

DECENTRALIZATION AT SUB-DISTRICT LEVEL OF BANGLADESH: OVERVIEW ON HISTORICAL AND LEGAL PERSPECTIVES

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ABSTRACT

Decentralization in Bangladesh was mainly introduced for the local change and development of the grassroots areas of Bangladesh. This article addresses the historical background and legal basis of decentralization at sub-district level (Upazila Parishad) of Bangladesh. This is a qualitative study mainly based on secondary sources of data and information about local level decentralization and development. The decentralization of power process is highly politicized from the ancient period in this country. The extent to which decentralization functions has been implemented will depend, to a very urge extent, on the form of decentralization adopted and the political willingness to genuinely involve the people in decision-making processes as against mobilizing them to approve a predetermined development agenda of the central government, which might not repeat the precise needs and development aspirations of the grassroots. The reader can raise their knowledge about the sub-district level decentralization practice from prehistoric to present age of Bangladesh and ongoing encounters in this system here.

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KEYWORDS: Decentralization, Devolution, Local Development, Constitutional Basis, Acts and Rules.

INTRODUCTION

Decentralization is the fume in the matters of governance and development in all around the world. Decentralization has been at the center stage of policy experiments in the last two decades in a large number of developing and transition economies in Latin America, Africa and Asia (Bardhan, 2002: 185). Although an earlier wave of experiments with decentralization in Africa and Asia in the 1950s and 1960s is considered to have largely failed (Crook and Manor, 1998:1), these themes have received widespread attention in recent years, particularly since they form part of the discourse on 'good governance' promoted by many donor agencies and development institutions. The main argument then is that more recognition should be given to the fact that decentralization is inherently a political process. Political elite commitment decentralization is must for successful implementation of any meaningful decentralization initiative (Khan, 2009:01). The concept of decentralization is not new in Bangladesh. Its existence in varied forms is deep-rooted in history. In 1971 after the independence of Bangladesh the constitution of Bangladesh was created which make a desire for establishing local government system. *Upazilaparishad* is the second tier of the local government system in our country. In Bangladesh the term decentralization was introduced in 1982 by establishing a Committee for Administrative

Reorganization/Reform (CARR) on the regime of General Hossain Mohammad Ershad. He evolved the administrative system that will be people oriented and capable to remove the gap between people and administration. CARR gave some recommended measures to solve the hindrance of that time local government system which was implemented by introducing a national implementation committee called National Implementation Committee for Administrative Reorganization/ Reform (NICARR). Through the creation of *Upazila* the decentralization of administration at rural level are established and this create an opportunity for the mass people participation in the administrative affairs. Frequent attempts to reform local government based on the devolution of power have been undertaken over the years. But effective, powerful and decentralized local government has not yet evolved in Bangladesh.

Objectives of the Study

The study intends to exemplify the chronological and legal perceptions of decentralized movements of Bangladesh at sub-district (Upazila) level. Moreover, this paper pursuit the following specific objectives to reach the broad one:

- a. To identify the challenges in the path of implementing proper decentralization concern with legal matters.

- a. To construct some proposition from the empirical generalization this may be useful for further research and may be considerable in policy implication in Bangladesh.

Significance and Scope of the Study

Bangladesh rural local government system is decentralized through numerous attempts to reform and based on the decentralization of power for resulting effective and better outcomes of the local body. But there have political interest and self-interest for introducing decentralization practice in local administration system. The study presents the precise position of decentralization practice in Bangladesh, its legal approaches and their institutional structure and functions at sub-district level. It can be beneficial for the policy makers to take necessary steps on upcoming reform for proper decentralization practice at *Upazila* level. The development organizations, Non-Governmental Organization's (NGO's), civil societies and other research organizations will gain much information and data about the chronological background of decentralization program at *Upazila Parishad* level; constitutional and legal outlines of it and challenges in the path of its implementation. It also creates space to identify the factual, legal and constitutional basis to implement a proper devolutionary local administration. It provides a scope to the further researchers for comparative analysis on different forms of decentralization special emphasis on *Upazila* level.

Limitations of the Study

This study has some limitations. The key concepts like: decentralization, local development, devolution, constitutional basis etc. are defined without following any particular theory. It was developed based on literature review. The selection of methods is quite difficult task in social science research, thus methodological limitations has been identified here.

METHODOLOGY

Qualitative study method has been used depending on secondary source which has been analyzed from the existing literature. Methodological filter were applied to confine the literature through segregation criteria of the systematic review. The search strategy was followed to control vocabulary such as keywords focusing on the decentralization movement at sub-district level of Bangladesh in the milieu of different legal approaches and the secondary data has been collected from the various text books and published research reports, various works related to decentralization which is entirely appropriate and wholly adequate to draw answer the objectives of this paper. Besides, Information has been presented in this study on the basis of various works, which focused the decentralization system of Bangladesh at

sub-district level. The study also used data from different website.

Decentralization: A Concept

Decentralization is a term that has been used recurrently as a means of implementing and promoting both democratic and development objectives across the developing nations and sometimes more confusing with the terms of development, participation and democratization. The term has been identified as the most important elements for local development because of various reasons. It is the more effective way of meeting local needs and also the needs of the poor. There is a greater probability that equitable distribution of benefits of development to different level of population reduces disparities in income and wealth between urban and rural areas and among the regions and increasing the productivity and income of the poor would be materialize as a result of implementation of appropriate decentralization policies (Samoff, 1979; Rondinelli, 1981 as cited in Khan, 2009:27). Decentralized development planning and building requisite administrative capacity of local organizations appear essential not only for delivering services to the poor or remote region but also improve the effectiveness of the central government and ability of rural administrative unit (Rondinelli,1983). It also enables the efficient service delivery to the public by reducing costs and exposing problems in delivery mechanisms.

The concept of 'decentralization' defines by various scholars in different ways. Smith (1985) define decentralization as the delegation of power from top to lower level in a territorial hierarchy which could be from the government within the state or offices within a large organizations. But Cheema and Rondinelli (1983) said that decentralization is the transfer of planning, decision making or administrative authority from central government to its field organizations, local administrative units, semi-autonomous organizations, local government. Rondinelli and Nellis (1986) define decentralization from an administrative perspective as 'the transfer of responsibility for planning, management and the raising and allocation of resources from the central government and it agencies to field units of government agencies, subordinate units or levels of government, semi-autonomous public authorities or corporations, area wide functional or regional authorities or non-governmental private or voluntary organizations. Mawhood (1987) defines decentralization as the devolution of power from the central to local level or government. He said the term decentralization must be distinguished from administrative from of decentralization which is called de-concentration. Because the local government does not control its own budget and separate legal existence is granted authority to

allocate substantial material resources for a range of different functions under the de-concentration policies. But he is not mentioned about the participation of mass people on the development area of local level by decentralization. Devolutionary form of decentralization promotes direct participation and accountability, and autonomy (Asaduzzaman, 2008:44). The concept of decentralization can be broadly classified into two approaches: Democratic Decentralization and the Liberal Development Approach. Smith is regarded as the pioneer in the democratic decentralization and this approach highlight local government as the institution vehicle for promoting local democracy through political education, training in leadership, political stability, local consultation and more effective public accountability (Siddiquee 1997, Smith 1985 as cited in Asaduzzaman, 2008:45). The liberal developmentalist approach are proposed by Maddick, Cheema, Rondinelli, Conyers, Samoff, Mawhood and United Nations agencies and this approach highlights the importance of decentralization for better organizational performance in providing goods and services effectively and efficiently and fostering rural development through direct people participation of the people at the grassroots level (Asaduzzaman, 2008:47). Decentralization can be defined as the

process of transferring power from central to local level institutions and this process can comprise responsibility for planning and management for public functions as well as raising resources and of its allocation (Rao and Scott, 2011 as cited in Pradip, 2014:216).

So decentralization is a process of transferring the decision making power and functions from central to local government and local government institutions where people's participation is done directly in the matter of development functions of local area, effectiveness, efficiency, accountability and transparency etc. will be ensured. But there have different forms of decentralization which have different criteria for their usefulness for local area development.

Forms of Decentralization

Depending on the nature of government, local institutions and local context decentralization can take different forms. The most popularly used and known forms of decentralization have been given by Cheema and Rondinelli, they give four forms of decentralization called: devolution, de-concentration, delegation and deregulation. The forms of decentralization are described below:

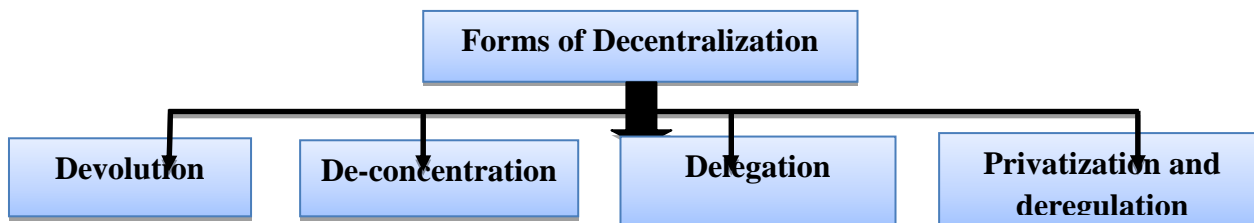


Figure 1: Forms of Decentralization

Devolution

Devolution is the most effective form of Decentralization and involves transfer of functions or decision making authority to legally incorporate local governments i.e. districts, sub-districts, municipalities etc. (Khan, 2009:28). It is the process of delegating powers and resources to lower level of authorities from center agencies. Representatives of local bodies enjoy extensive decision making power and also have to be accountable for its activities to the local populations (Prodip, 2014:217). It is most important form of decentralization as it combines the promise of local democracy with technical efficiency (Turner and Hulme, 1997). Smith in 1985 called the devolution as democratic form of decentralization. Rondinelli, McCollough and Johnson (1989) recognized it is an organizational form of local government which should be given autonomy and independence and be clearly perceived of as a separate level over which central government or authorities exercise little or no direct control (Quoted from: Khan, 2009: 43). Rondinelli and Cheema

(1983) said devolution have the following features which are essential for development:

- a. Local Governments (*Upazila and Unions*) are given autonomy and are clearly perceived of a separate level over which central authorities exercise little or no power and direct control.
- b. *Upazila* or sub-districts must have clear and legally recognized geographical boundaries where they exercise authority and perform public functions and development programs.
- c. *Upazila Parishad* must be given power to raise sufficient resources to perform specific functions.
- d. The need to develop local governments as institutions in the sense that those organizations provides services that satisfies citizen needs at local level for the development.
- e. It is an arrangement for maintaining mutual benefit and coordinate relationship between central governments and local governments for organizing and implementing local development programs (Khan, 2009:43).

The most important feature of devolution is election. The local people elect their representatives through the secret ballots, direct and indirect election can be held to elect candidates (Manor, 1997 as cited in Prodip, 2014:217). The creation or strengthening, financially or legally of sub-national units of government, whose activities are substantially outside the direct control of the central government (Rondinelli and Nellis, 1986 as cited in Nalon, 1987:56). Political decentralization including changes in the structure of the government through devolution of powers and authority to the local units of government, power-sharing institutions within the state through federalism, constitutional federations or autonomous regions; institutions, organizations and procedures for increasing citizen participation in the selection of political representatives and in public policy making, and procedures allowing freedom of association and participation of civil society organizations in public decision making (Cheema and Rondinelli, 2007 as cited in Cheema, 2011:04).

De-Concentration

De-concentration objectives to reallocate authority and responsibility among different level of central government. It is considered as one of the weakest forms of decentralization and is practiced in less or weakest unitary states. The general people usually excluded from state affairs of the less developed countries for a variety of reasons including lack of higher level of literacy, poor communication systems, poverty etc. to mitigate the limitations the offices of local area who are under the jurisdiction of central government can take all kinds of decisions. In that case the decentralized offices do not face the demand and pressure from the local people and central government's demands always get top most priority under this form (Mawhood, 1983 as cited in Prodip, 2014:216). De-concentration is a process which involves the transfer of functions within the central government hierarchy through the shifting of workload from central ministries to field offices, the creation of field agencies, or the shifting of responsibility to local administrative units that are part of central government structure (Rondinelli, 1983: 189). This form involves the redistribution of administrative responsibility among the different levels of central government or shifting of the workload from the headquarters to the field staff without transferring the final decision.

Delegation

It involves the delegation of decision-making and management of authority for specific functions to organizations that are not under the direct control of central government ministries. The transfer of functions made to regional planning, and area development authorities, public corporations or special project implementation bodies to act as agents of the state for performing such functions as

personnel recruitment, contracting, budgeting, procurement and other matters with ultimate responsibility for them remaining with the central government (Rondinelli, 1992 as cited in Khan, 2009: 28). Delegation refers to transfer of power and functions to the organizations that are not under the direct control of central government. It implies the transfer of broad authority to plan and implement decisions concerning specific activities within specific special boundaries to an organization that is technically and administratively capable of carrying them out without direct supervision by a higher administrative unit (Rondinelli and Cheema, 1983:21). In developing countries, responsibilities have been delegated to public corporations, regional development agencies, special function authorities, semiautonomous project implementation units and a variety of local organizations (Rondinelli, 1981 as cited in Rondinelli, Nellis and Cheema, 1983: 19).

Deregulation and Privatization

In many countries, the process of decentralization has been facilitate by the transfer of some planning and administrative responsibilities of public function from the government to private or voluntary agencies. Parallel organizations of the state, such as trade associations, professional organizations, civil society, political parties, cooperative and other voluntary association or agencies, shoulder responsibilities, normally performed exclusively by the government (Asaduzzaman, 2008:51). Through deregulation of some government functions are transferred to parallel organizations such as national, industrial, and trade organizations, religious organizations, political parties and cooperatives. This transfer of responsibilities allows the organizations to license regulate or supervise their members in performing functions (Rondinelli, McCullough and Johnson, 1989 as cited in Khan, 2009: 44). In some situations activities need to be undertaken that are simply beyond, the capacity of existing government agency. In this case it is often impossible to build administrative or technical capability quickly within existing agencies, or to create new government organizations without external assistance. Thus governments turn to indigenous or multinational corporations or to foreign technical consultants. Government in developing nations have used a number of private sector organizational arrangements for project implementations they have encouraged foreign direct investment in high priority industries, created joint ventures with indigenous or multinational firms, contracted for technical assistance or consultant services and created contract with private organizations to carry out projects alone or in conjunction with government agencies (Rondinelli, Nellis and Cheema 1983: 31-32).

The above discussion on the forms of decentralization has focused on the following issues that can be shown in following table:

Table 1: Decentralization from its Organizational Dimensions (Ahmed, 2012: 45)

Criteria/ Forms of Decentralization	Levels of Decentralization	Functions	To whom to be decentralized	How the power are to be decentralized
De-concentration	National to sub-national	1. Administrative 2. Developmental	Field officials	Executive order
Devolution	National to sub-national	1. Developmental 2. Revenue Raising 3. Service Delivery 4. Political	1. Local bodies 2. Elected representatives	Act/Ordinance
Delegation	Within old Govt. agency or newly created agency	1. Administrative 2. Technical 3. Promotional	1. Local bodies 2. Spatial Authority 3. Field agency	Ordinance/Act, Executive order
Privatization	Power to groups and undefined units and levels	1. Production 2. Distribution 3. Service Delivery 4. Promotional 5. Developmental	1. NGO 2. Voluntary association 3. Consumer	Grant/ Aid and other incentives

Advantages of Decentralization

The proponents of devolution approach highlighted the welfares of decentralization on both the national and local level governance. Smith who was a liberal democratic theorists believe that decentralization has proved as indispensable ideological concept throughout the Third world and is widely regarded as a necessary condition for social, economic and political development (Smith, 1988:214). Decentralization provides the following benefits according to the theorists like: Manoor, Crook, Turner, Cheema, Rondinelli, Conyers, Uphoff and Esman, Cochrane etc. (Siddique, 2005: 22):

- a. Ensures better results in development programs and projects;
- b. Increase's People's participations;
- c. Ensures efficient delivery of services;
- d. Helps to mobilize local resources;
- e. Produces lower level democracy;
- f. Enhances coordination's;
- g. Promotes equity;
- h. Increase the flow of information from bottom-up;
- i. Enhances the responsiveness of the central government to citizen demands and interests;
- j. Maintain political stability and
- k. Provides education and training in political leadership.

The success of any development projects and programs are dependent on the actual data and information and problems. For local level development in developing countries it is essential to recognize the local problems and demands in order to make proper plans for their management. Decentralized administration helps to collect exhaustive and accurate information about local settings. Local problems are easily visible to the representatives of local area because they work in local level. So it helps to gather reliable and up-to-date information about the local area problems and better identify the projects for development as well as make optimal use of local resources (Asaduzzaman,

2008: 55). It is argued by different theorist that devolution may work as a best instrument for ensuring and increasing people's participations in development of local area. Rondinelli states that decentralized local governance is needed to institutionalize the participation of rural local people in development planning and managements (Rondinelli, 1981 as cited in Siddique, 2005). It also reduces the gap between the state and the local people and leads to more effective and efficient delivery of state services reducing cost and saving time (Common et. al. 1992 as cited in Asaduzzaman, 2008:55). It is a best mechanism to improve the coordination, supervision and monitoring of development activities undertaken by different agencies (Litvack, et. al, 1998). The direct effort of devolution is political and administrative but the ultimate goal and aims of it is to improve the living standards of local people through equitable benefit sharing. United Nations said that decentralization helps local inhabitants to get involved in politics and that political involvement strengthens their material position (UN, 1979 as cited in Asaduzzaman, 2008:56).

Disadvantages of Decentralization

The World Bank Decentralization Thematic Team acknowledges that "devolution may not always be efficient, especially for standardized, routine, network-based services." It may, according to them, lead to:

- i) Loss of central governments control over scarce financial resources;
- ii) Less efficient and less effective delivery of services because of weak administrative or technical capacity at local levels;
- iii) Transfer of administrative responsibilities to local levels without adequate financial resources, making equitable distribution or provision of services more difficult;
- iv) More complex system of coordinating national policies, where functions will most likely be captured by the local elite; and

v) Distrust between public and private sectors that may undermine cooperation at the local level. The World Bank said decentralization will fail when it is not the result of any carefully designed sequence of reforms but has “occurred in a politically volatile environment in which the level of trust is low and policymakers respond unsystematically to emerging demands from below.” Among its potential detrimental effects are the loss of macroeconomic control, regional disparities in service provision, and misallocation of resource (Hossain, 2009).

EXPERIENCE OF LOCAL GOVERNMENT DECENTRALIZATION IN BANGLADESH: HISTORICAL PERSPECTIVE

“Decentralization as an Illusion” in British and Pakistan Period

Ancient history of decentralization in India must be observed to express the foundation and growth of decentralization in Bangladesh. Local institution is the basic form of government in India till 6th century B.C., when large kingdom came into being. Politically the actual decentralization process started with the Charter act of 1853. The process of decentralization during British rule was obscure. The British were not interested in any degree of devolution. So, the real practice of local bodies was a picture of oppression and exploitation. India was the first colony to become the experimental ground for such policies of decentralization, the British reluctance to implement any real degree of decentralization is also obvious (Khan, 2009:52). One of the most outstanding examples of such reluctance was when the empire rejected the report of Decentralization Commission in 1907 which recommend an elected *Panchayat* (Tinker, 1967 as cited in Khan, 2009). After the departure of British Empire the country Pakistan was created in 1947. The major reform in decentralization occurred within the Pakistan period by the introduction of Basic Democracy Order in 1959. It is a blend of democratic and bureaucratic values that means in between devolution and de-concentration form of decentralization. Though it is expressed as a very effective program of decentralization but it was really a system which helps the military government of Ayub Khan to extend the hands of bureaucracy at local level.

Decentralization in Bangladesh

After independence in 1971, the first action of the new government was rename the local bodies but this government paid more attention to national than local issues. The name of Union council was changed to Union *Panchayat*, the Thana Council was changed to Thana Development Council and the District Council to Zila Board or District board (Islam and Fujita, 2008). By the president order in 1973, Union Panchayat was renamed to Union *Parishad* (Hye, 1985). A significant change was observed in 1976. A

Union *Parishad* for a union, a Thana *Parishad* for a Thana and a *ZilaParishad* for a Zila were assigned as the units of local government following the newly passed local government ordinance. No election was held in the first five year. *Swanirvar Gram Sarkar* at the village level was introduced in 1980 following an amendment of the local government ordinance but it was eliminated through a Martial Law Order in 1982 (Paul and Goel, 2010). A major step of the history of decentralization was the introduction of a new local government ordinance in 1982 by Hussain Mohammad Ershad. In his first year of office, he initiated the reform measures to decentralize the administration through the abolition of former sub-divisions and upgrading the Thana’s into *Upazila’s* (Sub-districts). Ershad and his associate architects the *upazila* model pronounced that improving access and promoting participation were the primary goals of their reform (Khan, 2009). The *UpazilaParishad* ordinance was promulgated in 1982 that prompted the introduction of the *upazila* system. Accordingly, for the very first time in the history of Bangladesh the Chairman of sub-district level was elected directly in 1985 to make it a truly representative local government (As-Saber and Rabbi, 2009). These units of local government became the focus of development until election in 1991 following which the newly elected BNP government abandoned them. This was mainly because many of the *Upazilaparishad* chairman were from opponent parties. Frequent changes in the local government system decentralization system occur as new governments take over (Poul and Goel, 2010: 04). Following the general election in 1996, Awami league (AL) came to power and as an election promise, enacted the local government (*UpazilaParishad*) Act 1998. The act proposed to make the *Upazila* level the most important tier of local government (Habib, 2009 as cited in As-Saber and Rabbi, 2009: 59). Before this in 1997 the Local Government Reform Commission was published its report and formulating recommendation by interacting with rural people and civil society. It is widely felt that the commission has to take into consideration a number of weaknesses of the country’s past local government reform strategies and examine the socio-political and administrative environment within which local government system operates. Central-local relation is characterized by central control over local bodies for many years. Local autonomy is seriously jeopardized by central political and bureaucratic control which sabotages smooth functioning of local government. So it is learned that the commission has recommended some measures for democratic decentralization and create scope for people’s participation and poor’s access to services and resources (Khan, 2009:55). Both *UpazilaParishad* Ordinance 1982 and the *UpazilaParishad* Act 1998 have given the *Parishad* the authority of supervision, control and coordination

of functions of officers serving in the *Upazila* except for judicial service officers, trying magistrates and officers engaged in regulatory functions (As-saber and Rabbi, 2009: 60). The table shows the difference and changes of the basic structure, power and functions by shifting the Thana to *Upazila*:

Table 2: From Thana to Upazila: a Shift from Bureaucratic Control to Democratic Governance

No.	Thana	Upazila
1.	Government Official (Sub-divisional officers) was the ex-officio Chairman of Thana <i>Parishad</i> (TP)	<i>UpazilaParishad</i> is headed by elected People's' representatives
2.	Chairman was not accountable to the Thana <i>Parishad</i>	All elected representatives including chairman are accountable to the <i>Parishad</i>
3.	The power and the scope of TP was limited	The power and scope of the <i>UpazilaParishad</i> are wider
4.	Both officials and representative members had voting rights	Only representative members have voting rights
5.	There was no accountability of the civil servants to the Thana <i>parishad</i>	Civil servants are directly accountable to the <i>Parishad</i>
6.	The TP has no power of taxation	<i>Parishad</i> has power of taxation
7.	The officers and staffs were appointed, transferred, controlled and paid by the central government	Officers and staffs are deputed to the <i>UpazilaParishad</i> and paid from the <i>Parishad</i> Fund (allocated)
8.	District administration had wide control over TP	The district administration mainly plays coordinating role

Source: Morshed, 1997 as cited in As-Saber and Rabbi, 2009

But despite the introduction of new act in 1998 no election was held during the two consecutive democratic elected governments at the *Upazila* level. With an aim to conduct *Upazila* election the caretaker government of Bangladesh promulgated the *UpazilaParishad* Ordinance in 2008 and created a local government commission to oversee the activities and performance of the *Parishad*. According to the Ordinance, Members of the Parliament (MP's) were removed from the advisory role and two new elected positions of vice chairman were created between them one must be a woman. The ordinance also reserved 30% seats for the women (As-Saber and Rabbi, 2009). Basically, the Caretaker Government amended the controversial provision of the Act of 1998 that made it mandatory for the *Upazila's* to follow the suggestions of the local MPs as advisors. Following the directive of the last Caretaker Government, the election to the *Upazila's* was held in January 2009 under the newly elected Awami League Government that came to power on 6 January 2009 after winning the election on 29 December 2008. Without ratifying the ordinance promulgated by the Caretaker Government, the Government put the

UpazilaParishad (UZP) Bill (2009) before the Parliament where they added more autocratic features. And the *Upazila* (UZP) Act 2009 was passed unanimously in the Parliament (Panday, 2011). One of the most important features of the UZP Act 2009 is the provision of making it mandatory for the UZPs to follow the suggestions of local MPs. Clauses 1 and 2 of Article 25 of the Act provide that the MPs shall be advisors of their respective UZPs, and that their pieces of advice shall be treated as mandatory as indicated in the original UZP Act of 1998. Moreover, a clause of the Act prohibits the UZPs to communicate directly with the Government without informing the respective MPs. Clause 27 (kha) of the Act has made mandatory that the minutes of each session of the UZP must be sent to their respective MPs within 14 working days. In that way, the Government has strengthened the control of the MPs over their respective UZP, which is contrary to the basic principle of democracy, decentralization, and good governance (The *UpazilaParishad* Act, 2009).

DECENTRALIZED LOCAL GOVERNMENT SYSTEM IN CONSTITUTIONAL AND LEGAL BASIS OF BANGLADESH

Constitutional Basis of Decentralization

In a democracy, the Constitution ensures legal recognition of local government through Parliament Acts incorporating relevant provisions (Khan, 2001: 11). The legal basis and responsibilities of local government in Bangladesh are incorporated in the 1972 Constitution in which Article 59(1) specifically states that "local government in every administrative unit of the Republic shall be entrusted to bodies composed of persons elected in accordance with law". And article 59 (2) States that, "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 Constitution of the People's Republic of Bangladesh, 2011: 46-47). Article 60 stipulates that "for the purpose of giving full effect to the provision of article fifty nine, Parliament shall, by law, confer powers on the local government bodies referred to in that article, including the power to impose taxes for local purposes, to prepare their budgets, and to maintain funds" (The Constitution of the People's Republic of Bangladesh, 2011: 47). After 15th amendment of constitution present legal sight in Article 11 of the constitution states: 'Effective participation by people through the elected representatives in administration at all levels shall be ensured' (The Constitution of the People's Republic of Bangladesh, 2011: 04).

According to the constitutional provision (Article 59), the Government of Bangladesh is supposed to establish local government institutions at all levels of administration below the central government. Unfortunately, we have had continuously the Local Government institutions (LGI's) only at one tier (Union Level) since Bangladesh was created. The second tier *Upazila* (sub district) started second time with an interval of 18 years as late as 2009. The *Zila Parishad* (hereinafter referred to as ZP) (District Council) has not revived in its democratic form since liberation. At the divisional level, the LGI has never had been an issue in Bangladesh. There were LGIs at the divisional level under the basic democracy scheme during the Pakistani period. At present, there are two distinct kinds of local government institutions in Bangladesh: one for rural areas and the other one for urban areas. The local government in rural areas represents a hierarchical system consisting of three tiers: *Union Parishad*, *Upazilla Parishad*, and *Zilla Parishad*, while the urban local government consists of *Pourashavas* and a municipal corporation (Panday, 2011:212).

Legal Basis of Decentralization: Acts and Rules

In the *Upazila Parishad Act* there said about the structure and functions of *Upazila Parishad* and formation of fund and savings and spending of the funds. Five years Development Programs and former duration development programs related issues are also considered here. The development functions must be considered the demand and needs of the mass people. For formulating this development programs the *Upazila Parishad* must be consulted with the *Union Parishad* under its jurisdiction and also with the private organizations or Non-Governmental Organizations (NGO's) related with the development functions of local level. Some essential issues are considered here for the programs- the arrangement process of fund for implementing these programs, monitoring and supervision of these programs, identify the person or committee or institutions those who are implemented the programs and plans related to local area development. Then send a copy of it to the government for final approval. If the Government thinks it is better for the development of the local level then the plan will be approved otherwise not (*Upazila Parishad Act*, 1998). The *Upazila Parishad Act* 2009 which make some repeal on the 1998 act of *Upazila Parishad*. Here said about the reorganized structure of *Upazila* and standing committees for the development works implementations and supervisions. Vice-chairman post was introduced here. Here must have a woman vice chairman in each *Upazila*. But there have an amendment which make the decentralized *Upazila Parishad* centralized to the authority. The amendment is like: if the *Parishad* want to communicate with the Government then the *Parishad* must be informed it to the Member of Parliament of

this *Upazila*. Here also said about the budget preparation of each *Upazila* about its income and expenditure related to development and MP and UNO has playing advisory role here. So Political affiliation also taken place in this tier of local government. The UNO is the member secretary of the standing committee of *Upazila* development functions and he is also a secretary of the *Upazila Parishad* and he gave secretariat support to the *Upazila*.

The election of *Upazila Parishad* is valid if from the chairmen and vice chairmen posts one is participated and from the other members 75% are attending and then the name of the selected candidates are published from the Government Gazette of Bangladesh. Information Received Right of the citizen about the *Upazila* functions is also considered here. People have an access to ask any service and information about the *Upazila* at any time directly. The government can also give command to the *Upazila Parishad* to make a list about the information's related to development functions, fund, budget expenditure, organization related to the development programs and functions etc. and hanging it to the *Upazila Parishad*. Through this the accountability and transparency of *Upazila Parishad* is ensured and people access in the *Upazila* level functions increased (*Upazila Parishad Amendment Act- 2011*).

The meeting of UZP is urged by the *Upazila Nirbahi Officer* (UNO) after consultation with the chairman. The Chairman is presiding by the Chairman. In the meeting of the *Upazila Parishad* here is discussed about the economic and financial issues, development related issues, operational issues, coordination issues and miscellaneous. Voting is done before taking a final decision. The UNO gave a report after every three months about the progress of the decision implementation. After the meeting the enclosures and decision of the meeting send to the Local Government Department, MP of the Area, Deputy Commissioner and Local Government Office. Chairman gave the press briefing after the meeting and others may give information to the press and mass media but after the permission of Chairman (*Upazila Parishad Program Implementation Rules*, 2010).

The budget of UZP has two portions: Revenue and Development budget. The budget will be made on the basis of the planning of Five year Development Programs and Annual Development Programs. For ensuring people participations and their opinions about the budget the draft budget will be send to the Member of the parliament, each *Union Parishad*, *Pourashava* and Local Press Club etc. Planning deed and budget draft will be published on own website of the *Upazila Parishad* for gaining the opinion of mass

people about this. After that the budgetary matter is discussed with the union members who are under the *Upazila*, Councilor of *Pourashava*, and head of educational institution, private organizations, bank, individual entrepreneur and civil society (*Upazila Budget Preparation and Approval Rules, 2010*).

In the *Upazila Parishad* Manual here identified and specified the decentralized functions of the *Upazila Parishad* for local area development. The functions of *Upazila Parishad* and members are specified. Here also said about the acts and policies and ordinance

related to *Upazila Parishad*. *Upazila Parishad* functions include five year or other duration development plans and programs; coordination, supervision and monitoring of the functions of government office under its jurisdiction; building roads, culverts and their repairing; other development activities related to the local area development.

Institutional Structure of UZP

The UZP Act 2009 here has given the institutional structure of the UZP. The structure is shown in below figure:

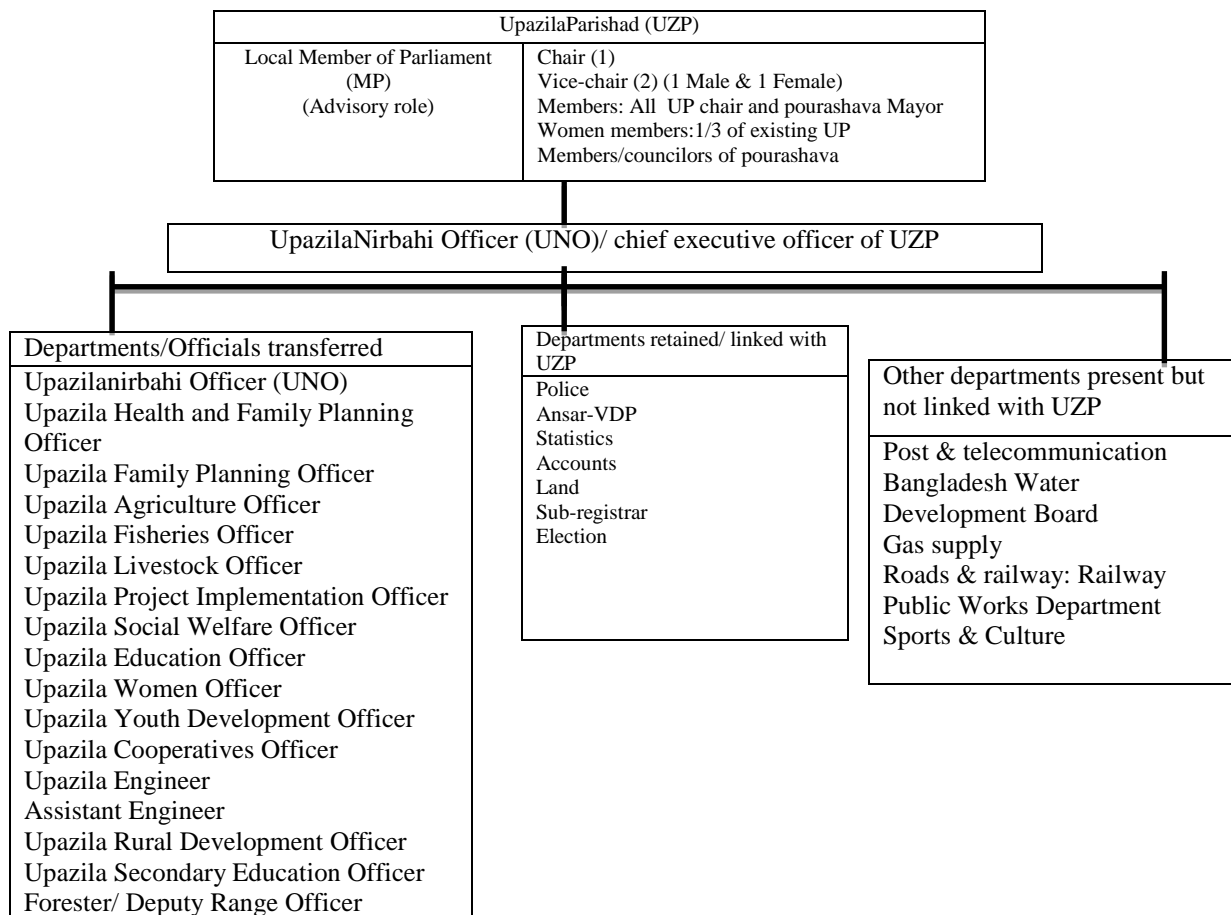


Figure 2: Structure of Upazila Parishad (Rahman & Ahmed, 2015:07)

The Chairman of UZP is the main concerning authority under this. But the act specifies that the local MP is the advisor of the UZP and the UNO is the secretary and act as a principal staff officer of UZC (*Upazila Parishad* Chairman). The UZC may take the decision about the development but he must give it to the MP and the final approval is coming from him. So there have hindrances in the legal system and central create pressure to local body indirectly by the Member of Parliament. Thus local people voices are not reflected in local level rather central voice are preferred most. There may create conflict between these two bodies: MP and UZC sometimes for the difference of political belief. In Sylhetsadar UZP these elected body are from the

same political party thus here have a smoothness of working and making the UZP functional. The local MP of this UZP is not creating any pressure to the UZP. The UZC of the UZP said there are creating coordination problem in different UZP where the MP and UZC are not from same political party. The UNO have the power to inform the central government about the development programs and functions under UZP if it is going in an unrestricted manner. In the UZP Manual here said the UNO is not responsible to the UZP. So, UNO work as a topmost central government representative at UZP level. The other transferred officials are involved in the UZP as non-voting members and they have no power to influence the decision of the UZC. Union *Parishad* chairmen's

and the vice chairmen are the voting members of the UZP. But here is no women members as like in the structure except the UZP vice chairman. The legal institutional structure is not implemented fully in the UZP level. The woman vice chairman have exactly no specified role in the UZP. Less representation of women in the UZP level is a deficient in the institutional structure at sub district level. Therefore central demand are considerable rather local. Thus existing structure of UZP is not proper for local development.

CHALLENGES FACED BY SUB-DISTRICT LEVEL DECENTRALIZATION

Autonomy and Power of UZP Body

The UZP voting members (UZP Chairman and Union Chairman) have enough autonomy and power in the matter of developmental functions at local level. The woman vice chairman and the vice chairman have no power and authority to make any decision or functions related to the development in local level. They only have voting rights. But the officials or the non-voting members without UNO have no autonomy and power to decide any functions related to UZP development. They have their autonomy in matter of their own departmental work decided by the central government. The study has to identify that the party-political connection play a vigorous role in the power exercising issues at local level for development. The legal issues give the central level an opportunity to exercising their power indirectly upon the local level at UZP by MP's and UNO. The UZP people's representatives are mainly work in accordance with the command of MP of the respected area who is the central level representative of the government. People's demands and needs are coming subsequent to the needs of central. So, proper autonomy and power exercise is not present in the existing UZP system and thus local development is not conducted within a frequent way.

Political Motive Get Priority

The MP is now work as an advisor of the UZP level and the Chairman of UZP take those developmental functions which have great political interest and beneficial for the ruling party. The mass people concern is not coming first. Political interest and stakeholder interest are the main concern in conducting the developmental functions within the UZP of Bangladesh

Recentralization rather Democratic Decentralization

Before the present UZP system the main power exercise in the UZP was done by the UNO. In present structure the UZC has given authority to overall officers and employees serving in the *Parishad* in relation to their transfer and the performance appraisal. The officials are paid and guided by their respective departmental authority. So they are mainly

responsible and accountable to their line authority rather than the UZC. The UNO is a coordinator in UZP level and not responsible to the UZP level for his work. Now, central political leader (Member of Parliament) work as an advisor according to the structure of UZP. Every programs and projects related to local area development are conducting in accordance to the will of the MP and the UNO rather than the people's local representatives. So the structure and functioning of the UZP are indirectly centralized rather decentralized.

Monitoring and Evaluation Complications

Monitoring and Evaluation of the development related work is done by the UZC, UNO, tag officer of concern department, UZP engineer, PIO etc. But there is no technically skilled officer for monitoring and evaluating the projects. The monitoring and evaluating process is also corrupted in UZP level. The authorities who are responsible to implement the projects and programs are giving bribe and other benefit to the responsive monitoring authority. The authorities that are responsible to monitor and evaluate the work are not far apprehending with the work. There are no specific rules and regulations to recruit an officer or specific authority to monitor and evaluate the decentralized activities at sub-district level. Mass people have not gained any specific guideline to give their feedback about the services of UZP.

Uneducated People's Representative

The people's elected representatives in the UZP level are not much educated like the UNO and other transferred officials. Thus the chairman and the others are mainly listening to the UNO and other official's opinion. The officials especially the UNO have capacity to motivate them for deciding any work. There have no significant rule about the level of education of the people's representative at sub-district level.

Lack of Accountability and Transparency to the People

In Democratic decentralization the local body must be accountable and transparent to the mass people about the works, budgets, expenditure etc. by billboards, meetings, notice board notice, direct access of people to ask any questions to them etc. But in most of the UZP the local body is not accountable and transparent to mass people. The officials are mainly accountable to their line authority rather than the mass people. The voting members are accountable to their senior political leaders, MP, Ministers etc. the mechanisms to ensure accountability and transparency to the mass people is not present in existing UZP level.

Coordination Problem between Different UZP Bodies

There has a coordination problem between the vice chairmen and UZC. UZ vice chairmen only have the position but have no power or functional authority in the UZP. Thus they create coordination problem between the vice chairman and other members of the UZP. Some Union Parishad chairmen (from other political party) have coordination problem with UZC and UNO in the UZP. When coordination problem arise it is difficult to do any development work in a rigorous way. It's creating gap in planning and implementation process of development programs and projects.

Legal Constraints

The structural and functional system of UZP is decided by the UZP Act- 2009. The act provides some contradictory sections like Section- 25 here said the MP work as an advisor in the UZP. Which is limited the devolutionary power of the UZP. The legal basis of UZP also give some structural position to the People's elected representative like the Vice chairman post but there have no clear order about their functions in the UZP. Women elected members are not present in real sense. These are the challenge in the route of decentralization of UZP as well as local development.

Financial Constraints

The UZP are mainly based on the government grants and other grants for their development related work. The development funds are coming from the central government and the directives to expending the fund also coming from the central level. The revenue collected by the UZP is very limited and they are not financially independent. Thus central pressure and preference are present in the UZP development programs and projects. The UZP have own budget but the budget is finally approved by the central. Without this there seen delay in fund releasing, corruption in distributing fund, sector wise fund is not maintained etc. constraints related to financial matter at UZP.

People's Unconsciousness

People of our nations are mostly poor. They are not concern about their right to get service at UZP level. Thus the UZP body can get chance to sack the guidelines and rights of beneficiaries.

CONCLUDING REMARKS

The present devolution at *Upzila* level confronts encounter to ensure development impeccably. Bangladesh UZP level merely have all the features needed for devolution in administration but the existing structure and elected local bodies has not been able to perform efficiently due to excessive control of the central government over the local bodies. Top-down process of decision making is a

very urge encounter for the route of decentralization and local development. Political self-centeredness, bureaucratic control, financial constraints are the main challenge in the path of development by the ongoing practice of decentralization in this level.

The governments gives the legal acts for the decentralized structure of sub-district level but these articles have created an access to the central level to capture the local level and control it. Thus recentralization's seen in this tier whereas the UZC is the head of UZP but must be dependent on the MP and UNO for any developmental work. So for decentralization, proper functional specification must be given to the UZP body and make the local level developed. Rules should not be prepared only by the ministry concern or bureaucratic concerns but have to be shared widely with the stakeholders before approval. It will help to recognize the field condition and increase the development wave at local level. The development related standing committees at the UZP level must be work properly for the proper decentralization. The matter of appointing the chairman of the standing committee must be on the hand of the UZP and the each vice chairman may lead three or four committees. The UZP devolution remains incomplete without the women members. So, women members should be elected immediately at the UZP. Political participation of women in UZP will be beneficial for the women empowerment movement at the sub-districts. Proper guideline of functioning about the vice chairmen post must be given immediately to make the UZP effective. UNO's position either needs to be united with the *parishador* isolated completely. Then the concentration will be removed and devolution will be introduced and local level will be developed.

The accounts office of UZP must be strengthen and the regular financial performance review and audit mechanisms must be established at UZP for utilizing the local resources. Then the financial autonomy will be increased and the UZP will not dependent on central allowance. Billboards, meetings, direct access of people, notice on notice board etc. must be maintained properly to introduce accountability and transparency. There must be a complain box in a visible place of UZP and the box must be checked and the complaint of people considered and reviewed regularly. The Government may be introduced such provision like: the person is capable for participating in election for the UZC, UP Chairman, Vice-chairman or women chairmen must be crossed 12 years of schooling. Then the representatives may understand his/her responsibility more clearly (Khatun and Ara, 2016: 146). An independent and permanent local government commission should be established for providing a very supportive role to strengthen the UZP. Under strict rules and professional assistance the UZP and Union *Parishad*

should be introduces a comprehensive program planning and budget system for proper resource utilization. Civic orientation must be given to all the people for making them concern about their rights and duties. The establishment of UZP system with giving authority and power to elected representatives is just a preliminary step to improve the development wave of local area. But the outcome of the steps will be disgraceful if the Government is not sincere enough to make the system more people oriented, accountable, transparent and responsive.

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