

LOCAL GOVERNMENT SYSTEM IN BANGLADESH: AN ASSESSMENT

Abstract

Local government is the generic term used to describe transferring power from central government to local authorities. Local authorities have been playing important role in ensuring democracy. They are independently elected and are largely independent of central government. They undertake a variety of activities and actions as provided for within local government laws. Local government brings the political leaders in close contact with the people. In Bangladesh, local government has been facing a number of problems. The aim of this paper is to assess the local government system in Bangladesh. The reform of local government in Bangladesh is the need of the hour. The paper attempts to provide some proposals regarding the reform of local government in Bangladesh.

I Introduction

PEOPLE OF this globalized world believe that the presence of local government is inevitable to establish democracy at the grassroot level and to ensure proper participation of people in the formulation, planning and implementation of development process.¹ The importance of local government institution is immense because of its contribution to ensuring a decentralized² form of governance. Till the sixth century, local

1. Governance is defined as the manner in which power is exercised in the management of a country's economic and social resources for development. World Bank, *The World Bank's Experience*, Washington DC, 1994. This reference is contained in Kamal Siddiqui, *Local Governance in Bangladesh: Leading Issues and Major Challenges* 1 (Dhaka: University Press Limited, 2000).

2. Decentralization ensures better results in development programmes and projects, increases people's participation, ensures efficient delivery of services, helps mobilise local resources, engenders lower-level democracy, enhances coordination, promotes equity, increases the flow of information bottom up, enhances the responsiveness of the central government to citizen demands and interest, maintains political stability, and provides education and training in political leadership. See Kamal Siddiqui, *supra* note 1 at 5.

government was the basic form of government in the Indian sub-continent. The existence of the village self-government in the sub-continent can be found since the existence of the villages themselves.³ The reference to the forms of village self-government can be found in the *Rig Veda*, the oldest Hindu religious writing, dating from approximately 1200 B.C.⁴

The expression "local government" is defined, without taking into consideration its financial and legal status and representative character, as "a public organization authorized to decide and administer a limited range of public policies within a relatively small territory which is a subdivision of a regional or national local government."⁵ De Tacqueville says: "Local institutions constitute the strength of free nations. A nation may establish a system of free government but without municipal institutions, it cannot have the spirit of liberty."⁶ The United Nations defines local self-government as "a political sub-division of a nation or state which is constituted by law and has substantial control of local affairs, including the power to impose taxes or exact labour for prescribed purposes. The governing body of such an entity is elected or otherwise locally selected."⁷ In *Kudrat-e-Elahi Panir v Bangladesh*,⁸ the Supreme Court of Bangladesh held that local government "is meant for management of local affairs by locally elected persons." So "Local governments are not true sovereign governments. As such they possess no independent powers or authority, save those delegated to them by state institutions and laws. In brief, they remain subject to the sovereign authority of the national and state governments."⁹ Local government possesses certain characteristics. In this context, the apex court of Bangladesh observed:¹⁰

3. M Shamsur Rahman, *Local Government System in Bangladesh: Major Issues and Challenges* (Paper presented at a seminar held at Small & Cottage Industries Training Institute Auditorium, Dhaka, 2005).

4. To know details about the development of local government in Bangladesh, see Kamal Siddiqui *et al.*, "Evolution of Local Government in Bangladesh," in Kamal Siddiqui *et al.* (eds.), *Local Governance in Bangladesh: Leading Issues and Major Challenges* 24-99 (Dhaka: University Press Limited, 2nd ed., 1995).

5. Duane Lockard, "Local Government" in *Encyclopaedia of Social Sciences* 451 (New York, 1968).

6. S.S. Raychoudhary, *History of India* 211 (New Delhi: Surjeet Publications, 1995).

7. Quoted in Kamal Siddiqui (eds.), *supra* note 1 at 4.

8. 44 DLR 319 at 330 (AD).

9. William Valent, *Local Government Law*, American Case Book Series 2.

10. *Kudrat-e-Elahi Panir v. Bangladesh*, 44 DLR 319 at 341-2 (AD).

Local government as a concept and as an institution, was already known to have possessed certain common characteristics, namely, local elections, procedure for public accountability, independent and substantial sources of income, clear areas for independent action and certainty of powers and duties and the conditions under which they would be exercised.

II Position of local government under the Constitution of Bangladesh

The original Constitution of Bangladesh, which was adopted on 4 November 1972 and given into effect on 16 December 1972, gave the legal basis of the local government institutions in Bangladesh. There are few provisions relating to local government. Articles 59 and 60 of the Constitution provide:

Article 59:

- (1) Local Government in every administrative unit of the Republic shall be entrusted to bodies, composed of persons elected in accordance with law.
- (2) Everybody such as is referred to in clause (1) shall, subject to this Constitution and any other law, perform within the appropriate administrative unit such functions as shall be prescribed by Act of Parliament, which may include functions relating to –
 - (a) Administration and the work of public officers;
 - (b) the maintenance of public order;
 - (c) the preparation and implementation of plans relating to public services and economic development.

Article 60:

For the purpose of giving full effect to the provisions of article 59 Parliament shall, by law, confer powers on the local government bodies referred to in that article, including power to impose taxes for local purposes, to prepare their budgets and to maintain funds.

Apart from the above two articles, article 11 provides:

The Republic shall be a democracy in which fundamental human rights and freedoms and respect for the dignity and worth of the

human person shall be guaranteed, and in which effective participation by the people through their elected representatives in administration at all levels shall be ensured.

Articles 59 and 60 of the Constitution of Bangladesh were, however, abolished by the Constitution (Fourth Amendment) Act, 1975. This Act also dropped the words contained in article 11 regarding local government. The Proclamation (Amendment) Order, 1977 incorporated into the Constitution provision regarding local government in article 9 which states:

The State shall encourage local government institutions composed of representatives of the areas concerned and in such institutions special representation shall be given, as far as possible, to peasants, workers and women.

The Constitution (Twelfth Amendment) Act, 1991 restored articles 59 and 60 and words of article 11 of the original Constitution of Bangladesh that provides for local government.

III Structure of local government in Bangladesh

In Bangladesh, two types of local government systems exist - rural and urban. The rural local governments are: (a) *gram sarkar*, (b) *union parishads*, (c) *upazila parishads* and (d) *zila parishads*. The urban local governments are: (a) *pourashavas* and (b) *city corporations*. The three types of *pourashavas* are: (a) class I, (b) class II, and (c) class III.¹¹ City corporations have been constituted in the divisional headquarters (Dhaka, Chittagong, Rajshashi, Khulna, Sylhet and Barisal). Three hill districts local government parishads have been set up in Rangamati, Khagrachari and Bandarban Hill Districts.¹²

11. This classification is important for different reasons. For example, the grants of government to the Pourashavas varies because of their class status. Jamshed Ahmed, Khandaker Azad Ahmed, and Mostaque Ahmed Khandaker, "Structure and Composition of Local Government Bodies in Bangladesh," in *Local Government in Bangladesh*, in Kamal Siddiqui, *supra* note 1 at 112.

12. Among the different tiers of local government, union parishads have the longest institutional history. Its origin can be traced to 1870. Hossain Zillur Rahman, "Local Governance: Towards a Politically Intelligent Agenda," in Hossain Zillur Rahman, and S. Aminul Islam (eds.), *Local Governance and Community Capacities: Search for New Frontiers* 155 (Dhaka: The University Press Limited, 2002).

IV Functions of local government in Bangladesh

Article 59(2) of the Constitution of Bangladesh provides:

Everybody such as is referred to in clause (1) shall, subject to this Constitution and any other law, perform within the appropriate administrative unit such functions as shall be prescribed by Act of Parliament, which may include functions relating to-

- (a) Administration and the work of public officers;
- (b) the maintenance of public order;
- (c) the preparation and implementation of plans relating to public services and economic development.

The laws relating to local government institutions entrust the local government institutions (both local and urban) with a large number of functions and responsibilities regarding civic and community welfare as well as local development.

Functions of rural local government

Section 30(2) of the Local Government (Union *Parishads*) Ordinance, 1983 states that the union *parishads* shall, in particular, perform the following functions:

- (a) Maintenance of law and order and assistance to administration in the maintenance of law and order;
- (b) Adoption of measures for preventing crime, disorder and smuggling;
- (c) Adoption and implementation of development schemes in the field of agriculture, forest, fisheries, livestock, education, health, cottage industries, communication, irrigation and flood protection with a view to increasing economic and social upliftment of the people;
- (d) Promotion of family planning;
- (e) Implementation of such development schemes as may be assigned to Union Parishads by the Upazila Parishad or Thana Parishad, as the case may be;
- (f) Development of local resources and their use;
- (g) Protection and maintenance of public property, such as, roads, bridges, canals, embankments, telephones and electricity lines;
- (h) Review of development activities of all agencies at the union level and to make recommendations to the Union Parishad or Thana

Parishad, as the case may be, in regard to the activities of their agencies;

- (i) Motivation and persuasion of the people to install sanitary latrines;
- (j) Registration of births, deaths, blinds, beggars and destitutes;
- (k) Conducting of census of all kinds.¹³

The *upazila parishads* like union *parishads* are entrusted with similar functions. They are also entrusted with the responsibility of making integrated five year development plans for *upazila* on the basis of the plans submitted by the union *parishads*.¹⁴

A large number of functions are conferred on the *zila parishad*. The significant compulsory functions of *zila parishad*, in accordance with the Local Government (Zila Parishad) Act, 1988, are as follows:

- (a) scrutiny of development efforts within the district;
- (b) establishment and maintenance of public libraries;
- (c) construction, maintenance and development of roads, culverts and bridges not owned by the *pourashava* or the government;
- (d) plantation and conservation of roadside trees;
- (e) promotion and maintenance of gardens, playgrounds and open fields for public use;
- (f) management and development of ferry *ghats* not maintained by the government or the *pourashava*;
- (g) construction and maintenance of *dakbungalows* and rest houses; and
- (h) execution of development programmes entrusted by the government.¹⁵

Functions of urban local government

In general, the functions of the *pourashavas* and city corporations are identical in nature. The compulsory functions of these local government bodies are as follows:

13. Rafia Khatun *et al.*, "Functions of Local Government in Bangladesh," in Kamal Siddiqui, *supra* note 1 at 128-9.

14. Section 36, Second Schedule, Upazila Parishad Ordinance, 2008.

15. Rafia Khatun *et al.*, *id.* at 138-9. There are some optional functions of the *zila parishads*. They relate to the promotion of education, culture, social development, public works, public health, local economy, religious institutions, *etc.* See Rafia Khatun *et al.*, *id.* at 139.

- (a) Construction and maintenance of roads, bridges and culverts;
- (b) Removal, collection and disposal of refuse, wastes and culverts;
- (c) Provision and maintenance of street lighting;
- (d) Maintenance of public streets and provision for watering them;
- (e) Provision and regulation of water supply;
- (f) Construction and maintenance of shopping centres;
- (g) Plantation of trees on road sides;
- (h) Regulation of insanitary buildings;
- (i) Prevention of infectious diseases and epidemics;
- (j) Registration of births, deaths and marriages;
- (k) Provision and maintenance of slaughterhouse;
- (l) Provision and maintenance of drainage;
- (m) Control over erection and re-erection of buildings;
- (n) Provision and maintenance of graveyards and cremation grounds;
- (o) Control over traffic and public vehicles.¹⁶

In Bangladesh, there are now six city corporations and two hundred and ninety eight *paurashavas*. The city corporations are Dhaka, Chittagong, Rajshahi, Khulna, Sylhet and Barisal.

V Local government finance

In general, the sources of income of local government bodies in Bangladesh are: taxes, rates, fees and charges levied by local body; rents and profits accruing from the properties of the local body; sums received

16. Rafia Khatun *et al.*, *id.* at 145-46. There are some optional functions of these local government bodies. They are:

- (a) Checking adulteration of food and drinks;
- (b) Control over private markets and shopping centres;
- (c) Maintenance of educational institutions and provision of stipends to meritorious students;
- (d) Provision of flood and famine relief;
- (e) Provision and maintenance of parks, gardens and playgrounds;
- (f) Establishment of welfare homes, orphanages and prevention of beggars;
- (g) Establishment of public dispensaries, provision of public toilets;
- (h) Establishment of veterinary hospitals, registration of cattle sale and improvement of livestock;
- (i) Celebration of national holidays;
- (j) Reception of distinguished visitors/persons;
- (k) Establishment of public libraries and reading rooms;
- (l) Promotion of community development projects;
- (m) Naming of roads and numbering of houses.

in the performance of its functions; contributions from individuals, institutions, *etc*; government grants; profits from investments; receipt accruing from the trusts placed with local body; loans raised by the local body; and proceeds from such sources of income as the government may direct to be placed at the disposal of a local body.¹⁷

VI Personnel system in the local government

The chairman acts as the chief executive in the union *parishad*. The secretary assists him. The *upazila nirbahi* officer (UNO) and the chief executive officer (CEO). i.e. the deputy Commissioner (DC) respectively preside over the *upazila parishad* and the zila parishad. The deputy commissioner through his *upazila nirbahi* officers indirectly controls activities at the *upazila* level.¹⁸ They are assisted by some officers and staffs both deputed and recruited. The post of CEO is established in the city corporations and a number of *paurashavas*. The CEO controls all other officers and employees of his institution. He needs to assist the chairman or mayor in the performance of activities of the *paurashava* or corporation. The deputy commissioners act as *ex-officio* secretaries in the Hill District Local Government parishads. They are required to provide assistance to the chairman.

VII An assessment of the trend

Strengths

Women's participation at the local level

Articles 28 and 29 of the Constitution of Bangladesh guarantee the following rights:

- 28(2) Women shall have equal rights with men in all spheres of the State and of public life.
- 28(4) Nothing in this article shall prevent the State from making special provisions in favour of women or children or for the advancement of any backward section of citizens.
- 29(1) There shall be equality of opportunity for all citizens in respect of employment of office in the service of the Republic.

17. Kamal Siddiqui, *supra* note 1 at 166.

18. See Syed Giasuddin Ahmed, "Public Administration in the Three Decades," in A. M. Chowdhury and Fakrul Alam (eds.), *Bangladesh on the Threshold of the Twenty-First Century* 322 (Dhaka: Asiatic Society of Bangladesh, 2002).

These provisions fully ensure the right of women to participate in all spheres of life as citizens.

To bring into reality the constitutional requirements, several local government laws were passed. Union Parishad (Ordinance No. LI of 1983) provided for three women members in the *parishad*. The Local Government (Union Parishads) (Amendment) Act, 1993 has reserved three seats for women members. In 1997 (Act 20 of 1997), an amendment to the Union Parishad (Ordinance No. LI of 1983) was made which provided for three exclusive reserved seats for women to be elected directly on the basis of adult franchise. It also stated that the general seats which are not reserved for women would be open to women to contest. The Upazila Parishad Ordinance, 2008 provided for one-third of the total members to be women and one vice-chairman to be a woman. As to the composition of *zila parishad*, the Local Government (Zila Parishad) (Amendment) Bill, 1993 states that a zila parishad comprises a chairman, male members and women members. Under the Zila Parishad Act, 2000, five seats have been reserved for women. The reservation of women members were ensured in each of the Hill District Councils, including the regional council.

The Local Government (Pourashava) Ordinance, 2008 provided for reservation of seats for women commissioners. Under the City Corporations (Amendment) Act, 1993, the women commissioners are to be elected by the commissioners of a city corporation. This development undoubtedly plays important role in empowering women in the national level and is a step away from gender blindness.

Advisory role of members of Parliament

At present members of Parliament are important person in the local government bodies. They have been the advisors to the local government bodies. Section 30 of the Zila Parishad Act, 2000 and section 25 of the Upazila Parishad Act, 1988 state that members of Parliament should be the advisors of *zila parishad* and *upazila parishad*. Their presence as advisors is necessary because they are generally aware of the local problems as they live nearest to the people of their constituencies. They are also familiar with the hopes and aspirations of the people as well as the resource constraints of their constituencies.¹⁹ They make strong the hands of local government bodies through their advice. They place the demands of local people in Parliament.

19. *Supra* note 1 at 233.

Revival of the upazila parishad

Another important development of local government bodies is the revival of the *upazila parishad*. This step took place because of the enactment of the Upazila Parishad Ordinance, 2008 which declared the upazila as an administrative unit.²⁰ This step fulfils the requirement of constitution.²¹ It may not be out of place to mention that following an amendment to the union *parishad's* law, every union was declared to be an administrative unit in 1992. During the same year, an amendment of the relevant law took place under which every municipality was declared to be an administrative unit. The words contained in article 59 require the establishment of an elected local government in every administrative unit. Article 52(1) defines administrative unit to be a district or other area designated by law for the purpose of article 59. Thus, the constitutional requirement of the establishment of administrative unit was complete by 1998.

Weakness

Shortage of manpower

Adequate manpower is not available at all levels of local government. In the absence of required functionaries, the administrative and development activities of local government bodies are hampered. This is very much evident in the case of union *parishad* where the secretary, the only functionary of union *parishad*, is required to attend all sorts of activities of the *parishad*, as clerk, tax collector and custodian of records, besides helping the chairman in dealing with the regular administration of the *parishad*.²²

Thus, adequate number of personnel should be appointed to perform regular activities of local government bodies. This appointment should be based on competency and corruption or political consideration is not acceptable.

Human resource development

At present, personnel of local government bodies are not efficient. They have to be provided training so that they may become competent in their respective fields. If they become competent, it will be conducive

20. S. 3 of the Upazila Parishad Ordinance, 2008.

21. Art. 59 of the Constitution of Bangladesh.

22. Syed Nuruzzaman, "Local Government Personnel", in Kamal Siddiqui, *supra* note 1 at 200.

to achieve the objectives of local government. It is noted that the national institute of local government (NILG), the Bangladesh academy for rural development (BARD) and the rural development academy (RDA) are providing training to local government personnel. But their activities should be extended. More effort is to be given in such areas as office management, book keeping, programming and budgeting, monitoring and evaluation, addressing public grievances, accountability and transparency.²³

Local government finance

Local government bodies do not have enough finance. So they are unable to perform their functions properly. According to article 60 of the Constitution of Bangladesh, the Parliament is empowered to enact law. Though the Parliament in its law confers powers on the local government bodies to impose taxes for local purposes, to prepare budget and to monitor funds,²⁴ the financial condition of local government bodies are worse because of the reluctance of citizens to pay tax, corruption and inefficiency of local government personnel. The current laws in Bangladesh empower local government bodies to impose and collect taxes with prior permission of the government.

To get immunity from this problem, citizen should be inspired to pay tax, local government bodies personnel should be given adequate and regular salary as well as training so that they may become efficient personnel. Besides these, the power to issue notice and attach properties of tax defaulters should be given to the local government bodies.

Tiers of local government

The Constitution of Bangladesh provides for local government in every administrative unit of the Republic.²⁵ The Constitution defines "administrative unit" as a "district or other area designated by law for the purposes of article 59."²⁶ Thus, the Constitution did not contain specific reference as to how many administrative tiers would be there. At present, there are three units of local government - division, district and upazila. According to the spirit of the Constitution, local government in

23. A.M.M. Shawkat Ali, "Local Government, 1971-2000," in A. M. Chowdhury and Fakrul Alam, *supra* note 18 at 368.

24. S. 44 of the Upazila Parishad Act, 1992, s. 53 of the Local Government (Union Parishad) Ordinance, 1983.

25. Art. 59.

26. Art.152.

Bangladesh should be present at those three units and not at union level, as the administrative unit is absent at the union.

Non-conformity in the tiers of local government during the regimes of different government was found. Thus, the local government is failing to provide adequate help to the people. As to the tiers of local government, one author states that taking into consideration the historical and current financial, administrative and political realities of the country, it appears that we can now realistically afford a two-tier local government structure comprising of the union *parishad* and the *upazila parishad*.²⁷ In Bangladesh, local government bodies are not independent of the national government.

Participation and accountability

There is a lack of public participation and accountability in local government bodies. Public participation should be ensured with a view to making local government bodies effective. But at present public participation is only evident at the time of election of local government bodies.

People are not in position to involve with decision making process of local government bodies. It should be borne in mind that the accountability of local government bodies cannot be ensured without the participation of the public. Besides this, an independent authority should be formed to monitor the activities of local government bodies. The *Local Government Commission Report* (1997) also recommended the establishment of a permanent commission.²⁸

In addition to these, the functions of local government bodies become limited and selective due to lack of operational coordination, central bureaucratic interference, factionalism and rift among local government officials, and procedural formalities.²⁹

In Bangladesh, the establishment and maintenance of local government, as a tier of at the bottom of pyramid of government institutions consisting of elected members, is necessary for ensuring local level participation in the formulation, planning and implementation of development

27. Kamal Siddiui, *supra* note 1 at 342.

28. Government of Bangladesh. Ministry of LGRD and Cooperatives, *Summary of the Local Government Commission Report*, 1997, pp. 21-2.

29. Niaz Ahmed Khan, "Rural Development in Transition: An Institutional Perspective," in *Bangladesh on the Threshold of the Twenty-First Century* 395, in A.M. Chowdhury and Fakrul Alam, *supra* note 18 at 395.

programmes and developing prompt basis civil services to the people of the locality.³⁰ The local government systems opens the door of great contribution in different countries of the world. Bangladesh is also benefited from the system.

Lack of monitoring the functions of the local government bodies

The monitoring & evaluation wing of the local government department of the Ministry of Local Government Rural Development and Cooperatives (LGRD&C) is under an obligation to monitor the functions of the local government bodies. Unfortunately, its monitoring mechanism is not satisfactory. Besides this, field level local government functionaries like the UNO inspect the activities of local government bodies. Their monitoring mechanism is also inadequate. Proper arrangement should be made in this regard.

VIII Conclusion

The potentiality of local government system is now evident. Local government bodies throughout history play important role in establishing democracy and women participation at the national level. It reduces the workload of central government. However, due to shortage of manpower, efficient personnel, lack of finance, uncertainty of tiers of local government, lack of public participation and accountability, the system of local government is presently unable to provide proper service to the public. These shortcomings should be removed at the earliest, otherwise it will cause sufferings to the people.

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30. M. Ershadul Bari, "The 1972 Constitution of Bangladesh and The Local Government", 6(1) *J. of the Faculty of Law, University of Dhaka* 1-12 (1995).

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