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Present Conditions and Ensuring Rule of Laws at Local Level: A Case Study on Village Court

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ABSTRACT

This study examines, with particular attention to the Union Parishad in Bangladesh, what constitutes a critical role played by village courts when it comes to ensure basic rule of law at grassroots level. Since there are no administrative units at village level, the rural local governance structure is driven by UPMs. The Village Court system established under the Gram Adalat (Village Court) Ordinance of 1976 and formalized through the Village Court Act of 2006, serves as a statutory formal court designed to alleviate the hardships faced by the rural poor within the formal judicial system. In order to increase justice delivery in rural areas and improve the resolution of disputes through Salish means, this research looks at how the village court has evolved since its inception in the late 1970s. The Bangladesh's government has initiated a project called "Activating village courts" with support from the UNDP and the EU in order to reinforce its rural court system. The study, which was carried out in three unions at the Netrokona District, used a combination of methods on as approach to use both quantitative and Qualitative data obtained by Structured and Unstructured Surveys. The findings of the study are followed up by a set of recommendations and initiatives aiming to strengthen the ability of village courts to ensure rule of law at local level. The findings of this research show that village courts are playing a critical role in the redemption of justice services effectively in rural Bangladesh, which emphasised their importance to broader efforts to encourage access to justice and democratic rights at grass roots level.

Keywords: Village court, Local dispute, Ensuring, Resolution, Justice system, Rule of laws, and Union parishad.

INTRODUCTION:

The Bangladesh's constitution (article 27) says, 'All persons shall be treated equality before law and are empowered to equality of justice.' Secondly, access to justice must be ensured in order for legal protection to be carried out on an equitable basis: Bangladesh's constitution, 2015. The Gram Adalat (GA) Ordinance 1976 was Projected in inland of Bangladesh in 1976 to facilitate the countryside Impoverished from the sufferings and hazards of the formal courts (Biswas,

2008). Bangladesh's one of the worst countries on Earth, with almost all its people living in rural areas. AS a result, it is not easy for rural people to go to the formal courts in the district headquarters. The formal courts are generally expensive and follow lengthy procedures. As a result, it is very difficult for them to sue and continue the cases at the formal courts. Access to justice is an important key condition for sustainable development in Bangladesh's remote regions. Penetration to the dialectic is the philosophy which is mostly

rooted in the formal structure with designed roles as per the rules, procedures and arrangements for the pertinent institutions, with policy frameworks, values, etc (Aminuzzaman, S.M. 2011). One of the core prerequisites for development and good governance is access to justice. 'All people are born free and shared equal in dignity and rights, in accordance with the Universal Declaration of Human Rights (UDHR) art. 1 in 1948.' Therefore, in cases where a person's integrity or rights have been infringed, all persons should be guaranteed the same access to justice. The fundamental rights principle may nevertheless be undermined by a lack of fairness or discrimination in the justice system. Such a system risks exposing the vulnerable, marginalized and human dignity to danger if it is not possible for all to have fair access to justice. Ensuring rule of law for the people is always a great deterrence for Bangladesh because, about fourth-five portion of total population lives in villages and almost above 40% lives below the poverty line (Islam *et al.*, 2022).

Article 31 of The constitution of the People's Republic of Bangladesh provides that, "To enjoy the protection of the law, and to be treated in accordance with law, and only in accordance with law, is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Bangladesh, and specifically no action harmful to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law". Again Article 35(3) states that, "Every person accused of a criminal offence shall have the right to a speedy and public trial by an independent and impartial court or tribunal established by law". There are many obstacles to achieving the benefits of access to justice. Barriers may be actively or passively created or sustained and may be (a) legal, (b) institutional, (c) political or (d) social/cultural. Among the obstacles, the complexity of justice system is one of the major obstacles for poor people to access to justice and service provider to dispense justice. A great number of people of the country don't have financial and other logistic support to get the appropriate service from the judicial system.

Access to legal proceedings is extremely limited in rural poor, because of the fact that eight out of ten Bangladeshis live in a village and most courts are located in urban centers. The rural poor must bear the

costs of travel and logistics, which are an additional burden, because the lowest formal court is at the district level, Siddiqi, (2003). At present there are 4,488 Union Parishads (UPs) in Bangladesh (BBS, 2010). UP has a crucial role to play in the life of rural people both economically and the socially. As the chairman and members of the UP are elected by the spatial people, they have greater accountability to them the chiefs of the informal shalish (Arbiter) procedure. A study conducted by Hossain, (2012) examined that the formal judicial system of Bangladesh is very costly following a lengthy system. Penniless people living in remote area are rarely able to use this formal legal procedure to get remedies. Poor people, therefore, like to use the traditional justice methods like shalish. But it is proved that shalish is a very informal form of local judicial practice influenced by the people who belong to the power structure in rural society. Another study conducted by Islam, (2015) shows that two thirds of rural disputes do not enter the formal court system in Bangladesh. The extensive use of the Salish system by the rural people is in no way to mean that the system is popular, this is because the rural people still have not found any better alternative to the Salish system.

A brief sketch of Village Court

The Village Code in Bangladesh relates to a municipal governance and administrative system for areas of the countryside. We have a brief history here:

Pre-independence

Prior to the Bangladesh's independence in 1971, rural areas were often governed by traditional local leaders and councils. All over the area there was no common code for villages.

Independence and early years

In 1972, when Bangladesh gained independence, it enacted a local government ordinance that lays the foundation for modern village governance. It established UPs (rural councils) as the lowest tier of local government.

The Upazila system

In 1983, the UP Act was passed that created a mid-level of the administration within the UP which is subordinate to the central government. Upazilas are sub-districts responsible for a group of UP. Evolution and change: over the years, a variety of amendments

and reforms were made to the village law in order to increase local governance, provide for more transparency as well as devolve powers at grassroots level.

Present day

As of my last update in September 2021, Bangladesh continues to fine tune its village code and the structure of local government, with a view to improving rural governance as well as empowering local communities. The local government law was enacted by the govern-

ment of Bangladesh on 16 April 1976. The UP has forty functions, with limited judicial powers, as a result of this ordinance. The VC ordinance provided that each union has the right to bring its own cases before a village court. Accordingly, in order to deal with petty cases, village courts were set up. The purpose of establishing villages' courts was to deal with disputes, both criminal and civil, which are in the cubits of villagers.

Table 1: Characteristics of Village Courts.

Established by	The village court act, 2006 (previously The Village Court Ordinance 1976).
Location of VC	union Parishad complex
Offence types	both civil and criminal
Jurisdiction	Fine up to 75,000/- Taka.
Panel members of VC	UP chairman, two UP members, two persons from both parties.
Appellate authority	Magistrate 1st class/ Assistant Judge.
This court is legally required to follow informal procedure of trial or dispute settlement, meaning thereby that the application of Code of Civil Procedure, Code of Criminal Procedure and Evidence Act has been barred. It has barred the appointment of lawyers. However, decisions of these courts are as binding as those of any other formal courts of the country.	

Source: Hossain, S. M. B. (2012).

The village Court is envisaged as a powerful dispute resolution mechanism to settle the local disputes of, both civil and criminal nature. It was the panchayat system of old times which brought about the village court, which was responsible for the management of village affairs, including settlement of disputes, as a body of elders. According to the Constitution of Bangladesh, one of the fundamental aims of the State is to realize a society of rule of law, fundamental human rights, equality and justice. With this aim after the Independence of Bangladesh, it established Village Courts in the rural areas of the country by enacting the Village Courts Ordinance, 1976 and framing the village Courts Rules, 1976 to ensure access to justice for the rural poor and marginalized people (UNDP, (2012). The study aims and objectives to examine to the ensuring rule of law at the local level by village. This study also indicates the barriers of the village courts & explores the ways to reduce these challenges.

Village Courts

Village courts (VC) are planned as a rapid and low cost mechanism for the resolution of disputes which lead to formal documentation decisions, supported by the enforcing powers of the State. The VC ordinance of

1976, which was replaced by the 2006 village courts act, was the first to establish the village courts. The VCs had not been active at the majority of unions, according to practice. VCs are authorized to hear civil or criminal matters, but only for a value of BDT 75,000USD 896). The VCs can only impose financial punishments and not prison sentences and they cannot adjudicate more serious criminal cases such as rape or murder. In total, 62 % of disputes that we have documented so far are under the jurisdiction of the VC. The UP chairman shall try to reach a compromise by means of mediation after the complainant has lodged an appeal with the VC. In the event of failure to reach an agreement, the VC, including the President of the UP, who acts as the President of the VC, and four members of the jury appointed by the delator and the respondent, shall be set up. The plaintiff and the defendant each nominate two jury members, of which two have to be from the twelve-person UP (union council). No lawyers are allowed on the VC. VCs can use the local Village Police to enforce its decisions. Village Police are often used to bring defendants to the VC or to serve notices to witnesses to appear in court. If a VC cannot enforce a decision locally, it can bring the case to the District.

Activating Village Courts in Bangladesh (AVCB)

The Bangladesh government and UNDP launched the AVCB program in 2009. The first phase was activated from 2009 to 2015 and covered 351 of Bangladesh's 4,550 unions. From 2016-2020, a second phase expanded the program to an additional 1,080 unions and this paper evaluates the effects of that expansion. www.villagecourts.org provides a comprehensive overview. The AVCB program provides five types of support to UPs. First, it supplies the required forms and furniture to make the VCs functional and hires a Village Court Assistant for each UP. In that second phase, this was implemented April-November 2017. Second, the program trained UP officials in VC processes. The training took place between May 2017 & June 2018. Third, the program conducted community meetings, rallies, and multimedia drama shows in each program union to raise awareness among the general population. These activities began in July 2017 and were repeated periodically until December 2020. Fourth, to encourage monitoring by the district administration, UNDP facilitated workshops for government officials, district court judges, and journalists. These workshops were conducted between October 2017 and November 2018. Fifth, AVCB required program UPs to provide monthly reports to the district administration recording the number of cases processed by the VC (Mattsson & Mobarak, 2023).

Objectives of the Study

The main objective of the study is to examine the ensuring rule of law at the local level by village court.

Specific objectives of the Study

The specific objectives of the study are following:

- 1) To know about the village court
- 2) To assess the usefulness of the village court system providing access to justice for rural population.
- 3) To identify the factors that influences the acting of the VC system.
- 4) To explore the challenges and opportunities of the VC system.
- 5) To provide recommendations for improving the VC system.

Research Question

- 1) How effective is the VC system in providing access to justice for the rural population?

- 2) What factors influence the functioning of the VC system?
- 3) What are the challenges and opportunities of the VC system?
- 4) What recommendations can be made for the improving the VC system?

METHODOLOGY:

Methodology of the Study

This chapter presents an overview of methodology and procedures applied in this study. It describes the process that was employed to collect and analyze data/information in order to measure the access to justice scenario of the rural Bangladesh and to explore the capacity of the Union Parishad/ Village Courts and its officials in dispensing justice.

Research Methods

The study is both quantitative and qualitative study relied on the primary sources of the data. The simple random sampling method was used for the study. A semi-structured questionnaire/checklist was prepared for the study. Before the main study, an in-house small study was carried out to figure out the simplicity of the interview schedule.

Research Location

Relevant qualitative information was collected from three unions of one district with different people. Three unions were Dampara union, Nikli union, and Singpur Union under Kishoreganj district. The reason for choosing Netrakona district was because several NGO-interventions on village courts were underway in this district since last couple of decades and various studies stated that village courts are relatively operational there. Elsewhere, Kishoreganj is a poverty-stricken area where people have little access to the formal justice system and they generally rely upon informal justice systems like Shalish in solving local disputes.

Methods of Data Collection and Respondents

The following methods were used to collect the information:

Content Analysis

Relevant circulars reports and meeting minutes were collected throughout the research. These documents were used to understand the justice scenario at local level.

Interviews

For the purpose of present study, almost 200 peoples were interviewed. Relevant information was collected from the UP chairmen, members, secretaries, UNOs, Officer in Charge (OC) of local police station, local elite, NGOs representatives who plays an important

role in shaping the legal as well as social discourse. These interviews were of informal nature though an interview guide was prepared for the purpose. During the interview, some relevant questions were also asked to all the respondents to identify and understand access to justice scenario of Bangladesh.

Table 2: Data Collection Methods and Respondents.

Type of respondents		Information collection method	No. of respondents
Service Providers	UP Chairman	Key Informant Interview	
	UP Member		
	UP Member (Female)		
	UNO		
Service seekers	Rural People	Face to face Interview	200

Data Collection Technique

In this research, different types of the data collection procedures for this research were conducted to collect the primary and secondary data. The primary data were collected by using a structured questionnaire from key respondents and asking a set of questions from experts' interviews. The secondary data was gathered through content analysis from the research articles, textbooks, and dailies while documents survey schemes from various webpage.

Data Processing

The Collected data were analyzed, sorted, summarized, calculated edited, formatted, tabulated, and classified according to the objective of the research.

Data Analysis

The data are collected from both primary and the secondary sources. After processing, the collected data were then analyzed and interpreted by using Ms-Word, and Excel to analyze the data. Quantitative data were analyzed through SPSS (Statistical Package for Social Science) 25 version.

Analysis, Findings, and Discussion

This chapter presents the results of research findings derived from the primary data analysis by the using quantitative and qualitative methods. In this chapter, data are presented graphically (i.e. Bar chart, Pie Chart) and systematically by using MS Excel which shed light on research objectives & research questions. This chapter aims to present the empirical results of

the graphical analysis derived from content analysis and to the discussion of the results obtained from the data source.

Review of Literature

The aim of this chapter is to present review of existing literature, conceptual dimension of the dispensation of justice & relationship between dependent & independent variables. A conceptual framework for this study is developed based on the study of literature on theoretical perspectives of access to justice and international good practices. It also formulated an analytical framework based on the relevance of dependent and independent variables.

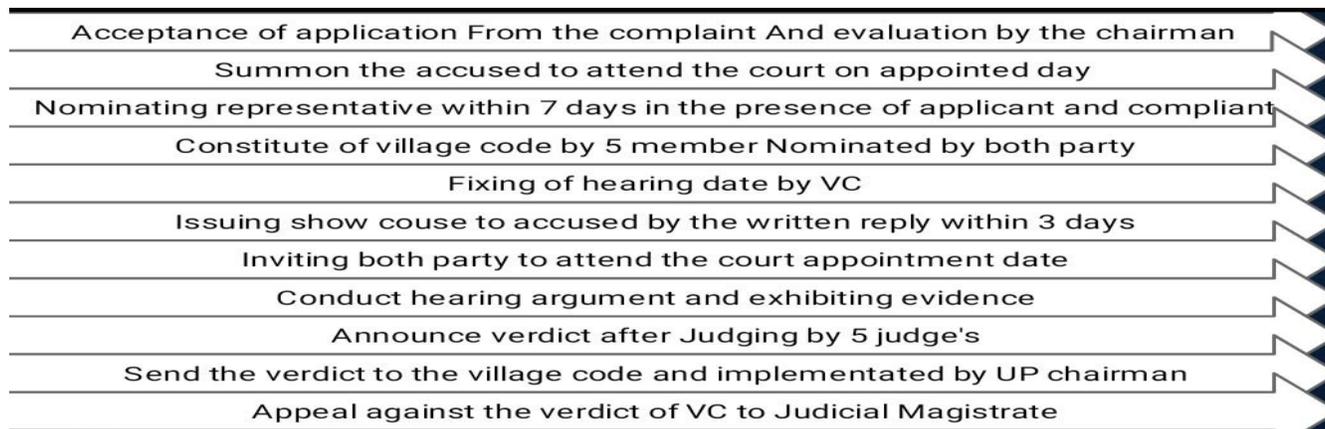
Structure and Functions of VC in Bangladesh

A village court (Gram Adalat) flow chart has given below:

Sources: Based on Hossain, 2012; Biswas, 2008 and Activating Village Courts in Bangladesh Project, 2012.

Administrative body in the Union that is directly elected by the Union's citizens. A village court is a statutory court composed of the chairman of the UP and four representatives - two from each party, one of them being a member of the parishad. It is customary for the court's chairman to be a UP president, but any member of that union can act as its President. The only adjudication option open for village courts is to order compensation of an amount not exceeding 25,000 taka, payable to an aggrieved person.

The village courts are under the institutional control of the UP, which is the smallest local government



If the decision of a village court is unanimous or by a majority of 4:1, the decision shall be binding on the parties. But, if the decision is by a majority of 3:2, any party to the dispute may, within thirty days of the decision, appeal to any judicial magistrate of the first class or assistant judge having jurisdiction over the case (Hossain, 2012). If the Magistrate is satisfied that there has been a failure of justice by the Gram Adulate, he can reject or modify the decision or direct that the dispute be referred back to the Adalat for reconsideration (Khondker, 2012).

Strengths of the Village Court

- 1) It has legal validity
- 2) As the complainant and accused submit written petitions to the Chairman, they cannot change their version in future.
- 3) Implementation of the verdict is easy and feasible
- 4) This is formal judicial course having strong basis for fair justice
- 5) Cases are settled easily o Provision of minimum fund for enabling poor people to benefit.

Weaknesses of the Village Court

- 1) Process involved seems to be prolonged
- 2) If the accused is absent during hearing, the case also gets delayed
- 3) When split decisions occur, justice falls flat
- 4) Financial jurisdiction is not adequate to run the court
- 5) There is no manpower for documentation of the cases
- 6) Influential people can exert pressure

- 7) Absence of third party to monitor its functioning resulting in bribery and corruption
- 8) The lengthy process of judgment leads to wrong verdict
- 9) Verdicts often go against poor and the helpless people
- 10) Village politics can exert a negative influence
- 11) People are less inclined to pay the fine
- 12) Partiality and absence of objective judgment Misuse of legal power is common
- 13) Sometimes hooligans are present
- 14) Lack of knowledge of the Chair and the members of the arbitration procedure results in procedural flaws.

Literature Review

Quader, A., (1995) also conducted a case study of the functioning of two village courts in the early nineties. This case study involved interviewing the UP chairman and UP members, some observers, selected village court clients, and a cross-section of people in the area. He identifies that, in terms of decisions 54% of cases were resolved through negotiation between the parties mirroring the traditional negotiation practices of the Shalish. The political situation influenced whether the village court functioned or not - with the number of cases filed with the court ranging from zero to 48 per year for the years 1987-92. Both dealt mostly with criminal, civil, and family cases in that order. Criminal cases mainly originated in the disputes, civil cases were the mainly ownership disputes, and family cases were mainly cases of wife abuse. Roughly 20% of cases filed with the village courts over five years were left unresolved. The better part of these cases

were unresolved due to the absence of the accused. The UNDP conducted a study on the functioning of UP village court in Bangladesh which was published in 2002 as part of its report titled Human Security in Bangladesh. The study reveals that, sixty-three percent of the respondents felt that the village court verdicts were only moderately enforced and fifty percent of the village court officials felt that the village court was affected by outside influences. The main sources of influence are the local political leaders, community leaders, the wealthy people and other influential individuals in the villages. Das, M. B. and Maru, V., (2011) have conducted a phone interviews with 40 UP chairpersons from all six divisions and thirty different districts. Every chairperson interviewed reported the conducting village courts; 30 out of the 40 chairpersons reported holding court one time per week or more. Common case types included family disputes, land disputes, physical conflict, minor theft, forgery, and loan recovery. All chairpersons reported deploying the UP secretary to maintain a registry of cases. Also, all chairpersons explained, when asked who makes the decisions, which the UP Chairperson sits on a panel with other panelists chosen in equal number by either party. According to a study that almost the respondents aware of the jurisdiction, composition and authority of VC. Few of the members have poor knowledge about village courts procedure in Mullapur union and female members of the Tukurbazar union are inexperienced with justice system of the village courts. They somehow follow the manual of the village courts (Begum, P. 2019).

According to a study, Even though in the past, traditional Shalish had been considered as the most effective means to resolve disputes, in recent times, the significance, importance and effectiveness of Shalish are declining. The main reasons behind this disgraceful status of Shalish are as a) biasness, b) corruption, c) gender discrimination, d) lack of legal awareness, e) influence of money and power, f) changing social norms (Jahan, n.d.). According to a study the complainant or accused comparatively get proper justice from the project VC (74%). In contrast only 26% can't get proper justice. On the other hand in the non-project VC area the situation is somewhat different. Here approximately 54% are getting justice whereas 46 per

cent are not getting proper justice. And nearly 48% respondents of projected area have their satisfaction on the performance of VC where the level of satisfaction in non-projected area is 45%. On the contrary, 18% of respondents in projected area and 17% respondents of the non-projected area are not satisfied with the performance of the village court. Satisfaction about the performance depends not only on the performance of village court but also on the public expectation over VC (Rasul, M. G., & Islam, M. T., 2017). It appears from a study that 27.8% disputes are both criminal and civil in nature facing in the union parishad under study. The next greater portion of cases is civil (44.4%) in nature and then criminal (27.8%). Land-related disputes and the family matter related (divorce related) disputes are very common in rural areas and over one-half of the respondents among petitioners and offenders of VC (72%) usually go to VC to resolve minor disputes. 28% respondents appear to Salish to resolve minor problems. It is also found that 66.7% respondents were not faced any complexities to get justice from the VC especially in the Mullapur union under Beanibazar Upazila. 27.8% respondents were faces complexities especially in Tukurbazar union to case their file. The chairman always tries to settle the case at the salish. But most of cases remain without any arbitration. 5.6% respondent did not give any comments on it (Begum *et al.*, 2019).

According to the study conducted on appeal cases in November 2018, acceptance of the VC decision by community is high as across the project areas only 16 appeals were made by aggrieved parties challenging the VC's decisions which is only 0.03% of total VC's decisions. Similarly, higher courts also recognized the VCs decisions as higher courts rejected the appeals and kept the VC's decision's unaltered (UNDP, Annual Report 2018). In Bangladesh, local justice is located at the juncture of two of the streams of judicial processes. One of these is the rule of law: that is the supremacy of the formal power exercised by the government in accordance with well-established and clearly written rules, regulations, and legal principles through established court system. For any government, the highest aspiration is to establish the rule of law - as the fundamental structure of governance. The other stream of justice is the long-standing local traditions. In past

decades, Bangladeshi political elites have pledged to provide local communities with a greater share of the responsibilities of governing. Different action plans or mission visions of the government testify to this pledge (Sara Hossein *et al.*, 2007). So, the study aims and objectives to examine to the ensuring rule of law at the local level by village. This study also identifies the challenges of the VCs and explores the mechanism to reduce these challenges.

Major Findings

Table 3: Respondents Gender.

	Frequency	Percent
Male	140	70
Female	60	30
	200	100

From the above **Table 3**, it has been found 200 respondents, 70% are male and 30 % are female. So, the greater parts of the respondents are male and are that among very rational.

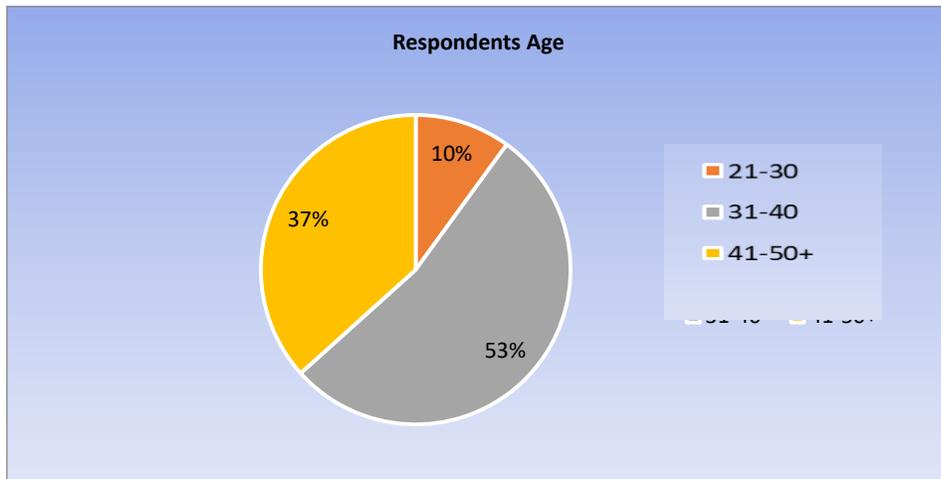


Fig. 1: Respondents age.

Fig. 1 shows that the ages of respondents range from 21 to 50+ years. Most of the respondents (53%) were 31-40 years, and 41-50+years were (37%), 21 to 30 years (10%) were respectively. The age group revealed

that most of the respondents were middle aged young community people.

Respondent’s Education level

The education levels of the respondents were as follows.

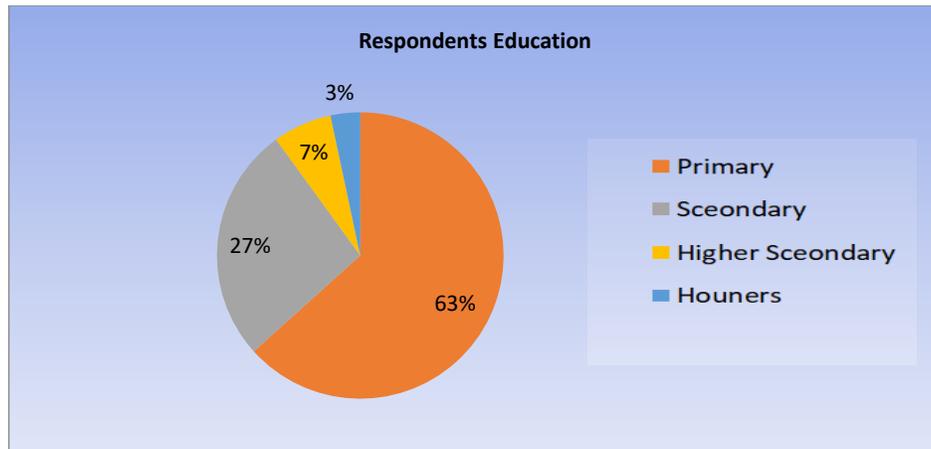


Fig. 2: Respondents education.

Fig. 2 shows that almost all of the respondents (63%) were primary level. 27%, 7%, and 3%, were second-

ary, higher secondary, and honors respectively.

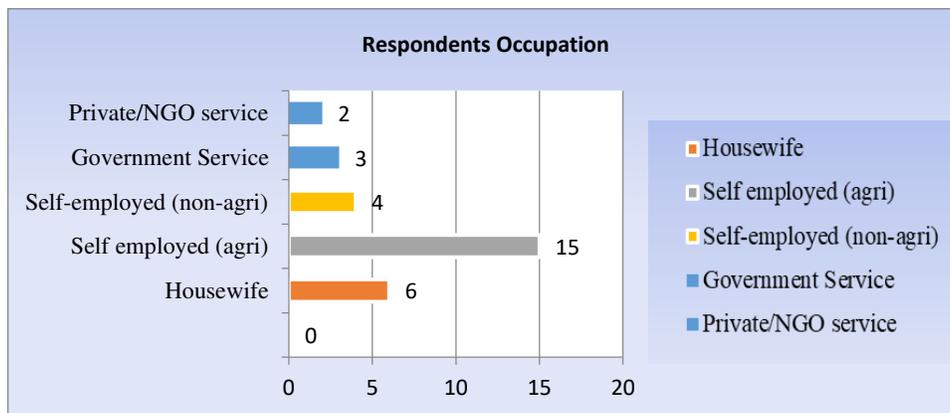


Fig. 3: Respondents occupation.

From the above Fig. 3, it has been found that the most of the respondents 50% are self-employed. 20 % of respondents from housewife, 13% are self-employed (non-agricultural), and the rest 10 % and 6.7% are engaged in other occupations such as the government service, and private/NGO service.

Table 4: Type of employment.

	Frequency	Percent
Full time	125	63.5
Part time	75	36.5
Total	200	100

It is found that the Table 4 most of the respondents 63.5% were engaged with full time and 36.5 were engaged with the part-time job.

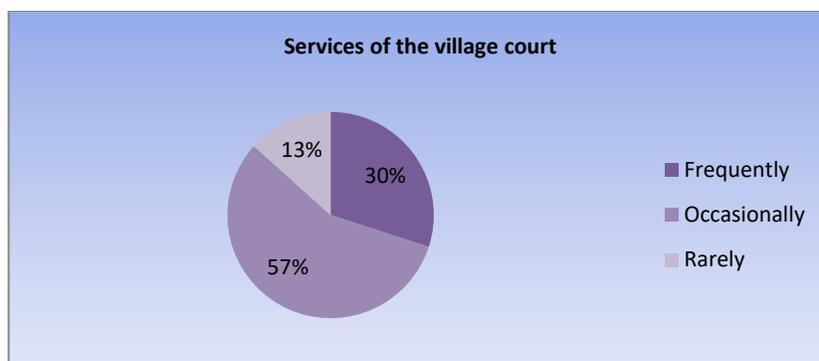


Fig. 4: Uses the services of the village court.

It is found that there are 57% of the respondent has uses the services of the VC occasionally and 30% of the respondent don't know uses the services of the VC frequently and 13% of the respondents were the services of the VC rarely. So, we can say that more than half of the respondents use the services of the VC properly.

The respondents are put in the following table from the lowest level to the highest.

Table 5: Respondents Income level.

Family income	Frequency	Percentage
5000-10000	120	60
10000-25000	66	33
25000-35000	14	7
Total	200	100

Table 5 delineates that almost all family income of the respondents (60%) was 5000-10000. 33%, were 10000 -25000 and 7% were 25000-35000 respectively.

Table 6: Satisfied with services by village court.

	Frequency	Percent
Highly Satisfied	30	15
Satisfied	70	35
Neutral	50	25
Dissatisfied	50	25
Total	200	100

It is found that the table shows that 15 % of respondents opined that they are highly satisfied for the services of VC, 35 % of the respondents opined that they are satisfied with services of VC, 25% of the

respondents said that they are very dissatisfied with the services of VC and rest 25% of the respondents are neutral with services of VC.

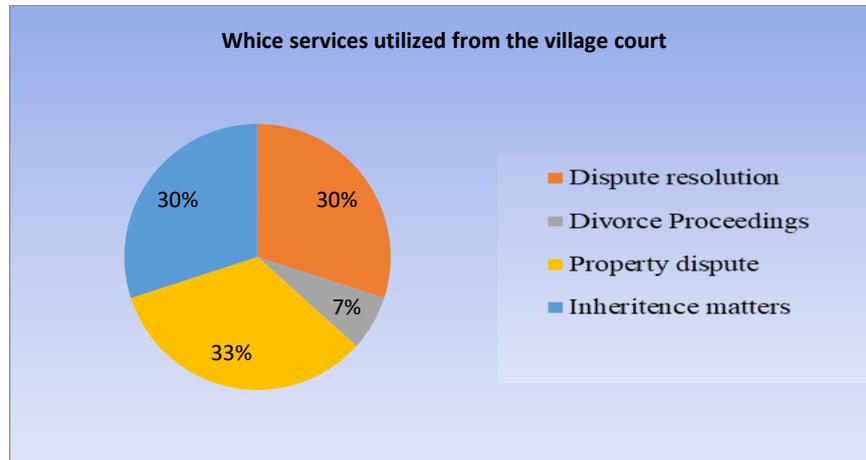


Fig. 5: Services utilized from the village court.

The figure shows that most of the respondents 33 % services utilized for property disputes, both 30% of the respondents opined that they are utilized services for disputes solution and inheritance matters and rest of the 7% of the respondents said that they are utilized for divorced proceeding properly.

& 6.7% of the respondents said they found inefficient of the resolving the disputes by VC.

Table 7: Efficiency rate of the village court resolving issues.

	Frequency	Percent
Very efficient	18	60
Efficient	10	33.3
Inefficient	2	6.7
Total	30	100

It is found that 60% of the respondents of this study said that they got efficiency of the resolving the disputes by VC, 33.3 % of the respondents opined that they got efficient of the resolving the disputes by VC

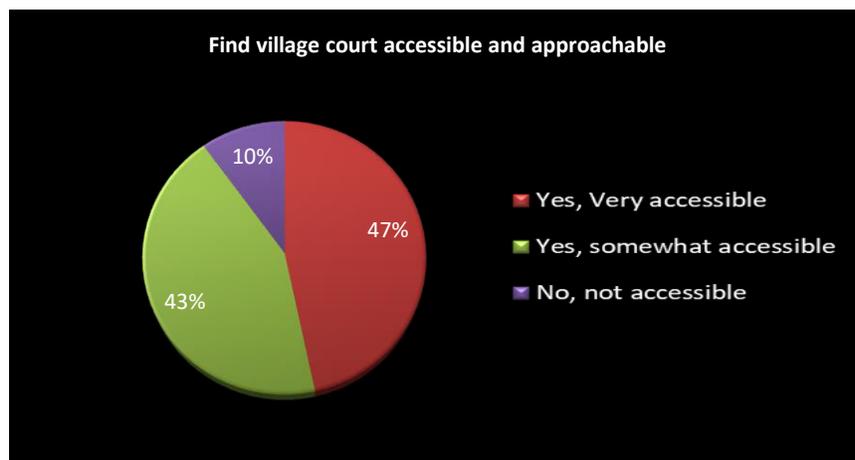


Fig. 6: Find village court accessible and approachable.

This figure shows that about 47% of the respondents find very accessible and approachable from VV, 43% of the respondents said that they found somewhat

accessible and approachable for getting services from VC and only 10% said that they have not accessible in village court for receiving the services of the VC.

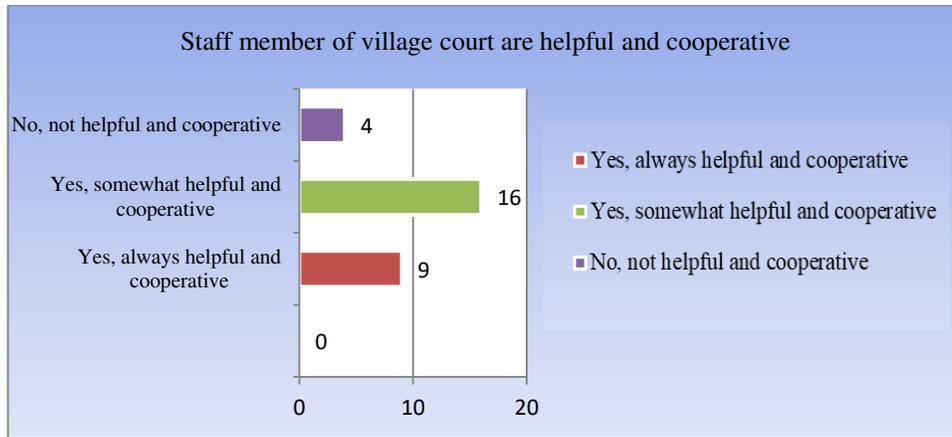


Fig. 7: Staff member of village court are helpful and cooperative.

It is found that most of the respondents 53.3% had somewhat helpful and cooperative with staff member of the village court, 33.3% of the respondents had

always helpful and cooperative and 13.3% of the respondents are not helpful and cooperative providing the services of the VC.

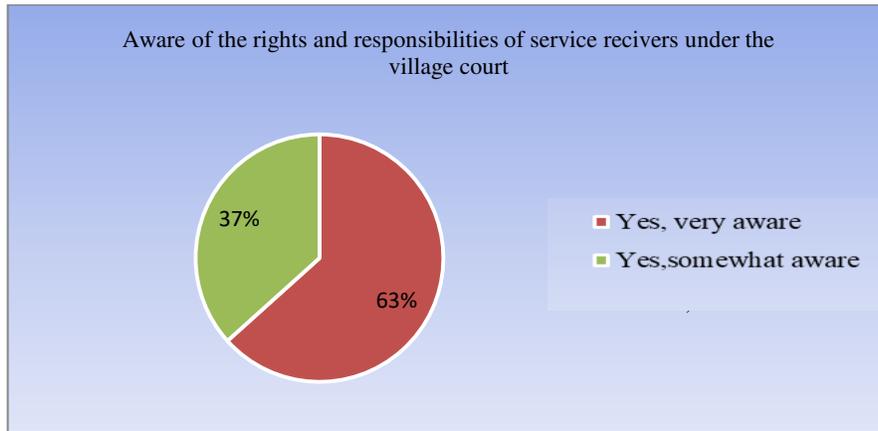


Fig. 8: Aware of the rights and responsibilities of service receivers under village code.

The **Fig. 8** shows that most of the respondents 63.3% of the respondents are very aware of the rights and responsibilities of service receivers under the VC and

36.7% of the respondents said that they are somewhat aware of the rights and responsibilities of VCxx.

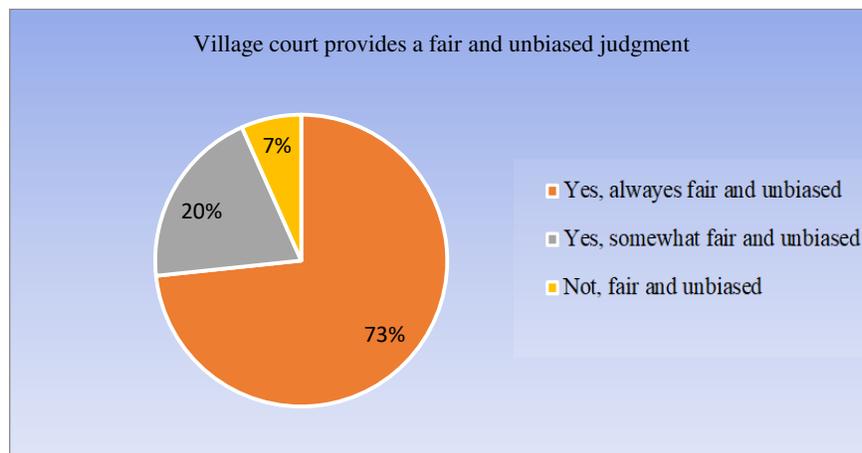


Fig. 9: Village court provides a fair and unbiased judgment.

It is found that 70% of the respondents said that VC provides always fair and unbiased judgments for resolving any kinds of disputes, 20% said that VC provides somewhat fair and unbiased judgments for resolving disputes and only 7% of the respondents said that VC are not provides fair and unbiased judgments for resolving the disputes in the rural area.

DISCUSSION:

The study aims to identify ensuring rule of law at the local level by VC. The respondents of the study mentioned different perspectives which indicate the effectiveness of the VC as well as some barriers of VCs. It has been found 30 respondents, 66% are male and 34 % are female. So, the greater parts of the respondents are male and are that among very rational. The age group revealed that most of the respondents were middle aged young community people. It has been found that most of the respondents 50% are self-employed. 20 % of respondents from housewife, 13% are self-employed (non-agricultural), and the rest 10 % and 6.7% are engaged in other occupations such as government service, and private/NGO service. According to a study it shows out of 36 respondents, the majority of the respondents 33% are found in the (51-60) age group mostly faces the VC functionalities in maximum , (41-50) and (31-40) age group of respondents are 22% and 11% respectively, (21-30) age group of respondents is 14%, and the 6% respondents between 61 and 70 age group faces VC sometimes and the 14% respondents between 71 and 80 age group faces VC functionalities in minimum (Begum *et al.*, 2019).

It is found that there are 57% of the respondent has uses the services of the VC occasionally and 30% of the respondent don't know uses the services of the VC frequently and 13% of the respondents were the services of the VC rarely. So, we can say that more than half of the respondents use the services of the VC properly. According to a study its shows that the complainant or accused comparatively get proper justice from the project (74%). In contrast only 26% can't get proper justice. On the other hand in the non-project VC area the situation is somewhat different. Here approximately 54% are getting justice whereas 46 per cent are not getting proper justice. And also

found that most of the respondents 33 % services utilized for property disputes, both 30% of the respondents opined that they are utilized services for disputes solution and inheritance matters and rest of the 7% of the respondents said that they are utilized for divorced proceeding properly. It is found that 60% of the respondents of this study said that they got efficiency of the resolving the disputes by VC, 33.3 % of the respondents opined that they got efficient of the resolving the disputes by VC and 6.7% of the respondents said they found inefficient of the resolving the disputes by VC (Begum *et al.*, 2019). Study reveals that at present public has sufficient knowledge about VC especially in Duoj Union, Teligati Union, and Katile union. The study also found general people prefer VC because easy to access, with the minimum time requirement for the disposal of the cases in the VCs. They also added it is less harassment, better and fair judgment get from this court. The most of the disputes or cases came to village courts are civil in nature. The study reveals that mainly village court deals with civil cases where family matter, land disputes & divorce-related disputes are most prominent. The study found that lack of skilled manpower. One-gram police are appointed in each ward of the union. The court has many works. It's not handled without sufficient support. This study also found that people got efficiency of the resolving the disputes by VC. It is found that 70% of the respondents said that VC provides always fair and unbiased judgments for resolving any kinds of disputes, 20% said that village court provides somewhat fair and unbiased judgments for resolving disputes and only 7% of the respondents said that VC are not provides fair and unbiased judgments for resolving the disputes in the rural area. This study found respondents are very aware of the rights and responsibilities of service receivers under the VC

From the field survey analysis, FGD and the KII, following recommendations may be considered as tools of activating Village Court

Staff member of the village court are helpful and the cooperative

The staff members of the VCs are helpful and cooperative. Having supportive and cooperative staff members can significantly improve the functioning of

any institution, including a VC. When staff members are willing to assist and work together, it can enhance the overall efficiency and effectiveness of the court system. In a VC setting, which typically handles local matters and disputes, having helpful and cooperative staff members can lead to various positive outcomes:

Improved access to justice

When staff members are supportive, they can guide people through the court processes, making it easier for individuals to access justice and resolve their disputes.

Enhanced communication

Cooperative staff members tend to communicate well with the public and each other, ensuring that information flow smoothly and accurately.

Increased trust in the court system

Positive interactions with helpful staff can build trust between the community and the VCs, encouraging people to approach the court with confidence.

Efficient case management

Cooperative staff members merely like to work together efficiently, ensuring that cases are processed and managed in a timely manner.

Positive work environment

A helpful and cooperative atmosphere can foster a positive work environment for the staff, leading to better job satisfaction and performance.

Resolution of conflicts

When staff members are cooperative, they can facilitate the resolution of conflicts between parties and encourage amicable settlements. Overall, the attitude and behavior of staff members play a vital role in shaping the perception of the court system by the community it serves. When staff members are approachable, understanding, and cooperative, it can contribute to a better-functioning and more respected VC.

Rate the overall performance of village court

According to chairman the performance of VCs, like any judicial system, can vary over time and across different regions. Several factors can influence their effectiveness, such as the quality of staff members, resources, training, infrastructure, and the community

participation. Additionally, changes in government policies and the legal reforms may also impact their performance.

Village court provides a fair and the unbiased judgment

The goal of any court system, including VCs, is to service a fair and unbiased judgment. However, the extent to which this goal is achieved can vary depending on several factors. Here are some considerations:

Impartiality of the Judiciary

The VC judges or arbitrators must be impartial and not favor any particular individual or group. They should base their judgments solely on the facts presented and the applicable laws or customs.

Access to Legal Representation

To ensure fairness, all parties involved in a case should have the right to legal representation or, at the very least, access to proper information and guidance regarding their rights and the legal process.

Transparency and Accountability

The court's proceedings and decisions should be vivid and accountable. There should be a clear process for handling complaints about any misconduct or bias exhibited by court personnel.

Community Understanding and Acceptance

In many VCs, decisions might be based on customary laws and local traditions. For judgments to be considered fair, they must be in line with the community's values and widely accepted norms.

Training and Capacity Building

Judges and staff members should receive proper training & capacity building to handle cases effectively, equitably, and in accordance with established laws and principles.

Gender Sensitivity

Ensuring that judgments are free from gender bias is crucial for a fair VC. Women should have equal access to justice, & decisions should not perpetuate discriminatory practices.

Protection of Vulnerable Groups

Special attention must be given to protecting the rights of vulnerable groups, such as children, the elderly and marginalized communities. It is essential to recognize

that VCs, like any judicial system, may face challenges in achieving perfect fairness and impartiality. Factors such as cultural norms, limited resources, and social dynamics can influence outcomes. Continual efforts to improve the capacity, transparency, and accessibility of the VC system can contribute to enhancing its ability to provide fair and unbiased judgments.

Significant of the village court

The importance of the VC can vary depending on the country and its legal system. In general, VCs serve as local dispute resolution bodies that aim to provide accessible justice to people in remote areas and small communities. Their primary roles and functions typically include:

Dispute Resolution

VCs are established to resolve disputes and conflicts that arise within the community. These disputes can be related to land, property, family matters, minor offenses, or other civil issues.

Quick and Informal Resolution

VCs are designed to provide a quick and informal process for resolving disputes. They aim to offer a less expensive and more accessible alternative to formal court systems, which can be distant and time-consuming for rural residents.

Application of Customary Laws

In some cases, VCs may apply customary laws and traditional practices to resolve disputes, especially in communities where such customs are prevalent.

Mediation and Conciliation

Village courts often use mediation and conciliation techniques to facilitate dialogue between the conflicting parties, encouraging them to arriving an amicable settlement.

Preservation of Local Culture and Tradition

In regions where village courts operate based on customary laws, they play a role in saving local culture and traditions.

Promotion of Restorative Justice

Village courts may focus on restorative justice principles, aiming to repair the harm caused by disputes and reintegrate offenders back into the community.

Serving as Community Leaders

Village court judges or arbitrators may act as community leaders, respected for their knowledge and understanding of local customs.

Handling Minor Criminal Offenses

In some cases, village courts may deal with minor criminal offenses, providing punishments or sanctions as deemed appropriate under local laws or customs.

Educating the Community

Village courts may also have an educational role, informing the community about their rights, legal procedures, and available dispute resolution options.

Promoting Social Harmony

By resolving conflicts and disputes, village courts contribute to maintaining social harmony and cohesion within the community. It's important to note that the effectiveness and jurisdiction of village courts can vary from one country to another and may be subject to local laws and regulations. Additionally, while village courts play a crucial role in providing justice to rural communities, they must operate within the broader legal framework of the country and uphold fundamental human rights principles.

Village court effective for resolving dispute

According to a study, access to justice, and justice dispensation process are interlinked with various issues like justice seeking behaviors of the community, power structure of the rural society, capacity, competency, strengths and weakness of the justice dispensing organs and the mindset of the involved with the whole process (Sarker, 2013). The effectiveness of village courts for resolving disputes can vary depending on various factors, including the context, resources available, community acceptance, & the legal framework within which they operate. Here are some key points to consider when evaluating the effectiveness of village courts:

Accessibility

Village courts are typically located in rural areas, providing easier access to justice for people who might otherwise face significant barriers in accessing formal court systems due to distance and associated costs.

Speed and Informality

Village courts often offer a faster and less formal process compared to traditional courts. This can be beneficial for resolving minor disputes quickly and efficiently.

Cultural Relevance

In areas where village courts operate based on customary laws and local practices, they may be better equipped to understand the cultural context of disputes and apply appropriate solutions that align with community values.

Community Participation

Village courts encourage community involvement in the resolution process, allowing individuals to have a say in how their disputes are settled, which can lead to greater acceptance of outcomes.

Mediation and Restorative Justice

Many village courts emphasize mediation and restorative justice approaches, focusing on repairing relationships and finding mutually agreeable solutions rather than just imposing punitive measures.

Cost-effectiveness

Village courts are generally less costly to operate compared to formal court systems, making them financially viable for local communities & governments.

Limited Jurisdiction

While village courts are effective for resolving certain types of disputes, they may have limitations in handling complex or high-stakes cases that require more extensive legal expertise.

Training and Capacity

The effectiveness of village courts can be improved through training and capacity-building initiatives for judges and staff members, ensuring they have the necessary skills to handle cases effectively.

Enforcement of Decisions

Ensuring the enforcement of village court decisions can be a challenge, especially if there is no clear mechanism or authority to compel compliance.

Protection of Rights

It's crucial to ensure that the rights of all parties involved in the dispute are protected during the

resolution process, regardless of the forum used for settlement. So we can say that, village courts can be effective for resolving certain types of disputes, especially in rural areas where they provide accessible, timely, & culturally relevant dispute resolution. However, their effectiveness depends on proper training, community acceptance, adherence to fundamental rights, and alignment with the broader legal system. It is essential to continuously evaluate and strengthen village court systems to ensure they remain fair and effective mechanisms for local dispute resolution.

Obstacles that hinder the effective functions of the village court

The effective functioning of village courts can face various obstacles and challenges, which can vary depending on the country, region, and specific context. Some common obstacles that hinder the effectiveness of village courts include:

Limited Resources

Village courts often operate with limited resources, including inadequate funding, infrastructure, and staff, which can affect their ability to handle cases efficiently and provide necessary support to the parties involved.

Lack of Proper Training

Village court judges and staff may not always receive adequate training in legal procedures, conflict resolution, and human rights, leading to potential errors in judgment and procedural shortcomings.

Informal Nature

While the informality of village courts can be an advantage, it can also lead to inconsistencies in decision-making and a lack of clear legal precedents, making it challenging to ensure fair and equitable outcomes.

Bias and Prejudice

The village court judges and arbitrators may exhibit bias or prejudice based on factors such as gender, caste, ethnicity, or social status, impacting the fairness and neutrality of the proceedings.

Lack of Awareness

Some community members may not be aware of the existence or scope of village courts, leading to under-utilization or reliance on informal, non-legal mechanisms for dispute resolution.

Enforcement Issues

Even if a judgment is made, enforcing the decisions of village courts can be challenging, especially if there is no established mechanism or authority to ensure compliance.

Complex Cases

Village courts might lack the expertise and jurisdiction to handle complex legal matters, such as high-value property disputes or serious criminal cases, which can be referred to higher-level courts.

Pressure and Influence

Village courts might face pressure or influence from powerful individuals or groups within the community, compromising their impartiality and independence.

Gender Inequality

Village courts might not adequately address gender-related issues or may uphold discriminatory practices, perpetuating gender inequalities.

Lack of Legal Aid

Parties involved in disputes may not have access to legal representation or be aware of their rights, leading to imbalanced negotiations and outcomes.

Lack of Records and Documentation

In some cases, village courts may not maintain proper records and documentation of cases, making it difficult to track decisions and trends over time.

Addressing these obstacles requires a holistic approach that includes improving infrastructure and resources, providing proper training, raising awareness, promoting transparency & accountability, and ensuring adherence to legal standards and human rights principles. Additionally, close coordination with higher-level judicial systems can facilitate a smoother integration of village courts into the overall legal framework. According to a study, the graph shows that the greater portion (65%) of the respondents said that lack of budget is a major problem while conducting village court especially in the Mullapur Union. The second larger 35% respondents said about the lack of cooperation. Threatening is hardly seen while conducting village court. The respondents among the chairman, member and UP secretary were asked why people come to the village court in their opinion. Then it is found from the study, in response to the question,

most of the respondents in both unions stated that people come to village court for getting a free trial and judgment within a short time. Sometimes people come to village court if the Gram Panchayat fails to solve the problem (Begum *et al.*, 2019).

CONCLUSION AND RECOMMENDATIONS:

Rule of law is the fundamental right of every citizen, and it is inbuilt in our constitution. Implementing and translating the essence of the rule of law in real life situation, multidimensional judicial systems have been established in Bangladesh. Rural people in Bangladesh deprived from different basic needs so access in the justice. Complexity and delaying in getting proper justice from formal judicial system and the influence of local hoodlums and dalal, rural people failed to get proper access to judicial system. In order to provide these vulnerable and deprived rural people with access to justice, a new window has been opened by the village court. Increasing access to justice by providing faster and cheaper means of the dispute resolution mechanism, Village Courts can act as a deterrent to potential future disputes and hence can contribute to increasing communal harmony and community safety. Laws and the legal systems are major tools that may be used to promote justice and these play a vital role in the well-being of any society. But the legal system sometimes may act like a double-edged sword. Unjust laws can lead to infringements of rights and violations of the principles of justice, just as fair laws are able to dispense justice. Similarly, even if laws are fair and impartial, but implementation of laws is carried out in unfair manner, it may act as a barrier to achieve the goal of justice. To ensure sustainability of the village court in both the area necessary amendment of the act (increasing the jurisdiction, the user fee), constant monitoring and coordination between UP officials, Police, UNOs, Judiciary and above all the awareness of the service seekers is a must. Governments cannot simply outsource the justice to communities without providing resources in a variety of forms. It is not possible to promote better access to justice without resources and better accountability. It is the role of the government to set standards and the give necessary resources. Most disputes are not resolved by judicial adjudication, yet most resources are directed to courts. So, it is necessary to strengthen and promote the

village court/ the local government institutes and to allocate more resources for the prevention and resolution of local minor disputes. Making the court more effective through development of necessary instruments is a must as it is a vital tool in helping the rural women and the poor. Again, strengthening the village court is linked to strengthening the local government, but there is a lack of political commitment in this regard. Undoubtedly, the village court should continue to function not only to make justice available at minimum cost and trouble but to maintain peace and harmony. The rural society is becoming increasingly complex and rate of crime is showing upward trend. Village Court is the only legal institute closer to the rural people for the dispensation of justice. Therefore, the Village Court as an institution should be strengthened. So, the legal awareness of both the service seekers and the providers and proper monitoring and supervision mechanism should be developed in curbing the misuse/ abuse of power and authority mentioned in the Village Court Act.

Suggestion to make the village Court as the dispute resolution mechanism

Finally, the respondents were asked about what their suggestions for the better performance of the village court as dispute resolution mechanism. In response to the question.

- 1) Most of the respondents said that there should have a sufficient human resource to support the functionalities of the village court.
- 2) Many of the respondents have no requests for VC, fewer believe that VCs are in difficulty and most conclude that all available aid mechanisms will suffice. Respondents also suggested that the administrative & financial capacity or jurisdiction should be increased of the village court officials.
- 3) They recommended forming a committee which will force the petitioner and offenders to be present.
- 4) The UP secretary suggested that a court assistant for filing and registering the case and preparing the order sheet should be appointed.
- 5) Only he cannot handle all the activities of the village court, he works associated with the 17 departments of UP.

- 6) The specific chairman should be appointed for the village court along with chairman.
- 7) The UP chairman have many responsibilities, the sometimes he cannot give time to settle the disputes.
- 8) Few respondents suggested arranging seminar & workshop to inform the people about the power of chairman and member. Because sometimes the verdict denied by the petitioner or offender.
- 9) Respondents said about the allocation of fund for the village court. Administrative support for the advertisement of village court and coordination between government & the union parishad to strengthen the village court, proper utilization of the prescribed power is suggested.
- 10) Some respondents did not want VC, only some thought that VCs do not have a problem and all of the support mechanisms are adequate. The study respondents have recommended that they be kept informed about the actions of village courts.
- 11) The jurisdiction of the project area needs to be increased in case of village court.
- 12) Village court report regarding criminal cases needs to be supported by the law enforcement authority.
- 13) Village Court needs to the take all case of its jurisdiction before lodging case at Police Station.
- 14) To arrange training, workshop about trial process for UP Chairman, Members and officials.
- 15) Increasing the government and the private mass media publicity and campaigning about village court for public awareness.
- 16) Appointing manpower in assisting the secretarial activities.
- 17) Provide logistics support for the conducting trial procedures.
- 18) To reform village court laws in taking legal steps against person of contempt and provision of assistance from the law enforcement authority.

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