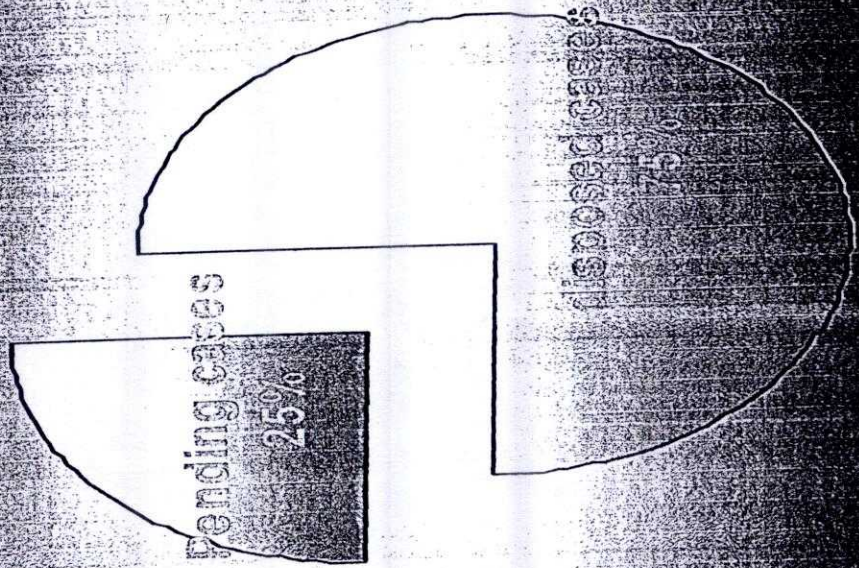
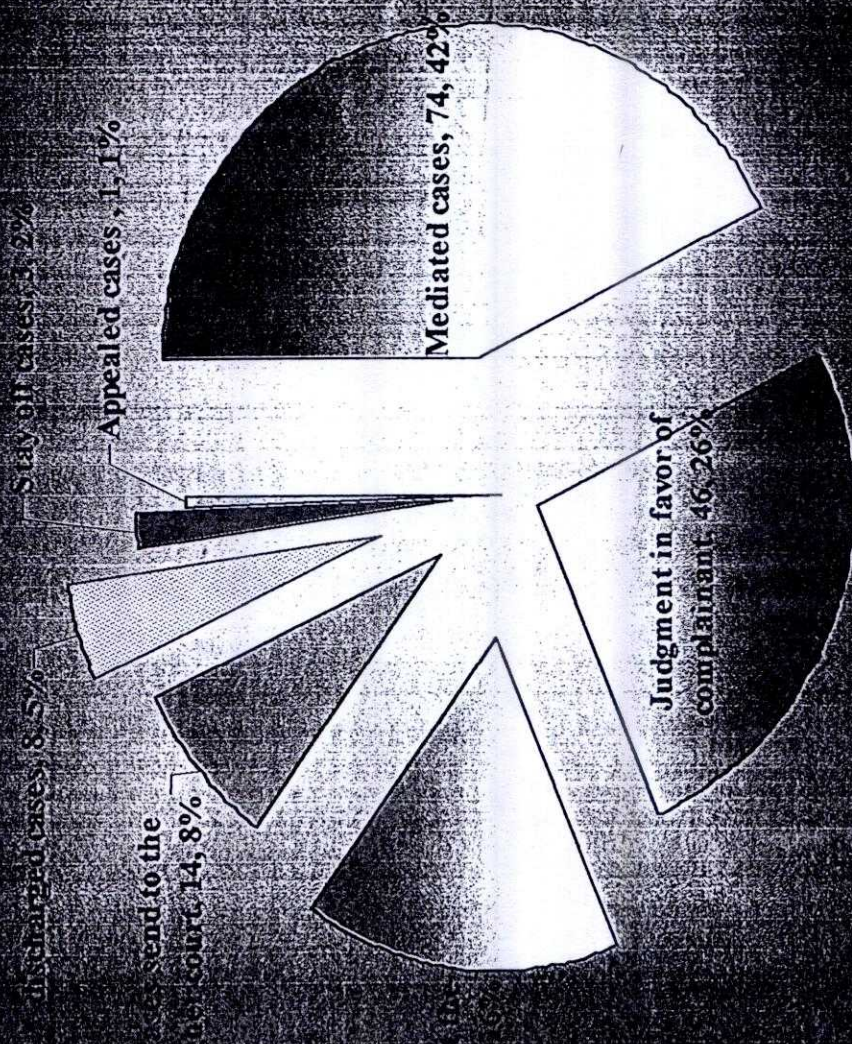


Chart 4: Types of case Disposal of the Village Courts



## **5.4 Case Studies**

8 cases, two from each Village Courts have been examined during this study, to understand and follow the procedures and types of case disposal at the Village Courts. All these cases have been selected randomly.

### *Case study 1:*

Md. Abdul Mannan of the village Rusulpur lodged the case no. Kutubpur 6/2006 on 20/02/2006, against Md. Karum Ali of the same village in the Kutubpur Village court. The petition was- the accused has illegally occupied the registered land of the petitioner from his possession. Latter on, though the higher Court has given injunction in favor of the petitioner but the accused has again attacked the petitioner with life threatening to him. The court issued summon to the accused, which was served by the chowkidar. But the accused did not appear before the court so; there was no question of representative nomination. The court waited for three more dates and as the accused did not appear before the court so, on 5/5/2006 the case was disposed off, by advising the petitioner to take the shelter of the higher court

### *Case study 2:*

Yeyal Hossain of Sheyar Char lodged a case on 6/12/05 to the Kutubpur Village Court. against Abdur Rahman of the same village mentioning that accused is obstructing him to build a wall on his registered land, though he has the judgment of the higher Court in his favor. The case has no case number. Having this petition the Village Court issued summon to the accused by the Chowkidar on 15/12/2005. Though the accused appeared before the court but no representative was formally nominated by any of the parties. As both the parties wanted time for submitting the documents from the higher court so, five

dates were fixed for hearing of the case. On 15/3/2006 the court ordered in writing, to settle the dispute by measuring the land by the surveyor. But whether the decision is unanimous or not, that is not mentioned in the written order. Both the parties accept this judgment of the Village Court.

*Case study 3:*

Farida Begum of village Enayetpur of Mirkadim of Munshigonj and Meherunnessa of Kashipur village has lodged a complain No. 12/99 against Mushena Begum and her Husband Dud Miah of the same village on 15/12/1999 at the Kashipur Village Court. The complaint was that the accused in the case was trying to illegally grab the land belonging to the petitioner by filling it with earth. The court issued summon which was served on the same date on the accused by the Chowkidar. The accused appeared before the court and dully nominated their representatives. The court fixed as many as 17 dates. Because both the parties asked for time, as the case was very complicated. Finally the Village Court could not settle the issue and advised both the parties in writing, to go to the higher court on 29/7/2004.

*Case study 4:*

Jalal Uddin Bepari of village Kashipur lodged the petition no.4/2003 against Md. Sirajul Islam of village char Kashipur on 02/03/03 at the Kashipur Village Court. The brief complaint of the case is that the accused sold the paternal property of the petitioner to another person by creating a fake document and thus has also claimed an illegal possession on that land. A summon was issued on the same date and was served by the chowkidar. No representatives were nominated by any of the parties, though the accused appeared before the court and contested the case. The judgment in this case was given

after hearing for two dates. The court ordered for giving possession of said land to the petitioner in presence of the respective member of the union parishad. The judgment was passed in writing, in the order sheet but there is no indication of whether the judgment was unanimous or not or whether the judgment was implemented or not or whether there was any appeal against the judgment or not.

*Case study 5:*

Md. Aslam of Hafizi Bug lodged the petition no 6/2006-2007 against Md. Abdul Awal of Puran Bandar Chowdhury Para on 28/5/2006 at the Bandar sadar Village Court. The allegation in brief was that the accused in the case took illegal possession of 3 to 4 meter land of the petitioner. Receiving the allegation the court issued summon on the same date, which was served by the chowkidar of the union parishad. The accused appeared before the Court and both the parties nominated two representatives according to the due process of law. On the third date the court pronounced the judgment ordering the accused to leave his illegal possession of the disputed land. The judgment was pronounced with the consent of both parties. The judgment was written in the order sheet in brief but again there is no indication whether the case was settled unanimously or not. The judgment was implemented immediately. There is no record of any appeal by accused in the case record.

*Case Study 6:*

Habibullah of Kalabagh lodged the case, no 1/2005-2006 against Taz Mohammad of the same area on 7/03/2006 stating the fact that the accused has illegally grabbed a total of 12 × 2 meters of land of the petitioner. There was no court case in that regard. A summon was issued on 12/3/2006 and served by the chowkidar. The accused appeared before the

court and he along with the petitioner nominated two representatives to the court. The court after examining the evidences and statements of both the parties pronounced the judgment of measuring the disputed land and thus settle this area demarcation dispute. Both the parties were agreed to the judgment. The judgment was pronounced on the third date, which is written in the case record but whether the decision was unanimous or not, that is not mentioned there. The judgment was immediately implemented and there is no indication of any appeal to the higher Court.

*Case study 7:*

Imam Ali of the Fatullah Bazar lodged the petition no 3/05 on 12/03/2005 at the Fatullah Village Court against Ekram Hossain of the Narayanganj town, stating that the accused was not repaying his due 12000.00 taka, which the petitioner had paid to him as loan. Receiving the petition the court issue summon and the chowkidar of the union parishad served it. The accused appeared before the court on the first date and accepted the claim but asked for six four-month times for repay. Accordingly the court ordered the accused to pay that money within four months at an installment of 3000.00 taka per month.

*Case study 8:*

Rabeya Begum of the Dhaba village makes a petition to the Fatullah Village Court against Kalim Uddin of the same village. The petition was about the illegal grabbing of two decimal land of the petitioner by the accused. Accordingly the Village Court issued and served summon to the accused. But the accused did not appear before the court within next three dates, so the court on the fourth date on 7/6/06 advised the petitioner to go to the higher courts and thus disposed off the case.

## **5.5 Perception Studies**

The perception study was conducted on five groups of people who are directly or indirectly related to the functioning of the Village Courts. The first group of people are the petitioners to the Village Courts, the second group are the accused, against whom a case has been lodged in the Village Courts, the third group are the elites of the respective union parisheds, fourth group are the practicing lawyers of the district courts- both in the magistrate courts and in the session's judge court and finally the litigants who have lodged cases in the district magistrate's or session's judge court for offences or disputes which could have been settled in the Village Courts.

### **Perception of the Petitioners in the Village Courts**

Of the 8 petitioners in the Village Courts three are farmers, two are small businessmen, one is a medium size businessman, one is a housewife and the other is a primary school teacher. Their educational background varies from mere ability to sign the name to Bachelor degree. Two of them reside in buildings, four have houses made of tin and two have huts. Their monthly incomes vary from TK. 1000.00 to TK. 15000.00; only two of them are active members of political parties.

Of the total 8 cases lodged by the petitioners in the Village Courts, 3 are of land disputes, two are of disputes between husband and the wife, one is for recovery of paid money, one is of fraud and the rest is a boundary disputes. Three petitioners lodged cases last year while three of them lodged the cases two years back, one lodged case three years back and the rest lodged case five years back. Four petitioners said that their cases were disposed off within the first six-month, two took one year time and rest two took more than two year. Interestingly these last two were disposed off by advising the parties to go

to the higher court and both the parties were contesting the case in the Village Court. Only one of the petitioner said that a lawyer has prepared all the papers for his case in the Village Court but the lawyer did not come to the court and the rest said no lawyer helped them in preparing the paper for the submission in the Village Court.

Only two respondents said that they had previous enmity with the accused and the rest said that they did not have any previous enmity with their opponents. Two petitioners mentioned that the socio-economic condition of their opponents were better than those of theirs, while rest six said the accused are of same socio-economic status as of the petitioners. Only three petitioners said that the Village Courts were formed by five members headed by the chairman and two UP members and two local elites from both sides as members. Two petitioners said that the chairmen along with the members nominated by the chairmen formed the Village Court while rest three mentioned that basically the Chairmen himself alone form the Village Court. Regarding the nomination of the representatives' only three respondents replied positively, while rest five said that there was no formal nomination of representatives in the Village Court. Of them two said the local village elites helped the chairmen in the disposal of the cases.

All the respondents mentioned similar type of causes in response to the question why they did not go to any other court, as were mentioned by the chairmen of the Village Courts. They mentioned that the Village Court does not involve any cost, it requires less time, the local chairman knows the issues better than the judges or magistrates of the formal courts or at least the Village Court has the sources and capabilities to collect such facts. They also mentioned that as the local chairman involves the local elites or local UP members, so, correct information is easily available to the Village Court. One petitioner

has also mentioned that as everybody in a Village Court area knows each other, so, it is very difficult for any one to produce any fake witness to the Village Court.

Of the 8 judgments 4 cases were disposed of by mediation while in one case the judgment was in favor of the petitioners, one in favor of the accused and the rest two cases were disposed of by advising the parties to go to the higher courts. The satisfaction level is very high among the petitioners of the Village Courts. None of the petitioners said that he or she is not satisfied with the judgment of the Village Court. Three petitioners said they are partly satisfied with the judgments while rest said they are fully satisfied with the judgments. Even where the Village Court had decided in favor of the accused the petitioner is also partly satisfied because as a part of the judgment, the accused had to provide him a passage to the main road, from the land owned by the accused. So, this judgment was also a kind of mediation. Two said that the judgment could not bring peace between the parties; these are the situations where both the parties were advised to go to the higher courts. In rest of the cases the judgments brought peace among the parties because all the judgments are usually pronounced on the basis of the consents of both the parties. Except the two cases, which were sent to the higher courts for settlement, among rest 6 cases, in 3 cases the judgments were implemented immediately after the pronouncement of the judgments, 2 judgments were implemented within 3 months of their pronouncements, while the remaining one judgment has not yet been implemented. Three of them mentioned that the judgments were given in writing but not immediately after the pronouncement. It was given at least one month after the pronouncement of the judgment. In other five cases the parties did not get the written judgment, but they mentioned that the court wrote the judgment in the order sheet.

All of the respondents said that they did not have any problem to present the witness before the court because it is within their reach and they did not have to spend the whole working day for this purpose and at the same time they did not have to face any sort of harassment, which they have to face in the formal courts. All the petitioners said that none of their opponents present any kind of fake witness before the court. One petitioner has also mentioned that even one witness presented by his opponent gave statement in his favor.

Among the 8 respondents 3 said there was no cost except the 2-taka fees taken by the Village Court. Two respondents said that the fee was 10 taka while rest three mentioned that they had to pay taka 100 for lodging the case in the Village Court. As the amount payment was not that much high, they did not have any objection in paying those money to the Village Courts. All the petitioners strongly denied paying any extra money to the Village Courts or to its officials.

All the petitioners had positive impression regarding the judges and the representatives of the Village Courts. Three of them sounded cautionary remarks that the Village Court should be allowed to perform its function properly and the honesty and integrity of the chairmen and representatives had to be maintained and the government should take proper measures to ensure it. All of them said that they would suggest others go to the Village Court first, before going to the formal courts. They said that they did not face any individual problem in the Village Court but faced some general problems. These are poor implementation power of the Village Court, failure of the Village Courts to bring the powerful people to comply to the judgment. A businessman said the jurisdiction of the court to try the cases involving only maximum amount of taka 5000.00 is insufficient.

They also mentioned that the court should also have the power to order the arrest of the persons who does not comply with the orders of the Village Court. They have also suggested that some of the powers and jurisdiction of the higher courts should be delegated to the Village Courts, which would lessen the pressure on the higher courts.

### **Perception of the Accused in the Village Courts**

Of the 8 accused interviewed 3 are farmers, two are businessmen, one is a service holder, one is a construction worker and the other one is an NGO worker. Two of them are illiterate, two have passed class five, one is an SSC pass, and two are graduates while the rest is an MA degree holder. Three of them reside in buildings, three have houses made of tins and two have huts. Their monthly income varies from TK. 1000.00 to TK. 25000.00; half of them are active members of political parties.

As the accused of the same cases have been chosen, so, naturally the cases are of the same categories and the disposals are also of the same types.

Only two accused said that they had previous enmity with the opponents. Two respondents mentioned that the socio-economic conditions of the opponents were better than theirs while rest six said that the accused were of same socio-economic status as that of the petitioners. Only three accused said that the Village Court was formed by five members headed by the chairman and two UP members and two local elites from both parties as members. Two accused said that the chairmen along with the members nominated by the chairmen formed the Village Court while rest three mentioned that basically the chairmen form the Village Court. Regarding the nomination of the representatives' only three accused replied positively while rest five said that there was no

formal nomination of representatives in the Village Court of them two said the local elites helped the chairmen in the disposal of the cases.

The satisfaction level of the accused was not that high as of the petitioners of the Village Courts. Five of them mentioned that they are satisfied with the judgment. Of them three said that they are fully satisfied with the judgments while rest two said that they are only partly satisfied with the judgments. The rest three said that they are not satisfied with the judgments and they also said that the judgment could not bring peace between the parties.

All of them mentioned that they did not find any problem in presenting the witnesses in the Village Courts. But unlike the petitioners the half of the accused said that not all the witnesses spoke the truth before the court. But the rest accused echoed the responses of the petitioners in this regard.

Three accused mentioned that though the Village Court chairmen or members did not directly demand any money from them but the secretary of the union parishad indirectly claimed money from them, in the name of the contribution to the union parishad funds.

The accused had a mixed impression regarding the judges and the representatives in the Village Courts. Three of them mentioned that the Village Court officials are biased to their supporters and relatives. One complained against their judicial capability, poor educational back ground and strong party feelings.

The rest emphasized on the poor implementation power of the Village Courts. They suggested the minimum qualification of the Village Court chairmen and members should

be at least a graduation and an SSC respectively; so that they can be capable of managing the court activities. They have also recommended monitoring of the Village Courts by the formal higher courts or at least by government's administrative machineries. They also suggested periodic training for the Village Court chairmen and representatives.

### **Perception of the Local Elites**

Among the 5 interviewed as the local elites, one of them was a union parishad member, one was a Headmaster of a government primary school, two were businessmen, and the rest was an Imam of a mosque. Two of them were graduates, one was HSC pass, one was Dakhyel(SSC) pass and rest one had not passed the SSC examination. Four of them were the permanent residents, while the rest one was not a permanent resident but residing at respective union parishads for more than 15 years. Their monthly incomes varied from taka 6000.00 to taka 20000.00. Three of them were active members of political parties while the other two were not.

All of them found to know the judicial activities and functioning of the Village Courts at their respective union parishads. Only two of them were earlier nominated as a representative to the Village Courts and other three were not. Four of them mentioned that the chairmen of the Village Court usually do not accept the cases of serious criminal nature or of more complicated civil nature. All of them mentioned that usually the cases were disposed off within first two to four dates with a maximum time of three to six months. But they also mentioned that some times the cases of complicated nature might require more than a year or some times more than two or three years.

They mentioned absence of strong implementing forces- such strong village police with power to arrest, pressure from the ruling party men as the problems faced by the Village

Courts. One of them has also mentioned the maximum jurisdiction of the Village Court to try cases involving only 5000.00 taka, is a problem for the Village Court because in industrial areas like this study area this amount is a very insignificant amount and most of the cases involve more money than that. These respondents almost echoed the same points as the strengths of the Village Courts, as were mentioned by other groups of respondents in this study. These are settlements of disputes at the root level-, which stops the further complicated disputes, personal knowledge of the Court making fairer judgments, low cost with less hazards etc. They recommended increase of financial jurisdiction of the Court up to TK50000.00, proper training for the persons involved in the court activities including the UP secretaries, strengthening activities and powers of the chowkidars etc.

#### **Perception of the Lawyers at the Formal Courts**

Two female and three male lawyers were interviewed; one of them was the special public prosecutor for protection against women and children repression act, while the rest were the practicing lawyers in the magistrate or civil courts for 4 to 17 years. Three of them were active party workers while the rest two were not.

All of them knew about the activities of the Village Courts and two of them had sufficient knowledge about the activities of the Village Courts but only two of them could correctly tell the formation of the Village Courts. They mentioned that actually the Village Courts were not strictly following the Ordinance. All of them mentioned that the Village Courts were active in their own rural areas though only two of them were found to reside at their villages. None of them were ever nominated as the member of the Village Courts but one of them was herself a petitioner in the Village Court.

They mentioned different types of cases such as property disputes, dowry, repression of women; family disputes, affray, local disputes, and petty nature criminal disputes are tried in the Village Courts. They were of mixed opinion regarding the fate of the cases send to the Village Courts by the higher courts. Two of them said that the cases send to the Village Courts are settled by these courts and are never come back to the higher courts. One said the parties did not get the justice there because the Village Courts are biased, one respondent said that the cases were very rarely send to the Village Courts and the rest said some time it got the justice and some times it did not and again came back to the formal courts. All the respondents mentioned that the Village Courts settle the disputes within a very short time and normally within two to three dates. In complicated cases it might take more time.

The lawyers mentioned that, as the cases were settled very easily, without cost, within a very short time, without harassment and as the justice was reaching to the hands of the poor, as it increases social peace and brings harmony among the people, so the justice seekers went to the Village Courts. They mentioned dishonesty of the chairman and other representatives, influence of the local elites, nepotism, and poor educational background of the chairman, dependency of the enforcement absolutely on the concerned parties as the major weaknesses of the Village Courts. One lawyer mentioned a case of biasness where a blank paper was signed and was later produced before the formal court as a document in favor of a party.

They suggested training of the chairmen, graduation as a minimum qualification of the chairman, strengthening the enforcement, establishing village police with power to arrest

under the command of the Village Courts, government awareness programs in both print and electronic media along with the encouragement to NGO sponsored activities to make the people understand the Ordinance for the improvement of the performance of the Village Courts. Four of them are also in favor of increasing the power to try from 5000.00 taka to 50000.00 taka while one respondent opposed such an increase of power.

### **Perception of the Complainants at the Formal Courts**

A total of 5 complainants at the magistrate's court were interviewed. Of them two were farmers, one was labor, one was a small businessman and the other one was a housewife. Three of them had their own houses- one building, one made of tin and the other was a hut. The rest two reside in rented houses. Their monthly income varies from taka 1500.00 to taka 8000.00; two of them were members of two NGOs, while another took loan from the NGO and the rest were not the members of any NGO. Only one of them has an inclination to political party.

Two respondents had lodged cases under 144 of the CrPC, one had lodged a case for rioting with theft, one had sued her husband and his family members for alimony and the other respondent had complained against his relative who was not paying his share of money. Of these five cases one case is pending for 3 years while two is pending for more than two years and rest two are pending for less than a year. Two of them have previous enmity with the opponents while the rest did not have such enmity. Three of the respondents said that the opponents were of the same socio-economic status as of theirs, while the other two said that the opponents were of better socio-economic status than them.

All of them knew about the existence of the Village Courts and their activities in general. They mentioned the biasness of the chairmen of the Village Courts for the accused as they were his supporters in the UP election, lack of implementation capacity of the Village Courts, ineffectiveness of the Village Court to make the accused to comply with the order, the jurisdiction limit of the Village Court etc as the cause for not lodging the case in the Village Courts. All of them mentioned that they had to pay money to the advocates, to bench clerks, to the police, to the process servers regularly even for normal routine works. Besides they had to spend money for transports and also for getting any kind of documents from the court. Three of them mentioned that they had to sell their land to manage the money; the rest two said they had to cut their regular expenses for managing the money.

The perception of these respondents regarding the Chairmen and the representatives of the Village Courts are mixed. Two of them expressed positive impression mentioning that but some times they act biased in favor of their relatives and supporters while the rest two said that because of the limitation of the power the Village Court cannot punish the powerful persons. They also mentioned the biasness of the courts along with the inefficiency and financial dishonesty.

Surprisingly, all of them stated that they would suggest others to go to the Village Court initially, because according to their opinions, at least the people should try to settle the disputes at the Village Courts, which would certainly save their important time and money, will also protect them from the hazards at the formal courts. They mentioned low cost, less sufferings and hazards, fairer justice as the strengths of the Village Courts. They mentioned weak implementation capacity, biasness to the supporters and relatives, failure of the chairmen and the representative to understand complex disputes etc as the weaknesses of the Village Courts.

## Chapter Five

### Findings and Lessons Learned

1. The Village Courts are in operation in all the studied union parishads and usually it operates in fixed date of the week. People have the knowledge about the operation of the Village Courts.
2. A considerable number of cases are found to be received in the studied Village Courts on an average about one case is received by each Village Court per month. The Village Courts dispose of 75% of the received cases. The long pending cases are basically either tried by the formal courts or have already been settled between the parties but the courts were not informed. The cases are generally settled within the first 2 to 3 dates i.e. within first 3 to 6 months of lodging.
3. Most of the cases received by the Village Courts are of civil in nature (225 cases out of total 231 cases) and these courts rarely received true criminal nature cases (only 4 cases of affray and 2 cases of threats). The respondents mentioned that criminal nature cases are generally settled without documentation. Property disputes are the highest among the cases received by the Village Courts (124 out of 231 cases, 54%), followed by family disputes (11%), disputes between husband and wife (10%), area demarcation disputes (10%), and disputes of recovery of paid money (6%).
4. The most frequent type of settlement of disputes in the Village Courts is the compromise or mediation. Among the 174 disposed off cases 74 cases (42%) cases were compromised after mediation among the parties, followed by 26%

disposals in favor of the petitioners and 16% in favor of the accused. The last two types of disposals are also made on the basis of the compromises or consents of both the parties. This means that a total of  $42\% + 26\% + 16\% = 84\%$  cases are disposed on the basis of mediations or compromises. 8% cases have been referred to the higher courts, 5% are discharged and in 2% cases there is stay orders from the higher courts. As in most of the cases the verdicts are made on the basis of compromise so, the instances of appeal against the verdicts of the Village Courts are insignificant (only 1% of the total disposals). The statements of the respondents of different groups also support this situation.

5. There is not a single instance of imposition of compensation on any of the parties by the Village Courts. The implementation of judgment of the Village Court is completely dependent on the consent and will of the contesting parties. If any party does not want to appear before the court the Village Courts can not precede the judicial activities any more. They just refer these cases to the higher courts. some times with forwarding. None of the Village courts have ever penalized any one for the contempt of the Village Court.
6. Though the Village Courts are in operating in all the studied union parishads, but these courts do not strictly follow the Village Court Ordinance, 1976 or the Village Court Rules, 1976. This study has found that in more than 50% cases there is no formal nomination of representatives by the concerned parties, even though both the parties appeared before the court. The chairman usually settle the disputes with the help of the concerned UP members and local elites. In certain cases the chairman himself or one delegated by the chairman settle the disputes

alone. Though the final decisions are normally written in the case record but whether the decisions are unanimous or by the ratio of majority - these are not mentioned in the decisions. Moreover the maintenance and preservation of case record and case registers were not found to be strictly followed by the Village Court as has been mentioned in the Village Court Rules, 1976. In two of the studied Village Courts, the case records and case registers of two years back were not found. As a result, these courts would not be able to allow the inspection of records of the Village Courts to any party under the Rule 23 of the above-mentioned rules and supply any such document demanded by any party under Rule 24 of the same rules. Interestingly any party never made such demand.

7. There are certain rules; those are found to be followed by the Village Courts such as the issue and service of summons. Though only a few of the accused mentioned that not all the witnesses speak the truth in the Village Court but all of them agreed that they did not have to face any problem in presenting the witnesses before the Village Courts.
8. All the respondents interviewed in this study have in general a positive impression regarding the Village Courts. All of them have mentioned that they would suggest others to go to the Village Courts before going to the formal courts.
9. The chairmen of the Village Courts have serious laps and gaps about the details of the Village Court Ordinance. Some of them even do not know the power of the Village Courts to impose compensation on the parties and penalize any one for the contempt of Village Courts. None of them have any idea how they would

collect the due fines or compensation as a demand of the union parishads with the legal support from the Public Demand Recovery Act 1923 from the guilty. There is also ambiguity about the amount of fees or charges for lodging cases in the Village Courts. There is serious lack of training for the Village Court chairmen and other representatives. The chairmen were only once received training on the Village Courts matters after oath, along with other local government issues.

10. The performance of the Village Courts depends on a large extend on the personal imitative and power base of the chairmen. The newly elected chairmen having a strong political base in the ruling party has been found to perform better than the chairman elected for the consecutive times since 1974 but having no political base.

11. All the petitioners in the Village Courts were found to be satisfied with the performance of the court and most of them are fully satisfied. The satisfaction level among the accused is also greater than the dissatisfaction level though all of them are not fully satisfied. Most of the parties to the Village Courts interviewed mentioned that the judgment of the Village Court brought peace between the parties as it was made on the basis of the consent of both the parties. A few mentioned that it could not. In the later instances, the cases were referred to the higher courts and all these parties have history of long previous enmity.

None of the respondents in the study has any allegation of any money demand made by the Village Court officials except a few respondents in the Village Court mentioned the indirect demand of money by the concerned UP secretaries. As all

the chairmen had strong financial base. so, it might have contributed to the financial incorruption in the functioning of the Village Courts.

12. This study has found that the justice seekers in general prefer the Village Courts. Even those who lodged cases in the formal courts and those who are practicing lawyers in the formal courts they also prefer these courts. The respondents mentioned minimum costs, minimum time requirement for the disposal of cases. less harassments, better and fairer judgment because of the personal knowledge of the persons involved in the Village Courts, mediation and compromise type of settlements of the disputes brings social peace and peaceful co inhabitation of both the parties as the main causes of their preferences. These points are mentioned by almost all groups of respondents - those who are almost directly parties or stakeholders to the Village Courts and those who are not.

13. The weaknesses of the existing Village Court Ordinance and its operation as mentioned by the respondents are: i) poor or lack of enforcement capacity of the Village Courts and its implementation forces such as chowkidars ii) undue pressures on the Village Courts by the local powerful groups and village elites also by the local political party men, iii) maximum power of the Village Courts to try the cases involving only taka 5000.00 etc. A number of respondents have also mentioned iv) poor judicial capability of the chairmen and others due to their poor educational back ground, v) dishonesty of the court officials and also of the UP secretaries, who basically play a key role in the discharge of cases, vi) absolute dependency of the Village Courts judgments on the will of both the parties for

implementation vii) tendency of the court to favor the 'my men' as major constraints to the existing operations of the Village Courts.

14. The most important drawback i.e. the poor implementation of the court's verdict has its root on the lack of understanding and knowledge of the concerned court officials and associates about the ordinance and also on the reluctance of the court to strong implementations. The implementation of the judgments of the Village Courts has been found to be completely dependent on the consent and will of the parties concerned. Though there provisions of imposing 500.00-taka penalty for the contempt of the Village Courts, but in practice no such penalty was found to be imposed on any person. If any party in the dispute does not appear before the court or declined to accept the verdict of the Village Court, then the court usually refer this case to the higher courts. As the court does not have the direct power to arrest or imprison any one guilty, the powerful local elites in many cases do not even bother to obey the orders of the Village Courts.

But as the most cases are disposed off on the basis of the compromise, so, these constraints to the enforcement do not create much problem. The parties in the disputes usually enforce the courts order willingly, in most cases immediately after the pronouncement of the verdict. The enforcement becomes smooth due to the involvement of the local elites.

15. The respondents made the following recommendations for the improvement of the performance of the existing Village Courts, -

- i) Increase of jurisdiction of the Village Courts to try cases involving up to taka 50,000.00.
- ii) Vesting power to the Village Courts to arrest and imprison the guilty and along with magisterial powers third class.
- iii) Setting a minimum qualification of graduation to be elected as the chairmen of the union parishads as well as of the Village Courts and a minimum qualification of SSC to be nominated as the representatives to the Village Courts.
- iv) Regular monitoring and inspection of the Village Courts by the formal higher courts as well as by the local government officials.
- v) Periodic training of the chairmen and other representatives of the Village Courts and more emphasis should be given on the operations of the Village Courts for the performance evaluation of the union parishads.
- vi) Publicity in the both print and electronic media for creating awareness among the persons related to the Village Courts and also among the common citizens.

## Chapter Six

### Recommendations

- I. The power of the Village Courts should be increased with respect to both jurisdiction and penal provisions. These Courts should be allowed to try the cases involving up to taka 50,000.00.
- II. For making the Village Courts as strong and powerful institution proper logistic and administrative supports should be rendered to it.
- III. For strong implementation of the decisions of the Village Courts and also to make the people abide by the decisions of the Court, this Village Court should be given the power to arrest the guilty person, if he does not comply with the order of the court.
- IV. The minimum qualification to be elected as the chairman of the union parishad should be raised up to graduation and should be raised up to a minimum of SSC pass for the members of the union parishad.
- V. The Village Court should be strongly linked up with the both formal civil and criminal courts by bringing them under the direct supervision and inspection of those formal courts.
- VI. For each Village Court a panel of representatives should be selected for a period of five year with the approval from both the formal courts. Their selection has to

be renewed each year depending on their judicial capacity along with the integrity and honesty.

VII. Regular legal and procedural training courses have to be arranged for the chairmen, members, and representatives of the Village Courts along with the secretaries of the union parishads. The Secretaries should be additionally trained up for record management.

VIII. The government should take extensive publicity and advocacy program in both print and electronic media for creating awareness among the people about the functions and procedures of the Village Courts.

IX. The government should encourage and support the non-government organizations- NGOs to take awareness and advocacy programs for the Village Courts through out the country as has been taken by Madaripur Legal Aid Association at Madaripur and Shariatpur districts.

## Chapter Seven

### Conclusion

After thirty years of promulgation of the Village Court Ordinance very insignificant amount of works have been done on the performance and effectiveness of the village court. This reflects the overall attitude of the intellectual circle and of the government. Though the ordinance has been promulgated to save the rural poor from the hazards of the lengthy judicial process in the formal courts but the government has not given that much importance and emphasis for the proper functioning of this lowest level of justice which deals with both petty civil and criminal cases. Besides, there is in general negative image of the performance of this Village Courts. This study has found that in spite of constraints these Village Courts are performing an effective role not only in maintaining the social peace and tranquility and reducing the hazards of the poor rural justice seekers but also contributing in reducing the pressure on the formal courts. The present study found that ignorance in general regarding the ordinance among the chairmen and representatives and also among the justice seeker, poor implementation capability of the court, inadequate financial and logistic support to the Village Courts are the major constraints in the functioning of the Village Courts. If, these Village courts are made properly functioning, these can still play a very important role in the judicial system of Bangladesh.

## CHAPTER EIGHT

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## Schedules of the Village Court Ordinance, 1976

### PART- I

#### Criminal Cases:

1. Sections 143 and 147 of the Penal Code (Act XLV of 1860) read with the Third or the fourth clause of the section 141 of the code, when the common object of the unlawful assembly is to commit an offence under section 323 or 426 or 447 of the code, and when not more than ten persons are involved in the unlawful assembly.
2. Sections 160, 323, 334, 341, 342, 352, 358, 426, 447, 504, 506(first part), 508, 509 and 510 of the Penal Code (Act XLV of 1860).
3. Sections 379, 380 and 381 of the Penal Code (Act XLV of 1860), when the offence committed is in respect of cattle.
4. Sections 379 of the Penal Code (Act XLV of 1860), when the offence committed is in respect of any property other than cattle and the value of such property does not exceed five thousand taka.
5. Sections 403, 406, 417 and 420 of the Penal Code (Act XLV of 1860), when the amount in respect of which the offence is committed does not exceed five thousand taka.
6. Section 427 of the Penal Code (Act XLV of 1860), when the value of the property involved does not exceed five thousand taka.
7. Sections 428 and 429 of the Penal Code (Act XLV of 1860), when the value of the animal does not exceed five thousand taka.
8. Sections 24, 26 and 27 of the Cattle-trespass Act. 1871.
9. Attempts to commit or the abetment of the commission of any of the above offences.

Schedules of the Village Court Ordinance, 1976

PART- II

Civil Suits

1. Suit for the recovery of money due on contracts, receipts or other documents.
2. Suit for the recovery of movable property, or for the value thereof. When the amount claimed or the price of the movable property or the value of immovable property does not exceed five thousand taka
3. Suit for the recovery of possession of immovable property within one year of dispossession.
4. Suit for compensation for wrongfully taking or damaging movable property.
5. Suit for damages by cattle trespass

*Questionnaire 1: For the chairmen of the Village Courts*

A Study on the Effectiveness of the Village Courts

(All information collected in this study will used only for the study only and the unanimity of the respondent is ensured)

1. Name:
2. Father's Name:
3. Permanently live in:
4. Union:
5. Upazilla:
6. District:
7. Educational Background:
8. Profession: i) Agriculture ii) Business: iii) Others
9. If Agriculture, then how much land is owned by them:  
Do you have leased out land:
10. If business, then what business
11. Monthly income?
12. How many children you have?
13. Whether Elected for the first Time or not? Yes:                      No:
14. If not elected for the first time, then for what term?
15. Population of the Union:
16. Whether the Village court is formed in your Union or not? Yes:                      No:
17. If not formed, then why?  
If Yes, then
  - a) Do you conduct the village court at a particular day of the week or month?

b) What types of cases are most frequently lodged in this village court? Are these all within the jurisdiction of the village court ordinance or not?

c) What are the most frequent types of judgments passed by the Village Court?

i) Mediations            ii) Compensations

d) What you do, if, any party does not comply with the order of the court?

e) If any, how is the compensation money collected?

f) Number of cases pending for more than 6 months?

Causes for such pending:

g) Whether the case registers is maintained or not?

h) Whether the case files are preserved or not?

i) Did you ever penalize any one for the contempt of your Village Court ?

18. In your opinion, why do the people come to the Village Courts?

19. Do you allow any lawyer to participate in your court?

20. Are you a member of any political party?

21. If a member, did you get any support during your election?

22. Did you get support from any NGO in conducting the Village Courts?

23. Did you face any problem, during conducting the Village Courts?

24. What amendments, you recommend for the Village Courts?

Date:

Thanks for the cooperation's

*Md. Mahfuzul Alam Khan*

*Questionnaire 2: For the Petitioners of the Village Courts*

A Study on the Effectiveness of the Village Courts

(All information collected in this study will be used only for the study only and the anonymity of the respondent is ensured)

1. Name:
2. Father's Name:
3. Village:
4. Union:
5. Upazila:
6. District:
7. Educational Background:
8. Occupation:
9. Number of children:
10. Whether reside in own house or not:
11. If, in own house, then what type of house:  
    i) building    ii) Tin shed    iii) Hut
12. Monthly income:
13. Are you a member of any NGO or have you taken any loan from any NGO?
14. Are you a member of any political party?
15. What was the case you lodged in the Village Court?
16. When did you lodge the case?
17. How many days required for the disposal of the case?
18. Did any body prepare the papers for the Village Court or not?
19. Did you have previous enmity with your opponents or not?
20. Whether the socio-economic condition of your opponents were better than you or not?
21. How did the Village Courts formed?

22. Did you nominate your representative to the court?
23. Why did not you lodge case in any formal court?
24. What was the judgment? Was it mediation?
25. Did you get the judgment in favor of you?
26. Are you satisfied with the judgment?
27. If satisfied, then whether fully satisfied or partly satisfied?
28. Did the judgment establish peace between the parties?
29. Whether the judgment has permanently settled the dispute or established permanent peace among the parties or not?
30. Whether the judgment was implemented immediately or not?
31. If not, what were the causes?
32. Was there any expense for conducting the case in the Village Court or not?
33. If yes, then how did you manage that cost?
34. Did you get the judgment in written?
35. If yes, after how many days did you get it?
36. Did you face any difficulty in presenting the witnesses to the Village Courts?
37. Did your opponent present any fake witness in the case? If yes, then why did they do so?
38. Did you face any problem in that court?
39. If yes, what types of problems?
40. What is your assessment regarding the head and the representatives of the Village Court?  
Positive or negative?
41. What is your overall assessment of this Village Court? Will you advice others to go to this court?
42. Do you have any suggestion for the better functioning of the Village Court?
43. What is your opinion regarding the women's right?
44. What is your opinion about the activities of the police?

45. What is your opinion about the lawyers?
46. What is your opinion about the judicial activities as a whole?
47. What is your opinion about the role of the religious leaders?

Date:

Thanks for the cooperation

*Md. Mahfuzul Alam Khan*

19. Did you have previous enmity with the opponents?
20. Whether the socio- economic condition of the opponents is better than you or not?
21. How was the Village Courts formed?
22. Did you nominate your representative to the court?
23. What was the judgment? Was there any mediation or not?
24. Did you get the judgment in favor of you?
25. Are you satisfied with the judgment?
26. If satisfied, then are you fully satisfied or partly satisfied?
27. Whether the judgment has permanently settled the dispute or established permanent peace among the parties or not?
28. Whether the judgment was implemented immediately or not?
29. If not, what were the causes?
30. Was there any expense for conducting the case in the Village Court or not?
31. If yes, then how did you manage that cost?
32. Did you get the judgment in written?
33. If yes, after how many days did you get it?
34. Did you face any difficulty in presenting the witnesses to the Village Court?
35. Did your opponent present any fake witness in the case? If yes, then why did they do so?
36. Did you face any problem in that court?
37. If yes, what types of problems?
38. What is your assessment regarding the head and the representatives of the village court? Positive or negative?

39. What is your overall assessment of this Village Court? Will you advice others to go to this court?
40. Do you have any suggestion for the better functioning of the Village Court?
41. What is your opinion regarding the women's right?
42. What is your opinion about the activities of the police?
43. What is your opinion about the lawyers?
44. What is your opinion about the judicial activities as a whole?
45. What is your opinion about the role of the religious leaders?
46. What is your opinion about the rural development or poverty alleviation activities of the government?

Date:

Thanks for the cooperation

*Md. Mahfuzul Alam Khan*

*Questionnaire 4: For the Local Elites*

A Study on the Effectiveness of the Village Courts

(All information collected in this study will used only for the study only and the unanimity of the respondent is ensured)

1. Name:
2. Father's Name:
3. Village:
4. Union:
5. Upazila:
6. District:
7. Educational Background:
8. Occupation:
9. Are you a permanent member of this union or not?
10. If not, then for how many years you are staying in this union?
11. Monthly income:
12. Are you a member of any political party or not?
13. What do you know about the Village Court?
14. Do you know anything about the activities of the Village Courts in this union?
15. Did you ever nominated as a member of this Village Court?
16. Do you know of any instance of not accepting any case by the Village Court? If so, then do you know the reasons for?

17. Normally how many days are required for the disposal of the cases in the Village Courts?

18. How the Village Courts are formed?

19. Do the parties have to face any sort of problem for conducting the cases in the Village Courts? If yes, then what types of problems?

20. In your opinion what are the advantages and disadvantages of the Village Courts?

Advantages:

Disadvantages:

21. What are your suggestions for the improvement of the effectiveness of the Village Courts?

Date

Thanks for the cooperation

Md. Mahfuzul Alam Khan

*Questionnaire 5: For the Lawyers at the formal Courts*

A Study on the Effectiveness of the Village Courts  
(All information collected in this study will used only for the study only and the  
unanimity of the respondent is ensured)

1. Name:
2. Address:  
Permanent: Present:
3. How long are you in law practice?
4. Are you a member of any political party?
5. Do you know anything about the activities of the Village Courts in this union?
6. What do you know about the activities of the Village Court in your Union?
7. Did you ever nominated as a member of this Village Court?
8. Normally what types of cases are settled in the Village Courts? Why?
9. What is the fate of the cases that are sent to the Village Courts?
10. Do all the cases accepted by the Village Courts? Why?
11. How the Village Courts are formed?
12. Normally, how many days are required for the disposal of the cases in the Village  
Courts?
13. In your opinion what are the advantages of the Village Courts?
14. In your opinion what are the advantages of the Village Courts?
15. What are your suggestions for the improvement of the effectiveness of the Village  
Courts?

Date

Thanks for the cooperation

Md. Mahfuzul Alam Khan

*Questionnaire 6: For the Complainants at the Formal Courts*

**A Study on the Effectiveness of the Village Courts**

(All information collected in this study will be used only for the study only and the  
unanimity of the respondent is ensured)

1. Name:
2. Father's Name:
3. Address:
4. Educational Background:
5. Occupation:
6. Whether reside in own house or not:
7. If in own house, then in what type of house:  
i) Building    ii) Tin shed    iii) Hut
8. Monthly income:
9. Are you a member of an NGO or have you taken any loan from any NGO:
10. Are you a member of any political party or not?
11. What case you have lodged in the magistrate court?
12. For how many days you have lodged the case?
13. Did you have previous enmity with the opponents?
14. Whether the socio- economic condition of the opponents is better than you or not?
15. Do you know about the Village Courts?
16. Why did you not lodge the case in the Village Court?
17. What types of expenses you have to make in this court? How did you manage  
those expenses?

18. What is your assessment regarding the head and the representatives of the Village Court? Positive or negative?
19. What are the advantages and disadvantages of Village Courts?
20. What is your opinion regarding the women's right?
21. What is your opinion about the activities of the police?
22. What is your opinion about the lawyers?
23. What is your opinion about the judicial activities as a whole?
24. What is your opinion about the role of the religious leaders?
25. What is your opinion about the rural development or poverty alleviation activities of the government?

Date:

Thanks for the cooperation

*Md. Mahfuzul Alam Khan*



